

National Assembly for Wales

STATUTORY INSTRUMENTS

2001 No. (W.)

EDUCATION, WALES

**The Parent Governor Representatives and Church Representatives (Wales)
Regulations 2001**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 makes provision for local authorities in England and Wales to make arrangements involving the creation and operation of an executive of the authority. Part II of that Act also makes provision for local authorities to make alternative arrangements which do not involve the creation and operation of an executive of the authority. Local authorities operating executive or alternative arrangements are required to establish one or more committees referred to in these Regulations as overview and scrutiny committees.

These Regulations make provision for representatives of parent governors at maintained schools to be included in education overview and scrutiny committees of local education authorities in Wales.

Regulation 3 states that the provisions of these Regulations are specified as alternative arrangements pursuant to the Local Government Act 2000 and that these Regulations will prevail in the event that any provision is inconsistent with the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001.

Regulation 4 provides for each education overview and scrutiny committee to include between 2 and 5 parent governor representatives.

Regulation 5 sets out the election procedures for parent governor representatives and allows local education authorities to make arrangements to divide parent governor representatives into different categories representing a particular type or particular types of school or representing schools in particular geographical areas.

Regulation 6 deals with the eligibility criteria for voting in elections. Unless a local education authority

holds an election for a particular category of parent governor representative any parent governor of a school maintained by that authority can vote. However, if the vacancy is for a parent governor representative to represent a particular type or particular types of school only parent governors of the same type or types of school can vote. Similarly, where the vacancy is for a parent governor representative to represent schools in a particular area only parent governors of schools in that area can vote. In each election in which a parent governor representative is eligible to vote that parent governor representative has a separate vote for each qualifying governorship he or she holds for that particular election.

Regulation 7 sets out the qualifications for election as a parent governor representative. Broadly, any person who is a parent governor and is a parent of a child being educated by the authority holding the election can be elected. However, if the vacancy is to represent a particular type or particular types of school only parent governors of the relevant type or types of school can be elected. Similarly, if the vacancy is to represent schools in a particular geographical area only parent governors of schools in that area can be elected.

Regulations 7 and 8 set out circumstances which disqualify a person from being elected or continuing to act as a parent governor representative.

Regulation 9 provides the term of office of a parent governor representative to be between 2 and 4 years, unless the office is vacated mid-term, and sets out the procedure when the office is vacated mid-term, including the term of office of a representative's successor.

Regulation 10 sets out the voting rights of parent governor representatives. A representative can vote on any matter relating to the education functions of the authority's executive which arises at a meeting of an education overview and scrutiny committee of that authority.

Regulation 11 provides for an education overview and scrutiny committee appointed under alternative arrangements operated by a local education authority to include at least one church representative if the authority concerned maintains one or more schools with a religious character.

Regulation 12 revokes earlier Regulations dealing with parent governor representatives. It also sets out transitional provisions to deal with the situation before new overview and scrutiny committees are established.

Regulation 13 deals with the transfer to the new committees of parent governor representatives elected under the old Regulations.

Regulation 14 makes certain amendments to the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001 and confirms that these Regulations will have priority over those Regulations in the event that there is some inconsistency between the provisions of the two sets of Regulations.

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**The Parent Governor Representatives and Church Representatives (Wales)
Regulations 2001**

Made 2001

Coming into force 1 February 2002

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by sections 32, 105(2) and 106 (1) & (2) of, and paragraphs 9(4), (5) and (6) of Schedule 1 to, the Local Government Act 2000(), and in exercise of the powers conferred on the Secretary of State by sections 499 and 569(4) and (5) of the Education Act 1996() and now vested in the National Assembly for Wales():

Citation, commencement and application

1. — These Regulations are called the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001.
 1. They come into force on 1 February 2002.
 2. They apply only to Wales.

Interpretation

2. In these Regulations, unless the context otherwise requires:

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

"the 1999 Regulations" ("*Rheoliadau 1999*") means the Education (Parent Governor Representatives) (Wales) Regulations 1999()

"the 2000 Act" ("*Deddf 2000*") means the Local Government Act 2000;

"alternative arrangements" ("*trefniadau amgen*") has the meaning given to it by section 32 of the 2000 Act;

"the date of the election" ("*dyddiad yr etholiad*"), in relation to an election in which votes can be cast on more than one date, means the last date on which votes can be cast or postal votes received;

"education overview and scrutiny committee" ("*pwyllgor trosolygu a chraffu addysg*") means -

(a) an overview and scrutiny committee or sub-committee of a local education authority appointed under section 21 of the 2000 Act the functions of which relate wholly or partly to any education functions which are the responsibility of the authority's executive; or

(b) a committee or sub-committee of a local education authority appointed in accordance with provision included in alternative arrangements by virtue of section 32(1)(b) of the 2000 Act (arrangements for the appointment of committees or sub-committees to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority) the functions of which relate wholly or partly to any education functions which are the responsibility of the authority();

