

2015 No. 1521 (W. 178)

EDUCATION, WALES

**The Government of Maintained
Schools (Change of Category)
(Wales) Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of dealing with the making of a new instrument of government for a school that will be changing its category in accordance with a proposal made under the Schools Standards and Organisation (Wales) Act 2013.

Regulation 2 defines a number of words and expressions used in the Regulations.

Regulation 3 deals with how the new instrument of government should be made.

Regulations 4 – 6 provide for the reconstitution of the governing body when a school changes category. Certain governors are allowed to remain in office and provision is made for the removal of governors who are surplus to the requirements of the new instrument of government.

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**The Government of Maintained
Schools (Change of Category)
(Wales) Regulations 2015**

Made 14 July 2015

Laid before the National Assembly for Wales
16 July 2015

Coming into force 1 September 2015

The Welsh Ministers in exercise of the powers conferred on them by section 97 of and paragraph 38 of Schedule 4 to the School Standards and Organisation (Wales) Act 2013⁽¹⁾ make the following Regulations:

Title, commencement, application and revocation

1.—(1) The title of these Regulations is the Government of Maintained Schools (Change of Category) (Wales) Regulations 2015 and they come into force on 1 September 2015.

(2) These Regulations apply in relation to Wales.

(3) The following Regulations are revoked—

- (a) the Change of Category of Maintained Schools (Wales) Regulations 2001⁽²⁾; and
- (b) the Change of Category of Maintained Schools (Wales) (Amendment) Regulations 2005⁽³⁾.

Interpretation

2. In these Regulations—

(1) 2013 anaw 1.
(2) SI 2001/2678 (W 219).
(3) SI 2005/2916 (W 213).

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Government of Maintained Schools (Wales) Regulations 2005(1);

“the 2014 Regulations” (“*Rheoliadau 2014*”) means the Federation of Maintained Schools (Wales) Regulations 2014(2);

“the governing body” (“*y corff llywodraethu*”) means the governing body of the school in respect of which a change of category is proposed or, as the case may be, takes place;

“the implementation date” (“*y dyddiad gweithredu*”) means the date specified in the proposals as the date on which it is proposed that the change of category should take place; and

“the implementation period” (“*y cyfnod gweithredu*”) means the period commencing on the date proposals are approved or determined under sections 50, 51 or 53 of the School Standards and Organisation (Wales) Act 2013 and ending on the implementation date.

The instrument of government

3.—(1) The governing body and the local authority must secure by the end of the implementation period that a new instrument of government is made for the school in accordance with the 2005 Regulations or the 2014 Regulations (as the case may be).

(2) The new instrument of government takes effect from the date of making for the purpose of reconstituting the governing body but will not affect the constitution of the governing body conducting the school pending the implementation date.

(3) For all other purposes, the new instrument of government takes effect from the implementation date.

Reconstitution of governing body

4.—(1) The governing body and the local authority must secure that, as soon as reasonably practicable after the commencement of the implementation period (and in any event within a period of 3 months beginning on the implementation date), the governing

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- (1) S.I. 2005/2914 (W.211) as amended by the School Councils (Wales) Regulations 2005 (S.I.2005/3200 (W.236)); and by the Staffing of Maintained Schools (Wales) Regulations 2006 (S.I. 2006/873 (W.81)) and by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007 (S.I. 2007/944 (W.80)), and by the Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009 (S.I. 2009/2544 (W.206), and by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Subordinate Legislation) (Wales) Order 2010 (S.I. 2010/1142 (W.101)), and by the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (S.I. 2013/2124 (W.207)).
- (2) S.I. 2014/1132 (W.111).

body is reconstituted in accordance with the new instrument of government and the 2005 Regulations or the 2014 Regulations (as the case may be).

(2) The governing body must exercise its functions under the School Standards and Organisation (Wales) Act 2013 and these Regulations in a manner calculated to enable the local authority to fulfil its duties under paragraph (1).

Current governors continuing in office

5.—(1) Paragraph (2) applies to any member of a current governing body in respect of which a new instrument of government has been made under these Regulations.

(2) Subject to regulation 6, a governor to whom this paragraph applies continues in office from the implementation date (or the date of making the new instrument of government if later) as a governor of the corresponding category required by the new instrument of government (where a corresponding category exists).

(3) A member of a current governing body who continues as a governor under paragraph (2) holds office for the remainder of the term for which that governor was originally appointed or elected.

(4) The proceedings of the governing body are not invalidated by the school having more governors of a particular category than are provided for by the new instrument of government, pending the removal of surplus governors under regulation 6.

Surplus governors

6.—(1) Where—

(a) on or after the implementation date the school has more governors of a particular category than are required as governors of that category by the new instrument of government; and

(b) the excess is not eliminated by resignations, such number of that category as required to eliminate the excess will cease to hold office in accordance with paragraphs (2) and (3).

(2) The governors who are to cease to hold office will be determined on the basis of seniority, the governor whose current period of continuous service (whether as a governor of one or more than one category) is the shortest being the first to cease to hold office.

(3) Where it is necessary for the purpose of paragraph (2) to select one or more governors from a group of equal seniority, it must be done by drawing lots.

(4) For the purpose of this regulation, sponsor governors nominated by a particular category of person are treated as if they constituted a separate category of governor.

(5) Any procedure set out in the new instrument of government for the removal of excess foundation governors will not apply to the reconstitution of the governing body under these Regulations.

Huw Lewis

Minister for Education and Skills, one of the Welsh
Ministers

14 July 2015