

1999 No. 125

EDUCATION, ENGLAND AND WALES

**The Education (Objections to 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 90 of the School Standards and Framework Act 1998(a), and after consulting the Council on Tribunals, 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 interpretation

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

(2) In these Regulations, “the Act” means the School Standards and Framework Act 1998 and “section”, unless the context otherwise requires, means a section of the Act.

PART I

REFERENCE OF OBJECTIONS TO ADJUDICATOR OR SECRETARY OF STATE

Cases where an objection may not be referred

2.—(1) This regulation prescribes the description of objections that, by virtue of section 90(1)(c), may not be referred under section 90(1).

(2) An objection may not be referred under that subsection if the substance of the objection is to seek an alteration to the admission arrangements in question—

- (a) (in the case of a grammar school) which by virtue of section 104(4) may only be made in accordance with sections 105 to 109;
- (b) in respect of which section 90 is excluded from applying by virtue of section 103(1) and (2) (an introduction, variation or abandonment of provision for selection which would constitute a prescribed alteration for the purposes of section 28); or
- (c) (except where subparagraph (b) applies) which would constitute a prescribed alteration for the purposes of section 28.

(a) 1998 c. 31; see section 142(1) for the meaning of “prescribed”.

(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) which would constitute a significant change in the character of the school for the purposes of sections 35(1), 41(2), 259(1) and 260(2) of the Education Act 1996(a)”.

Time within which objection must be referred

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

(2) Subject to paragraph (3), an objection may not be referred under section 90(2) unless it is received by the appropriate person 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 the Act(c).

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

(4) In this regulation “the appropriate person” means (in England) the adjudicator or (in Wales) the Secretary of State.

PART II

REFERENCE OF OBJECTIONS BY PARENTS

Parents who are eligible to refer an objection

4. For the purpose of section 90(2)(b), the description of parent who may refer an objection about admission arrangements under that subsection is an individual who—

- (a) is the parent(d) of a child of compulsory school age receiving primary education; and
- (b) is resident in the relevant area which applies for consultation under section 89(2)(b) about those admission arrangements(e).

Objections that may be referred by parents

5.—(1) For the purposes of section 90(2)(c), the description of objection that may be referred by a parent under that subsection is an objection about pre-existing selection arrangements.

(2) For the purpose of this regulation,

- (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—
 - (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

(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.

(b) See S.I. 1999/126, regulation 8.

(c) See S.I. 1999/126, regulation 9.

(d) See section 576 of the Education Act 1996 for the meaning of “parent”.

(e) See section 89(3) for the meaning of “relevant area”.

section 99(1)(b) or (2)(c) (grammar schools or sixth forms), section 101 (pupil banding) or section 102 (aptitude for particular subjects).

Condition to be met before determination of objections by parents

6.—(1) The condition in paragraph (2) must be satisfied before the adjudicator or, as the case may be, the Secretary of State is required to determine an objection referred by a parent under section 90(2).

(2) The condition is that not less than ten parents who satisfy the requirement in regulation 4 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 III

DECISIONS ON OBJECTIONS AND EFFECT OF DECISIONS

Reference of objections to the Secretary of State

7.—(1) The adjudicator shall refer an objection to the Secretary of State under section 90(3)(b) in a case where the objection is about any criterion for admission to a school relating to a person's religion, religious denomination or religious practice.

(2) This regulation does not apply to Wales.

Publication of decisions

8.—(1) Decisions of the adjudicator or the Secretary of State and the reasons for them shall be published under section 90(7)—

- (a) by notifying them in writing to the parties to the objection and to all other bodies whom the admission authority was required to consult about the relevant admission arrangements under section 89(2); and
- (b) in the case of a decision on an objection about pre-existing selection arrangements within the meaning in regulation 5(2) (whether or not the objection was referred by a parent), by publishing the information in paragraph (2) of this regulation in a newspaper circulating in the area served by the school in question 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

9.—(1) Where an objection about the admission arrangements for a particular school for a particular school year has been decided by the adjudicator or the Secretary of State, 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) shall 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

10.—(1) This regulation applies where—

- (a) the adjudicator or the Secretary of State 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 of revised arrangements shall not be made later than two months after the date on which the decision and the reasons for it were notified under regulation 8(1)(a).

(4) In this regulation, “relevant admission authority” means an admission authority who, before they determined the admission arrangements that they wish to revise, were required under section 89(2) to consult the admission authority against whom the decision was made.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 90 of the School Standards and Framework Act 1998 enables objections to be referred to the adjudicator or (in Wales) the Secretary of State about admission arrangements for maintained schools which have been determined under section 89 of the Act. Objections may be made by the admission authorities for other maintained schools and, in certain circumstances, by parents.

These Regulations contain provisions relating to the conditions under which objections may be referred and decided, and the consequences of decisions. They come into force on 1st April 1999.

Regulation 2 provides that an objection may not be referred under section 90(1) (objections by admission authorities) if the substance of the objection is to seek an alteration to the admission arrangements which can only be made by way of a grammar school ballot or by publishing statutory proposals. Regulation 3 specifies the time limits within which any objection must be referred. These are six weeks after the notification that the arrangements have been determined or, where the objection is by a parent, six weeks after the date on which relevant details of the arrangements were published in the local newspaper. In either case an objection received later will have been validly referred if it was not reasonably practicable for it to have been received earlier.

Regulation 4 defines the parents who are able to refer an objection. Such a parent must be an individual with a child of compulsory school age in primary education and must reside in the consultation area for the school. Regulation 5 deals with the type of objection a parent may refer. This is an objection to arrangements for selection of pupils by ability or aptitude which date from the school year 1997/98 or earlier and depend for their lawfulness on section 100 of the 1998 Act (because they do not fall within any of the other categories of permitted selection). Regulation 6 adds a condition that a parental objection may only be determined by the adjudicator if ten or more parents make the same or substantially the same objection to the same admission arrangements.

Regulation 7 requires the adjudicator to refer to the Secretary of State objections about criteria relating to religion, religious denomination or religious practice. It does not apply to Wales, where all objections are made to the Secretary of State. Regulation 8 prescribes the way decisions on objections are to be published. Regulation 9 provides that, when an objection to a school's admission arrangements has been decided, no further objection may be made on the same issue against the school's arrangements for that school year or the following year except where, in the following year the admission authority seeks to reintroduce arrangements that had previously been successfully objected to. Regulation 10 enables an admission authority, in a case where an objection has been upheld against the admission arrangements of another authority, to revise their admission arrangements to the extent that they reasonably believe is necessary to be consistent with the decision. Conditions are specified, including a time limit of two months.

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