

SCHEDULE 1

Regulation 4

Election and appointment of parent governors

1. Subject to paragraphs 2 and 3, in this Schedule “appropriate authority” means—
 - (a) in relation to a community school, a community special school, a maintained nursery school or a voluntary controlled school, the local education authority; and
 - (b) in relation to a voluntary aided school, foundation school or foundation special school, the governing body.
2. Where a local education authority is the appropriate authority in relation to a school, that authority may delegate to the head teacher of the school any of their functions under this Schedule.
3. The local education authority may be the appropriate authority in relation to a school within paragraph 1(b) if the governing body and the local education authority so agree.
4. Subject to paragraphs 5 to 8 the appropriate authority must make all the necessary arrangements for the election of parent governors.
5. The power conferred by paragraph 4 does not include power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected.
6. Any election which is contested must be held by ballot.
- 7.—(1) The arrangements made under paragraph 4 must provide for every person who is entitled to vote to have an opportunity to do so by post.
 - (2) For the purposes of sub-paragraph (1), “post” includes delivery by hand.
 - (3) The arrangements made under paragraph 4 may provide for every person who is entitled to vote to have an opportunity to do so by electronic means.
8. Where a vacancy for a parent governor arises, the appropriate authority must take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school, and where the school is a maintained nursery school, a parent of a child for whom educational or other provision is made on the premises of the school (including any such provision made by the governing body under section 27 of EA 2002), is—
 - (a) informed of the vacancy and that it is required to be filled by election;
 - (b) informed that he is entitled to stand as a candidate and vote in the election; and
 - (c) given the opportunity to do so.
9. The number of parent governors required must be made up by parent governors appointed by the governing body, if one or more vacancies for parent governors arises and either—
 - (a) the number of parents standing for election is less than the number of vacancies;
 - (b) at least 50 per cent of the registered pupils at the school are boarders and it would, in the opinion of the appropriate authority, be impractical for there to be an election of parent governors; or
 - (c) in the case of a school which is a community special or foundation special school established in a hospital, it would, in the opinion of the appropriate authority, be impractical for there to be an election of parent governors.
- 10.—(1) Except where paragraph 11 applies, the governing body must appoint as a parent governor—
 - (a) a parent of a registered pupil at the school;
 - (b) a parent of a former registered pupil at the school; or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) a parent of a child under or of compulsory school age.

(2) The governing body may only appoint a person referred to in sub-paragraph (1)(b) or (c) if it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.

11.—(1) Where the school is a community special school or a foundation special school, the governing body must appoint—

- (a) a parent of a registered pupil at the school;
- (b) a parent of a former registered pupil at the school;
- (c) a parent of a child under or of compulsory school age with special educational needs for which the school is approved; or
- (d) a parent with experience of educating a child with special educational needs.

(2) The governing body may only appoint a person referred to in sub-paragraph (1)(b), (c) or (d) if it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.

SCHEDULE 2

Regulation 5

Election of staff governors

1. In this Schedule “appropriate authority” has the same meaning as in Schedule 1.
2. Where an authority is the appropriate authority in relation to a school, that authority may delegate to the head teacher of the school any of their functions under this Schedule.
3. Subject to paragraphs 4 and 5, the appropriate authority must make all the necessary arrangements for the election of staff governors.
4. The power conferred by paragraph 3—
 - (a) includes the power to make provision as to qualifying dates, but
 - (b) does not include power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected.
5. Any election which is contested must be held by ballot.

SCHEDULE 3

Regulation 7(2)

Appointment of community governors at community special schools and foundation special schools

1. Subject to paragraphs 2 and 3, the governing body of a community special school or a foundation special school must appoint community governors in accordance with regulation 7(1).
- 2.—(1) In relation to a community special school or foundation special school established in a hospital, the local education authority must designate—
 - (a) one or more primary care trusts, or
 - (b) the National Health Service Trust or NHS foundation trust,with which the school is most closely connected as the appropriate body.

(2) The governing body must invite the appropriate body to nominate a person to be appointed as one of the community governors in accordance with regulation 7(2).

