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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the new arrangements for the constitution of governing bodies of maintained schools, including maintained nursery schools, in Wales. After 31 October 2005, all governing bodies of new schools must be constituted in accordance with these Regulations. After 1 September 2008, all existing governing bodies must be constituted in accordance with these regulations, but until that date they may choose whether to retain their existing Instruments of Government or to adopt a new one in accordance with these Regulations.

**Part 1** provides for the Regulations to come into force on 31 October 2005 and 1 January 2006, sets out the Regulations that are to be revoked or amended (mainly Parts I to III and Part VIII of the Education (School Government) (Wales) Regulations 1999 [SI 1999/2242 \(W.2\)](#)) and contains the interpretation provisions.

**Part 2** describes the various categories of governor. Regulation 4 and Schedule 1 deal with parent governors and set out the basis on which a person may qualify to stand for election and to vote for a parent governor or to be appointed as a parent governor.

Regulation 5 deals with teacher governors and regulation 6 deals with staff governors who are not teachers. The head teacher is a governor by virtue of his or her position but may resign his or her governorship (or withdraw his or her resignation) at any time. Schedule 2 deals with the election process for teacher and staff governors.

Regulation 7 deals with the appointment of LEA governors.

Regulation 8 sets out who is eligible for appointment as a community governor. Regulation 9 deals with the appointment of foundation governors, including *ex officio* foundation governors and substitute governors. Regulation 10 and Schedule 3 deal with the nomination process for, and the appointment of, partnership governors.

Regulation 11 provides for the appointment of sponsor governors and Schedule 4 deals with the process for their appointment.

Regulation 12 and paragraphs (4) and (5) of regulation 15 make provision for representative governors in community special schools.

**Part 3** sets out the general principles by which the size and composition of school governing bodies are to be determined. Regulations 13 to 19 set out the specific requirements for the constitution of the governing bodies of each category of school.

Regulation 20 makes provision for additional community governors for community and voluntary primary schools and maintained nursery schools that serve areas in which there are one or more community councils.

Regulation 21 sets out the requirements to be observed by a person wishing to exercise the power of nominating or appointing a governor. If there is any dispute between persons jointly entitled to nominate or appoint a governor, the appointment is to be made by the National Assembly for Wales under regulation 22. Regulation 23 makes provision for the removal of surplus governors.

**Part 4** deals with qualifications and term of office. Regulation 24 and Schedule 5 set out the circumstances in which a governor is disqualified from standing for election, being appointed or continuing in office as a governor.

Regulation 25 provides that (with some exceptions) a governor's term of office is a maximum of 4 years. In the event that an *ex officio* foundation governor is unable or unwilling to take up office,

*Status: This is the original version (as it was originally made).*

a substitute governor may be appointed. Regulation 26 sets out the procedure for resigning as a governor. Regulations 27 to 29 provide for the removal of governors who have been appointed (rather than elected) to office.

**Part 5** deals with the procedure for making, reviewing and varying instruments of government and the content of instruments. The first instrument of government of a maintained nursery school will be prepared and made by the LEA. Regulation 32 sets out the duty to have regard to guidance given by the National Assembly for Wales in this regard. Regulation 36 sets out the duty to provide copies of the instrument of government to every member of the governing body, the head teacher, the trustees of the school (if any) and the diocesan authority or other appropriate religious body (in the case of faith schools). Regulation 37 lays a duty on LEAs to ensure that all schools have an instrument of government that conforms to these Regulations by 31 March 2006 in the case of a nursery school, and by 31 August 2008 in the case of other schools.

**Part 6** and Schedule 6 enable governors appointed or elected to office prior to or on 31 October 2005 to continue in office when an instrument of government made in accordance with these Regulations comes into effect.

**Part 7** deals with the appointment and removal of officers of the governing body, and their functions. Regulation 40 deals with delegation of functions to the chair or vice-chair in cases of urgency. Under regulation 42 the governing body is required to appoint a clerk to the governing body, and has the power to remove the clerk from office at any time. Regulation 43 sets out the functions of the clerk to the governing body.

**Part 8** provides for meetings and proceedings of the governing body. This Part includes provisions for access to meetings, convening meetings, quorum, minutes and their publication. Decisions on all matters are to be made by majority of governors voting.

Regulation 49 sets out the circumstances in which a governor may be suspended from meetings for up to 6 months. Regulations 50 to 52 relate to delegation of governing body functions.

**Part 9** deals with the establishment and proceedings of committees of governing bodies, including clerking arrangements, convening meetings, quorum, voting and publication of minutes.

**Part 10** and Schedule 7 deal with conflicts of interest and the circumstances in which governors and others who are otherwise entitled to attend meetings of the governing body or its committees must withdraw and not vote. The general principle is that where there is a conflict between the interests of such a person and the interests of the governing body, or where the principles of natural justice require a fair hearing and there is any reasonable doubt about that person's ability to act impartially, he or she should withdraw from the meeting and not vote.

A regulatory appraisal of these Regulations has been prepared and can be viewed on the National Assembly for Wales website ([www.wales.gov.uk](http://www.wales.gov.uk)). Copies can be obtained from the Schools Management Division of the Department for Training and Education, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.