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WELSH STATUTORY INSTRUMENTS

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**1999 No. 2800 (W. 14)**

**EDUCATION, WALES**

**The New Schools (Admissions) (Wales) Regulations 1999**

*Made* - - - - *31st August 1999*

*Coming into force* - - *1st September 1999*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 72, and 138(7) and (8) of, and paragraph 1(9) of Schedule 10 to, the School Standards and Framework Act 1998(1), and now vested in the Assembly(2):

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the New Schools (Admissions) (Wales) Regulations 1999 and shall come into force on 1st September 1999.

(2) These Regulations apply in relation to a new school in Wales which, in the school year in which it will first admit pupils, is to be a community, foundation or voluntary school.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires —

“the 1996 Act” means the Education Act 1996(3);

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

“S.I.1999/124” means the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999(4)

“S.I. 1999/125” means the Education (Objections to Admissions Arrangements) Regulations 1999(5);

“S.I. 1999/362” means the Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999(6);

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(1) 1998 c. 31. For the meaning of “regulations” see section 142(1).

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

(3) 1996 c. 56.

(4) 1999/124.

(5) 1999/125.

(6) 1999/362.

“S.I. 1999/704” means the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999(7);

“admission authority”, in relation to a new school, means the person or body responsible under regulation 3 for making the school’s initial admission arrangements;

“Assembly” means the National Assembly for Wales(8);

“initial year”, in relation to a new school, means the school year in which pupils are (or it is intended, should be) admitted to the school;

“initial admission arrangements”, in relation to a new school, means the arrangements for the admission of children to the school (including the school’s admission policy) for the initial year;

“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;

“maintained school” has the meaning given by section 84(6) of the 1998 Act;

“new school” has the meaning given by section 72(3) of the 1998 Act except that it includes a school or proposed school with a temporary governing body having the meaning given by these Regulations;

“school opening date”, in relation to a new school, means the date when the school first admits pupils;

“temporary governing body” means —

- (i) a temporary governing body constituted under section 44 of the 1998 Act,
- (ii) a transitional governing body treated as so constituted by virtue of regulation 13(5) of S.I. 1999/362, or (as the case may be)
- (iii) a temporary governing body treated as so constituted by virtue of regulation 13 of S.I. 1999/704.

(2) Regulations 4, 5 and 6 shall not apply where the admission authority for a new school established as part of proposals involving the discontinuance of another school maintained by a local education authority determine that the initial admission arrangements shall be the same as those of that school.

### **Responsibility for initial admission arrangements**

3.—(1) The initial admission arrangements for a new school which is to be a community or voluntary controlled school shall be made by —

- (a) the local education authority, or
- (b) the temporary governing body where, with the agreement of that body, the authority have delegated to them responsibility for determining those arrangements.

(2) The initial admission arrangements for a new school which is to be a foundation or voluntary aided school shall be made by —

- (a) the temporary governing body, or
- (b) the promoters where —

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(7) 1999/704.

(8) The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 with effect from 1st July 1999. Accordingly, in relation to Wales, references to the Secretary of State in the relevant sections of and Schedules to the School Standards and Framework Act 1998 are to be construed as being, or including, a reference to the Assembly see section 43 of the Government of Wales Act 1998.

- (i) that body is not yet constituted, and
- (ii) the promoters consider it expedient for the admission arrangements to be determined without delay.

#### **Procedure for determining admission arrangements**

4.—(1) The admission authority for a new school shall determine the initial admission arrangements not less than six months in advance of the school opening date.

(2) Before determining the initial admission arrangements the admission authority shall, not less than nine months in advance of the school opening date, consult the following about the proposed arrangements, namely —

- (a) the local education authority (where the temporary governing body or promoters are the admission authority), and
- (b) the admission authorities for all other maintained schools in the relevant area.

(3) In paragraph (2) “the relevant area” shall be

- (a) in the case of a school which will first admit pupils in any school year commencing earlier than 2001, the area described by a circle —
  - (i) of which the centre is the proposed main entrance to the new school; and
  - (ii) which has a radius of 4.83 kilometres (3 miles);
- (b) in the case of a school which will first admit pupils in the school year commencing in 2001 or in any later school year, the relevant area or relevant areas determined by the local education authority in accordance with S.I. [1999/124](#).

