
STATUTORY INSTRUMENTS

1998 No. 1943

EDUCATION, ENGLAND AND WALES

WALES

The Education (Infant Class Sizes) (Wales) Regulations 1998

Made - - - - *10th August 1998*
Laid before Parliament *11th August 1998*
Coming into force - - *1st September 1998*

In exercise of the powers conferred upon the Secretary of State by sections 1 and 138(7) and (8) of the School Standards and Framework Act 1998(1), the Secretary of State for Wales hereby makes the following Regulations:—

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Education (Infant Class Sizes) (Wales) Regulations 1998, and shall come into force on 1st September 1998.

(2) These Regulations apply in relation to any school in Wales which contains an infant class.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996(2);

“the 1998 Act” means the School Standards and Framework Act 1998;

“admission arrangements”, in relation to a school, means the arrangements for the admission of pupils to the school, including the school’s admission policy, as published under—

(a) in the case of a school which is not a grant-maintained school, section 414 of the 1996 Act(3) or section 92 of the 1998 Act(4); or

(b) in the case of a grant-maintained school, the articles of government of the school;

“admission school year”, in relation to a pupil in an infant class at any school, means the school year in which he was first admitted to that school;

(1) 1998 c. 31; see section 142(1) for the definition of “regulations”.

(2) 1996 c. 56.

(3) Section 414 is prospectively repealed by Schedule 31 to the 1998 Act.

(4) Section 92 is not yet in force.

“child with a statement” means a child in relation to whom a statement is maintained by an LEA;

“class” and “infant class” in each case has the meaning given by section 4 of the 1998 Act;

“LEA” means a local education authority;

“ordinary teaching session” has the meaning given by section 4 of the 1998 Act;

“pupil” has the meaning given by section 3(1) of the 1996 Act⁽⁵⁾;

“qualified teacher” has the meaning given by section 4 of the 1998 Act;

“reception class” has the meaning given by section 142(1) of the 1998 Act;

“relevant person”, in relation to a school, means the body or person responsible under the school’s admission arrangements for determining which children should be admitted to the school;

“school” means—

- (a) in relation to any time before the appointed day (which is defined in section 20(7) of the 1998 Act)—
 - (i) a county, voluntary or maintained special school, or
 - (ii) a grant-maintained school,within the meaning of the 1996 Act; and
- (b) in relation to any time on or after that day, a maintained school (which is also defined in section 20(7) of the 1998 Act);

“special school” has the meaning given in section 337 of the 1996 Act⁽⁶⁾;

“statement” means a statement of special educational needs made by an LEA pursuant to section 324 of the 1996 Act⁽⁷⁾;

“suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have.

(2) For the purposes of these Regulations a child shall be treated as having been admitted to a school outside a normal admission round where paragraph (3) or (4) applies to him.

(3) This paragraph applies to a child where, at the time of his admission to the school, he did not fall within an age group in which pupils are normally admitted to the school.

(4) This paragraph applies to a child where—

- (a) at the time of his admission to the school, he fell within an age group in which pupils are normally admitted to the school;
- (b) the number of pupils in that age group seeking admission to the school in the admission school year was greater than the number of pupils which it was intended to admit to the school in that age group in that year; and
- (c) he was offered a place at the school after the time when the relevant person had determined, in accordance with the school’s admission arrangements, which children in that age group were to be admitted to the school.

(5) Children admitted to a school for nursery education and subsequently transferred to a reception class at the school, shall be regarded for the purposes of these Regulations as admitted to the school on being so transferred.

⁽⁵⁾ Section 3(1) of the 1996 Act was amended by paragraph 9 of Schedule 7 to the Education Act 1997 (c. 44).

⁽⁶⁾ Section 337 of the 1996 Act is prospectively substituted by paragraph 80 of Schedule 30 to the 1998 Act.

⁽⁷⁾ Section 324 is prospectively amended by paragraph 77 of Schedule 30 to the 1998 Act.

Limit on infant class sizes

3.—(1) This regulation has effect for limiting class sizes for infant classes at schools in Wales for the purposes of section 1 of the 1998 Act and shall apply as provided in paragraph (5).

(2) No infant class at such a school shall contain more than 30 pupils while an ordinary teaching session is conducted by a single qualified teacher.

(3) Where an ordinary teaching session in the case of any such class is conducted by more than one qualified teacher, paragraph (2) shall be taken to prohibit the class from containing more than 30 pupils for every one of those teachers.

(4) Where an infant class at such a school contains any excepted pupil (as defined by regulation 4), paragraph (2) or (3) shall apply as if he were not included in the class.

(5) Any limit imposed by this regulation shall apply—

- (a) in relation to the 1999/2000 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 5 during the course of the school year;
- (b) in relation to the 2000/2001 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 6 during the course of the school year; and
- (c) in relation to the 2001/2002 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 7 during the course of the school year.

(6) References in the 1998 Act to any limit imposed under section 1 of that Act shall, in relation to schools in Wales, be construed in accordance with this regulation.

Excepted pupils

4.—(1) For the purposes of regulation 3, a child to whom any of paragraphs 2 to 8 of the Schedule applies is an excepted pupil in relation to an infant class at a school unless suitable education could be provided for him in another infant class at that school without relevant measures having to be taken.

(2) In paragraph (1) “relevant measures” means measures which would—

- (a) be required to be taken to ensure compliance with the duty imposed by section 1(6) of the 1998 Act, and
- (b) prejudice the provision of efficient education or the efficient use of resources.

SCHEDULE

(Regulation 4)

EXCEPTED PUPILS

1. In this Schedule—

“child” means a child who is a pupil in any infant class;

“the school” means the school of which that infant class forms part; and

“governing body” means the governing body of that school.

