

2002 No. 2904

EDUCATION, ENGLAND

**The Education (Co-ordination of Admission Arrangements)
(Secondary Schools) (England) Regulations 2002**

<i>Made</i> - - - -	<i>18th November 2002</i>
<i>Laid before Parliament</i>	<i>2nd December 2002</i>
<i>Coming into force</i> - -	<i>20th January 2003</i>

In exercise of the powers conferred on the Secretary of State by sections 89B(1), (4), (5) and (6), 89C(1), (2), (3), (4) and (5), and 138(7) of the School Standards and Framework Act 1998(a), and section 214(1) of the Education Act 2002(b), the Secretary of State for Education and Skills hereby makes the following Regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Co-ordination of Admission Arrangements) (Secondary Schools) (England) Regulations 2002 and shall come into force on 20th January 2003.

(2) These Regulations apply only in relation to the arrangements under which pupils are to be admitted to secondary schools in England in the academic year 2004-05 and any subsequent year.

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996(c);

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

“application”, in relation to arrangements made by a local education authority under section 86(1) of the 1998 Act, means a parent’s expression of a preference as to the school at which he wishes secondary education to be provided for his child in the exercise of the authority’s functions;

“authority”, in relation to co-ordinated arrangements for admission, means the local education authority formulating a qualifying scheme with a view to securing its adoption by that authority and each governing body who are the admission authority for a secondary school in their area or, as the case may be, for whose area an imposed scheme relating to secondary schools has been, or is to be, made;

(a) 1998 c. 31. Sections 89B and 89C were inserted into the 1998 Act by section 48 of the Education Act 2002; by virtue of section 211(1) of the 2002 Act, the powers conferred by sections 89B and 89C are exercisable by the Secretary of State only in relation to England. For the meaning of “regulations” and “prescribed” see section 142(1) of the 1998 Act.

(b) 2002 c. 32.

(c) 1996 c. 56.

“imposed scheme” means a scheme for co-ordinating the arrangements for the admission of pupils to secondary schools made by the Secretary of State under section 89B(2) of the 1998 Act;

“qualifying scheme” means a scheme, formulated by an authority pursuant to section 89B(1)(a) of the 1998 Act and these Regulations, for co-ordinating the arrangements for the admission of pupils to secondary schools;

“school” means a community, foundation or voluntary school;

“the determination year” relating to any academic year means the year preceding the year in which the academic year commences;

“the initial year” means the academic year 2004-05;

“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(a).

(2) Where an application for the admission of a child to a relevant age group at a secondary school is submitted later than the date stipulated by a qualifying scheme (or, as the case may be, an imposed scheme), for the purposes of these Regulations it shall still be considered to have been made in the course of a normal admission round if—

- (a) the relevant admission authority for the school determine, in accordance with the school’s admission arrangements, the order of priority in which the application is ranked; and
- (b) a determination relating to that application is made by an authority on or before the date prescribed by regulation 7(2).

Formulation of a qualifying scheme

3.—(1) Subject to paragraphs (2) and (3), and regulation 9, in relation to each academic year to which these Regulations apply, an authority shall formulate a qualifying scheme relating to each secondary school in their area.

(2) A qualifying scheme shall comply with the requirements specified in the Schedule.

(3) The duty in paragraph (1) to formulate a scheme shall not apply where—

- (a) a qualifying scheme has been adopted in relation to an academic year by the authority and each governing body who are the admission authority for a secondary school in their area, and after reviewing the scheme the authority consider that it should again be adopted by themselves and each of those governing bodies in relation to the academic year immediately following; or
- (b) an imposed scheme has been made and has not since been varied or revoked under section 89C(7) of the 1998 Act.

Action to be taken by a local education authority to secure adoption of a qualifying scheme

4.—(1) This regulation prescribes for the purposes of section 89B(1)(b) of the 1998 Act, in relation to any academic year following the initial year, the action to be taken by an authority with a view to securing the adoption of a qualifying scheme by themselves and each governing body who are the admission authority for a secondary school in their area.

