
WELSH STATUTORY INSTRUMENTS

2006 No. 174 (W.25)

EDUCATION, WALES

The Education (Determination of Admission Arrangements) (Wales) Regulations 2006

Made - - - - 31 January 2006

Coming into force - - 1 February 2006

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 89(2), (2A), (8), (8A), 89A(3), 138(7) and 144(1) of the School Standards and Framework Act 1998(1), now vested in the National Assembly for Wales(2).

Title, commencement and application

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

(2) These Regulations apply in relation to Wales.

Revocation

2. These Regulations revoke the Education (Determination of Admission Arrangements) Regulations 1999(3) 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);

(1) 1998 c. 31. Sub-section (2) and (2A) of section 89 were substituted, sub-section (8) was amended and sub-section (8A) was inserted by section 51 of, and paragraph 5(1), (2), (4) and (5) of Schedule 4 to, the Education Act 2002 (c. 32). Section 89A(3) was inserted by section 47(2) of the Education Act 2002. For the meaning of “prescribed” and “regulations” see section 142 of the 1998 Act.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and section 211 of the Education Act 2002.

(3) S.I. 1999/126.

“the determination year” (“*y flwyddyn benderfynu*”) in relation to the proposed admission arrangements for a school, means the school year beginning two years before the school year which the arrangements will be for;

“education authority” (“*awdurdod addysg*”) means a local education authority;

“indicated admission number” (“*nifer derbyn a nodir*”) means the number of pupils in any relevant age group referred to as such in, and determined in accordance with, the capacity assessment method set out in the guidance document “Measuring the capacity of schools in Wales”(4) or in relation to the determination year 2008-2009, if the admission authority so wishes, means the number of pupils in any relevant age group referred to as such in, and determined in accordance with, the capacity method set out in “The Supply of School Places in Wales”(5);

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

“relevant area” (“*ardal berthnasol*”) has the meaning given to it by the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999(6);

“school” (“*ysgol*”) means a maintained school;

“section” (“*adran*”) unless the context otherwise requires, means a section of the Act.

(2) For the purposes of these Regulations, admission arrangements for a school are to be treated as being for the particular school year in which pupils are to be admitted to the school in consequence of the arrangements.

Determination of admission arrangements

4.—(1) Every admission authority for a school, in determining their admission arrangements under section 89 of the Act, must have regard to the current indicated admission number when determining an admission number for each relevant age group.

(2) Except where regulation 7 applies, every admission authority for a school must, in respect of their proposed admission arrangements for the school for each school year, take all steps necessary to ensure that they will have completed the consultation required by section 89(2) before 1 March in the determination year. Such consultation must not be commenced before the beginning of the determination year.

(3) In addition, every such admission authority must take all steps necessary to ensure that they will have determined those admission arrangements between 1 September and 15 April in the determination year.

Consultation by admission authorities for primary schools

5. In relation to the proposed admission arrangements for a primary school, for the purposes of section 89(2)(b) the admission authority is required to consult only those admission authorities for other schools in the relevant area which are primary schools.

Additional consultation requirements

6.—(1) This regulation prescribes the admission authorities for schools that are to be consulted about proposed admission arrangements by virtue of section 89(2)(d).

(2) Where the admission authority for a school is the education authority, they must consult all the neighbouring education authorities.

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

(5) Welsh Office Circular 13/95.

(6) S.I. 1999/124.

(3) For the purpose of paragraph (2), an education authority, is “neighbouring”, in relation to another education authority, if the areas of the two authorities adjoin to any extent.

(4) Where the admission authority for a school is the governing body, they must consult (so far as not already required to do so by virtue of section 89(2)(a) or (b)) any education authority any part of whose areas falls within or adjoins the relevant area for consultation about the proposed arrangements.

Suspension of consultation requirements

7.—(1) Subject to paragraph (3), this regulation prescribes for the purposes of section 89(2A) the conditions under which a governing body who are the admission authority for a school are not required to undertake the consultation required under section 89(2) in any determination year.

(2) The conditions are that—

- (a) the governing body have undertaken the consultation required under section 89(2) in relation to the proposed admission arrangements for the school in the preceding determination year, or if no consultation was required in that year because of this regulation, in the determination year which began two years before the determination year in question; and
- (b) the governing body propose to determine the same admission arrangements for the school as those determined in the determination year in respect of which consultation took place, as referred to in sub-paragraph (a); and
- (c) no objection was made to the National Assembly under section 90(1) or (2) about the admission arrangements proposed by the governing body in any of the preceding five years.

(3) This regulation does not apply unless, in relation to the determination year in respect of which consultation took place, as referred to in paragraph (2)(a), relating to a qualifying school year, the education authority maintaining the school have provided the National Assembly with the relevant notification.

