
STATUTORY INSTRUMENTS

1998 No. 1947

EDUCATION, ENGLAND AND WALES

**The Education (Infant Class Sizes)
(Transitional Provisions) Regulations 1998**

<i>Made</i>	- - - -	<i>10th August 1998</i>
<i>Laid before Parliament</i>		<i>11th August 1998</i>
<i>Coming into force</i>	- -	<i>1st September 1998</i>

In exercise of the powers conferred upon the Secretary of State by sections 138(7) and 144 of, and paragraph 6 of Schedule 32 to, the School Standards and Framework Act 1998⁽¹⁾, the Secretary of State for Education and Employment, as regards England, and the Secretary of State for Wales, as regards Wales, hereby make the following Regulations:

Citation, commencement and application

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

(2) These Regulations apply in relation to

- (a) any existing maintained school in England or Wales which contains an infant class, and
- (b) the admission of a child to any such school for education in an infant class in the 1999—2000 school year.

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 authority”

- (a) in relation to a county or voluntary school, has the meaning given in section 415 of the 1996 Act, and
- (b) in relation to a grant-maintained school, means the governing body;

“approved admission number” has the meaning given in section 426 of the 1996 Act;

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

(2) 1996 c. 56.

“existing maintained school” means

- (a) any county or voluntary school, or
- (b) any grant-maintained school,

(within the meaning of the 1996 Act) which contains an infant class;

“infant class” has the meaning given by section 4 of the 1998 Act;

“qualifying prejudice” means prejudice to the provision of efficient education or the efficient use of resources by reason of measures required to be taken in order to ensure compliance with the duty imposed by section 1(6) of the School Standards and Framework Act 1998;

“relevant age group” has the meaning given by section 579(1) of the 1996 Act;

“relevant standard number” has the meaning given in section 411(7) of the 1996 Act.

Suspension of certain provisions of the 1996 Act

3.—(1) This Regulation applies to an existing maintained school where the Secretary of State certifies that, in his opinion, the admission to that school in the 1999—2000 school year of a number of children in any relevant age group equal to the relevant standard number or (as the case may be) the approved admission number may result in qualifying prejudice (whether the prejudice would arise in that school year or in any subsequent year).

(2) Where this Regulation applies to an existing maintained school, the designated provisions (as defined in paragraph (5)) shall not have effect in relation to the admission to that school of any child who falls within an age group of pupils who would be educated in an infant class at the school in the 1999—2000 school year.

(3) For the purposes of paragraph (1), the admission to an existing maintained school of a child in any relevant age group shall be taken to include the transfer of a child to a reception class where he had previously been admitted to that school for nursery education; and for the purposes of paragraph (2) such a child shall be regarded as admitted to an existing maintained school upon his transfer to a reception class.

(4) Where the Secretary of State gives a certificate referred to in paragraph (1) in relation to any existing maintained school, the admission authority for that school shall (if they have not already done so) forthwith

- (a) (in the case of a county or voluntary school) carry out the review of the relevant standard number applicable to admissions to an infant class at the school as required under section 421A(2) of the 1996 Act, and where appropriate, apply for a variation of that number as required under section 421A(3)(3); or
- (b) (in the case of a grant-maintained school) carry out the review of the approved admission number applicable to admissions to an infant class at the school as required by section 426A(2) of the 1996 Act, and where appropriate vary that number as required by section 426A(3)(4).

(5) In this regulation “the designated provisions” means the following provisions of the 1996 Act

- (a) section 411(6) (prejudice not to be taken to arise from the admission to a county or voluntary school of a number of pupils which does not exceed the relevant standard number or any higher admission number fixed in accordance with section 416(1));
- (b) section 416(1) (admission authority for a county or voluntary school not to fix an admission number which is less than the relevant standard number);

(3) Section 421A is inserted in the 1996 Act in relation to an existing maintained school by paragraph 2 of the Schedule to the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1998 (S.I. 1998/1948).

(4) Section 426A is inserted in the 1996 Act in relation to an existing maintained school by paragraph 5 of the Schedule to the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1998 (S.I. 1998/1948).

- (c) section 425B(3)(5) (prejudice not to be taken to arise from the admission of a number of pupils to a grant-maintained school which does not exceed the number of pupils intended to be admitted to the school in that age group in that year); and
- (d) section 426(1) (governing body of a grant-maintained school not to fix an admission number which is less than the approved admission number).

Schools to which regulation 3 applies: fixing admission numbers etc.