(2) Subject to paragraphs (3) and (4), an authority shall formulate a qualifying scheme no later than 1st January in the relevant determination year.

(3) The authority shall refer a qualifying scheme which they propose should be adopted in their area to any Admission Forum established for that area under section 85A(b) of the 1998 Act and shall have regard to any advice or recommendations of the Forum.

(a) 1971 c. 80.

(b) Section 85A of the 1998 Act was inserted by section 45 of the 2002 Act.

(4) After taking the action required by paragraph (3), the authority shall consult the following about any proposed qualifying scheme, namely—

- (a) each governing body who are the admission authority for a maintained school in their area; and
- (b) any other local education authority as the authority may determine.

(5) The consultation pursuant to paragraph (4)(b) shall be undertaken with a view in particular to securing that the arrangements for the admission of pupils to secondary schools in the areas of different local education authorities are, so far as is reasonably practicable, compatible with each other.

(6) Once the authority have carried out any consultation required under this regulation they shall determine the qualifying scheme (either in its original form or with such modifications as the authority think fit) which they propose should apply for the academic year in question and shall take all reasonable steps to secure its adoption by themselves and each governing body they consulted.

Information to be provided to Secretary of State

5. Where, following the action required to be taken under regulation 4, an authority secure agreement to the adoption of a qualifying scheme, they shall inform the Secretary of State accordingly and provide the Secretary of State with a copy of the scheme.

Making of a scheme by the Secretary of State

6.—(1) Subject to section 89C(6) of the 1998 Act, in any case where by 15th April in the relevant determination year an authority have not informed the Secretary of State in accordance with regulation 5 that a qualifying scheme has been adopted in relation to each secondary school in their area, an imposed scheme may be made.

(2) An imposed scheme may make provision corresponding to the requirements of a qualifying scheme.

Date on which decisions are to be communicated to parents

7.—(1) Subject to regulation 9 and paragraph (3), this regulation prescribes for the purposes of section 89B(5)(b) of the 1998 Act the single day in each year on which an authority's determination in accordance with the provisions of a qualifying scheme or an imposed scheme to offer or refuse a child admission to a secondary school in their area shall be communicated to a parent.

(2) The prescribed day shall be 1st March in the year following the relevant determination year except that, in any year in which that day is not a working day, the prescribed day shall be the next working day.

(3) This regulation does not apply to applications made otherwise than in the course of a normal admission round.

Sections 496 and 497 of the Education Act 1996

8. Sections 496 and 497 of the 1996 Act shall apply to an authority or a governing body as if any of the obligations imposed on them under a qualifying scheme or an imposed scheme were duties imposed on them under that Act.

Transitional provisions

9. In relation to the initial year these Regulations shall have effect with the following modifications-

- (a) in regulation 3—

- (i) in paragraph (1), for “shall” there shall be substituted “may”,
- (ii) after paragraph (2) there shall be inserted—
 - “(2A) Where an authority decide to formulate a qualifying scheme pursuant to paragraph (1)—
 - (i) they shall notify the Secretary of State of their decision;
 - (ii) these Regulations shall apply as if they were under a duty to formulate such a scheme; and
 - (iii) if a scheme is adopted or made it shall be treated as having been adopted or made by virtue of section 89B of the 1998 Act.”, and
 - (iii) paragraph (3) shall be omitted;
- (b) in regulation 4—
 - (i) in paragraph (1) there shall be omitted “, in relation to any academic year following the initial year,”,
 - (ii) in paragraph (2), for “1st January in the relevant determination year” there shall be substituted “31st March 2003”, and
 - (iii) after paragraph (4) there shall be inserted—
 - “(4A) The duty to consult in paragraph (4) shall apply notwithstanding that no Admission Forum may have been established for an authority’s area.”;
 - (c) in regulation 6(1), for “15th April in the relevant determination year” there shall be substituted “1st July 2003”; and
 - (d) in regulation 7—
 - (i) in paragraph (1) there shall be omitted “in each year”, and
 - (ii) for paragraph (2) there shall be substituted—
 - “(2) The prescribed day shall be 1st March 2004.”.