(3) For the purposes of this paragraph—

“National Health Service Trust” means a body established by the Secretary of State under section 25 of the National Health Service Act 2006⁽¹⁾;

“NHS foundation trust” has the same meaning as in section 30(1) of the National Health Service Act 2006; and

“Primary care trust” means a body established or continuing under section 18 of the National Health Service Act 2006.

3. The governing body of a community special school or a foundation special school not established in a hospital must appoint as one of their community governors—

(a) if a voluntary organisation is designated by the local education authority, in relation to the school, as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised, a person nominated by that organisation; or

(b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a person nominated by those organisations acting jointly.

SCHEDULE 4

Regulation 9

Appointment of partnership governors

1. Where a partnership governor is required in relation to a school which is designated under section 69(3) of SSFA 1998 as having a religious character, the governing body must seek nominations from—

(a) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority; and

(b) in any other case, the appropriate religious body.

2. Where a partnership governor is required in relation to a school which does not have a religious character, the governing body must seek nominations from parents of registered pupils at the school, and from such other persons in the community served by the school as they consider appropriate.

3. No person may nominate for appointment, or appoint, a person as a partnership governor unless that person would be eligible for appointment by the governing body as a community governor.

4. Subject to paragraph 5(2), no governor may nominate a person for appointment as a partnership governor.

5.—(1) The governing body must appoint such number of partnership governors as is required by the instrument of government from among eligible nominees.

(2) If the number of eligible nominees is less than the number of vacancies, the number of partnership governors required may be made up by persons selected by the governing body.

6. Where the governing body makes an appointment under paragraph 5(2), having rejected any person nominated under paragraphs 1 or 2, they must give written reasons for their decision to—

(a) the local education authority;

(1) 2006 c.41.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the person or body who nominated the person rejected; and
 - (c) the person rejected.
7. The governing body must make all necessary arrangements for and determine all other matters relating to the nomination and appointment of partnership governors.
8. For the purposes of this Schedule, “appropriate diocesan authority” and “appropriate religious body” have the meanings given by regulation 28.

SCHEDULE 5

Regulation 10

Appointment of sponsor governors

- 1.—(1) In this Schedule, “sponsor” in relation to a school means—
- (a) a person who gives or has given substantial financial assistance (which for these purposes includes benefits in kind) to the school other than pursuant to statutory obligation; or
 - (b) any other person (not being otherwise represented on the governing body) who provides or has provided substantial services to the school,
provided that, in either case, such person is not entitled to appoint the foundation governors nor connected to any person so entitled.
- (2) For the purposes of this paragraph, a person is connected with a person entitled to appoint foundation governors where—
- (a) he is a partner or relative (including a spouse or someone living with that person as if he or she were that person’s spouse); or
 - (b) either or both persons are a body corporate and one owns at least one-fifth of the other’s equity share capital (within the meaning of the Companies Act 1985⁽²⁾), or is entitled to exercise or control the exercise of more than one-fifth of the voting power of the other at any general meeting.
2. Where the school has one or more sponsors, the governing body may determine that the instrument of government will provide for the governing body to appoint such number of sponsor governors, not exceeding two or four, as the case may be, nominated in accordance with paragraph 3.
3. The governing body must seek nominations for such appointments from the sponsor or (as the case may be) from one or more of the sponsors.

SCHEDULE 6

Regulation 22

Qualifications and disqualifications

General

- 1.—(1) A person is disqualified from holding or from continuing to hold office as a governor of a school at any time when he is a registered pupil at the school.
- (2) No person is qualified to be a governor unless he is aged 18 or over at the date of his election or appointment.

(2) The Companies Act 1985 has been prospectively repealed and replaced by the Companies Act 2006.

(3) Sub-paragraphs (1) and (2) do not apply to an associate member appointed under regulation 11.

2. No person may at any time hold the office of more than one governor of the same school.

3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a school does not disqualify him from election or appointment or from continuing as a governor of any other category at that school.

Mental disorder

4. A person is disqualified from holding or from continuing to hold office as a governor of a school at any time when he is detained under the Mental Health Act 1983(3).

Failure to attend meetings

5.—(1) This paragraph applies to any governor who is not a governor by virtue of his office.

