

**2012 No. 421**

**EDUCATION, ENGLAND**

**The School Governance (England) (Amendment) Regulations  
2012**

<i>Made</i>	- - - -	<i>17th February 2012</i>
<i>Laid before Parliament</i>		<i>24th February 2012</i>
<i>Coming into force</i>	- -	<i>17th March 2012</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 19(2) and (3), and 20(2) of the Education Act 2002(a).

**Citation and commencement**

1. These Regulations may be cited as the School Governance (England) (Amendment) Regulations 2012 and come into force on 17th March 2012.

**Amendments to the School Governance (Constitution) (England) Regulations 2007**

2.—(1) The School Governance (Constitution) (England) Regulations 2007(b) are amended as follows.

(2) For regulation 5(1)(b) (staff governors), substitute—

“(b) a person who—

- (i) is elected in accordance with Schedule 2 as a governor by persons who are employed by either the governing body or the local authority under a contract of employment providing for those persons to work at the school; and
- (ii) is employed by either the governing body or the local authority under a contract of employment providing for that person to work at the school at the time of the election referred to in sub-paragraph (i).”

(3) In regulation 8(1) (foundation governors)—

(a) after sub-paragraph (a) omit “and”; and

(b) after sub-paragraph (b) add—

“and,

- (c) would, in the opinion of the person entitled to appoint the foundation governor, be capable of achieving the purposes for which they would be appointed as a foundation governor;”.

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(a) 2002 c.32; section 19 was amended by S.I. 2010/1158 and is amended by the Education Act 2011 (c.21), section 38 (not yet in force). For the meaning of the term “regulations” see section 212 of the Education Act 2002 (c. 32).

(b) S.I. 2007/957, amended by S.I. 2009/1924 and S.I. 2010/1172.

- (4) After regulation 9(2) (partnership governors) add—
- “(3) The disqualification criterion in paragraph (2)(d) does not apply in the case of a person who is employed by a local authority in England under a contract of employment providing for the person to work wholly at a school or schools maintained by the local authority .”.
- (5) In regulation 16 (qualifying foundation schools) after paragraph (1) insert—
- “(1A) A parent of a former registered pupil at the school may only be appointed in accordance with paragraph (1)(f) if, in the opinion of the person entitled to appoint foundation governors, it is not reasonably practicable to appoint sufficient persons for the purposes of that provision who—
- (a) are parents of registered pupils at the school, and
  - (b) would be capable of achieving the purposes for which they would be appointed as a foundation governor.
- (1B) A parent of a child under or of compulsory school age may only be appointed in accordance with paragraph (1)(f) if, in the opinion of the person entitled to appoint foundation governors, it is not reasonably practicable to appoint sufficient persons for the purposes of that provision who—
- (a) are parents of registered pupils at the school or of former registered pupils at the school, and
  - (b) would be capable of achieving the purposes for which they would be appointed as a foundation governor.”.

(6) In regulation 18 (voluntary aided schools) after paragraph (1) insert—

“(1A) A parent of a former registered pupil at the school may only be appointed in accordance with paragraph (1)(e) if, in the opinion of the person entitled to appoint foundation governors, it is not reasonably practicable to appoint sufficient persons for the purposes of that provision who—

    - (a) are parents of registered pupils at the school, and
    - (b) would be capable of achieving the purposes for which they would be appointed as a foundation governor.

(1B) A parent of a child under or of compulsory school age may only be appointed in accordance with paragraph (1)(e) if, in the opinion of the person entitled to appoint foundation governors, it is not reasonably practicable to appoint sufficient persons for the purposes of that provision who—

    - (a) are parents of registered pupils at the school or of former registered pupils at the school, and
    - (b) would be capable of achieving the purposes for which they would be appointed as a foundation governor.”.

(7) In regulation 22(3) (term of office)—

      - (a) after “additional governor” omit “,” and insert “or”; and
      - (b) after “foundation governor” omit “or interim executive member”.

(8) In regulation 28 (interpretation), for the definition of “appropriate religious body” substitute—

““appropriate religious body”, in relation to a school designated under section 69(3) of SSFA 1998 as having a religious character that is not a Church of England school or a Roman Catholic Church school, means the body or person, if any, representing the specified religion or religious denomination as is prescribed in regulations made under section 88F(3)(e) of SSFA 1998.”.

(9) In Schedule 6 (qualifications and disqualifications)—

      - (a) omit paragraph 4; and
      - (b) for paragraph 6(b) substitute—

“(b) he is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order, a debt relief restrictions order or an interim debt relief restrictions order”.

### **Amendments to the School Governance (Federations) (England) Regulations 2007**

**3.—**(1) The School Governance (Federations) (England) Regulations 2007(a) are amended as follows.

(2) For regulation 14(1)(b) (staff governors) substitute—

“(b) a person who—

- (i) is elected in accordance with Schedule 3 as a governor by persons who are employed by either the governing body of the federation or the local authority under a contract of employment providing for those persons to work at the federation or at a federated school; and
- (ii) is employed by either the governing body of the federation or the local authority under a contract of employment providing for that person to work at the federation or at a federated school at the time of the election referred to in sub-paragraph (i).”

(3) In regulation 17(1) (foundation governors)—

- (a) after sub-paragraph (a)(i) omit “and”; and
- (b) after sub-paragraph (a)(ii) add—

“and,

- (iii) would, in the opinion of the person entitled to appoint the foundation governor, be capable of achieving the purposes for which they would be appointed as a foundation governor.”

(4) In regulation 18(2) (partnership governors) after sub-paragraph (d) add—

“(3) The disqualification criterion in paragraph 18(2)(d) does not apply in the case of a person who is employed by a local authority in England under a contract of employment providing for the person to work wholly at a school or schools maintained by the local authority .”

17th February 2012

*Jonathan Hill*  
Parliamentary Under Secretary of State  
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(a) S.I.2007/960, amended by S.I. 2007/3464, S.I. 2009/1556, S.I. 2010/1172 and S.I. 2011/1725.

## EXPLANATORY NOTE

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

These Regulations make amendments to the School Governance (Constitution) (England) Regulations 2007 (“the Constitution Regulations”) and to the School Governance (Federations) (England) Regulations 2007 (“the Federation Regulations”).

Regulation 2 makes amendments to the Constitution Regulations. It makes changes to the definition of staff governor in regulation 5; adds to the discretion given to the appointer of foundation governors in regulation 8; amends the disqualification criteria in regulation 9 (partnership governors) so as not to disqualify those who work in schools and are employed by the local authority; amends regulations 16 and 18 in respect of those persons appointed to governing bodies of qualifying foundation and voluntary aided schools as foundation governors who are eligible for election or appointment as parent governors; removes the reference in regulation 22 to “interim executive member”; amends the definition in regulation 28 of “appropriate religious body”; and removes detention under the Mental Health Act 1983 from, and adds being the subject of a debt relief restrictions order or an interim debt relief restrictions order to, the list of disqualification criteria in Schedule 6. Debt relief restrictions orders are orders made under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986 and interim debt relief restrictions orders are made under paragraph 5; Schedule 4ZB was inserted by Schedule 19 to the Tribunals, Courts and Enforcement Act 2007.

Regulation 3 makes amendments to the Federation Regulations. It makes changes to the definition of staff governor in regulation 14; adds to the discretion given to the appointer of foundation governors in regulation 17; and amends the disqualification criteria in regulation 18(2) (partnership governors) so as not to disqualify those who work in schools and are employed by the local authority.

An impact assessment has not been produced for this instrument as no impact on businesses or civil society organisations is foreseen and the impact on the public sector will be minimal.

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