18th November 2002

David Miliband
Minister of State
Department for Education and Skills

SCHEDULE 1

Regulation 3

REQUIREMENTS OF A QUALIFYING SCHEME

General

1. A qualifying scheme shall—
 - (a) ensure, so far as is reasonably practicable, in relation to any application made in the course of a normal admission round, that each parent in the area of an authority shall receive a single offer of a school place under the scheme;
 - (b) require a common application form to be completed, enabling a parent in an authority’s area—
 - (i) to apply for not less than three secondary schools, whether or not any school for which such application is made is within the authority’s area,
 - (ii) to give reasons for his application, and

- (iii) to rank each application in relation to any other application (whether or not the qualifying scheme relating to the authority's area requires applications to be ranked);
- (c) identify the authority and each governing body who are the admission authority for a secondary school to which the qualifying scheme applies;
- (d) specify the criteria by which the authority shall determine whether a child is to be granted or refused admission to a secondary school in the authority's area in any case where it appears to the authority that the child—
 - (i) is eligible to be granted admission to more than one school for which application has been made on the common application form, or
 - (ii) is not eligible to be granted admission to any school for which such application has been made;
- (e) specify the date by which each of the steps required to be taken in accordance with this Schedule is to be performed;
- (f) provide a procedure for determining any application for the admission of a child to a secondary school which—
 - (i) is made otherwise than in the course of a normal admission round, or
 - (ii) where it is for admission to a relevant age group, is submitted to the authority later than the date stipulated by the scheme.

LEA's duties under a qualifying scheme relating to applications for in-area schools

2. A qualifying scheme shall require an authority—

- (a) in the case of any application made under the common application form for a secondary school in their area for which the governing body are the admission authority, to forward details of the application, together with any supporting information provided by the parent, to the governing body;
- (b) in relation to each application made on the common application form for a school for which the authority are the admission authority, to determine by reference to the school's admissions criteria the order of priority in which the application for the school is ranked;
- (c) in any case where it appears to the authority, having regard to —
 - (i) any determination made in accordance with sub-paragraph (b), and
 - (ii) any information sent to them by a governing body in accordance with paragraph 5(c),

that a child in their area is eligible to be granted admission to more than one secondary school, or is not eligible to be offered admission to any school, to determine in accordance with the provisions of the scheme whether the child is to be granted or refused admission to a secondary school in their area;

- (d) in any case where an authority determine in accordance with sub-paragraph (c) that a child is to be granted or refused admission to a secondary school in their area for which they are not the admission authority, to notify the school's governing body of their determination;
- (e) to communicate any determination granting or refusing admission to a secondary school in their area to the parent on the day prescribed by regulation 7(2) (such determination being communicated on behalf of a school's governing body in any case where the authority are not the admission authority for the school); and
- (f) with regard to any application relating to a child living in a different local education authority's area, to notify that authority of their determination.

Additional duties on LEA relating to applications for out-of-area schools

3. In any case where a parent in the area of the authority (“the home authority”) applies under the common application form for a secondary school in the area of a different local education authority (“the maintaining authority”), a qualifying scheme shall—

- (a) require the home authority to notify the maintaining authority and to forward to them details of the application, together with any supporting information provided by the parent; and
- (b) specify—
 - (i) whether, in determining in accordance with paragraph 2(c) whether the child is to be granted or refused admission to any school in their area for which application has also been made, the home authority will have regard to any information provided by the maintaining authority as to whether the child is to be granted admission to a school within that authority’s area; and
 - (ii) if so, the effect (if any) that such information will have in relation to any other application made by the parent.

4. Where a maintaining authority are notified by a home authority of a parent’s application for a secondary school in their area, a qualifying scheme shall require the maintaining authority—

- (a) where they are not the admission authority for the school, to forward to the school’s governing body details of the application and any information provided by the parent;
- (b) where they are the admission authority for the school, to determine the order of priority in which the application is ranked;
- (c) having regard to—
 - (i) any determination made in accordance with sub-paragraph (b), or (as the case may be)
 - (ii) any information sent to them by a governing body in accordance with paragraph 5(c),

to determine in accordance with the provisions of the scheme whether the child is to be granted or refused admission to the school;

- (d) to notify the home authority of their determination; and
- (e) to communicate to the parent any determination granting or refusing admission on the day prescribed by regulation 7(2) (such determination being communicated on behalf of a school’s governing body in a case where the authority are not the admission authority for the school).

