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WELSH STATUTORY INSTRUMENTS

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**2013 No. 2535 (W 250.)**

**EDUCATION, WALES**

**The Education (Admission Appeals Arrangements)  
(Wales) (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>1 October 2013</i>
<i>Laid before before the National Assembly for Wales</i>	- -	<i>4 October 2013</i>
<i>Coming into force</i>	- -	<i>1 January 2014</i>

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 94, 95 and 138(7) and (8) of the School Standards and Framework Act 1998(1), and now vested in them(2), make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2013 and they come into force on 1 January 2014.

(2) These Regulations apply in relation to Wales.

**Amendment of the Education (Admission Appeals Arrangements) (Wales) Regulations 2005**

2.—(1) The Education (Admission Appeals Arrangements) (Wales) Regulations 2005(3) are amended as follows.

(2) In regulation 2(1)—

- (a) delete the definition of “the 1972 Act”;
- (b) in the appropriate place in alphabetical order insert—

““the 2011 Measure” (“*Mesur 2011*”) means the Local Government (Wales) Measure 2011(4);”;

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(1) 1998 c.31. Subsection 5A was inserted into section 94 by section 50 of the Education Act 2002 (c.32). Subsection 3A was inserted into section 95 by paragraph 9 of Schedule 4 to the Education Act 2002.

(2) The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) S.I. 2005/1398 (W.112).

(4) 2011 nawm 4.

““School Admissions Code” (“*Cod Derbyniadau Ysgol*”) means any code for school admissions issued under section 84(5);”.

(3) For regulation 6 substitute—

**“Relevant considerations in appeals brought under sections 94 and 95 of the 1998 Act**

6.—(1) In relation to an appeal made under the arrangements referred to in regulation 3(a) to (d), the matters to be taken into account by an appeal panel, in considering an appeal, must include—

- (a) any preference expressed by the appellant; and
- (b) the arrangements for admission of pupils published by the local authority or the governing body in accordance with regulations made under section 92.

(2) The arrangements for admission referred to in paragraph (1)(b) are the arrangements published when any preference was expressed by the appellant.

(3) Consideration of the matter mentioned in paragraph (1)(b) may include consideration of whether those arrangements comply with any mandatory requirements of—

- (i) a School Admissions Code, or
- (ii) Part 3 of the 1998 Act.

(4) Where the decision was made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section, an appeal panel may determine that a place is to be offered to the child only if they are satisfied that one of the conditions mentioned in paragraph (5) applies.

(5) The conditions mentioned in this paragraph are—

- (a) the child would have been offered a place if the schools admission arrangements had complied with the requirements of—
  - (i) a School Admissions Code, or
  - (ii) Part 3 of the 1998 Act;
- (b) the child would have been offered a place if the school’s admission arrangements had been properly implemented; or
- (c) the decision was not one which a reasonable admission authority would have made in the circumstances of the case.

(6) In relation to an appeal made under arrangements referred to in regulation 3(e) an appeal panel in considering an appeal must have regard to—

- (a) the reasons for the local authority’s decision that the child in question should be admitted; and
- (b) any reasons put forward by the governing body as to why the child’s admission would be inappropriate.

(7) In this regulation, “preference” (“*hoff ddewis*”) means a preference expressed in accordance with arrangements made under section 86(1) or section 86A(1)(6), in relation to the school year 2013-2014, and subsequent schools years.”

(4) For regulation 7 substitute the following—

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(5) Section 84 was amended by section 40 of, and Part 6 of Schedule 18 to, the Education and Inspections Act 2006 (c.40).

(6) Section 86A was inserted into the School Standards and Framework Act 1998 by section 150 of the Education and Skills Act 2008.

**“Payment of allowances**

7.—(1) This regulation applies to any member of an appeal panel constituted in accordance with any of the paragraphs of Schedule 1.

(2) The relevant local authority may pay to a member referred to in paragraph (1) allowances for—

- (a) financial loss;
- (b) travel; and
- (c) subsistence.

(3) The allowances referred to in paragraph (2) are to be at the most recent rates set out for payments to members of a community and town council in a report (“the report”) by the Independent Remuneration Panel for Wales<sup>(7)</sup> issued under Part 8 of the 2011 Measure (members: payments and pensions).

(4) Any reference in the report to an approved duty is to be read as including a reference to attendance at a meeting of an appeal panel.”

1 October 2013

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

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(7) Provision for the Independent Remuneration Panel for Wales is made in section 141 of the Local Government (Wales) Measure 2011.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations are made under sections 94, 95 and 138(7) and (8) of the School Standards and Framework Act 1998 (“the 1998 Act”). They apply to all appeals heard on or after 1 January 2014 in respect of decisions to admit (or not to admit) pupils to schools. They make amendments to the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”).

Regulation 2 substitutes a new regulation 6 in the 2005 Regulations. The new regulation provides that appeal panels may consider whether admission arrangements are unlawful because they do not comply with either the 1998 Act, or the mandatory provisions of any school admissions code (issued under section 84 of the 1998 Act). When a child is refused a place at school on the basis that to admit the child would breach the statutory limit on infant class size unless a relevant measure were taken to avoid that breach, panels may only uphold the appeal on certain limited grounds. The new regulation 6 provides that a panel may uphold such appeals if it is satisfied that either the child would have been offered a place if the relevant admission arrangements had been properly implemented, or if they had been lawful, or if the panel is satisfied that the decision of the admission authority was unreasonable.

Regulation 2 also substitutes a new regulation 7 so that allowances that may be paid to panel members reflect the rates applicable to Community Councillors under Part 8 of the Local Government (Wales) Measure 2011.