- 4.—(1) Where regulation 3 applies to any existing maintained school
- (a) the admission authority for that school shall not fix as the number of children in a relevant age group of pupils whom it is intended to admit to the school for education in an infant class at the school in the 1999—2000 school year a number which falls below the maximum admission number (as defined in paragraph (2)); and
 - (b) no prejudice shall be taken to arise for the purposes of section 411(3)(a) or (as the case may be) 425B(1) of the 1996 Act from the admission to that school in that school year of a number of pupils in that age group which does not exceed the maximum admission number.

(2) For the purposes of paragraph (1), the maximum admission number is the maximum number of pupils in the relevant age group specified in paragraph (1)(a) who, in the opinion of the admission authority, could be admitted to the school in the 1999—2000 school year without qualifying prejudice arising in any school year after the coming into force of Regulations under section 1 of the 1998 Act by virtue of which any limit on infant class sizes is to apply in relation to the school(6).

Existing maintained schools: determining admission arrangements

5.—(1) This regulation applies where, at any time before 1st September 1998, the admission authority for any existing maintained school have determined or published arrangements

- (a) for the admission of pupils to an infant class at that school in the 1999—2000 school year, or
- (b) for appeals against decisions taken in relation to the admission of such pupils.

(2) Where

- (a) the arrangements mentioned in paragraph (1) are to any extent inconsistent with the provisions of the 1996 Act referred to in the Schedule to the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1996(7) as they have effect as specified in that Schedule, or
- (b) in the case of a school to which regulation 3 applies, the admission number specified in those arrangements as the number of pupils which it is intended to admit to the school for education in an infant class exceeds the maximum admission number (as defined in regulation 4(2)),

the admission authority shall, subject to paragraph (3), forthwith determine and publish fresh arrangements which are consistent with those provisions or (as the case may be) specify an admission number which does not exceed the maximum admission number.

(3) Before determining any fresh arrangements in accordance with paragraph (2), the admission authority shall consult

(5) Section 425B is inserted in the 1996 Act in relation to an existing maintained school by paragraph 3 of the Schedule to the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1998 (S.I. 1998/1948).

(6) See, in relation to schools in England, the Education (Infant Class Sizes) Regulations 1998 (S.I. 1998/1973); and in relation to schools in Wales, the Education (Infant Class Sizes) (Wales) Regulations 1998 (S.I. 1998/1943). Both sets of Regulations come into force on 1st September 1998.

(7) S.I. 1998/1948.

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

- (a) in the case of a county or voluntary school
 - (i) the governing body (where the local education authority are the admission authority),
or
 - (ii) the local education authority (where the governing body are the admission authority);
or
- (b) in the case of a grant-maintained school
 - (i) the local education authority in whose area the school is situated, and
 - (ii) (in relation to a school in England) the Funding Agency for Schools.

7th August 1998

Tessa Blackstone
Minister of State,
Department for Education and Employment

10th August 1998

Peter Hain
Parliamentary Under Secretary of State, Welsh
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provisions in connection with the imposition of a limit on the size on infant classes at maintained schools in England and Wales under section 1 of the School Standards and Framework Act 1998. They apply in relation to the admission of children to such schools for education in infant classes in the 1999—2000 school year.

The Regulations disapply certain provisions of the Education Act 1996 concerning the fixing of the number of children to be so admitted. Those provisions will still apply to the admission of children in the 1999—2000 school year since the relevant provisions of the 1998 Act will not come into force until 1st September 1999.

The disapplication of those provisions is for the purpose of enabling a school's admission authority to review and, if necessary, adjust the relevant standard number (or approved admission number) so that it is compatible with the duty to comply with the limit on infant class sizes (which will apply with effect from the 1999—2000 school year in relation to schools in Wales, or from the 2001—2002 school year in relation to schools in England). The disapplication in the case of any particular school is dependent on the consent of the Secretary of State (*regulation 3*). During the period of the disapplication, alternative provisions apply as regards the fixing of admission numbers (*regulation 4*).

In addition, the admission authority for an existing maintained school are required to determine and publish fresh admission arrangements for the school where, before 1st September 1998, they have already published the school's admission arrangements for the 1999—2000 school year and

- (a) either those arrangements are incompatible with the 1996 Act (as modified by the Education Act 1996 (Infant Class Sizes) (Modification) Regulations 1998), or
- (b) the admission to the school of a number of children equal to the admission number specified in those arrangements would mean that the class size limit could not be met without prejudice to efficient education or the efficient use of resources (*regulation 5*).