

1999 No. 126

EDUCATION, ENGLAND AND WALES

**The Education (Determination of Admission Arrangements)
Regulations 1999**

Made - - - - 2nd February 1999

Laid before Parliament 5th February 1999

Coming into force 1st April 1999

In exercise of the powers conferred upon the Secretary of State by section 89(2) and (8) and 144(1) of the School Standards and Framework Act 1998^(a), the Secretary of State for Education and Employment, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Determination of Admission Arrangements) Regulations 1999 and shall come into force on 1st April 1999.

(2) Regulations 3 to 7 do not apply in relation to consultation about and determination of admission arrangements for a school for the initial year or any earlier school year^(b).

Interpretation

2.—(1) In these Regulations—

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

“the determination year”, in relation to the proposed admission arrangements for a school, means the school year beginning two years before the school year which the arrangements will be for;

“education authority” means a local education authority;

“the initial year” means the school year 2000/2001;

“main entrance” means the principal entrance to the school premises in question, or (if the school has more than one site) to the principal entrance to the main administrative building of the school;

“relevant area” has the meaning in section 89(3) of the Act;

“school” means a maintained school^(c);

“section”, unless the context otherwise requires, means a section of the Act.

^(a) 1998 c. 31.

^(b) See, in relation to the initial year, S.I. 1998/3165.

^(c) The definition of “maintained school” in section 84(6) of the Act is modified in relation to times before the appointed day (1st September 1999) by S.I. 1998/3130.

(2) For the purposes of these Regulations, admission arrangements for a school shall be treated as being for the particular school year in which pupils are to be admitted to the school in consequence of the arrangements.

Determination of admission arrangements

3.—(1) Every admission authority for a school shall, in respect of their proposed admission arrangements for the school for each school year, take all steps necessary to ensure that they will have completed the consultation required by section 89(2) before 1st March in the determination year.

(2) In addition, every such admission authority shall take all steps necessary to ensure that they will have determined those admission arrangements before 15th April in the determination year.

Consultation by admission authorities for primary schools

4. In relation to the proposed admission arrangements for a primary school, section 89(2)(b) shall only require the admission authority to consult the admission authorities for other schools in the relevant area which are primary schools.

Additional consultation requirements

5.—(1) This regulation prescribes the admission authorities for schools that are to be consulted about proposed admission arrangements by virtue of section 89(2)(c).

(2) Where the admission authority for a school is the education authority, they shall consult all the neighbouring education authorities.

(3) For the purpose of paragraph (2), an education authority, is “neighbouring”, in relation to another education authority, if the areas of the two authorities adjoin to any extent.

(4) Where the admission authority for a school is the governing body, they shall consult (so far as not already required to do so by virtue of section 89(2)(a) or (b)) any education authority any part of whose area falls within—

- (a) the relevant area for consultation about the proposed arrangements; or
- (b) the additional radial area.

(5) In paragraph (4)—

“the additional radial area” means any part of the radial area which falls outside the relevant area for consultation about the proposed arrangements;

“the radial area” is the area described by a circle—

- (a) of which the centre is the main entrance to the school to which the proposed admission arrangements relate; and
- (b) which has a radius of:
 - (i) where that school is a primary school, 3.2 kilometres;
 - (ii) where that school is a secondary school, 8 kilometres.

(6) No reference in paragraph (5) to any area shall be taken to include any part of such an area that is in Scotland.

Matters to which consultation is to relate

6.—(1) Consultation under section 89(2) shall relate to all of the arrangements (including the whole admissions policy) which the admission authority propose to determine as the admission arrangements for the school for the particular school year, except any exempt arrangements.

(2) For the purposes of paragraph (1), admission arrangements are exempt to the extent (if any) that—

- (a) (in the case of a grammar school) they make provision that the school should retain selective admission arrangements as defined by section 104(4) or that the school should cease to have such arrangements in accordance with section 108 or section 109;

- (b) section 89 is excluded by section 103(1) and (2) from applying to their determination (making or abandonment of provision for selection which constitutes a prescribed alteration for the purposes of section 28);
 - (c) (except where subparagraph (b) applies) they make provision of a kind which would, when first made at a school which previously had no such provision, effect a prescribed alteration for the purposes of section 28.
- (3) In relation to any time before the coming into force of section 28, the following subparagraph shall have effect in place of paragraph (2)(b) and (c):
- “(b) they make provision of a kind which would, when first made at a school which previously had no such provision, effect a significant change of character of the school for the purposes of section 35(1), 41(2), 259(1) or 260(2) of the Education Act 1996(a).”

Manner of consultation

7.—(1) For the purpose of consultation under section 89(2), an admission authority shall communicate their proposals by, at least, sending each admission authority which they are required to consult a written copy of the proposed admission arrangements and inviting their comments.

(2) For the purpose of information, the written copy of the proposed arrangements which is sent shall include any exempt arrangements as defined in regulation 6; but the admission authority may, if it wishes, indicate on the written copy by any appropriate means that comments are not sought on that provision.

(3) Communication under paragraph (1) may be effected by the transmission of the written copy of the arrangements in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

Manner of notification of admission arrangements

8.—(1) Notification by an admission authority under section 89(4) of the admission arrangements which they have determined for a school—

- (a) shall be given in writing to each of the bodies the authority were required to consult under section 89(2); and
- (b) where the arrangements as determined differ in any respect (subject to paragraph (2)) from the proposed arrangements on which those bodies were consulted, shall include a complete copy in writing of the admission arrangements as determined.

(2) For the purpose of paragraph (1)(b), a difference between the arrangements as proposed and the arrangements as determined is to be disregarded if it relates exclusively to exempt arrangements as defined in regulation 6.

