

SCHEDULE 1

(Regulation 4)

Election and appointment of parent governors

1. In this Schedule “appropriate authority” (“*awdurdod priodol*”) 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) subject to paragraph 3, 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 its functions under this Schedule.
3. The local education authority is 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 9 the appropriate authority must make all the necessary arrangements for the election of parent governors.
5. The appropriate authority is to determine for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school.
6. The power conferred by paragraph 4—
 - (a) 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, but
 - (b) does include the power to make provision as to qualifying dates.
7. Any election which is contested must be held by secret ballot.
- 8.—(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” (“*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.
9. 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 is—
 - (a) informed of the vacancy and that it is required to be filled by election;
 - (b) informed that he or she is entitled to stand as a candidate and vote in the election; and
 - (c) given the opportunity to do so.
10. 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.

Status: This is the original version (as it was originally made).

11.—(1) Except where paragraph 12 applies, the governing body must appoint as a parent governor—

- (a) a parent of a registered pupil at the school; or
- (b) where it is not reasonably practicable to do so, a parent of a child of compulsory school age, or in the case of a maintained nursery school, of or under compulsory school age.

12.—(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; or
- (b) a parent of a child of compulsory school age with special educational needs; or
- (c) a parent of a person of any age with special educational needs; or
- (d) a parent of a child of compulsory school age.

(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

(Regulations 5 and 6)

Election of teacher and staff governors

1. In this Schedule “appropriate authority” (“*awdurdod priodol*”) has the same meaning as in Schedule 1.

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 its functions under this Schedule.

3. Subject to paragraphs 4 to 6, the appropriate authority must make all the necessary arrangements for the election of teacher and staff governors.

4. The appropriate authority is to determine for the purposes of an election of teacher or staff governors whether a person is a school teacher or otherwise employed to work at the school.

5. The power conferred by paragraph 3—

- (a) 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, but
- (b) does include the power to make provision as to qualifying dates.

6. Any election which is contested must be held by secret ballot.

SCHEDULE 3

(Regulation 10)

Appointment of partnership governors

1. Where a partnership governor is required, 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.

2. 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.

3.—(1) In the case of a foundation special school without a foundation, the governing body must appoint at least one person with experience of education for children with special educational needs as a partnership governor, unless no eligible nominee has such experience.

(2) In seeking nominations for partnership governors for foundation special schools, the governing body must take steps to secure that persons making nominations are aware of the requirement in paragraph (1).

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 paragraph 1, it must give written reasons for its decision to the local education authority and to 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.

SCHEDULE 4

(Regulation 11)

Appointment of Sponsor Governors

1. In this Schedule, “sponsor” (“*noddwr*”) 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.

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, 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 any one or more of the sponsors.

SCHEDULE 5

(Regulation 24)

Qualifications and disqualifications

General

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.

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 or her 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 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.

Failure to attend meetings

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 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).

Bankruptcy

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.

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 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*).

(1) 1983 c. 20.
(2) 1986 c. 46.
(3) No. 2404 (N.I. 18).
(4) No. 3150 (N.I. 4).
(5) 1986 c. 45.

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 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.

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 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.

Criminal convictions

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 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

⁽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.

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

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.

Governors of more than two schools

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

Refusal to make an application for a criminal records certificate

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.

Notification to clerk

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.

⁽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).

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

SCHEDULE 6

(Regulation 38)

*Transitional Provisions***1.** In this Schedule—

“current governing body” (“*corff llywodraethu cyfredol*”) means a governing body constituted under an instrument of government that is in effect before 31 October 2005; and

“current governor” (“*llywodraethwr cyfredol*”) means any person who is appointed to or elected to office as a member of a current governing body on or before 31 October 2005 but not any person who is reappointed or re-elected to such office after that date.

2. On or after the date on which an instrument of government made in accordance with these Regulations becomes effective, a current governor is to continue as a governor of the corresponding category of governor required by the instrument of government, as if he or she had been appointed to or elected to such category in accordance with these Regulations, even if he or she does not conform to the relevant requirements imposed by these Regulations for a governor of that category.

