



THE EDUCATION ACT 2001

INSTRUMENT OF GOVERNMENT

OF

ST MARY'S ROMAN CATHOLIC PRIMARY SCHOOL

In exercise of the powers conferred on the Department of Education by section 5(1)(a)(i) of the Education Act 2001¹, and of all other enabling powers, the following Instrument of Government is hereby made:—

1. Commencement and interpretation

(1) This Instrument shall come into operation on the 1st September 2004.

(2) In this Instrument —

"the Act" means the Education Act 2001;

"the Archbishop" means the Roman Catholic Archbishop of Liverpool, or the person exercising ordinary jurisdiction on his behalf in accordance with the laws of the Roman Catholic Church;

"the Board" means the Isle of Man Board of Education;

"the Department" means the Department of Education;

"governor" means a member of the governing body constituted by clause 2;

"parent governor" means a governor referred to in clause 2(1)(c);

"the school" means St Mary's Roman Catholic Primary School, Douglas;

"teacher governor" means a governor referred to in clause 2(1)(d).

(3) The Interpretation Act 1976² applies to this Instrument as it applies to an Act of Tynwald.

2. Constitution of governing body

(1) There is constituted a governing body of the school, which shall consist of the following persons —

(a) 2 persons appointed by the Archbishop;

(b) 2 members of the Board, appointed by the Department;

¹ 2001 c.33

² 1976 c.20

- (c) one governor representing parents of registered pupils of the school; and
 - (d) one governor representing the permanent teaching staff of the school.
- (2) Schedule 1 shall have effect with respect to the qualifications, appointment and tenure of office of the governors.
- (3) The members of the governing body referred to in paragraph (1)(a) shall be the foundation governors of the school for the purposes of the Act.

3. Chairman

(1) The Archbishop shall appoint from among the governors appointed under clause 2(1)(a), and may remove, the chairman of the governing body, and shall notify the Department in writing of the appointment or removal.

(2) The chairman may resign by giving to the Archbishop and the Department notice in writing of his intention to do so.

(3) If the chairman ceases to be a governor, he shall cease to hold office as chairman.

4. Financial interests

(1) Except with the approval in writing of the Department, no governor shall —

- (a) take or hold any financial interest in any property held or used for the purposes of the school, or
- (b) receive any remuneration for his services except authorised fees or be interested in the supply of work or goods to or for the purposes of the school.

(2) Where a governor has any financial interest direct or indirect in any contract or proposed contract or other matter relating to the school and is present at a meeting of the governors at which the contract or other matter is the subject of consideration —

- (a) he shall, at the meeting, disclose the fact; and
- (b) he shall then withdraw from the meeting and take no part in the consideration or discussion of or vote on any question with respect to the contract or other matter.

(3) Paragraphs (1) and (2) do not apply to an interest in a contract or other matter which a governor may have as a taxpayer or ratepayer or as a resident of the area served by the school.

5. Committees

(1) Subject to the articles of government of the school, the governing body may appoint a committee to consider and report to it on any matter within the functions of the governing body.

(2) A committee appointed under paragraph (1) may include persons who are not members of the governing body, but at least two-thirds of the persons appointed to the committee shall be members of the governing body.

6. Meetings and proceedings

Schedule 2 shall have effect as respects the meetings and proceedings of the governing body and committees of the governing body.

7. Revocation

Any instrument of management of the school in force immediately before the coming into operation of this instrument is revoked.

SCHEDULE 1

QUALIFICATIONS, APPOINTMENT AND TENURE OF OFFICE OF GOVERNORS

Qualifications: general

1. (1) No person may be a governor if —
 - (a) he is under 18 years of age;
 - (b) he is liable to be detained under the Mental Health Act 1998³;
 - (c) he has been adjudged bankrupt and has not been discharged and the adjudication has not been annulled;
 - (d) he has made a composition or arrangement with his creditors and has not been discharged in respect of it;
 - (e) he is disqualified to be a director of a company by an order of the High Court under the Companies Act 1931⁴.
- (2) No person may be a governor if —
 - (a) within the last 5 years he has been convicted, in the Island or elsewhere, of any offence and has had passed on him a sentence of custody (whether suspended or not) for not less than 3 months without the option of a fine;
 - (b) within the last 20 years he has been convicted, in the Island or elsewhere, of any offence and has had passed on him a sentence of custody for not less than 2½ years;
 - (c) at any time he has been convicted, in the Island or elsewhere, of any offence and has had passed on him a sentence of custody for not less than 5 years;
 - (d) within the last 5 years he has been convicted of an offence under section 21 of the Act (conduct on school and college premises) and sentenced to a fine.

