

**2013 No. 0000**

**EDUCATION, ENGLAND**

**The School Governance (Constitution and Federations)  
(England) (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>2013</i>
<i>Laid before Parliament</i>		<i>2013</i>
<i>Coming into force</i>	- -	
<i>Regulations 2 and 3</i>		<i>1<sup>st</sup> September 2015</i>
<i>Remainder</i>		<i>1<sup>st</sup> September 2014</i>

The Secretary of State for Education, in exercise of the powers conferred by sections \*\*\* of the \*\*\* Act \*(a), makes the following Regulation:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the School Governance (Constitution) (England) (Amendment) Regulations 2013 and come into force on 1<sup>st</sup> September 2014 except for Regulations 2 and 3 which come into force on 1<sup>st</sup> September 2015.

(2) These Regulations apply only in relation to England.

**Amendments to the School Governance (Constitution) (England) Regulations 2012 and revocation of the School Governance (Constitution) (England) Regulations 2007**

2. The School Governance (Constitution) (England) Regulations 2012 shall have effect subject to the following amendments—

(1) Omit regulation 2.

(2) For regulation 4 substitute—

“4. The Constitution Regulations 2007 are revoked.”

(3) In regulation 8 for sub-paragraph (b) substitute—

“(b) is appointed as a governor by the governing body having, in the opinion of the governing body, the skills required to contribute to the effective governance and

success of the school and having met any additional eligibility criteria set by the governing body.”

(4) In regulation 9—

(a) omit “and” at the end of sub-paragraph (a)(iii) and insert “and” at the end of sub-paragraph (a)(iv), and

(b) after sub-paragraph (a)(iv) insert—

“(v) has, in the opinion of the person entitled to appoint the foundation governor, the skills required to contribute to the effective governance and success of the school.”

(5) In Regulation 15—

(a) in sub-paragraph (1)(c) for “paragraphs 2 and (3)” substitute “paragraphs (2) to (3A)”, and

(b) for paragraphs (2) and (3) substitute—

“(2) Foundation governors must cease to hold office such that, in the opinion of those that appointed them under the instrument of government, this will leave in office those foundation governors best placed to contribute to the effective governance and success of the school and serve the purposes for which foundation governors are appointed; and

(3) Governors in other categories must cease to hold office such that, in the opinion of the governing body, this will leave in office those governors with the most relevant skills to contribute to the effective governance and success of the school.

(3A) In a vote to determine which governors should cease to hold office in accordance with paragraph 3, there shall be a vote in respect of each category in which there are excess governors and governors shall not vote in respect of their own category and no governor shall cease to hold office until the votes on all categories are cast.”

(6) In Schedule 1, after paragraph 11 insert—

“12. The governing body may only appoint as a parent governor a person who has, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the school.”

(7) In Schedule 3, for paragraph 4 substitute—

“4.

(1) No person is eligible to be nominated for appointment as a partnership governor unless that person has, in the opinion of the person nominating them, the skills required to contribute to the effective governance and success of the school.

(2) No person is eligible to be appointed as a partnership governor unless that person has, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the school.”

### **Amendments to the School Governance (Federations) (England) Regulations 2012 and revocation of the School Governance (Federations) (England) Regulations 2007**

**3.** The School Governance (Federations) (England) Regulations 2012 shall have effect subject to the following amendments—

(1) Omit regulation 2(2).

(2) For regulation 3 substitute—

“3. The School Governance (Federations) (England) Regulations 2007 are revoked”

(3) Omit regulation 4(1).

(4) In regulation 16 for sub-paragraph (b) substitute—

“(b) is appointed by the governing body having, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the

federation and having met any additional eligibility criteria set by the governing body”

(5) In regulation 17—

(a) Omit “and” at the end of sub-paragraph (a)(iii) and insert “and” at the end of sub-paragraph (a)(iv), and

(b) After sub-paragraph (a)(iv) insert—

“(v) has, in the opinion of the person entitled to appoint the foundation governor, the skills required to contribute to the effective governance and success of the federation.”

(6) In regulation 21, for paragraph (5) substitute—

“(5) The total number of co-opted governors who are also eligible to be elected as staff governors under Schedule 3, when counted together with the staff governor and the head teachers must not exceed one third of the total membership of the governing body.”

(7) After regulation 22 insert-

“Surplus governors

#### **22A.**

(1) Where—

(a) the governing body of a federation has more governors of a particular category than are provided for by the instrument of government for the federation, and

(b) the excess is not eliminated by the required number of governors resigning,

(c) such number of that category as is required to eliminate the excess must cease to hold office in accordance with paragraphs (2) to (4).

(2) Foundation governors must cease to hold office such that, in the opinion of those that appointed them under the instrument of government, this will leave in office those foundation governors best placed to contribute to the effective governance and success of the federation and serve the purposes for which foundation governors are appointed; and

(3) Governors in other categories must cease to hold office such that, in the opinion of the governing body, this will leave in office those governors with the most relevant skills to contribute to the effective governance and success of the federation.

