
WELSH STATUTORY INSTRUMENTS

2006 No. 176 (W.27)

EDUCATION, WALES

The Education (Objections to Admission Arrangements) (Wales) Regulations 2006

Made - - - - 31 January 2006

Coming into force - - 1 February 2006

In exercise of the powers conferred upon the Secretary of State by sections 90 and 138(7) of the School Standards and Framework Act 1998⁽¹⁾ and now vested in the National Assembly for Wales⁽²⁾, the National Assembly for Wales makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Objections to Admission Arrangements) (Wales) Regulations 2006 and they come into force on 1 February 2006.

(2) These Regulations apply in relation to Wales.

Revocation

2. The Education (Objections to Admission Arrangements) Regulations 1999⁽³⁾ are revoked in relation to Wales.

Interpretation

3.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the School Standards and Framework Act 1998;

“admission number” (“*nifer derbyn*”) means the number of pupils in any relevant age group intended to be admitted in any school year as determined by an admission authority in accordance with section 89A(1)⁽⁴⁾.

(1) 1998 c. 31. Section 90(1) was amended by section 51 of, and paragraph 6 of Schedule 4 to the Education Act 2002 (c. 32.). See section 142(1) for the meaning of “prescribed” and “regulations”.

(2) See National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) S.I. 1999/125. The Regulations continue in force in relation to England.

(4) Section 89(A) was inserted by section 47(2) of the Education Act 2002.

“indicated admission number” (“*nifer derbyn a nodir*”) means the number of pupils in any relevant age group determined in accordance with the capacity assessment method set out in the guidance, document “Measuring the capacity of schools in Wales”(5);

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“parent” (“*rhiant*”) has the meaning given by section 576 of the Education Act 1996(6);

“relevant area” (“*ardal berthnasol*”) has the meaning given to it by the Education (Relevant Areas for consultation on Admission Arrangement) Regulations 1999(7).

(2) Any reference in these Regulations to a numbered section is a reference to that section of the Act.

Part 1

Reference of Objections to the National Assembly

Cases where an objection may not be referred

4.—(1) This regulation prescribes for the purposes of section 90(1)(c) the description of objections that may not be referred to the National Assembly under section 90(1).

(2) An objection may not be referred if—

- (a) the substance of the objection is to seek an alteration to the admission arrangements in question which alteration would constitute a prescribed alteration for the purposes of section 28, or
- (b) in any case where the body seeking to refer an objection are the governing body of a community or voluntary controlled school, responsibility for determining the admission arrangements for the school not having been delegated to them under section 88(1)(a)(ii), and the objection is to—
 - (i) the admission arrangements for any other community or voluntary controlled school in the relevant area for whom the local education authority are the admission authority, or
 - (ii) the admission arrangements for the school for which they are the governing body, unless the substance of the objection relates to the determination of any admission number for that school.

Time within which objection must be referred

5.—(1) Subject to paragraph (3), an objection may not be referred under section 90(1) unless it is received by the National Assembly within 6 weeks after the receipt by the objecting admission authority of the notification required by virtue of section 89(4)(b).

(2) Subject to paragraph (3), an objection may not be referred under section 90(2) unless it is received by the National Assembly within 6 weeks after the date on which notice of the determination of the relevant admission arrangements was first published in a newspaper in the manner required by regulations under section 89(8).

(5) This guidance is available on the National Assembly website at www.information.wales.gov.uk.

(6) 1996 c. 56.

(7) S.I. 1999/124.

(8) See The Education (Determination of Admission Arrangements) (Wales) Regulations 2006, SI 2006/174 (W.25).

(3) An objection which is received after the end of the period specified in paragraph (1) or (2) is to be regarded as properly referred if the National Assembly is satisfied that it was not reasonably practicable for the objection to have been received earlier than the time it was received.