(4) A school is only to be regarded as within the relevant area prescribed by paragraph (3)(a) if its main entrance lies within that area.

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

(6) Once any such consultation has been carried out, the admission authority shall —

- (a) determine that their proposed arrangements (either in their original form or with such modifications as the authority think fit) shall be the initial admission arrangements; and
- (b) notify the bodies whom they consulted under paragraph (2) of those arrangements.

(7) Where an admission authority —

- (a) have in accordance with paragraph (6) determined the initial admission arrangements, but
- (b) at any time before the end of the initial year consider that the arrangements should be varied in view of a major change of circumstances occurring since they were so determined,

the authority shall refer the proposed variations to the Assembly and shall (in every case) notify the bodies whom they consulted under subsection (2) of the proposed variations.

(8) The Assembly shall consider whether the arrangements should have effect with those variations until the end of the initial year; and if it determines that the arrangements should so have effect or that they should so have effect subject to such modification of those variations as it may determine —

- (a) the arrangements shall have effect accordingly as from the date of its determination; and
- (b) the admission authority shall notify the bodies whom they consulted under paragraph (2) of the variations subject to which the arrangements are to have effect;

save that nothing in this paragraph shall require the Assembly to make such determination before the proposals required to be published under section 28(1) and (2) of the 1998 Act have been approved in accordance with the provisions of Schedule 6 to that Act.

(9) Where the local education authority are the admission authority for a community or voluntary controlled school, they shall —

- (a) when preparing for consultation under paragraph (2) their proposed initial admission arrangements for the initial year, consult the temporary governing body about the initial admission arrangements which the authority may propose for the school; and
- (b) in addition consult the temporary governing body before making any reference under paragraph (7).

### **Reference of objections to the Assembly**

5.—(1) Where—

- (a) initial admission arrangements have been determined by an admission authority under regulation 4(6), but
- (b) a body consulted by the admission authority under regulation 4(2) wish to make an objection about those arrangements, and
- (c) the objection does not fall within any description of objections prescribed by regulation 2(2) of S.I. [1999/125](#),

that body may refer the objection to the Assembly.

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

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

(4) On a reference under paragraph (1) the Assembly shall decide whether, and (if so) to what extent, the objection should be upheld, but nothing in this paragraph shall require the Assembly to take such steps before the proposals required to be published under section 28(1) and (2) of the 1998 Act have been approved in accordance with the provisions of Schedule 6 to that Act.

(5) Where the Assembly decides that an objection referred to it under this regulation should be upheld to any extent, its decision on the objection may specify the modifications that are to be made to the admission arrangements in question.

(6) The decisions of the Assembly and the reasons for them shall be published 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 initial admission arrangements under regulation 4(2).

(7) The decision of the Assembly shall, in relation to the initial admission arrangements in question, be binding on the admission authority and on all persons by whom an objection about those arrangements may be made under paragraph (1); and if that decision is to uphold the objection to any extent, those arrangements shall forthwith be revised by the admission authority in such a way as to give effect to the decision.

### **Special arrangements for religious character of new schools**

6.—(1) This Regulation makes provision for the inclusion in the initial admission arrangements for a school which will be a foundation or voluntary aided school which has a religious character of arrangements in respect of the admission of pupils to the school for preserving the religious character of the school (“special arrangements”).

(2) Where any special arrangements desired by the admission authority for such a school are agreed to by the local education authority —

- (a) the admission authority may incorporate them in the proposed initial admission arrangements which are subject to consultation under regulation 4(2); and
- (b) if the admission authority do so, regulation 5(1) shall apply to any objection about the special arrangements which —
  - (i) is made by an admission authority consulted under regulation 4(2)(b), and
  - (ii) falls within that regulation,

as it applies to any other objection falling within that regulation. Where any special arrangements desired by the temporary governing body of such a school are not agreed to by the local education authority —

- (a) the admission authority may incorporate a draft of any such arrangements in the proposed initial admission arrangements which are subject to consultation under regulation 4(2); but
- (b) if the temporary governing body do so —
  - (i) they shall refer the draft arrangements to the Assembly, and
  - (ii) they shall not determine to adopt those arrangements in the initial admission arrangements for the school unless (and to the extent that) the Assembly decides under this regulation that they may do so, and
  - (iii) any of the bodies consulted under regulation 4(2) may make an objection in the manner prescribed by [S.I.1999/125](#) to the Assembly about the draft arrangements.