For the purposes of sub-paragraphs (a) to (c) there shall be disregarded any conviction by or before a court outside the Island of an offence which, if the facts giving rise to the offence had taken place in the Island, would not have constituted an offence under the law of the Island.

(3) Where the Department has directed that a person be disqualified for being a governor on the ground that —

- (a) he is included in the list maintained under section 1 of the Protection of Children Act 1999 (an Act of Parliament)⁵;
- (b) he is subject to a direction under section 142 of the Education Act 2002 (an Act of Parliament)⁶;
- (c) he is disqualified from working with children under section 28 or 29 of the Criminal Justice and Court Services Act 2000 (an Act of Parliament)⁷; or
- (d) he has refused a request by the Department to consent to the carrying out by or on behalf of the Chief Constable of a check in relation to him of any records of convictions or other criminal records, or to the disclosure to the Department of the result of any such check,

and the direction has not been withdrawn, that person may not be a governor.

(4) Where the Department has given a direction in relation to a person under —

- (a) paragraph 9(5) or (6), or

³ 1998 c.3

⁴ XIII p.235

⁵ 1999 c.14

⁶ 2002 c.32

⁷ 2000 c.43

(b) any corresponding provision of the instrument of government of any other school, he may not, without the consent in writing of the Department, be a governor until the expiration of 2 years from the date of the direction.

Qualifications: particular governors

2. (1) No person may be a governor under clause 2(1)(b) unless he is a member of the Board.
- (2) No person may be a parent governor —
- (a) unless he is a parent of a registered pupil at the school;
- (b) if he is —
- (i) a member of the Department or the Board,
- (ii) a member of the permanent teaching staff at the school, or
- (iii) otherwise employed in any capacity at the school for more than 40 hours in any month.
- (3) No person may be a teacher governor unless he is a member of the permanent teaching staff at the school (other than the head teacher).

Notification of disqualification

3. Where a governor ceases to be qualified under paragraph 1(1) or (2) to be a governor, or under paragraph 2 to be a governor referred to in that paragraph, he shall forthwith give notice of that fact to the clerk to the governing body.

Foundation governors

4. Unless he sooner resigns or otherwise ceases to hold office, a governor appointed under clause 2(1)(a) shall retire on the 1st September in the second year after the year in which he is appointed, but shall continue in office until his successor is appointed.

Governors appointed by Department

5. The governors referred to in clause 2(1)(b) shall be appointed as soon as may be after a general election of members of the Board.

Parent governor and teacher governor

6. (1) The parent governor and teacher governor shall be elected by the parents of registered pupils of the school, or members of the permanent teaching staff of the school, as the case may be, in accordance with arrangements made by the Department, but so that any contested election shall be by ballot.

(2) Unless he sooner resigns or otherwise ceases to hold office, a parent governor or teacher governor shall retire on the 1st September in the second year after the year in which he is elected, but shall continue in office until his successor is elected.

Casual vacancies

7. (1) A casual vacancy in the governors shall be filled as soon as may be after it arises in the same manner as the governor whose place is vacated.

(2) If the clerk to the governing body becomes aware that a casual vacancy has arisen he shall forthwith notify —

- (a) the Department (except where the vacancy arises under paragraph 9(5) or (6)), and
- (b) the Archbishop, in the case of a governor referred to in clause 2(1)(a).

(3) A governor appointed to fill a casual vacancy shall hold office until the governor whose place is vacated would ordinarily have gone out of office.

Notification of appointment

8. The appointment of a governor under clause 2(1)(a), (c) or (d) shall not have effect until notice in writing of it is given to the Department.

Resignation etc.