Part 2

Reference of Objections by Parents

Parents who are eligible to refer an objection

6. For the purposes of section 90(2)(b) the description of a parent who may refer an objection relating to admission arrangements under that subsection is an individual who is—

- (a) where the objection falls within regulation 7(1)(a), the parent of a child of compulsory school age receiving primary education; or
- (b) where the objection falls within regulation 7(1)(b), the parent of a child who has attained the age of two but has not attained the age of five or whose child is of compulsory school age receiving primary education,

and (in either case) is resident in the relevant area for which consultation under section 89(2)(b) relating to those admission arrangements applies.

Objections that may be referred by parents

7.—(1) For the purposes of section 90(2)(c) the description of objection that may be referred under section 90(2) is—

- (a) an objection relating to pre-existing selection arrangements;
- (b) an objection relating to an admission number for any relevant age group which is lower than the indicated admission number for that age group.

(2) For the purpose of this regulation,

- (a) “selection arrangements” (“*trefniadau dethol*”) 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 within the meaning of section 99(5); and
- (b) selection arrangements are to be regarded as pre-existing if they—
 - (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) and (2)(c) (sixth forms), or section 101 (pupil banding).

Condition to be met before determination of objections by parents

8.—(1) The condition in paragraph (2) must be satisfied before the National Assembly is required to determine an objection referred by a parent under section 90(2).

(2) The condition is that not less than five parents who satisfy the requirement in regulation 6 have referred objections under section 90(2) (or one or more such objections jointly) which—

- (a) are about the same admission arrangements; and

- (b) raise the same or substantially the same issue.

Part 3

Decisions on Objections and Effect of Decisions

Publication of decisions

9.—(1) Decisions of the National Assembly and the reasons for them must be published under section 90(7)—

- (a) by notification in writing to the parties to the objection and to all other bodies whom the admission authority were required to consult under section 89(2), or would but for section 89(2A) have been required so to consult about the proposed admission arrangements; and
 - (b) in the case of a decision on an objection relating to—
 - (i) pre-existing selection arrangements within the meaning of regulation 7(2), or
 - (ii) an admission number which is lower than the indicated admission number,(whether or not such objections were referred by a parent) by publishing the information in paragraph (2) of this regulation on the National Assembly’s website at www.information.wales.gov.uk within 14 days after the date when the decision and reasons were given.
- (2) The information to be published under subparagraph (1)(b) is—
- (a) the name of the admission authority and (if different) of the school to which the admission arrangements relate; and
 - (b) a short description of the decision and of the reasons for it.

Limitation on later objections

10.—(1) Where an objection about the admission arrangements for a particular school for a particular school year has been decided by the National Assembly no subsequent objection may be referred (by the person or body who made the objection or by anyone else) about—

- (a) those arrangements; or
 - (b) the arrangements for that school for the next following school year,
- which raises the same or substantially the same issue.

(2) Paragraph (1)(b) does not prevent an objection being referred about the arrangements for a school where—

- (a) the decision mentioned in paragraph (1) upheld an objection to the admission arrangements for the school; and
- (b) the substance of the objection now sought to be referred is that the admission arrangements for the school determined by the admission authority for the next following school year are, so far as material, the same or substantially the same as those against which the earlier objection was referred.

Power to alter arrangements following decision on an objection

11.—(1) This regulation applies where—

- (a) the National Assembly has made a decision upholding to any extent an objection to admission arrangements determined by an admission authority; and
 - (b) a relevant admission authority reasonably believe that the arrangements which they have determined are, so far as material—
 - (i) the same as those arrangements; or
 - (ii) sufficiently similar for the same decision to have been made against them had an objection been made.
- (2) In a case where this regulation applies, the relevant admission authority may revise their admission arrangements by making such alterations as they reasonably believe to be necessary to achieve consistency with the decision, and may determine their arrangements in that revised form.
- (3) Any such determination may only be made if—
- (a) such arrangements are made within two months of the date on which the decision and the reasons for it were notified in accordance with regulation 9(1)(a); and
 - (b) the relevant admission authority have informed each admission body, whom they were required to consult under section 89(2), or would but for section 89(2A) have been required to so consult, about the admission arrangements which they are seeking to revise under this regulation.
- (4) In this regulation “relevant admission authority” (“*awdurdod derbyn perthnasol*”) means an admission authority who, before they determined the admission arrangements that they wish to revise, were required to consult under section 89(2), or would but for section 89(2A) have been required to consult, the admission authority against whom the decision was made.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9).