(2) A governor, who, without the consent of the governing body, has failed to attend their meetings for a continuous period of six months beginning with the date of the first such meeting he failed to attend, is, on the expiry of that period, disqualified from continuing to hold office as a governor of that school.

(3) A foundation governor (other than an ex officio foundation governor), LEA governor, community governor, partnership governor or sponsor governor who has been disqualified as a governor of a school under sub-paragraph (2) is not qualified for election, nomination or appointment as a governor of any category at that school during the twelve months immediately following his disqualification under sub-paragraph (2).

Bankruptcy

6. A person is disqualified from holding or continuing to hold office as a governor of a school if—

- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
- (b) he is the subject of a bankruptcy restrictions order or an interim order.

Disqualification of company directors

7. A person is disqualified from holding, or from continuing to hold, office as a governor of a school at any time when he is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(4);
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(5);
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002(6); or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(7) (*failure to pay under county court administration order*).

(3) 1983 c.20.

(4) 1986 c.46.

(5) S.I. 1989/2404 (N.I. 18). This has been prospectively repealed by the Companies Act 2006.

(6) S.I. 2002/3150 (N.I. 4).

(7) 1986 c.45.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Disqualification of charity trustees

8. A person is disqualified from holding or from continuing to hold office as a governor of a school if—

- (a) he has been removed from the office of trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or to which he contributed or which he facilitated by his conduct; or
- (b) he has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005⁽⁸⁾(*Powers of Court of Session*), from being concerned in the management or control of any body.

Persons whose employment is prohibited or restricted

9. A person is disqualified from holding or from continuing to hold office as a governor of a school at any time when he is—

- (a) included in the list kept under section 1 of the Protection of Children Act 1999⁽⁹⁾ (list of those considered by the Secretary of State as unsuitable to work with children);
- (b) subject to a direction of the Secretary of State under section 142 of EA 2002 (or any other disqualification, prohibition or restriction which takes effect as if contained in such a direction);
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000⁽¹⁰⁾;
- (d) disqualified from registration under Part 10A of the Children Act 1989⁽¹¹⁾ for child minding or providing day care; or
- (e) disqualified from registration under Part 3 of the Childcare Act 2006⁽¹²⁾.

Criminal convictions

10.—(1) Subject to sub-paragraph (5) below, a person is disqualified from holding, or continuing to hold, office as a governor of a school where any of sub-paragraphs (2) to (4) or (6) below apply to him.

(2) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor by virtue of his office,

he has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(3) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise

⁽⁸⁾ 2005 asp 10.

⁽⁹⁾ 1999 c.14; as amended by the Care Standards Act 2000 (2000 c.14).

⁽¹⁰⁾ 2000 c.43.

⁽¹¹⁾ 1989 c.41.

⁽¹²⁾ 2006 c.21.

have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, he has been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than two and a half years.

(4) This sub-paragraph applies to a person if he has at any time been convicted as aforesaid of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4) above, any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom must be disregarded.

(6) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor by virtue of his office,

he has been convicted under section 547 of EA 1996⁽¹³⁾ (*nuisance or disturbance on school premises*) or under section 85A of the Further and Higher Education Act 1992⁽¹⁴⁾ (*Nuisance or disturbance on educational premises*) of an offence and has been sentenced to a fine.

Refusal to make an application for a criminal records certificate

11. A person is disqualified from holding or continuing to hold office as a governor at any time when he refuses a request by the clerk to the governing body to make an application under section 113A of the Police Act 1997⁽¹⁵⁾ for a criminal records certificate.

Notification to clerk

12. Where, by virtue of any of paragraphs 6 to 10—

- (a) a person is disqualified from holding, or from continuing to hold, office as a governor of a school; and
- (b) he is, or is proposed to become, a governor,

he must give notice of that fact to the clerk to the governing body.

⁽¹³⁾ As amended by SSFA 1998 and by section 206 of and Schedule 20 to EA 2002 and by section 6 of and Schedule 1 to the Education and Inspections Act 2006 (c.40).

⁽¹⁴⁾ 1992 c.13; inserted by section 206 of and Schedule 20 to EA 2002.

⁽¹⁵⁾ 1997 c.50; inserted by section 163 of the Serious Organised Crime and Police Act 2005 (2005 c.15).