9. (1) A governor may resign by giving notice in writing of his intention to do so to —
- (a) the Archbishop, in the case of a governor referred to in clause 2(1)(a); or
 - (b) the Department, in any other case.
- (2) A governor who, without the consent of the governing body, fails to attend meetings of the governing body for a continuous period of 6 months beginning with the date of a meeting shall, on the expiry of that period, cease to hold office.
- (3) A governor who ceases to be qualified under paragraph 1 to be a governor, or under paragraph 2 to be a governor referred to in clause 2(1)(b), (c) or (d), as the case may be, shall cease to hold office.
- (4) The Archbishop may by notice in writing direct that a governor referred to in clause 2(1)(a) shall cease to hold office.
- (5) Where the Department is satisfied that a governor —
- (a) has contravened or failed to comply with clause 4(1) or (2), or
 - (b) has, without reasonable excuse, failed to comply with a requirement that he attend a training course organised by the Department,
- it may, after consulting him, by notice in writing direct that he shall cease to hold office.
- (6) Without prejudice to paragraph (5), if the Department is satisfied that the education provided at the school, or the interests of the pupils at the school, will be seriously prejudiced if a governor continues to be a member of the governing body, it may, after consulting the Archbishop, the governing body and the governor, by notice in writing direct that he shall cease to hold office.

Clause 6.

SCHEDULE 2

MEETINGS AND PROCEEDINGS OF GOVERNING BODY AND COMMITTEES

Ordinary meetings

1. The governing body shall hold one meeting during each school term.

Additional meetings

2. (1) Subject to sub-paragraph (2), the governing body may hold additional meetings at any time.

(2) The Department may fix a maximum number of meetings of the governing body to be held in any year, and no additional meeting above that maximum may be convened or held without the prior consent of the Department.

Convening of meetings

3. A meeting of the governing body may be convened —
- (a) by the Department, or
 - (b) subject to paragraph 2(2), by any 3 members of the governing body,
- by notice in writing to the clerk specifying the matters to be considered at the meeting.

Notice of meeting

4. Other than in exceptional circumstances, the clerk shall send notice in writing of every meeting of the governing body, accompanied by the agenda and any accompanying documents (including the minutes of the previous meeting), to each governor and to the Department at least 5 days before the day appointed for the meeting.

Agenda

5. (1) Items may be submitted for inclusion on the agenda of a meeting of the governors by —
- (a) the Department;
 - (b) any governor; and
 - (c) the head teacher.
- (2) The chairman of the governing body or, if he is absent or there is no chairman, the clerk shall, in consultation with the head teacher, compile the agenda.

Representation of Department etc.

6. (1) Any member or officer of the Department nominated by the Department for the purpose shall have the right to attend meetings of the governing body and the right to give advice.
- (2) Without prejudice to sub-paragraph (1), the governing body may invite any of the following to attend any meeting —
- (a) any member or officer of the Department,
 - (b) any other person appearing to the governing body to be competent to advise on any matter to be considered at the meeting.

Quorum

7. (1) 3 governors (including at least one governor appointed under clause 2(1)(a)) shall constitute a quorum of the governing body.
- (2) If at the time appointed for a meeting of the governing body a quorum is not present, the meeting shall not take place, and the clerk shall appoint a date for a further meeting and notify the governors of it in accordance with paragraph 4.

Chairman

8. If the chairman of the governing body is absent at the time appointed for a meeting, or if there is no chairman, the governors present shall appoint one of their number to preside at the meeting.

Voting

9. Every question to be determined at a meeting of the governing body shall be determined by a majority of the votes of the governors present and voting on the question, and where there is an equality of votes the person presiding at the meeting shall have a second or casting vote.

Minutes

10. (1) The names of the governors present at a meeting of the governing body shall be recorded.

(2) The minutes of the proceedings of the governing body —

(a) shall be kept by the clerk in a book provided for the purpose;

(b) shall record any decision taken; and

(c) shall be confirmed at the same or next following meeting of the governing body and signed by the person presiding at it.

(3) As soon as the minutes of any meeting of the governing body have been drawn up, the clerk shall send a copy to the Department.

(4) The minutes of the proceedings of the governing body shall be open to inspection by any member of the Department or the Board and any officer of the Department.

(5) Paragraphs (1) to (4) apply, with any necessary modifications, to the proceedings of a committee of the governing body as they apply to the proceedings of the governing body.

Correspondence

11. The governing body may conduct any correspondence relative to its own business, provided that all such correspondence has the prior approval of the chairman of the governing body.

Confidentiality

12. Subject to paragraph 10(4), all matters discussed at a meeting of the governing body shall be treated as confidential unless otherwise agreed at the meeting.

Clerk

13. The chairman shall appoint a suitable person to be the clerk to the governing body, but if he fails to do so the Department shall appoint an officer of the Department to be the clerk to the governing body.

General

14. Subject to the articles of government of the school, the governing body and any committee of it may regulate its own proceedings.

MADE 16th June 2004

Minister for Education