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STATUTORY INSTRUMENTS

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**2012 No. 1643 (W.212)**

**EDUCATION, WALES**

**The School Governance (Transition from an  
Interim Executive Board) (Wales) Regulations 2012**

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| <i>Made</i>  | - - - - | <i>22 June 2012</i>     |
| <i>Laid before the National<br/>Assembly for Wales</i> | - -     | <i>26 June 2012</i>     |
| <i>Coming into force</i>                               | - -     | <i>1 September 2012</i> |

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by paragraph 19(2) and (3) of Schedule 1A to the School Standards and Framework Act 1998<sup>(1)</sup> and now vested in them<sup>(2)</sup>, and in exercise of the powers conferred on the National Assembly for Wales under section 19 of the Education Act 2002<sup>(3)</sup> and now vested in them<sup>(4)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the School Governance (Transition from an Interim Executive Board) (Wales) Regulations 2012 and they come into force on 1 September 2012 .

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“authority” (“*awdurdod*”) means the local authority by which a maintained school is maintained;

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- (1) 1998 c. 31. Section 59(2) of the 2002 Act inserted Schedule 6 of that Act into the 1998 Act as Schedule 1A. For the meaning of “regulations” *see* section 142(1).
- (2) The functions of the Secretary of State under Schedule 1A to the 1998 Act (as inserted by the 2002 Act) were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and section 211 of the 2002 Act, and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (3) 2002 c. 32. For the meaning of “regulations” *see* section 212(1).
- (4) The functions of the National Assembly for Wales under section 19 of the 2002 Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

“the Government Regulations” (“*y Rheoliadau Llywodraethu*”) means the Government of Maintained Schools (Wales) Regulations 2005<sup>(5)</sup>;

“interim executive board” (“*bwrdd gweithredol interim*”) means a governing body constituted in accordance with Schedule 1A to the 1998 Act (governing bodies of interim executive members);

“interim executive member” (“*aelod gweithredol interim*”) means a member of a governing body constituted in accordance with Schedule 1A to the 1998 Act; and

“shadow governing body” (“*corff llywodraethu cysgodol*”) and “shadow governors” (“*llywodraethwyr cysgodol*”) have the meaning given in regulation 5(2).

### **Exclusion of certain provisions**

3. Save as set out below regulations made by virtue of subsections (2) or (3) of section 19 or section 23 of the 2002 Act are not to apply in relation to the shadow governing body.

### **Modifications of the Government Regulations**

4.—(1) The following modifications of the Government Regulations apply for the purposes of these Regulations.

(2) References to “governing body”, “governor” and “governors” are to be read as references to “shadow governing body”, “shadow governor” and “shadow governors”.

(3) References to different categories of governors are to be read as references to shadow governors of the same category.

### **Arrangements for the establishment of shadow governing body**

5.—(1) At least six months before the date given in a notice served under section 16A(1)<sup>(6)</sup> or 18A(1)<sup>(7)</sup> of, or paragraph 17(1) of Schedule 1A to, the 1998 Act, as the date on which the governing body is to become a normally constituted governing body, the authority must make arrangements providing for the establishment of a governing body for the school in anticipation of the transition to a normally constituted governing body<sup>(8)</sup>.

(2) In these Regulations, a governing body so established is referred to as a shadow governing body and members of the shadow governing body are referred to as shadow governors.

(3) Nothing in these Regulations prevents the appointment or election of an interim executive member as a shadow governor.

### **Members of shadow governing body**

6. The shadow governing body is to consist of members elected or appointed as the case may be in accordance with regulations 4 to 12A of the Government Regulations as modified by regulation 4 of these Regulations.

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(5) S.I. 2005/2914 (W.211), as amended by S.I. 2005/3200 (W.236).

(6) Inserted by section 57 of the 2002 Act and amended by Schedule 9 to the Education Act 2005 (c. 18) and by Schedule 7 to the Education and Inspections Act 2006 (c. 40).

(7) Inserted by section 59 of the 2002 Act and amended by Schedule 9 to the Education Act 2005 and by Schedule 7 to the Education and Inspections Act 2006.

(8) As defined in paragraph 1(1) of Schedule 1A to the 1998 Act.

### **Constitution of shadow governing body**

7. The shadow governing body of a school must be constituted in accordance with such of regulations 13 to 20 of the Government Regulations, as modified by regulation 4 of these Regulations, as are applicable having regard to the category of school.

### **Qualifications, resignation and removal of shadow governors**

8. Regulations 24 and 26 to 30 of, and Schedule 5 to, the Government Regulations as modified by regulation 4 of these Regulations apply in relation to shadow governors.

