

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Educational Institutions: Other Provisions

Governing bodies: constitution and dissolution

Section 38: Constitution of governing bodies: maintained schools in England

196. **Section 38** amends section 19 of EA 2002 by reducing the number of categories of governor that regulations must require the governing body of a maintained school in England to have. The requirements in relation to Wales remain unchanged.
197. **Section 19(1)** will continue to require each maintained school to have a governing body constituted in accordance with regulations, but *subsection (2)* amends section 19 by inserting a new subsection (1A) that provides that for such schools in England, the regulations have to provide for the governing body to consist of parent governors, the head teacher, a staff governor, a local authority governor, such other persons as are prescribed and, in the case of foundation schools, voluntary aided schools and voluntary controlled schools, of foundation governors or partnership governors. The regulations may provide that the head teacher can resign as a governor and for the governing body to specify eligibility criteria for the local authority governor.

Section 39: Discontinuance of federated school: governing body not to be dissolved

198. **Section 39** amends paragraph 5 of Schedule 1 to EA 2002, which provides for the dissolution of the governing body of a maintained school on its discontinuance. Currently paragraph 5 of Schedule 1 dissolves a federated governing body on the occasion of one of the schools in the federation being discontinued. Section 38 prevents dissolution from happening in circumstances where two or more schools will remain in the federation after the school concerned has discontinued.
199. This will enable a school to close or convert to an Academy, without having to first undertake a statutory procedure to leave the federation in order to avoid dissolving the federated governing body.
200. A federated governing body is a single governing body for two or more maintained schools, as provided for in sections 24 and 25 of EA 2002.