"executive" ("*gweithrediaeth*") has the meaning given to it by section 11 of the 2000 Act;

"executive arrangements" ("*trefniadau gweithrediaeth*") has the meaning given to it by section 10 of the 2000 Act;

"local education authority" ("*awdurdod addysg lleol*") means a local education authority in Wales;

"parent governor" ("*rhiant-lywodraethwr*") means –

(a) a person who is –

(i) elected as a member of a school's governing body by parents of registered pupils at the school; and

(ii) a parent of such a pupil at the time when he or she is elected; or

(b) a person who is appointed as a parent governor by the governing body in accordance with regulations under the 1998 Act(); or

(c) a person who continues as a parent governor for the purposes of the reconstitution of the governing body on transition to the new schools framework by virtue of regulations under Part II of the 1998 Act();

"parent governor representative" ("*cynrychiolydd rhiant-lywodraethwyr*") means, a person elected in accordance with regulations 5 to 7 or treated in accordance with regulation 11 as so elected;

"school" ("*ysgol*") has the meaning given to "maintained school" by section 20(7) of the 1998 Act;

"voting by category arrangements" ("*trefniadau pleidleisio yn ôl categori*") means arrangements of a kind referred to in regulation 5(2).

Alternative arrangements

3. — The provisions of these Regulations are specified as alternative arrangements for the purposes of Part II of the 2000 Act in addition to the alternative arrangements specified in the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001().

(2) To the extent that any provision of those Regulations is inconsistent with any provision of these Regulations, the provision in these Regulations shall prevail.

Requirement for education overview and scrutiny committees to include parent governor representatives

4. Subject to regulation 13, a local education authority must appoint at least two but not more than five parent governor representatives, elected in accordance with regulation 5, to each of their education overview and scrutiny committees.

Election procedures and vacancies

5. — Subject to these Regulations, a local education authority shall make all the necessary arrangements for, and determine all other matters relating to, the holding of an election of a parent governor representative, but nothing in this regulation shall prevent an authority from appointing another body to conduct or oversee that election.

1. A local education authority may make arrangements dividing parent governor representatives into different categories representing either –
 - a. a particular type of school or particular types of school, or
 - b. schools in a particular geographical area,

and restricting the electorate for each such category to parent governors of the same type or types of school or parent governors of schools in that area.

2. Where a vacancy for a parent governor representative is required to be filled by election the local education authority shall announce that vacancy within three months of the vacancy occurring and at the time of that announcement shall –
 - a. appoint a returning officer who shall ensure that so far as possible the election is conducted fairly; and
 - b. take such steps as are reasonably practicable to ensure that every person who is known to them to be eligible to vote in the election of a parent governor representative (in accordance with regulation 6) is –

(i) informed of the vacancy and that it is required to be filled by election;

(ii) informed that he or she is entitled to vote at the election and is given an explanation of the voting procedures in regulation 6(2) to 6(6) (as applicable);

(iii) informed of the details of the electoral timetable and procedures;

(iv) informed of the qualifications which a person requires (under regulation 7) in order to be elected as a parent governor representative, and of the term of office of a parent governor representative (under regulation 9); and

(v) provided with a description of the role of a parent governor representative.

3. Any election of a parent governor representative which is contested must be held by secret ballot.
4. No ballot paper in such an election shall contain any indication of an affiliation with a political party.
5. Where a vacancy for a parent governor representative arises, the local education authority

shall –

- a. determine, for the purposes of the election, any question as to a person's entitlement to vote or eligibility to stand for election;
 - b. provide for every person who is eligible to vote in the election to have an opportunity to do so by post;
 - c. secure that the results of the election are announced not more than one week after the date of the election.
6. Subject to paragraph (8), where there is a vacancy for a parent governor representative, the local education authority must ensure that an election is held in time to fill the vacancy not later than six months after the date on which the vacancy occurred.
 7. Where a vacancy for a parent governor representative is unfilled because no, or not enough, candidates seek election, the local education authority must comply with the requirements of this regulation again within one year of the original vacancy having arisen and at six monthly intervals thereafter, calculated from the first anniversary of the original vacancy having arisen, until the vacancy is filled.
 8. Nothing in these Regulations shall require a ballot to be held if the number of vacancies to be filled is equal to or exceeds the number of candidates for election.

