

2008 No. 4

EDUCATION, ENGLAND

**The Information as to Provision of Education (England)
Regulations 2008**

<i>Made</i>	- - - -	<i>7th January 2008</i>
<i>Laid before Parliament</i>		<i>15th January 2008</i>
<i>Coming into force</i>	- -	<i>14th February 2008</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 29(3) and 569(4) of the Education Act 1996(a):

Citation, commencement and application

1. These Regulations may be cited as the Information as to Provision of Education (England) Regulations 2008 and come into force on 14th February 2008.
2. These Regulations apply only in relation to England.

Interpretation

3. In these Regulations—

“admission number” has the meaning given in section 89A(1) of the School Standards and Framework Act 1998(b);

“application” means a preference expressed by a parent, in accordance with section 86(1) of the School Standards and Framework Act, as to the school at which he wishes education to be provided for his child;

“authority” means a local education authority;

“district” means the area of the council of a district where that council is not a unitary authority;

“offer” means an offer communicated by an authority to admit a child in their area to a school (c);

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- (a) 1996 c.56. See section 579(1) for the definitions of “prescribed” and “regulations”. Section 29(3) is amended by paragraph 67 of Schedule 30, and Schedule 31, to the School Standards and Framework Act 1998 (c.31).
- (b) 1998 c.31. Section 89A(1) is inserted by section 47(2) of the Education Act 2002 (c.32). Academies are required by their Funding Agreements to have admissions arrangements consistent with the law relating to maintained school admissions.
- (c) By virtue of the School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2007 (S.I. 2007/194) every offer to admit a child in their area to a school in their area must be communicated to the child’s parents by the authority (such offer being communicated on behalf of the governing body of any school which is its own admission authority). Also by virtue of those Regulations, an offer to admit a child in their area to a secondary school in the area of another authority may be communicated by the authority.

“school year” means a period of twelve months beginning on 1st September unless the school has a term beginning in August, in which case it means a period of twelve months beginning on 1st August;

“surplus places” means the number of places, if any, by which the number equal to the capacity of the school exceeds the number of registered pupils at the school;

“unitary authority” has the same meaning as in section 261(3) of the Housing Act 2004(a); and

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(b).

Information to be provided by authorities to the Secretary of State

4. The information specified in Schedule 1 must be provided by an authority to the Secretary of State after 1st June and before 4th August in each year.

5.—(1) An authority must provide the Secretary of State each year with a report—

- (a) containing the information specified in Schedule 2 in relation to the admission to secondary schools of pupils in the area of the authority,
- (b) on 1st March (or, in any year in which 1st March is not a working day, on the next working day),
- (c) containing information correct as at the date in sub-paragraph (b) in relation to the school year commencing in the August or September of that calendar year.

(2) An authority may provide the Secretary of State each year with a report—

- (a) containing the information specified in Schedule 2 in relation to the admission to secondary schools of pupils in the area of the authority,
- (b) by no later than 8th September, (or, in any year in which 8th September is not a working day, by no later than the next working day),
- (c) containing information correct as at 1st September (or, in any year in which 1st September is not a working day, the next working day) in relation to the school year commencing in the August or September of that calendar year.

(3) For the purposes of this regulation and Schedule 2 “school” means a community, foundation or voluntary school, or an Academy.

Determination of capacity of a school

6. The capacity of a school is to be determined in accordance with the method of assessment provided in the guidance, Assessing the Net Capacity of Schools, issued by the Department for Education and Skills in August 2002(c).

Revocation of Regulations

7. The Regulations set out in Schedule 3 are revoked.

7th January 2008

Jim Knight
Minister of State
Department for Children, Schools and Families

(a) 2004 c.34. The council of a county so far as it is the council for an area for which there are no district councils; and the council of any district comprised in an area for which there is no county council.
(b) 1971 c.80.
(c) Assessing the Net Capacity of Schools, DfES/0739/2001 REV, is available on the Department for Children, Schools and Families website www.dcsf.gov.uk/netcapacity/.

**Information to be provided to the Secretary of State after 1st June and
before 4th August in each year**

1. The number of registered pupils on the third Thursday in January in the year in which the information is provided in each community, foundation and voluntary school maintained by the authority, existing as a school of any such kind on 1st April in the year in which the information is provided, and the total number of such pupils in all such schools which are primary schools and all such schools which are secondary schools.

2. The number of community, foundation and voluntary schools maintained by the authority on the third Thursday in January in the year in which the information is provided in which there are surplus places and the number of such places in each such school and the total number of surplus places in all such primary schools and all such secondary schools.

3. A forecast of the number of registered pupils, firstly for whom primary education will be provided and secondly for whom secondary education will be provided, in community, foundation and voluntary schools maintained by the authority, on 1st January in each school year over—

- (a) a five year period in the case of such pupils for whom primary education is so provided; and
- (b) a seven year period in the case of such pupils for whom secondary education is so provided,

such period commencing at the start of the school year which begins in the year in which the information is provided to the Secretary of State.

