
STATUTORY INSTRUMENTS

1998 No. 1973

EDUCATION, ENGLAND AND WALES

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

Made - - - - *7th 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) of the School Standards and Framework Act 1998(1), the Secretary of State for Education and Employment hereby makes the following Regulations:—

Citation, commencement and extent

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

(2) These Regulations apply in relation to any school in England 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 section 92 of the 1998 Act;

“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;

“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 have 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;

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

(2) 1996 c. 56.

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

“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 any maintained school (as defined in section 20(7) of the 1998 Act);

“special school” has the meaning given in section 337 of the 1996 Act⁽⁴⁾;

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

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

Limit on infant class sizes

3.—(1) This regulation has effect for limiting class sizes for infant classes at schools in England for the purposes of section 1 of the 1998 Act.

(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 in relation to the 2001–2002 school year and any subsequent year.

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

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

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

Excepted pupils

4.—(1) For the purposes of regulation 3, a child to whom any of paragraphs 2 to 7 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 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⁽⁵⁾ 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 12 of Schedule 24 to the 1998 Act.

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. This paragraph applies to a child—

- (a) who is a registered pupil at a special school, and
- (b) who, by arrangement with another school which is not 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.

7.—(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—

⁽⁵⁾ Section 324(5) of the 1996 Act is prospectively amended by paragraph 77 of Schedule 30 to the 1998 Act.

- (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 7(1)(b) of the Schedule)”.

8. 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 England.

The limit imposed is a maximum of 30 pupils in an infant class at any time 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). It will take effect as from the beginning of the 2001–2002 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*). Excepted pupils 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 who are registered pupils at special schools, but who receive part of their education at a mainstream school; and
- (e) 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 (c) will be treated as excepted pupils only during the school year in which they are first admitted to the school. Children in category (d) or (e) 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).)

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