(4) On such a reference the Assembly shall decide whether (having regard to any objections received by it under paragraph (3)) the draft arrangements may be adopted by the admission authority, with or without modification, but nothing in this paragraph shall require the Assembly to take such steps before the proposals required to be published under section 28(1) and (2) of the 1998 Act have been approved in accordance with the provisions of Schedule 6 to that Act.

(5) In the case of any draft arrangements referred to it under this regulation, the Assembly shall publish its decision on the reference and the reasons for it.

(6) The information to be published under paragraph (5) is —

- (a) the name of the admission authority and (if different) of the school to which the initial admission arrangements relate; and
- (b) a short description of the decision and of the reasons for it.

(7) The decision of the Assembly on any such reference shall, in relation to the draft arrangements in question, be binding on the temporary governing body and on all persons consulted under regulation 4(2).

(8) Where an admission authority have, in accordance with the preceding provisions of this regulation (and, so far as applicable regulations 4 and 5), determined that the initial admission arrangements for their school should include any special arrangements, those provisions shall apply on any subsequent occasion —

- (a) when the admission authority desire to modify those special arrangements; or
- (b) where the local education authority agreed to any such arrangements, when the authority withdraw their agreement to those arrangements or any part of them, whether with a view to seeking any modification of them or otherwise.

### **Application of enactments**

7. The provisions of the Education Acts specified in the Schedule to these Regulations shall apply to new schools, subject to the modifications prescribed in that Schedule.

### Transitional provisions

8.—(1) This paragraph applies to a new school —

- (a) where the proposals for its establishment were published under the provisions of Part II of the 1996 Act (schools maintained by local education authorities);
- (b) which is treated (or will be treated) as established under section 28 of the 1998 Act by virtue of —
  - (i) regulation 6 of S.I. 1999/362, or
  - (ii) regulation 12 of S.I. 1999/704; and
- (c) which first admits pupils in the 1999/2000 school year.

(2) Where, before 1st September 1999, initial admission arrangements for a school to which paragraph (1) applies have been made pursuant to section 422 of the 1996 Act in relation to the 1999/2000 school year, those arrangements shall continue to have effect on and after that date for the purposes of the admission of pupils to the school in the course of that year.

(3) Section 422(6) of the 1996 Act<sup>(9)</sup>, and the other provisions of the 1996 Act referred to therein, shall continue to have effect in relation to a school to which paragraph (1) applies (with any necessary modifications) for the following purposes —

- (a) the determination of an application for the admission of a child to the school in the 1999/2000 school year which is made before 1st September 1999;
- (b) an appeal against a decision as mentioned in section 423(1) or (2) or 423A(2) of the 1996 Act concerning the admission of a child to the school in the 1999/2000 school year where before that date —
  - (i) notice of appeal has been given; but
  - (ii) the appeal has not been determined by an appeal committee determined in accordance with paragraph 1 or 2 of Schedule 33 to the 1996 Act.

(4) The reference in paragraph (3)(a) to an application for the admission of a child to a school includes a reference to —

- (a) a preference expressed by a parent in accordance with arrangements made by a local education authority under section 411(1) of the 1996 Act; and
- (b) an application as mentioned in section 438(4) or 440(2) of that Act.

(5) Paragraphs (2) and (3) apply notwithstanding —

- (a) the repeal of section 422 of the 1996 Act, and
- (b) the provisions of regulations 3 and 4 above.

31st August 1999

*Dafydd Elis Thomas*  
Presiding Officer National Assembly for Wales

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<sup>(9)</sup> Section 422(6) of the 1996 Act was amended by paragraph 32 of Schedule 7 to the Education Act 1997 (c. 44).

## SCHEDULE

Regulation 7

(Provisions of the 1996 Act and the 1998 Act applying in relation to new schools with modifications)

1. The following provisions of the Education Acts, namely —  
sections 324(5)(b) and (5A) and 439 of the 1996 Act<sup>(10)</sup>  
paragraph 3(4) of schedule 27 to the 1996 Act<sup>(11)</sup>,  
sections 1,84, 86 to 87, 92, 93(1) and (2), 94, 95 to 99, and 101, 102 and 103(3) of the 1998 Act,  
paragraph 2 of Schedule 23 (insofar as it would not otherwise apply to a new school) and  
Schedules 24 and 25 to the 1998 Act, and  
any Regulations made under any of the provisions referred to in sub-paragraphs (a) to (d) above  
(so far as they relate to Wales),

shall apply in relation to a new school, but subject to the modifications specified in paragraphs 2 to 8 below.

