
WELSH STATUTORY INSTRUMENTS

2005 No. 2914

The Government of Maintained
Schools (Wales) Regulations 2005

PART 5

Instrument of Government

Procedure for making an instrument

34.—(1) Subject to paragraph (6), the governing body must prepare a draft of the instrument of government and submit it to the local education authority.

(2) Where the school has foundation governors, the governing body must not submit the draft to the local education authority unless it has been approved by—

- (a) the foundation governors;
- (b) any trustees of any trust relating to the school;
- (c) in the case of a Church in Wales school or Roman Catholic Church school, the appropriate diocesan authority; and
- (d) in the case of any other school designated under section 69(3) of the 1998 Act as having a religious character, the appropriate religious body.

(3) On receiving the draft the local education authority must consider whether it complies with all applicable statutory provisions, and if—

- (a) it is content that the draft so complies, or
- (b) there is agreement between it, the governing body and (if the school has foundation governors) the persons mentioned in paragraph (2) that the draft should be revised to any extent and the revised draft complies with all the applicable statutory provisions,

the instrument of government must be made by it in the form of the draft or (as the case may be) in the form of the revised draft.

(4) If, in the case of a school which has foundation governors, at any time the persons listed in paragraph (2) disagree with the draft, any of those persons may refer it to the National Assembly for Wales which must give such direction as it thinks fit having regard, in particular, to the category of school to which the school belongs.

(5) If neither of sub-paragraphs (a) and (b) of paragraph (3) applies in the case of a school which does not have foundation governors, the local education authority must—

- (a) inform the governing body of the reasons why it is not content with the draft instrument of government, and
- (b) give the governing body a reasonable opportunity to reach agreement with it on revising the draft;

and the instrument of government must be made by it either in the form of a revised draft agreed between it and the governing body or (in the absence of such agreement) in such form as it thinks fit having regard, in particular, to the category of school to which the school belongs.

(6) In the case of a maintained nursery school, the local education authority must prepare and make the first instrument of government.