Eligibility to vote in elections and voting requirements

6. — Subject to paragraphs (2) and (3), a person shall be eligible to vote in the election of a parent governor representative if that person is at the date of the election a parent governor of one or more schools maintained by the local education authority holding the election.
 1. Where, under voting by category arrangements, voting for a particular category of parent governor representative is restricted to parent governors of a particular type or particular types of school maintained by the authority, a person shall only be eligible to vote in the election of such a category of parent governor representative if at the date of the election he or she is a parent governor of one or more schools of that type or those types maintained by the authority.
 2. Where, under such arrangements, voting for a particular category of parent governor representative is restricted to parent governors of schools maintained by the authority in a particular geographical area, a person shall only be eligible to vote in the election of such a category of parent governor representative if at the date of the election he or she is a parent governor of one or more schools in that geographical area maintained by the authority.
 3. Where the authority have not made voting by category arrangements, a person who, at the date of the election, is a parent governor of more than one school maintained by the authority, shall be entitled to cast a number of votes equal to the number of such schools of which he or she is, at the date of the election, a parent governor.
 4. Where the authority have made voting by category arrangements, a person who, by virtue

of paragraph (2) or (3), is eligible to vote in the election of more than one category of parent governor representative (because he or she is a parent governor of more than one type of school or of schools within more than one geographical area, as the case may be) shall be entitled to vote in the election of each such category in which he or she is so eligible.

5. The number of votes which such a person shall be entitled to cast in the election of each such category of parent governor representative in which he or she is eligible to vote shall be a number equal to the number of schools maintained by the authority of which he or she is, at the date of the election, an eligible parent governor.
6. In paragraph (6) "eligible parent governor" ("*rhiant-lywodraethwr cymwys*") means a parent governor who is eligible in accordance with paragraph (2) or (3) (as the case may be) and paragraph (5) to vote in the election of the category of parent governor representative in question.

Qualifications for election as a parent governor representative

7. — Subject to the following provisions of this regulation, a person shall, unless disqualified under any enactment, be qualified to be elected as a parent governor representative in an election held by a local education authority if on the date of the election he or she is –
 - a. a parent governor of a school maintained by that authority; and
 - b. the parent of a registered pupil who is educated at a school maintained by that authority, or who is educated by that authority otherwise than at a school.
 1. Where the vacancy is for a parent governor representative to represent a particular type or particular types of school, a person shall only be qualified to be elected if in addition to satisfying the requirements of paragraphs (1)(a) and (1)(b) that person is also a parent governor of a school of that type or one of those types.
 2. Where the vacancy is for a parent governor representative to represent schools in a particular geographical area, a person shall only be qualified to be elected if in addition to satisfying the requirements of paragraphs (1)(a) and (1)(b) that person is also a parent governor of a school in that area.
 3. A person who is already a member of the local education authority holding the election shall be disqualified from being elected as a parent governor representative.
 4. A person who is a teacher at, or is otherwise employed in, a school maintained by the local education authority holding the election, or a pupil referral unit or nursery school maintained by that authority, shall be disqualified from being elected as a parent governor representative.
 5. A person who is employed by the local education authority holding the election, and whose employment relates wholly or partly to the education functions of that authority, shall be disqualified from being elected as a parent governor representative.
 6. A person is not qualified for election as a parent governor representative of an education

overview and scrutiny committee of a local education authority if that person is at the date of the election already holding office as a parent governor representative on an education overview and scrutiny committee of that authority or any other authority.

Disqualification from continuing to hold office as a parent governor representative

8. — A parent governor representative who qualified for election under these Regulations shall cease to be qualified to hold that office upon -
- (a) resigning or being disqualified from the office of parent governor under any enactment; or
 - (b) subject to paragraphs (2) and (3), ceasing to be a parent governor at a school which is maintained by the local education authority concerned, otherwise than by reason of -
 - (i) his or her term of office as a parent governor of such a school having expired; or
 - (ii) a change in the constitution of the governing body of the school at which he or she was a parent governor.
 - 1. A parent governor representative who qualified for election under voting by category arrangements as a parent governor representative to represent schools of a particular type or particular types shall cease to be qualified to hold that office if he or she no longer holds any parent governorship which qualified or would have qualified him or her to be elected as a parent governor representative for any reason other than those referred to in paragraph (1)(b).
 - 2. A parent governor representative who qualified for election under voting by category arrangements as a parent governor representative to represent schools in a particular geographical area shall cease to be qualified to hold that office if he or she no longer holds any parent governorship which qualified or would have qualified him or her to be elected as a parent governor representative for any reason other than those referred to in paragraph (1)(b).
 - 3. A parent governor representative shall cease to be qualified to hold that office if he or she is elected as a member of the local education authority concerned.
 - 4. A parent governor representative shall cease to be qualified to hold that office if he or she takes up employment –
 - a. whether as a teacher or otherwise, in a school maintained by the local education authority concerned or a pupil referral unit or nursery school maintained by that authority, or

- b. with the local education authority and his or her employment relates wholly or partly to the education functions of that authority.
5. A parent governor representative who has failed to attend the meetings of an education overview and scrutiny committee of which he or she is a member for a continuous period of six months beginning with the date of a meeting shall, on the expiry of that period, cease to be qualified to hold that office.
6. For the purposes of paragraph (6), a parent governor representative shall not be taken to have failed to attend a meeting of an education overview and scrutiny committee if he or she has tendered an apology for his or her absence and that apology has been accepted by the committee.