31 January 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 90 of the School Standards and Framework Act 1998 (“the 1998 Act”) enables objections to be referred to the National Assembly about admission arrangements for maintained schools which have been determined under section 89 of that Act.

These Regulations contain provisions relating to the conditions under which objections may be made and decided, and the implementation of any decisions.

They revoke the Education (Objections to Admission Arrangements) Regulations 1999 (“the 1999 Regulations”). The 1999 Regulations are largely re-enacted, and these Regulations also reflect amendments made to the 1998 Act by the Education Act 2002.

Section 89(2) of the 1998 Act sets out those bodies whom an admission authority is required to consult about proposed admission arrangements. The 2002 Act amended section 89(2) so as to include the governing bodies of all community and voluntary controlled schools in a relevant area.

Regulation 4 limits the right of such governing bodies to object. They cannot object to the admission arrangements for any other community or voluntary controlled school in the relevant area, nor can they object to admission arrangements for their own school unless the objection relates to the determination of the admission number for the school.

Regulation 4 also provides that an objection may not be made under section 90(1) if the substance of the objection is to seek an alteration to the admission arrangements which can only be made by way of publishing statutory proposals, for example, the introduction of pupil banding or single sex admissions.

Regulation 5 specifies the time limits within which any objection must be made. These are six weeks after the notification that the arrangements have been determined or, where the objection is by a parent, six weeks following the publication of relevant details in a local newspaper. In either case an objection received later will have been validly made if it was not reasonably practicable for it to have been received earlier.

Regulation 6 defines the parents who are eligible to make an objection. If an objection relates to pre-existing selection arrangements a parent must be an individual with a child of compulsory school age in primary education who resides in the consultation area for the school. If an objection relates to a proposed admission number set lower than that indicated by the capacity assessment method set out in the guidance document “Measuring the capacity of schools in Wales”, a parent must be an individual with a child who is between 2 and 5 years or who is of compulsory school age receiving primary education, who resides in the consultation area for the school. This guidance is available on the National Assembly’s website at www.learning.wales.gov.uk.

Regulation 7 deals with the type of objections a parent may make. These are objections to certain pre-existing arrangements for selection of pupils by ability, and objections relating to the determination of an admission number lower than that indicated by the capacity assessment method set out in the guidance document referred to above.

Regulation 8 adds a condition that a parental objection may only be determined by the National Assembly if five or more parents make the same or substantially the same objection to the same admission arrangements.

Regulation 9 prescribes the way National Assembly decisions on objections are to be published. This includes notifying the parties to the objection and all other bodies whom the admission authority

were required to consult under section 89(2) of the 1998 Act or would but for section 89(2A) have been required to consult, about their proposed admission arrangements. Where the objection relates to pre-existing selection arrangements or an admission number lower than the indicated admission number, the decision must also be published on the National Assembly's website at www.information.wales.gov.uk.

Regulation 10 provides that, when an objection to a school's admission arrangements has been decided, no further objection to the school's arrangements for that school year or the following year may be made on the same issue except where, in the following year the admission authority seeks to reintroduce arrangements to which an objection had previously been upheld.

In a case where an objection has been upheld against the admission arrangements of an admission authority, regulation 11 enables another relevant admission authority to revise their admission arrangements to achieve consistency with the decision upholding the objection. Conditions are specified, including a time limit for revising arrangements of two months from receiving the notification of the decision. There is a requirement to notify the admission authorities that they were required to consult under section 89(2) or would, but for section 89(2A) have been required to so consult, about the admission arrangements they are seeking to revise under this regulation.