2. This paragraph applies at any time during the admission school year to any child with a statement admitted to the school by virtue of section 324(5)(b) of the 1996 Act⁽⁸⁾ outside a normal admission round.

3. This paragraph applies at any time during the admission school year to a child admitted to the school outside a normal admission round who—

(a) was initially refused admission to the school owing to a failure properly to implement the school’s admission arrangements; but

(b) was subsequently offered a place there by virtue of a determination made by the relevant person that there had been such a failure in relation to the child.

4. This paragraph applies at any time during the admission school year to a child admitted to the school outside a normal admission round by virtue of a determination of an appeal panel in accordance with paragraph 11A of Schedule 33 to the 1996 Act or⁽⁹⁾ paragraph 12 of Schedule 24 to the 1998 Act⁽¹⁰⁾.

5.—(1) This paragraph applies at any time during the admission school year to a child admitted to the school outside a normal admission round—

(a) in relation to whom that school is the only school (apart from any school to which he has been refused admission or from which he has been permanently excluded) which—

(i) is within a reasonable distance from his home, and

(ii) provides suitable education; and

(b) who did not, at the relevant time, ordinarily reside at a place which was within a reasonable distance from that school.

(2) In sub-paragraph (1)(b) “the relevant time”—

(a) in relation to a child to whom regulation 2(3) applies, means the time when the majority of pupils in the age group in which he falls were admitted to the school; and

(b) in relation to a child to whom regulation 2(4) applies, means the time referred to in sub-paragraph (c) of that paragraph.

6.—(1) This paragraph applies at any time during the admission school year to any child who was, at the time of his admission to the school, of an age at which pupils are normally admitted to the school, where education at a school which is Welsh speaking is desired for him and the school is the only such school within a reasonable distance from his home.

(2) In sub-paragraph (1) “a school which is Welsh-speaking” has the meaning given to that expression in section 354(8) of the 1996 Act.

⁽⁸⁾ Section 324(5)(b) is prospectively amended by paragraph 77 of Schedule 30 to the 1998 Act.

⁽⁹⁾ Paragraph 11A of Schedule 33 of the 1996 Act is inserted in that Act by paragraph 11 of the Schedule to the Education (Infant Class Sizes) (Modification) Regulations 1998 (S.I.1998/1948) for the purposes of those Regulations. Schedule 33 to the 1996 Act is prospectively repealed by Schedule 31 to the 1998 Act.

⁽¹⁰⁾ Paragraph 12 of Schedule 24 is not yet in force.

7. This paragraph applies to a child—

- (a) who is a registered pupil at a special school, but
- (b) who, by arrangement with another school which is not a special school, receives part of his education at the other school,

at any time when he is in an infant class at the other school.

8.—(1) In this paragraph, “designated pupil” means a pupil with special educational needs who—

- (a) is a registered pupil at a school which is not a special school; and
- (b) is normally educated in a unit which—
 - (i) forms part of that school, and
 - (ii) is specially organised to provide education for pupils with special educational needs.

(2) This paragraph applies to a child who is a designated pupil at any time when he is in an infant class which does not form part of the unit referred to in sub-paragraph (1)(b).

(3) Where this paragraph applies to a child, regulation 4(1) shall have effect in relation to that child as if after “in another infant class at that school” there were inserted “(other than a class which comprises or forms part of a unit referred to in paragraph 8(1)(b) of the Schedule)”.

9. Paragraphs 3 to 5 do not apply to a child with a statement.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose, for the purposes of section 1 of the School Standards and Framework Act 1998, a limit on class sizes for infant classes at schools in Wales.

The limit imposed is a maximum of 30 pupils in an infant class while an ordinary teaching session is conducted by a single qualified teacher (or, where the session is conducted by more than one qualified teacher, a maximum of 30 pupils for every teacher). The limit will take effect as from the beginning of the 1999/2000 school year in relation to classes containing pupils the majority of whom will attain the age of five during the course of the school year, as from the beginning of the 2000/2001 school year in relation of classes containing pupils the majority of whom will attain the age of six during the course of the school year and as from the beginning of the 2001–2002 school year in relation to classes containing pupils the majority of whom will attain the age of seven during the course of the school year (*regulation 3*).

However, where certain types of children (“excepted pupils”) cannot be provided with education at the school in another infant class in which the limit is not exceeded without measures being taken which would prejudice efficient education or the efficient use of resources, those children are not to be counted for the purposes of ascertaining whether or not the limit of 30 is exceeded (*regulation 4 and the Schedule*). The children are—

- (a) children whose statements of special educational needs specify that they should be educated at the school concerned, and who are admitted to the school outside a normal admission round;

- (b) children initially refused admission to a school, but subsequently offered a place outside a normal admission round by direction of an admission appeal panel, or because the person responsible for making the original decision recognises that an error was made in implementing the school's admission arrangements;
- (c) children who cannot gain a place at any other suitable school within a reasonable distance of their home because they move into the area outside a normal admission round;
- (d) children for whom education at a school which is Welsh speaking is desired where the school concerned is the only such school within a reasonable distance of their home;
- (e) children who are registered pupils at special schools, but who receive part of their education at a mainstream school; and
- (f) children with special educational needs who are normally educated in a special unit in a mainstream school, but who receive part of their lessons in a non-special class.

(Children in categories (a) to (d) will be treated as excepted pupils only during the school year in which they are first admitted to the school. Children in category (e) and (f) will be treated as excepted pupils only when they are in an infant class at the mainstream school or outside the special unit (as the case may be).)