
STATUTORY INSTRUMENTS

2003 No. 1916

EDUCATION, ENGLAND

**School Governance (Constitution and Procedures)
(England) (Amendment) Regulations 2003**

Made - - - - 22nd July 2003
Laid before Parliament 29th July 2003
Coming into force - - 1st September 2003

The Secretary of State for Education and Skills, in exercise of the powers conferred upon the Secretary of State by sections 19, and 210(7) of the Education Act 2002⁽¹⁾ hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 and come into force on 1st September 2003.

Amendment of the School Governance (Constitution) (England) Regulations 2003

2. The School Governance (Constitution) (England) Regulations 2003⁽²⁾ are amended by—
- (a) after regulation 3(2), inserting the following paragraph—

“(3) Parts 2 to 5 of these Regulations do not apply to a governing body constituted under an instrument of government that is in effect prior to 1st September 2003.”;
 - (b) after regulation 4(3), inserting the following paragraph—

“(4) Schedule 1 shall apply to the election and appointment of parent governors.”;
 - (c) in regulation 12(4) after the words “the nearest whole number” insert the words “and regulations 13 to 16 shall be interpreted subject to this provision”; and
 - (d) re-numbering regulation 34 as regulation 34(2) and inserting before it the following paragraph—

“34.—(1) In relation to a governing body constituted under an instrument of government that is in effect before 1st September 2003—

(1) 2002 c. 32; by virtue of the definition of “regulations” in section 212(1), these Regulations made by the Secretary of State apply only in relation to England.
(2) SI 2003/348.

- (a) the local education authority has the power to appoint LEA governors, and
- (b) the governing body has the power to appoint co-opted governors to fill any vacancy that may arise for a governor of the respective category.”

Amendment of the School Governance (Procedures) (England) Regulations 2003

3. For regulation 14 of the School Governance (Procedures) (England) Regulations 2003(3) (“the Procedures Regulations”) there is substituted the following regulation—

“14.—(1) In this regulation and in the Schedule—

- (a) “relevant person” means a governor, an associate member, the head teacher (whether or not he is a governor) or any person appointed as clerk to the governing body or to a committee; and
- (b) any reference to a “meeting of the school” is a reference to a meeting of the governing body or of a committee.

(2) Subject to paragraph (4), where—

- (a) in relation to any matter there may be a conflict between the interests of a relevant person and the interests of the governing body;
- (b) a fair hearing is required and there is any reasonable doubt about a relevant person’s ability to act impartially in relation to any matter; or
- (c) a relevant person has a pecuniary interest in any matter;

that person, if present at a meeting of the school at which the matter is the subject of consideration, shall disclose his interest, withdraw from the meeting and not vote on the matter in question.

(3) Nothing in this regulation or in the Schedule shall be construed as precluding—

- (a) the governing body, or a committee, from—
 - (i) allowing a person who appears to them to be able to give evidence to attend any hearing conducted by them into any matter and to present his evidence, or
 - (ii) hearing representations from a relevant person acting in a capacity other than that of a relevant person; or
- (b) a relevant person from entering into a contract with the governing body from which he is entitled to profit.

(4) A person who is acting as the clerk to a meeting of the school shall not be required to withdraw from a meeting by this regulation or the Schedule unless his appointment to office, his remuneration, or disciplinary action against him is the subject of consideration, but if this regulation or the Schedule would have otherwise required him to withdraw, he shall not act in any capacity other than that of a clerk.

(5) Where there is any dispute as to whether a relevant person is required by this regulation or by the Schedule to withdraw from a meeting of the school and not vote, that question shall be determined by the other governors present at the meeting.

(6) The Schedule makes provision about pecuniary interests and other specified conflicts of interest.”

4. For the Schedule to the Procedures Regulations there is substituted the following Schedule—

“SCHEDULE

Regulation 14

Pecuniary interests and other specified conflicts of interest

Pecuniary interests

1. –

(1) For the purposes of regulation 14(2), a pecuniary interest in a contract, proposed contract or other matter includes a case where—

- (a) a relevant person was nominated or appointed to office by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a partner of a person with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including his spouse or some one living with that person as if he or she were that person’s spouse), to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 14(2), a relevant person shall not be treated as having a pecuniary interest in any matter—

- (a) provided his interest in the matter is no greater than the interest of the generality of those paid to work at the school;
- (b) by reason only of the fact that he was nominated or appointed to office by, he is a member of, or is employed by, any public body; or
- (c) by reason only of the fact that he is a member of a corporation or other body if he has no financial interest in any securities of that corporation or other body.

(3) Governors shall not, by reason of their pecuniary interest in the matter, be prevented from considering and voting upon proposals for the governing body to take out insurance protecting its members against liabilities incurred by them arising out of their office and the governing body shall not, by reason of the pecuniary interest of its members, be prevented from obtaining such insurance and paying the premiums.

Office of governor, chair, vice-chair or clerk

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the governing body at which a subject of consideration is—

- (a) his own appointment, reappointment, suspension or removal as a member of the governing body;
- (b) his own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body; or
- (c) if he is a sponsor governor, any determination under paragraph 2 of Schedule 5 to the Constitution Regulations as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies the relevant person’s interests shall be treated for the purpose of regulation 14(2) as being in conflict with the governing body’s interests.

Pay or appraisal of persons working at the school

3.—(1) This sub-paragraph applies where a relevant person who is paid to work at a school other than as head teacher is present at a meeting of the school at which a subject

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of consideration is the pay or performance appraisal of any particular person employed to work at the school.

(2) This sub-paragraph applies where a head teacher of a school is present at a meeting of the school at which a subject of consideration is his own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests shall be treated for the purpose of regulation 14(2) as being in conflict with the governing body's interests."

22nd July 2003

David Miliband
Minister of State,
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 amends the School Governance (Constitution) (England) Regulations 2003 by, amongst other matters, enabling vacancies for LEA governors and co-opted governors in governing bodies that have not been reconstituted under those Regulations to be filled, notwithstanding the repeal of Schedule 9 to the School Standards and Framework Act 1998.

Regulations 3 and 4 substitute new wording for regulation 14 of and the Schedule to the School Governance (Procedure) (England) Regulations 2003, which concern pecuniary interests and other specified conflicts of interest.