Term of office

9. — Subject to paragraph (2) below and regulation 13 (transitional provisions), the term of office of a parent governor representative on an education overview and scrutiny committee –
 - a. shall begin on such date as the local education authority shall determine, being a date not more than one month after the date of the announcement of the result of the election in which he or she has been elected, and
 - b. shall be of such duration as the local education authority shall determine, being a period not less than two years nor greater than four years.
1. Where a parent governor representative does not complete his or her term of office, the local education authority may appoint a successor for the unexpired portion of the previous term of office.

Voting rights of parent governor representatives

10. A parent governor representative shall be entitled to vote at a meeting of an education overview and scrutiny committee of which he or she is a member on any question which –
 - a. relates to any education functions which are the responsibility of the local education authority concerned, and
 - b. falls to be considered at the meeting.

Church representatives

11. — This regulation applies to a committee of a local education authority appointed in accordance with provision included in alternative arrangements by virtue of section 32(1)(b) (referred to below in this regulation as an education overview and scrutiny committee) if the committee's functions relate wholly or partly to any education functions which are the responsibility of the authority.
 1. This regulation also applies to a sub-committee of an education overview and scrutiny committee of an authority if the sub-committee's functions relate wholly or partly to any education functions which are the responsibility of the authority.
 2. An education overview and scrutiny committee or sub-committee to which this regulation applies must include one or more persons appointed as representatives of the persons who appoint foundation governors for the schools which are maintained by the authority concerned and which are specified in directions made by the National Assembly for Wales as schools which have a character connected with a particular religion, or particular religious denomination, specified in the directions.
 3. Paragraph (3) does not apply if there are no schools which are maintained by the authority concerned and which are specified in directions under that paragraph.
 4. A member of an education overview and scrutiny committee or sub-committee appointed by virtue of paragraph (3) is to be entitled to vote at a meeting of the committee or sub-committee on any question –
 - a. which relates to any education functions which are the responsibility of the authority concerned, and
 - b. which falls to be decided at the meeting.
 5. The National Assembly for Wales may by directions to a local education authority require any of the authority's education overview and scrutiny committees or sub-committees to which this regulation applies to include persons who are appointed, in accordance with the directions, as representatives of the persons who appoint foundation governors for such of the schools which are maintained by the authority concerned and which are not specified in directions under paragraph (3) as may be specified in directions under this paragraph.
- (7) Directions under paragraph (6) may make provision with respect to the voting rights of

persons appointed in accordance with such directions.

Revocation and Transitional Provisions

12. — The 1999 Regulations are hereby revoked.
 1. The revocation of the 1999 Regulations shall not invalidate the appointment of parent governor representatives to a relevant committee (within the meaning of the 1999 Regulations).
 2. Until a local education authority operates executive arrangements or alternative arrangements these Regulations shall have effect in relation to that authority as if –
 - a. references to an "education overview and scrutiny committee" were references to a relevant committee (within the meaning of the 1999 Regulations), and
 - b. the reference in regulation 10 to "the executive of the local education authority concerned" was a reference to "the authority concerned".
13. — In this regulation "a 1999 Representative" means a representative of parent governors -
 - a. elected and appointed to a relevant committee (within the meaning of the 1999 Regulations) of a local authority pursuant to the 1999 Regulations,
 - b. whose term of office, calculated in accordance with the 1999 Regulations, has not expired on the date on which that authority establishes an education overview and scrutiny committee.
 1. Subject to paragraph (3), on the establishment by a local education authority of an education overview and scrutiny committee, a 1999 Representative shall be treated as having been appointed to that education overview and scrutiny committee.
 2. A 1999 Representative who is treated as having been appointed to an education overview and scrutiny committee in accordance with paragraph (2) shall continue in office until the expiry of his or her original term of office as a member of the relevant committee (within the meaning of the 1999 Regulations).
 3. Nothing in paragraph (3) shall prevent a 1999 Representative from being disqualified, by virtue of provision made under these Regulations, from continuing to hold office.

Amendment of the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001

14. — In regulation 2 of the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001 () in the definition of "alternative arrangements" after "regulation 4" insert "or the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001()".
 1. For regulation 4(3) of those Regulations substitute the following:

"(3) Subject to paragraph (4), the arrangements set out in these Regulations and the arrangements set out in the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001() are specified as alternative arrangements for the purposes of Part II of the 2000 Act.

(4) To the extent that any provision of these Regulations is inconsistent with any provision of the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001, the provision in those latter Regulations shall prevail."

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998()

Date

The Presiding Officer of the National Assembly