(4) In a vote to determine which governors should cease to hold office in accordance with paragraph 3, there shall be a vote in respect of each category in which there are excess governors and governors shall not vote in respect of their own category and no governor shall cease to hold office until the votes on all categories are cast.

(5) Any procedure set out in the instrument of government for the removal of excess foundation governors does not apply in the circumstances set out in paragraph (1).”

(8) In Schedule 1, for paragraph 2(3) substitute—

“(3) The total number of temporary co-opted governors who are also eligible to be appointed as temporary staff governors, when counted together with the temporary staff governor and the head teachers, must not exceed one third of the total membership of the temporary governing body.”

(9) In Schedule 2, after paragraph 10, insert—

“**11.** The governing body of a federation may only appoint as a parent governor a person who has, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the school.”

(10) In Schedule 4, omit paragraph 2.

(11) In Schedule 4, after paragraph 6 insert—

“7.

(1) No person is eligible to be nominated for appointment as a partnership governor unless that person has, in the opinion of the person nominating them, the skills required to contribute to the effective governance and success of the school; and

(2) No person is eligible to be appointed as a partnership governor unless that person has, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the school.”

### **Amendment to the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013**

4. The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 shall have effect subject to the following amendments—

(1) In regulation 13(7) for “subject to the exceptions at regulations 14(5), 14(6) and 17(2) of these Regulations” substitute “subject to the exceptions at regulations (6A), 14(5), 14(6) and 17(2) of these Regulations”.

(2) In Regulation 14 after paragraph (6) insert—

“(6A) No decision to remove excess governors under paragraphs (2) to (3A) of regulation 15 of the School Governance (Constitution) (England) Regulations 2012 or paragraphs (2) to (4) of regulation 22A of the School Governance (Federations) (England) Regulations 2012 will have effect unless the matter is specified as an item of business on the agenda for the meeting.”

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make various amendments to the School Governance (Constitution) (England) Regulations 2012 (“the Constitution Regulations 2012”) and to the School Governance (Federations) (England) Regulations 2012 (“the Federations Regulations 2012”) and also an amendment to the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 (“the Roles and Procedures Regulations 2013”), which come into force on 1<sup>st</sup> September 2014. They also revoke the School Governance (Constitution) (England) Regulations 2007 (“the Constitution Regulations 2007”) and the School Governance (Federations) (England) Regulations 2007 (“the Federations Regulations 2007”), to the extent that those Regulations remain in force, from 1<sup>st</sup> September 2015.

Regulation 2, paragraphs (1) and (2), of these Regulations amend regulations 2 and 4 of the Constitution Regulations 2012 which revoked the Constitution Regulations 2007 subject to saving and transitional provisions. The amendments made by these Regulations revoke the saving and transitional provisions in the Constitution Regulations 2012 so that the Constitution Regulations 2007 are fully revoked from 1<sup>st</sup> September 2015. Regulation 3, paragraphs (1) to (3) make equivalent amendments to the Federations Regulations 2012 such that saving and transitional provisions that left the Federations Regulations 2007 in force to a limited extent are revoked and the Federations Regulations 2007 are thus fully revoked from 1<sup>st</sup> September 2015.

Paragraphs (2), (3), (6) and (7) of Regulation 2 amend the Constitution Regulations 2012 to provide that local authority governors, foundation governors, parent governors and partnership governors respectively, are only eligible to be appointed by the governing body (or in the case of foundation governors, by those persons who appoint them), where they have the skills required to contribute to the effective governance and success of the school. Regulation 3, paragraphs (4), (5), (8) and (9), amend the Federation Regulations 2012 to make equivalent provision for skills-based eligibility criteria to be used in the appointment of governors on federated governing bodies.

Regulation 2(5) amends regulation 15 of the Constitution Regulations 2012 to introduce a new procedure for removing surplus governors. The current requirement for governors to cease to hold office on the basis of juniority is replaced with a requirement for the governing body (or in the

case of foundation governors, those persons who appoint them) to decide which governors should remain based on the skills needed to contribute to the effective governance and success of the school. In respect of categories of governor other than foundation governors, where there is a surplus and the governing body are voting on which governors should cease to hold office, new paragraph 3A to regulation 15 of the Constitution Regulations 2012 provides that governors shall only vote in respect of categories other than their own. Regulation 3(7) of these Regulations makes an amendment to the Federations Regulations 2012 to make equivalent provision for the removal of surplus governors on federated governing bodies.

Regulation 4 amends the Roles and Procedures Regulations 2013 to provide that decisions to remove surplus governors will not have effect unless they are specified as an item of business on the agenda for the meeting of the governing body or federated governing body as the case may be.

Regulation 3(6) amends regulation 21(5) of the Federations Regulations 2012 which provides that co-opted governors who are also eligible to be staff governors must not exceed one third of the federated governing body. The amendment made by these Regulations provides that co-opted governors eligible to be staff governors as well as the staff governor and head teachers on the governing body all counted together must not exceed one third of the membership of the governing body.

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