4. In cases where the authority is the council of a county and not a unitary authority, a forecast for each district of the number of registered pupils, firstly for whom primary education will be provided and secondly for whom secondary education will be provided, in community, foundation and voluntary schools maintained by the authority on 1st January in each school year for—

- (a) the following year;
- (b) the fifth year of the respective periods as provided in paragraph 3; and
- (c) the sixth year of the respective period as provided in paragraph 3(b) for pupils in the third key stage and fourth key stage (as defined in section 82(1)(c) and (d) of the Education 2002(a)) only.

5. A statement, which is to accompany the forecast referred to in paragraph 3, explaining the basis upon which the forecast is made and identifying any areas within the area of the authority where the rate of growth or decline, as the case may be, in the number of such pupils is expected to be significantly different from the general rate of growth or, as the case may be decline, in the area as a whole.

6. The capacity on the third Thursday in January in the year in which the information is provided of each community, foundation and voluntary school maintained by the authority existing as a school of any such kind on 1st April in that year and the total capacity, on that third Thursday, of all such primary schools and all such secondary schools.

7. An estimate of the expected future level of surplus places at community, foundation and voluntary schools maintained by the authority taken together, taking account of—

- (a) the number of any surplus places indicated in accordance with paragraph 2 above;

(a) 2002 c.32.

- (b) the forecast of the number of registered pupils indicated in accordance with paragraph 3 above;
- (c) any proposals in respect of schools in the area published pursuant to any enactment which have been approved (where approval is required) or, as the case may be, determined to be implemented, but not implemented;
- (d) the means, if any, by which the expected future level of surplus places is to be reduced together with any matters that the authority considers prevent the reduction of that level of surplus places;
- (e) changes that have occurred in the provision of education in the area after 1st April in the year in which the information is provided, such as the establishment or discontinuance of any community, foundation or voluntary school; and
- (f) any other related matter as the authority thinks fit.

SCHEDULE 2

Regulation 5

Information to be contained in reports to the Secretary of State

1. The identification number allocated to the authority by the Department for Children, Schools and Families.
2. The name of the authority.
3. The date of the report.
4. The number of applications received by the authority from parents of children living in the area of the authority (“home applicants”).
5. The number of such applications which were received via the authority’s web-site.
6. The sum of the admission numbers of all secondary schools in the area of the authority.
7. The number of home applicants who expressed—
 - (a) one preference,
 - (b) two preferences,
 - (c) three preferences,
 - (d) four preferences,
 - (e) five preferences, and
 - (f) six or more preferences
 in their application.
8. The number of offers communicated by the authority to home applicants which corresponded with the applicant’s—
 - (a) highest preference,
 - (b) second preference,
 - (c) third preference,
 - (d) fourth preference,
 - (e) fifth preference, and
 - (f) sixth or lower preference.
9. The number of home applicants to whom the authority has not communicated an offer which corresponds with any preference expressed by them.

10. The number of home applicants falling within paragraph 9 to whom an offer has been communicated by the authority.

11. The number, if any, by which the sum of the admission numbers of all secondary schools in the area of the authority exceeds the number of offers to admit to a school in the area of the authority (whether communicated by the authority or by another authority, and whether or not to home applicants).

12. The number of home applicants to whom the authority has communicated an offer to admit to a school in the area of the authority.

13. The number of home applicants to whom the authority has communicated an offer to admit to a school in the area of another authority.

SCHEDULE 3

Regulation 7

Regulations revoked

<i>Regulations revoked</i>	<i>References</i>
The Education (Information as to Provision of Education) (England) Regulations 1999	S.I. 1999/1066
The Education (Information as to Provision of Education) (England) (Amendment) Regulations 2003	S.I. 2003/190
The Education (Information as to Provision of Education) (England) (Amendment) Regulations 2005	S.I. 2005/346
The Education (Information as to Provision of Education) (England) (Amendment) Regulations 2006	S.I. 2006/1033

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 14th February 2008, are made under section 29(3) of the Education Act 1996 and prescribe the information that local education authorities must provide to the Secretary of State in each year relating to the provision of primary and secondary education in their area.

They are consolidating Regulations. They revoke and replace The Education (Information as to Provision of Education) (England) Regulations 1999 and amending Regulations with one change, by introducing a new period within which the information is to be provided each year.

They also contain a new requirement, in regulation 5, that local education authorities provide the Secretary of State with a report each year relating to the number of parental preferences met in accordance with section 86(1) of the School Standards and Framework Act 1998.

(Section 86(1) requires local education authorities to make arrangements for enabling parents of children in their area to express a preferences as to the school at which they wish education to be provided for their child in the exercise of the authority's functions; and section 86(2) requires admission authorities for maintained schools to comply with any preference so expressed, with limited exceptions.)

Regulation 5(1) requires local education authorities to provide a report containing the information specified in Schedule 2 in relation to the admission of children to secondary schools in their area (such as: the number of applications received; the number of first, second, or third etc. preferences met; the number of parents to whom an offer of a school place was made that did not correspond with any of their preferences), correct as at 1st March.

Regulation 5(2) enables local education authorities to provide a further report containing the information specified in Schedule 2, correct as at 1st September each year.

STATUTORY INSTRUMENTS

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**The Information as to Provision of Education (England)
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£3.00

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E1810 1/2008 181810T 19585

