

## SCHEDULE 1

(introduced by section 18)

### GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

#### *Interpretation of Schedule*

- 1 (1) In this Schedule—
- “the appropriate authority” (“*yr awdurdod priodol*”) means—
- (a) where this Schedule applies by virtue of a notice under section 7, the local authority that gave the notice, and
  - (b) where this Schedule applies by virtue of a notice under section 14, the Welsh Ministers;
- “existing governors” (“*llywodraethwyr presennol*”), in relation to a school in respect of which a notice under section 7 or 14 has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;
- “the interim period” (“*y cyfnod interim*”), in relation to a school in respect of which a notice under section 7 or 14 has been given, means the period during which the governing body is constituted in accordance with this Schedule;
- “a normally constituted governing body” (“*corff llywodraethu a gyfansoddwyd yn normal*”) means a governing body constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 (governing bodies).
- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local authority ceasing to maintain it.

#### *Governing body to consist of members appointed by appropriate authority*

- 2 (1) The governing body of the school is to consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002.
- (2) In the following provisions of this Schedule—
- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
  - (b) the members of the governing body as so constituted are referred to as “interim executive members”.

#### *Effect of notice under section 7 or 14*

- 3 (1) On the date specified in the notice under section 7 or 14, the existing governors vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school has effect, in relation to the school, as a reference to an interim executive member.

- (4) During the interim period, section 83 of the School Standards and Framework Act 1998 (modification of provisions making governors of foundation or voluntary school ex officio trustees) has effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

*Number of interim executive members*

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members must be made so as to take effect on the date specified in the notice under section 7 or 14.
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.

*Terms of appointment of interim executive members*

- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of the appointment.
- (2) An interim executive member—
- (a) holds office in accordance with the terms of the appointment and subject to paragraph 16, and
- (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for the appointment to be terminable by the appropriate authority by notice.

*Duty of appropriate authority to inform other persons*

- 6 (1) The appropriate authority must give a copy of the notice under section 7 or 14 and of every instrument of appointment of an interim executive member—
- (a) to every interim executive member,
- (b) to every existing governor of the school,
- (c) where the local authority is the appropriate authority, to the Welsh Ministers,
- (d) where the Welsh Ministers are the appropriate authority, to the local authority, and
- (e) in the case of a foundation or voluntary school—
- (i) to the person who appoints the foundation governors, and
- (ii) if the school has a religious character, to the appropriate religious body.
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

*Power to specify duration of interim period*

- 7 The appropriate authority may specify the duration of the interim period in the notice under section 7 or 14.

#### *Chair*

- 8 The appropriate authority may nominate one of the interim executive members to be chair of the interim executive board.

#### *Remuneration and allowances*

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine, subject to any regulations made under paragraph 13(2).

#### *Duty of interim executive board*

- 10 (1) During the interim period, the interim executive board must conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) does not affect the other duties of the interim executive board as governing body.

#### *Proceedings of interim executive board*

- 11 (1) The interim executive board may determine its own procedure.
- (2) The interim executive board may make such arrangements as it thinks fit for the discharge of its functions by any other person.
- (3) This paragraph is subject to regulations made under paragraph 13(2).

#### *Effect on suspension of delegated budget*

- 12 (1) If immediately before the date specified in a notice under section 7 or 14 the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 to the School Standards and Framework Act 1998 (suspension of delegated budget for mismanagement etc) has been given to the governing body before the date specified in a notice under section 7 or 14 but has not yet taken effect, the notice ceases to have effect on that date.
- (3) During the interim period, the local authority may not exercise the power conferred by section 8 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7) of the School Standards and Framework Act 1998.

#### *Exclusion of certain statutory provisions*

- 13 (1) Regulations made under section 19(2) or (3) of the Education Act 2002 (governing bodies) do not apply in relation to the interim executive board.
- (2) But regulations made under section 19(3)(f), (g), (i), (j), (k) or (l) of the Education Act 2002 (other than regulations under section 19(3)(l) relating to the constitution of governing bodies) may be applied in relation to the board (with or without modifications) by regulations.

- (3) The instrument of government of the school does not have effect in relation to the interim executive board in so far as it relates to the constitution of the governing body.
- (4) During the interim period—
  - (a) the local authority may not exercise any power conferred by section 6 (power to appoint additional governors), and
  - (b) the Welsh Ministers may not exercise any power conferred by section 13 (power to appoint additional governors).

*Closure of school*

- 14 (1) At any time during the interim period, the interim executive board may, if it thinks fit, make a report to the local authority and the Welsh Ministers recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
  - (a) publish under section 43 proposals to discontinue the school, or
  - (b) serve notice under section 80.
- (3) Sub-paragraph (4) applies if during the interim period—
  - (a) the Welsh Ministers give a direction under section 16 or 81 in relation to the school, or
  - (b) the local authority determine to discontinue the school.
- (4) The interim period is to continue until the discontinuance date, even where it would otherwise end before that date.
- (5) In this paragraph “the discontinuance date” means one of the following (as the case may be)—
  - (a) the date on which proposals for discontinuing the school are implemented under Part 1 of Schedule 3;
  - (b) the date on which the school is discontinued under section 80;
  - (c) the date specified in the direction under section 16 or 81(1).

*Notice of resumption of government by normally constituted governing body*

- 15 (1) The following sub-paragraph applies if—
  - (a) the notice under section 7 or 14 does not specify the duration of the interim period, and
  - (b) paragraph 14(4) does not apply.
- (2) The appropriate authority may give notice to the persons mentioned in sub-paragraph (3) specifying a date on which the governing body are to become a normally constituted governing body.
- (3) Those persons are—
  - (a) every interim executive member,
  - (b) where the local authority is the appropriate authority, the Welsh Ministers,
  - (c) where the Welsh Ministers are the appropriate authority, the local authority, and
  - (d) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and

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*Status: This is the original version (as it was originally enacted).*

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(ii) if the school has a religious character, the appropriate religious body.

*Time when interim executive members cease to hold office*

- 16 (1) The interim executive members are to vacate office—
- (a) in a case where sub-paragraph (4) of paragraph 14 applies, on the discontinuance date within the meaning of that paragraph,
  - (b) in a case where that sub-paragraph does not apply and the notice under section 7 or 14 specified the duration of the interim period, at the end of the specified period, and
  - (c) in any other case, on the date specified under paragraph 15(2).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of the appointment.

*Establishment of normally constituted governing body*

- 17 (1) Where interim executive members are to vacate office on the date referred to in paragraph 16(1)(b) or (c), the local authority must make arrangements providing for the constitution of the governing body on and after that date.
- (2) The Welsh Ministers may by regulations make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of the Education Act 2002 or by Schedule 1 to that Act,
  - (b) apply any such provision with or without modifications, and
  - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, among other things, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.