2. A reference in any of the provisions specified in paragraph 1 to a school of one of the following categories, namely —

- a maintained school,
- a school maintained by a local education authority, a community, foundation or voluntary school, or
- a voluntary controlled or a voluntary aided school,

shall be construed as a reference to a new school which will become a school of that category when it first admits pupils.

3. A reference in any of those provisions to a governing body of a school shall have effect as if it were a reference to the temporary governing body or (where the context admits) to any other person responsible for the admission of pupils under the initial admission arrangements.

4. A reference in those provisions to “admission arrangements” shall be construed as a reference to “initial admission arrangements” as defined in regulation 2 above.

5. Section 92(1) and (2) of the 1998 Act shall have effect as if for the words “each school year” there were substituted “the year in which pupils are first to be admitted to a new school”.

6. Section 99 of the 1998 Act shall not apply in relation to a new school to be established in substitution for one or more discontinued schools each of which either has been or could have been designated as a grammar school under section 104 of the 1998 Act but shall otherwise have effect as if subsections (2)(a) and (4)(a) were omitted.

7. Section 101(1) shall have effect as if in sub-paragraph (a) for the words “any year” there shall be substituted “the year in which pupils are first to be admitted to a new school”.

8. Section 103(3) of the 1998 Act shall have effect as if the words “(whether authorised by section 100 or section 101)” were omitted.

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<sup>(10)</sup> Section 324(5)(b) was amended, and section 325(5A) inserted, by paragraph 77 of Schedule 30 to the 1998 Act. Section 439 was amended by paragraph 115 of that Schedule.

<sup>(11)</sup> Paragraph 3 of Schedule 27 was amended by paragraph 186 of Schedule 30 to the 1998 Act.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 422 of the Education Act 1996 sets out procedures for determining admission arrangements at new schools. These procedures are repealed from 1st September 1999 by the coming into force of the admission procedures under the School Standards and Framework Act 1998.

Before coming into operation a new community, foundation or voluntary school will need to have an admission authority defined by the 1998 Act. These Regulations make provision for this.

These Regulations make provision in relation to the determination of the initial admission arrangements for, and applications for admission to, new schools.

Regulations 1 and 2 provide for the citation, commencement, application and interpretation of the Regulations.

Regulation 3 specifies who is to be the admission authority responsible for the determination of the arrangements for admission of pupils to the school for the school year in which it will first admit pupils. Where the school is be a community or voluntary controlled school, the admission authority will be the local education authority or the temporary governing body where the LEA have delegated this responsibility to them. Where the new school will be a foundation or voluntary aided school, the temporary governing body (or promoters) will be the admission authority.

Regulation 4 sets out the procedure for an admission authority to consult the local education authorities and other admission authorities in the relevant area before determining the initial admission arrangements for the new school and prescribes a timetable for that consultation. There is provision for the initial admission arrangements to be varied in view of a major change of circumstances after they have been determined subject to referring the proposed variation to the Assembly.

Regulation 5 makes provision for other admission authorities, after the initial admission arrangements have been determined, to refer objections to the Assembly. If at the time the objection is referred to the Assembly the proposals for the establishment of the school which are required to be published under the 1998 Act have not yet been approved, the Assembly is not required to determine the objection until such time as the proposals have been approved. Regulation 6 applies where a new school will have a religious character. It makes provision for the inclusion in initial admission arrangements of special arrangements to preserve that character of a school which reflect the provisions of section 91 of the 1998 Act.

Regulation 7 and the Schedule provide for certain provisions of the Education Acts to apply, with modifications, to the admission authorities for new schools for the purposes of determining (i) the initial admission arrangements, and (ii) individual arrangements for admission to the school. Regulation 8 contains transitional provisions in relation to the admission of pupils to schools established pursuant to proposals published under Part II of the Education Act 1996 which first admit pupils in the 1999/2000 school year.