Governing body’s duties under a qualifying scheme

5. A qualifying scheme shall require a governing body who are the admission authority for a secondary school—

- (a) to notify the authority of any application made to the school direct (regardless of whether the parent making the application resides in that authority’s area),
- (b) to determine by reference to the school’s admissions criteria the order of priority in which each application for the school (whether made to the school direct or under the common application form) is ranked; and
- (c) to notify the authority of their determination under sub-paragraph (b).

6. Where the authority determine under paragraph 2(c) that a child is to be granted or refused admission to the school, such determination shall only be communicated to the parent by the authority, on behalf of the governing body, in accordance with paragraph 2(e).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which only apply in England, make provision for co-ordinating the admission of pupils to secondary schools in the academic year 2004-05 (“the initial year”) and any subsequent academic year. The transitional provision in regulation 9 applies in relation to the initial year.

Regulation 3 requires local education authorities to formulate a scheme (“a qualifying scheme”) relating to each secondary school in their area. By virtue of regulation 9 this duty does not apply in relation to the initial year, although local authorities may formulate a scheme if they wish. In this event they are required to notify the Secretary of State, and the Regulations apply in the same way (with modifications) as in relation to any subsequent academic year. The duty to formulate a scheme in relation to the academic year 2005-06 and any subsequent year does not apply where either: (i) the authority and the admission authorities covered by an existing qualifying scheme decide to adopt the same scheme for the following academic year; or (ii) a scheme has been imposed by the Secretary of State on the authority and their admission authorities in accordance with regulation 6, and the scheme has not since been varied or revoked.

Under regulation 4, as read with regulation 9, local education authorities are required to formulate a qualifying scheme no later than the 31st March 2003 in relation to the initial year (if they decide to formulate such a scheme), and no later than the 1st January in the determination year relating to any subsequent academic year. Unless, in relation to the initial year, no Admission Forum has been established for their area by 31st March 2003, they are to refer their proposed schemes to the Admission Forum and to have regard to the Forum’s advice or recommendations before consulting each governing body who are the admission authority for a maintained school (whether primary or secondary) in their area about them. Authorities are also required to consult other local education authorities with a view to securing, so far as is reasonably practicable, that their respective proposed schemes are compatible with each other.

Regulation 5 requires a local education authority to notify the Secretary of State where they have been able to secure agreement by themselves and other admission authorities in their area to a qualifying scheme and to provide a copy of the scheme.

Regulation 6 enables the Secretary of State to impose a scheme on a local education authority and other admission authorities in their area. However, the Secretary of State may not do so if notification has been provided in accordance with regulation 5 no later than the 1st July 2003 in relation to the initial year, and no later than the 15th April in the determination year relating to any subsequent academic year. An imposed scheme may make provision corresponding to the requirements of a qualifying scheme.

Regulation 7 prescribes the single day on which a local education authority’s determination as to the single offer of a secondary school place which the parent of a child in their area is to receive is to be communicated to the parent. The prescribed day is the 1st March 2004 in relation to admission in the initial year, and the 1st March in the year following the determination year relating to any subsequent academic year. However, this regulation does not apply to the communication of decisions relating to applications made otherwise than in the course of a normal admission round.

Regulation 8 provides that the Secretary of State’s reserve powers under sections 496 and 497 of the Education Act 1996 shall apply to a local education authority or a governing body as if the obligations imposed on them under a qualifying scheme or an imposed scheme were duties imposed on them by that Act.

Regulation 9 specifies the modifications which are to apply to a qualifying scheme (or an imposed scheme) relating to the initial year.

Paragraph 1 of the Schedule sets out the requirements of a qualifying scheme, which may also be imposed by a scheme made by the Secretary of State in accordance with regulation 6.