3. For the purposes of paragraph 2, the corresponding categories shall be as follows—

<i>Category of current governor</i>	<i>Category of governor under these Regulations</i>
Co-opted governor	Community governor
Additional co-opted governor appointed under paragraph 15(4) of Schedule 9 to the 1998 Act	Additional Community Governor
Additional co-opted governor appointed under paragraph 2 of Schedule 1 to the 1999 Regulations	Sponsor governor
Representative governor	Representative governor
Foundation governor (including <i>ex officio</i> foundation governor and substitute governor)	Foundation governor (including <i>ex officio</i> foundation governor and substitute governor)
LEA governor	LEA governor
Parent governor	Parent governor
Partnership governor	Partnership governor
Staff governor	Staff governor
Teacher governor	Teacher governor
Head Teacher (<i>ex officio</i> governor)	Head Teacher (<i>ex officio</i>)

4. A current governor will hold office as a governor of the corresponding category of governor under these Regulations until—

- (a) the term of office that applied at the date of his election or appointment as a current governor would have expired,
- (b) he or she resigns his or her office,
- (c) he or she becomes disqualified from holding or continuing to hold office as a governor under these Regulations, or
- (d) 31 August 2008

which ever is the earlier.

5. This Schedule does not prevent a current governor from—

- (a) being elected or appointed as a governor of any category required by the instrument of government for a further term, save as otherwise provided in these Regulations; or
- (b) being removed from office under regulations 27 to 29.

6. A current governor, who continues as a governor after an instrument of government made in accordance with these Regulations becomes effective, must be included in calculating the number of governors required in each category under the instrument of government.

SCHEDULE 7

(Regulation 63)

Restrictions on persons taking part in proceedings of the governing body or its committees

Pecuniary interests

1.—(1) For the purposes of regulation 63(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; or
- (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 or her spouse, civil partner within the meaning of the Civil Partnership Act 2004⁽¹⁴⁾ or someone living with that person as if he or she were that person's spouse or civil partner) to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 63(2) a relevant person is not to be treated as having a pecuniary interest in any matter—

- (a) provided his or her 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 or she was nominated or appointed to office by, is a member of, or is employed by, any public body; or
- (c) by reason only of the fact that he or she is a member of a corporation or other body if he or she has no financial interest in any securities of that corporation or other body.

(3) A governor is not, by reason of his or her pecuniary interest in the matter, prevented from considering and voting upon proposals for the governing body to take out insurance protecting 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.

(4) A governor is not prevented from considering or voting upon any proposal regarding allowances to be paid in accordance with the Governor Allowances (Wales) Regulations 2005⁽¹⁵⁾ by reason that he or she has an interest in the payment of such allowances to members of the governing body generally but a member of a governing body or any committee thereof must withdraw from a meeting during a consideration or discussion of, and must not vote on, whether he or she should receive a particular allowance, the amount of any payment or any question about an allowance that has been paid to him or her.

⁽¹⁴⁾ 2004 c. 33.

⁽¹⁵⁾ S.I. 2005/2915 (W. 212).

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 school at which a subject of consideration is—

- (a) his or her own appointment, reappointment, suspension or removal as a member of the governing body or a committee;
- (b) his or her own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body or clerk to or chair of a committee;
- (c) if he or she is a sponsor governor, any determination under paragraph 2 of Schedule 4 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 are to be treated for the purposes of regulation 63(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 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 or her own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests are to be treated for the purpose of regulation 63(2) as being in conflict with the governing body's interests.

Appointment of Staff

4. Where a relevant person who is employed to work at a school is present at a meeting of the school at which a subject of consideration is the appointment of a successor to that person, he or she must withdraw from the meeting during the consideration or discussion of the matter in question and must not vote on any question with respect to that matter.

Persons who are members of more than one governing body

5. The fact that a person is governor or member of a committee of the governing body at more than one school is not under any circumstances to be considered a conflict of interest for the purpose of these Regulations.