### **Chair and vice-chair**

9.—(1) The shadow governing body must, at its first meeting, elect a chair and vice-chair of the shadow governing body from among its number.

(2) A person employed to work at the school may not be elected as chair or vice-chair.

(3) The chair or vice-chair of the shadow governing body may, at any time, resign his or her office by giving notice in writing to the clerk to the shadow governing body.

(4) The chair or vice-chair of the shadow governing body must cease to hold office if:

(a) he or she ceases to be a shadow governor; or

(b) he or she is employed to work at the school.

(5) Where a vacancy arises in the office of chair or vice-chair, the shadow governing body must at its next meeting elect one of its number to fill that vacancy.

(6) Where the chair is absent from any meeting or there is at the time a vacancy in the office of the chair, the vice-chair must act as chair for all purposes.

### **Appointment of clerk**

10.—(1) The authority must appoint the clerk to the shadow governing body.

(2) The clerk to the shadow governing body must not be—

(a) a shadow governor; or

(b) the head teacher of the school.

(3) Notwithstanding paragraph (2), the shadow governing body may, where the clerk fails to attend one of its meetings, appoint any one of its number to act as clerk for the purposes of that meeting.

### **Procedure**

11. The shadow governing body may determine its own procedure, subject to regulations 13 and 14.

### **Delegation of functions**

12. The shadow governing body must exercise any functions which have been delegated to it by the interim executive board.

### **Functions of the clerk**

13. The clerk to the shadow governing body must:

- (a) attend meetings of the shadow governing body and ensure that minutes of the proceedings are produced and signed (subject to the approval of the shadow governing body) by the chair of the meeting; and
- (b) perform such other functions as may be determined by the shadow governing body from time to time.

### **Minutes**

**14.**—(1) Subject to paragraph (2), the shadow governing body must, as soon as reasonably practicable, make available for inspection at the school a copy of—

- (a) the agenda for every meeting;
- (b) the signed minutes of every meeting; and
- (c) any report or other paper considered at the meeting.

(2) There may be excluded from any item required to be made available in pursuance of paragraph (1) any material relating to—

- (a) a named person who works, or who it is proposed should work, at the school;
- (b) a named pupil or candidate for admission to the school; or
- (c) any other matter that, by reason of its nature, the shadow governing body is satisfied should remain confidential.

### **End of the interim period**

**15.** From the day on which the interim executive members cease to hold office in accordance with paragraph 18(1) of Schedule 1A to the 1998 Act—

- (a) the shadow governing body is to be treated as if it were a normally constituted governing body;
- (b) the members of the shadow governing body are to be treated as though they had been members of a normally constituted governing body from the date of their appointment or election as the case may be;
- (c) the chair and vice-chair of the shadow governing body are to be treated as though they had been elected under regulation 39(1) of the Government Regulations;
- (d) the clerk to the shadow governing body is to be treated as though he or she had been appointed under regulation 42 of the Government Regulations.

22 June 2012

*Leighton Andrews*  
Minister for Education and Skills, one of the  
Welsh Ministers

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## EXPLANATORY NOTE

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

These Regulations make provision relating to the transition of a school's governing body from being constituted as an interim executive board in accordance with Schedule 1A to the School Standards and Framework Act 1998 to being a governing body constituted in accordance with section 19(1) of the Education Act 2002.

At least six months before the interim executive board ceases to operate the local authority must make arrangements to establish a shadow governing body (regulation 5). The shadow governing body will be constituted in the same way as a fully constituted governing body under the Government of Maintained Schools (Wales) Regulations 2005, so it will have the same categories of governors and the same numbers of governors for different types of schools (regulations 6 and 7).

Provisions of the Government of Maintained Schools (Wales) Regulations 2005 relating to qualifications of governors, resignation and removal are applied to shadow governors (regulation 8). Provision is made for a chair, a vice chair and a clerk to be appointed (regulations 9 and 10). The shadow governing body must carry out any functions delegated to it by the interim executive board (regulation 12). The clerk must attend meetings of the shadow governing body and ensure that minutes are taken and signed by the chair. Subject to certain exclusions (set out in regulation 14(2)), those minutes must be made available to interested persons. In all other respects the shadow governing body must determine its own procedure (regulation 11).

When the interim executive members vacate office, the shadow governing body is treated as if it were a normally constituted governing body. The shadow governors are treated as though they had they had been governors of a fully constituted governing body from the date of appointment or election, and the chair, vice chair and clerk are to be treated as though they had been elected or appointed under the Government of Maintained Schools (Wales) Regulations 2005 (regulation 15).