

EXPLANATORY MEMORANDUM TO
THE PRE-SCHOOL EDUCATION IN SCHOOLS (ADMISSIONS CRITERIA)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 239

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Education to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 32(6) and 90(3) of the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. Article 32 of the Education (Northern Ireland) Order 1998 requires the Board of Governors of each grant-aided nursery school and each grant-aided primary school with a nursery class to draw up the criteria to be applied in selecting children for admission to nursery education at the school. Article 32(6) also enables the Department of Education to make regulations requiring the criteria to include, or not to include, such matters or matters of such description as are specified in the regulations. The Pre-School Education in Schools (Admissions Criteria) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 419) ("the 1999 Regulations") specify the matters to be included in the criteria for the admission of children to grant-aided nursery schools and grant-aided primary schools with a nursery class.
- 2.2. These Regulations amend regulation 4 of the 1999 Regulations to remove the criteria relating to children with a July or August birthday commencing with admissions for the school year 2013/14. Priority will continue to be given to children from socially disadvantaged circumstances in their final pre-school year. Boards of Governors will continue to have the option to give priority to children with Special Educational Needs over other children (excluding those children from socially disadvantaged circumstances in their final pre-school year).

3. Background

- 3.1. The Department's Pre-School Education Expansion Programme (PSEEP) was launched in 1998, aiming to provide a pre-school education place for every child in its immediate pre-school year whose parents wished to avail of it. In allocating pre-school places to children, the 1999 Regulations require schools to give priority to: children from socially disadvantaged circumstances; and the oldest children in their immediate pre-school year, i.e. those with birthdays in July and August.
- 3.2. At the time the provision was introduced, the level of pre-school provision stood at around 45% and it was considered necessary to put in place steps to ensure that, within the limited provision available, priority was given to

the children who were considered to need it most. The July and August birthdays criterion was introduced because of concerns that, if those children failed to secure a pre-school place, they would not have any educational experience until after their fifth birthday, when they began primary school. As there is now broadly sufficient provision to meet demand for pre-school provision, the continuing relevance of the criterion is no longer justifiable.

- 3.3. The Effective Pre-school Provision NI (EPPNI) Pre-School Experience and Key Stage 2 Performance in English and Mathematics Research Report No 53, 2010 gave further weight to the case for change, demonstrating that the July and August birthdays criterion may in fact have a detrimental impact on younger children, by providing preferential access to pre-school education to their older peers, who are already at an advantage to their younger classmates in terms of educational progress. The Report found that a child's age was an important predictor of both attainment and progress in English and Mathematics, with older pupils doing much better. The odds of a pupil attaining level 5 (as compared to level 3) increased by 13 – 14% for each month of the child's age.
- 3.4. The effect of the July and August birthdays criterion has therefore changed considerably over time. Where previously, its impact was to support maximum participation by that group, its continuing existence in a context of broadly sufficient overall provision has the effect of giving that group priority in choice of setting. There is no educational reason why older children should have priority access to pre-school education; indeed, as younger children are often at an earlier stage in development on starting school, the opposite is arguably the case.

4. Consultation

- 4.1. In June 2004, The Department carried out a Review of Pre-School Education which included a four month public consultation, during which some 7,023 responses were received. This consultation included the question "Should children with July and August birthdays continue to receive priority in admission?" Of those who provided a response to this question, over 95% answered "No".
- 4.2. In 2011, the Department carried out the Review of Pre-School Admission Procedures. In undertaking that Review, the Department engaged with a wide range of stakeholders, including Education and Library Board Transfer Officers, Pre-School Education Advisory Groups (PEAGS) officers, the Council for Catholic Maintained Schools, the Early Years Organisation, Comhairle na Gaelscolaíochta, the NI Council for Integrated Education and a number of Associate Assessors of the Education and Training Inspectorate who were current practitioners within the pre-school sector.
- 4.3. The Review, published in January 2012, led to 17 actions for change, including one to remove the July and August birthdays criterion for pre-school admissions. This action again received widespread support.

4.4. Departmental officials have also consulted informally with key sectoral stakeholders who have broadly welcomed the removal of the July and August birthdays' criterion.

5. Equality Impact

5.1. Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. There are no negative equality impacts on any of the section 75 groupings.

6. Regulatory Impact

6.1. There is no adverse impact on businesses, charities, social economy or voluntary bodies.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. These Regulations do not breach section 24 of the Northern Ireland Act 1998 as they are not incompatible with any of the Convention rights or community law, and they do not discriminate against a person on the grounds of religious belief or political opinion. These Regulations do not modify or amend any of the enactments stated in section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. These Regulations do not replicate, and are not required to maintain parity with, legislation in other administrations.

11. Additional Information

11.1. Not applicable.