

SCHEDULE 5 **E+W**

(Regulation 24)

Qualifications and disqualifications

General **E+W**

1. No person is qualified to be a governor unless he or she is aged 18 or over at the date of his or her election or appointment.

Commencement Information

I1 Sch. 5 para. 1 in force at 31.10.2005, see [reg. 1\(1\)](#)

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

Commencement Information

I2 Sch. 5 para. 2 in force at 31.10.2005, see [reg. 1\(1\)](#)

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 or her from election or appointment or from continuing as a governor of any other category at that school.

Commencement Information

I3 Sch. 5 para. 3 in force at 31.10.2005, see [reg. 1\(1\)](#)

Commencement Information

I1 Sch. 5 para. 1 in force at 31.10.2005, see [reg. 1\(1\)](#)

I2 Sch. 5 para. 2 in force at 31.10.2005, see [reg. 1\(1\)](#)

I3 Sch. 5 para. 3 in force at 31.10.2005, see [reg. 1\(1\)](#)

Mental disorder **E+W**

4. A person is disqualified from holding or for continuing to hold office as a governor of a school at any time when he or she is liable to be detained under the Mental Health Act 1983(1) or under any re-enactment or statutory modification of that Act in force from time to time.

Commencement Information

I4 Sch. 5 para. 4 in force at 31.10.2005, see [reg. 1\(1\)](#)

Failure to attend meetings **E+W**

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

(2) A governor, who, without the consent of the governing body, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of the first such meeting he

(1) 1983 c. 20.

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or she failed to attend, is, on the expiry of that period, disqualified from continuing to hold office as a governor of that school.

(3) Where a governor has sent an apology to the clerk to the governing body before a meeting which he or she does not propose to attend, the minutes of the meeting must record the governing body's consent or otherwise to the absence and a copy of the minutes must be sent to the governor concerned at his or her normal place of residence.

(4) A 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 or her disqualification under sub-paragraph (2).

Commencement Information

I5 Sch. 5 para. 5 in force at 31.10.2005, see [reg. 1\(1\)](#)

Bankruptcy **E+W**

6. A person is disqualified from holding or continuing to hold office as a governor of a school if—
- (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
 - (b) he or she has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

Commencement Information

I6 Sch. 5 para. 6 in force at 31.10.2005, see [reg. 1\(1\)](#)

Disqualification of company directors **E+W**

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

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986⁽²⁾,
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989⁽³⁾,
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁴⁾, or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986⁽⁵⁾ (*failure to pay under county court administration order*).

Commencement Information

I7 Sch. 5 para. 7 in force at 31.10.2005, see [reg. 1\(1\)](#)

(2) 1986 c. 46.
 (3) No. 2404 (N.I. 18).
 (4) No. 3150 (N.I. 4).
 (5) 1986 c. 45.

Disqualification of charity trustees **E+W**

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

- (a) he or she 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 or she was responsible or to which he or she was privy, or to which he or she contributed or which he or she facilitated by his or her conduct; or
- (b) he or she has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽⁶⁾ (*powers of Court of Session to deal with management of charities*), from being concerned in the management or control of any body.

Commencement Information

18 Sch. 5 para. 8 in force at 31.10.2005, see [reg. 1\(1\)](#)

Persons whose employment is prohibited or restricted **E+W**

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

- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999⁽⁷⁾;
- (b) subject to a direction of the National Assembly for Wales or the Secretary of State under section 142 of the 2002 Act;
- (c) disqualified from working with children under sections 28 and 29 of the Criminal Justice and Court Services Act 2000⁽⁸⁾; or
- (d) by virtue of an order made under section 470 or section 471 of the 1996 Act⁽⁹⁾, disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school.

Commencement Information

19 Sch. 5 para. 9 in force at 31.10.2005, see [reg. 1\(1\)](#)

Criminal convictions **E+W**

10.—(1) Subject to sub-paragraph (6) 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 or her.

(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 or her appointment or election as governor would otherwise have taken effect

⁽⁶⁾ 1990 c. 40; the functions of the Lord Advocate under this section transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I.1999/678).

⁽⁷⁾ 1999 c. 14; as amended by the Care Standards Act 2000 (2000 c. 14).

⁽⁸⁾ 2000 c. 43.

⁽⁹⁾ Repealed by the 2002 Act.

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or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office, or

- (b) since his or her appointment or election as governor or, as the case may be, since he or she became a governor by virtue of his or her office,

he or she has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him or her 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 or her appointment or election as governor would otherwise have taken effect or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office, he or she has been convicted as aforesaid of any offence and has had passed on him or her 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 or she has at any time been convicted as aforesaid of any offence and he or she has had passed on him or her 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 or her appointment or election as governor would otherwise have taken effect or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office, or
- (b) since his or her appointment or election as governor or, as the case may be, since he or she became a governor by virtue of his or her office,

he or she has been convicted under section 547 of the 1996 Act⁽¹⁰⁾ or under section 85A of the Further and Higher Education Act 1992⁽¹¹⁾ (*nuisance and disturbance on educational premises*) of an offence and has been sentenced to a fine.

Commencement Information

I10 Sch. 5 para. 10 in force at 31.10.2005, see [reg. 1\(1\)](#)

Governors of more than two schools **E+W**

11.—(1) No person may at any time hold office as governor in more than two schools.

(2) For the purposes of sub-paragraph (1) no account is to be taken of *ex-officio* governorships, governorships to which the New Maintained Schools (Wales) Regulations 2005⁽¹²⁾ apply or any appointment under sections 16, 16A, 18 or 18A of the 1998 Act

⁽¹⁰⁾ As amended by the 1998 Act and by section 206 of and Schedule 20 to the 2002 Act.

⁽¹¹⁾ 1992 c. 13; inserted by section 206 of and Schedule 20 to the 2002 Act.

⁽¹²⁾ S.I. 2005/2912 (W. 209).

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Commencement Information

I11 Sch. 5 para. 11 in force at 31.10.2005, see [reg. 1\(1\)](#)

Refusal to make an application for a criminal records certificate **E+W**

12. A person is disqualified from holding or continuing to hold office as a governor at any time when he or she refuses a request by the governing body to make an application under section 113 of the Police Act 1997(13) for a criminal records certificate.

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Commencement Information

I12 Sch. 5 para. 12 in force at 31.10.2005, see [reg. 1\(1\)](#)

Notification to clerk **E+W**

13. Where—

- (a) by virtue of any paragraphs 6 to 11 a person is disqualified from holding, or for continuing to hold, office as a governor of a school; and
- (b) he or she is, or is proposed to become, a governor,

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

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Commencement Information

I13 Sch. 5 para. 13 in force at 31.10.2005, see [reg. 1\(1\)](#)

(13) [1997 c. 50](#); as amended by the Protection of Children Act 1999, the Care Standards Act 2000 and the 2002 Act.

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