(3) This notification must be given within 14 days after the date on which the admission authority determined the admission arrangements in question.

(4) Notification under paragraph (1) may be effected by the transmission of the notification in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

Additional publication where admission arrangements include certain provision for selection

9.—(1) This regulation applies where the admission arrangements for a school determined by an admission authority include pre-existing selection arrangements.

(2) For the purposes of this regulation and regulation 10—

- (a) “selection arrangements” means those arrangements (if any) in the admission arrangements determined for a school for a particular school year which make provision for the selection of pupils by ability or by aptitude within the meaning of section 99(5); and
- (b) selection arrangements are to be regarded as pre-existing if they—

(a) 1996 c. 57; see also S.I. 1998/2230 which modifies section 101(3) and (4) of the School Standards and Framework Act 1998 in relation to any time before section 28 of that Act comes into force.

- (i) continue from provision made by the admission arrangements for the school in question at the beginning of the 1997/98 school year and made by successive admission arrangements for the school since that time; and
- (ii) depend solely for their lawfulness on section 100.

(3) For the purpose of paragraph (2)(b)(ii), selection arrangements are to be regarded as depending solely for their lawfulness on section 100 if they are not rendered lawful by virtue of section 99(1)(b) or (2)(c) (grammar schools or sixth forms), section 101 (pupil banding) or section 102 (aptitude for particular subjects).

(4) Where this regulation applies, the admission authority shall publish the following information in a newspaper circulating in the locality served by the school, namely—

- (a) the names of the admission authority and of the school or schools in respect of admission to which the provision for selection applies;
- (b) the fact that admission arrangements have been determined which make provision for selection and a statement summarising the effect of the selection arrangements;
- (c) the fact that parents living in the relevant area are able to refer an objection about the selection arrangements to the adjudicator (in England) or the Secretary of State (in Wales);
- (d) the address to which and the date by which such an objection must be sent to the adjudicator (in England) or the Secretary of State (in Wales);
- (e) the fact that further information about the selection arrangements or about parents' right of objection may be obtained from the admission authority, including an address and telephone number for such contact.

(5) This information must be published in the manner specified within 14 days after the date on which the admission authority determined the admission arrangements.

Provision of further information

10.—(1) An admission authority which is required to publish information under regulation 9 shall in addition provide to any person without charge either or both of the following on request—

- (a) a copy in writing of the selection arrangements and of any other parts of the admission arrangements that are material to them;
 - (b) a written statement of the information about parents' right of objection specified in paragraph (2).
- (2) The information to be provided under paragraph (1)(b) is—
- (a) a statement explaining the effect of section 90(2);
 - (b) the relevant area that applied to the admission authority's consultation on the admission arrangements;
 - (c) an explanation of the following requirements that apply to an objection by a parent^(a)—
 - (i) the requirement that a parent may only refer an objection about pre-existing selection arrangements;
 - (ii) the description of parent who is entitled to refer an objection; and
 - (iii) the requirement that a specified number of parents must refer an objection or objections raising substantially the same issue before such an objection can be determined by the adjudicator (in England) or the Secretary of State (in Wales).

30th January 1999

Estelle Morris
Minister of State,
Department for Education and Employment

2nd February 1999

Peter Hain
Parliamentary Under Secretary of State,
Welsh Office

(a) See the Education (Objections to Admission Arrangements) Regulations 1999, S.I. 1999/125.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 89 of the School Standards and Framework Act 1998 provides that the admission authority for every maintained school must determine the school's admission arrangements for each school year in accordance with the requirements set out in that section. These Regulations make provision for a number of purposes relating to the requirements of section 89. The Regulations come into force on 1st April 1999, except that regulations 3 to 7 do not apply for arrangements to admit pupils any earlier than the school year 2001/2002 (S.I. 1998/3165 deals with admission arrangements for the school year 2000/2001).

Regulation 2 contains definitions of terms used in the Regulations. Regulation 3 requires all admission authorities to take steps to ensure that they complete the consultation required by section 89 before 1st March in the determination year (the school year beginning two years before the school year in which the pupils will be admitted). There is a further duty to take steps to determine the admission arrangements before 15th April in the determination year.

Regulation 4 provides that the duty under section 89(2)(b) of the 1998 Act to consult other admission authorities in the "relevant area" only applies, where the admission arrangements are for a primary school, to the authorities for other primary schools. Regulation 5 specifies the additional consultation required by virtue of section 89(2)(c). An admission authority which is a local education authority must consult every neighbouring local education authority. An admission authority which is the governing body for a school must consult any other local education authority part of whose area is either within the relevant area for consultation or is within a specified distance from the school concerned. The distance is 3.2 kilometres (just under two miles) where the school is a primary school and 8 kilometres (just under five miles) where it is a secondary school.

Regulation 6 provides that the consultation is to relate to all of the proposed admission arrangements, except any arrangements ("exempt arrangements") which determine the school as a grammar school or which cannot be introduced or altered except by means of statutory proposals. Any exempt arrangements must nevertheless be included in the written consultation document required by regulation 7 (though for information purposes only).

Regulation 8 sets out the requirements for notifying other admission authorities of the arrangements that are finally determined. This must be done in writing within 14 days. Regulation 9 additionally requires details about admission arrangements which provide for selection of pupils by ability or aptitude to be published in a local newspaper. These details must explain parents' right to object to such selection arrangements to the adjudicator (in England) or the Secretary of State (in Wales). Regulation 10 requires a school in such a case to provide, on request, further details relating to this right of objection.

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