

2017 No. 487

EDUCATION, ENGLAND

**The School Governance (Constitution and Federations)
(England) (Amendment) Regulations 2017**

Made - - - - *28th March 2017*

Laid before Parliament *30th March 2017*

Coming into force in accordance with Regulation 1

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 19(3)(a), (b), (c), (e), (l) and (8) and 210(7) of the Education Act 2002(a) and section 3(6) of the Academies Act 2010(b):

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2017.

(2) These Regulations with the exception of regulation 2(3) and 2(4) come into force on 1st May 2017.

(3) Regulation 2(3) and 2(4) comes into force on 1st September 2017.

(4) Regulation 2 applies to governing bodies of maintained schools in England and regulation 3 applies to governing bodies of federations in England.

(5) These Regulations extend to England and Wales.

Amendment of the School Governance (Constitution) (England) Regulations 2012

2.—(1) The School Governance (Constitution) (England) Regulations 2012(c) are amended as follows.

(2) Omit paragraph (6) of regulation 14 (additional requirements for foundation and voluntary schools).

(3) After regulation 24 (removal of appointed parent governors), insert—

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- (a) 2002 c.32. Section 19(3) was modified by S.I. 2004/530 and 2010/1918. Section 19(8) was amended by the Education (Wales) Measure 2011 (c. 07). For a definition of ‘regulations’ see section 212 of the Education Act 2002.
- (b) 2010 c.32. Section 3(6) was inserted by the Education Act 2011 (c. 21), Part 6, section 57(2). For a definition of ‘federated school’ see 24(2) of the Education Act 2002 (c. 32) which applies to the Academies Act 2010 (c.32) by virtue of section 17(2) of that Act. For definitions of ‘prescribed’ and ‘regulations’ see section 579 of the Education Act 1996 (c. 56) which applies to the Academies Act 2010 (c.32) by virtue of section 17(4) of that Act.
- (c) S.I. 2012/1034; the relevant amending instrument is S.I. 2014/1257.

“Removal of elected parent governors or staff governors

24A.—(1) Any parent governor, elected in accordance with regulation 6(1), or any staff governor, may be removed by the governing body in accordance with the procedure set out in regulation 25.”.

- (4) In regulation 25 (procedure for removal of governors by the governing body)—
 - (a) in paragraph (1), for “or 24” substitute “, 24 or 24A”; and
 - (b) in sub-paragraph (b) of paragraph (2), after “24” insert “or 24A”.
- (5) In Schedule 1 (election and appointment of parent governors)—
 - (a) in sub-paragraph (1) of paragraph 10, after “governor” insert “in the following order of preference”;
 - (b) omit sub-paragraph (2) of paragraph 10;
 - (c) in sub-paragraph (1) of paragraph 11, after “appoint” insert “in the following order of preference”; and
 - (d) omit sub-paragraph (2) of paragraph 11.
- (6) In Schedule 4 (qualifications and disqualifications)—
 - (a) after paragraph 12 (disqualification of charity trustees), insert—

“Disqualification of elected parent or staff governors who have been removed from office

12A. A person is disqualified from holding or continuing to hold office as a governor of a school until the date immediately after the fifth anniversary of the date of their removal as an elected parent or staff governor under these Regulations.”; and

- (b) omit paragraph 16 (notification to clerk).

Amendment of the School Governance (Federations) (England) Regulations 2012

3.—(1) The School Governance (Federations) (England) Regulations 2012^(a) are amended as follows.

(2) Omit paragraph (8) of regulation 22 (additional requirements for federations comprising foundation and voluntary schools).

(3) For paragraph (1) of regulation 46 (members of the federated governing body applying for an Academy order), substitute—

“(1) For the purposes of section 3(6) of the AA 2010, the proportion and description of the members of the governing body that may make an application for an Academy order in respect of a federated school are those, being no fewer than three in number, who—

- (a) together make up a proportion of the total number of members of the governing body determined in accordance with paragraph (2); and
 - (b) include at least 50 percent of those members of the governing body who fall within the descriptions prescribed in paragraph (3).”.
- (4) For sub-paragraph (b) of paragraph (3) of regulation 46, substitute “the parent governors”.
- (5) In Schedule 2 (election and appointment of parent governors)—
 - (a) in sub-paragraph (1) of paragraph 9, after “appoint” insert “in the following order of preference”; and
 - (b) omit sub-paragraph (2) of paragraph 9.

^(a) S.I. 2012/1035; relevant amending instruments are 2015/1554 and 2016/204.

28th March 2017

John Nash
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the School Governance (Constitution) (England) Regulations 2012 (S.I. 2012/1034) (“the Constitution Regulations 2012”) and the School Governance (Federations) (England) Regulations 2012 (S.I. 2013/1035) (“the Federation Regulations 2012”).

Regulations 2(2) and 3(2) respectively amend the Constitution Regulations 2012 and the Federation Regulations 2012 by removing rounding up and down provisions for calculating the number of foundation governors.

Regulation 2(3) and (4) amends the Constitution Regulations 2012 to include a power and procedure for governing bodies to remove elected governors so this power is now available in relation to elected governors as it is for appointed governors.

Regulations 2(5) and 3(5) respectively amend the Constitution Regulations 2012 and the Federation Regulations 2012 to clarify the order of preference of categories of parents from which parent governors are appointed by the governing body.

Regulation 2(6)(a) amends the Constitution Regulations 2012 by inserting a provision disqualifying an elected parent or staff governor from holding or continuing in the office of governor for five years after they have been removed from office.

Regulation 2(6)(b) amends the Constitution Regulations 2012 by removing a provision requiring a governor or proposed governor to give notice of certain disqualifications from holding or continuing to hold office.

Regulation 3(3) amends the Federation Regulations 2012 to clarify the members of the governing body specified further to section 3(6) of the Academies Act 2010 (c. 32) that may make an application for an Academy order in respect of a federated school and that that process is an alternative to majority voting needed under s. 3(1) of the Academies Act 2010.

Regulation 3(4) amends the Federation Regulations 2012 to substitute the description of parent governors with a reference to “the parent governors”. The term “parent governor” is defined in regulation 14 of the Federation Regulations 2012 and was amended by the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016) (S.I. 2016/204).

A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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