

---

STATUTORY INSTRUMENTS

---

**2003 No. 1558**

**New Schools (General) (England) Regulations 2003**

**PART 7**

**Transition from a Temporary Governing Body to a Governing Body**

**Making of instrument of government and constitution of the governing body**

**53.**—(1) The local education authority shall secure that an instrument of government has been made for each new school in accordance with regulations 28 to 30 of the Constitution Regulations before the school opening date.

(2) The instrument of government shall take effect from the date of making for the purpose of constituting the governing body but shall not affect the constitution or name of the temporary governing body conducting the new school.

(3) The local education authority shall secure that appointments or elections of governors required by the instrument of government for a new school take place in accordance with that instrument before the incorporation date and take effect from that date.

(4) For all other purposes, the instrument of government shall take effect from the date stated in it (“the incorporation date”).

(5) On the incorporation date the governing body of a new school shall be constituted under the instrument of government.

(6) The temporary governing body shall exercise their functions under the 1998 Act, the 2002 Act and under these Regulations in a manner calculated to enable the local education authority to fulfil their duties under this regulation.

**New governors**

**54.**—(1) In the case of the appointment of any governor referred to in regulation 53(3), the local education authority shall give written notice to the person who is to make the appointment under the instrument of government, unless that person has already notified them of an appointment to fill the vacancy.

(2) Where any person makes an appointment referred to in paragraph (1), he shall give written notice of the appointment to the local education authority and to the clerk to the temporary governing body, specifying the name and usual place of residence of the person appointed.

**Appointment or election of new governors**

**55.**—(1) The following paragraphs shall apply in relation to the appointment or election of governors required to constitute the governing body pursuant to regulation 53(3).

(2) Any parent governor shall be either—

- (a) elected (after the school opening date) by the parents of registered pupils at the new school and shall himself be such a parent at the time when he is elected; or

- (b) appointed (after the school opening date) by the temporary governing body in accordance with Schedule 1 to the Constitution Regulations.
- (3) After the school opening date—
  - (a) any staff governor shall be elected in accordance with regulation 5 of and Schedule 2 to the Constitution Regulations.
  - (b) any partnership governor shall be a person nominated and appointed in accordance with regulation 9 of and Schedule 4 to the Constitution Regulations.

### **Property, rights and liabilities**

- 56.** On the incorporation date—
- (a) all land and other property which, immediately before the incorporation date, was vested in the temporary governing body, and
  - (b) all rights and liabilities of the temporary governing body subsisting immediately before that date,

shall, by virtue of this regulation, be transferred to and vest in the governing body constituted under the instrument of government.

### **Rights and liabilities under a contract of employment**

- 57.** Without prejudice to the generality of regulation 56, where that regulation effects a transfer of rights and liabilities under a contract of employment—
- (a) the contract shall have effect from the incorporation date as if originally made between the employee and the governing body, and
  - (b) without prejudice to sub-paragraph (a), anything done before that date by or in relation to the temporary governing body in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the governing body,

but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by that regulation.