(4) In this regulation—

“the relevant notification” (“*yr hysbysiad perthnasol*”) means notification that all the admission authorities in the relevant area have undertaken the consultation required under section 89(2) in relation to their proposed admission arrangements;

“qualifying school year” (“*blwyddyn ysgol gymwys*”) means the school year 2008-2009 or any subsequent school year.

Matters to which consultation is to relate

8.—(1) Consultation under section 89(2) must relate to all of the arrangements (including the whole admissions policy) which the admission authority proposes to determine as the admission arrangements for the school for the particular school year, except any exempt arrangements.

(2) For the purposes of paragraph (1), admission arrangements are exempt to the extent (if any) that—

- (a) section 89 is excluded by section 103(1) and (2) from applying to their determination (making or abandonment of provision for selection which constitutes a prescribed alteration for the purposes of section 28);
- (b) (except where sub-paragraph (a) applies) they make provision of a kind which would, when first made at a school which previously had no such provision, effect a prescribed alteration for the purposes of section 28.

Manner of consultation

9.—(1) For the purpose of consultation under section 89(2), an admission authority must communicate their proposals by, at least, sending each admission authority which they are required to consult a written copy of the proposed admission arrangements and inviting their comments.

(2) For the purpose of information, the written copy of the proposed arrangements which is sent must include any exempt arrangements as defined in regulation 8; but the admission authority may, if it wishes, indicate on the written copy by any appropriate means that comments are not sought on that provision.

(3) Communication under paragraph (1) may be effected by the transmission of the written copy of the arrangements in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

Manner of notification of admission arrangements

10.—(1) Notification by an admission authority under section 89(4) of the admission arrangements which they have determined for a school—

- (a) must be given in writing to each of the appropriate bodies as defined in section 89 (10); and
- (b) where the arrangements as determined differ in any respect (subject to paragraph (2)) from the proposed arrangements on which those bodies were consulted, must include a complete copy in writing of the admission arrangements as determined.

(2) For the purpose of paragraph (1)(b), a difference between the arrangements as proposed and the arrangements as determined is to be disregarded if it relates exclusively to exempt arrangements as defined in regulation 8.

(3) Notification under paragraph (1) must be given within 14 days after the date on which the admission authority determined the admission arrangements in question.

(4) Notification under paragraph (1) may be effected by the transmission of the notification in electronic form, except in any case where there are grounds for believing that the intended recipient is unable to make use of it in that form.

Circumstances in which additional publication is required

11.—(1) This regulation applies in any case where—

- (a) the admission arrangements for a school determined by an admission authority include pre-existing selection arrangements;
- (b) the determined admission number for any relevant age group at a school is lower than the current indicated admission number for that age group.

(2) For the purposes of paragraph (1)(a)—

- (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 1997-1998 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)(b) or (2)(c) (sixth forms), and section 101 (pupil banding).

(4) Where paragraph (1)(a) applies, the admission authority must publish the following information in a newspaper circulating in the locality served by the school, namely—

- (a) the names of the admission authority and of the school or schools in respect of admission to which the provision for selection applies;
- (b) the fact that admission arrangements have been determined which make provision for selection and a statement summarising the effect of the selection arrangements;
- (c) the fact that parents living in the relevant area are able to refer an objection about the selection arrangements to the National Assembly(7);
- (d) the address to which, and the date by which such an objection must be sent to the National Assembly;
- (e) the fact that further information about the selection arrangements or about parents' right of objection may be obtained from the admission authority, including an address and telephone number for such contact.

(5) Where paragraph (1)(b) applies the admission authority must publish the following information in a newspaper circulating in the locality served by the school, namely—

- (a) the names of the admission authority and of the school or schools in respect of which an admission number lower than the current indicated admission number has been determined for any relevant age group;
- (b) the current indicated admission number relating to each relevant age group to which the admission authority had regard when determining a lower admission number;
- (c) the determined admission number relating to each relevant age group which is lower than the current indicated admission number for that age group;
- (d) the admission authority's reasons for determining an admission number which is lower than the current indicated admission number;
- (e) the fact that parents living in the relevant area are able to refer an objection about the admission number to the National Assembly;
- (f) the address to which and the date by which such an objection must be sent to the National Assembly;
- (g) the fact that further information about the admission number or about parents' right of objection may be obtained from the admission authority, including an address and telephone number for such contact.

(6) The information specified in paragraphs (4) and (5) must be published in the manner specified within 14 days after the date on which the admission authority determined the admission arrangements.

Provision of further information

12.—(1) An admission authority which is required to publish information under regulation 11 must in addition provide to any person without charge any of the following on request—

- (a) (in any case to which regulation 11(1)(a) applies) a copy of the selection arrangements and of any other parts of the admission arrangements that are material to them;
- (b) (in any case to which regulation 11(1)(b) applies) details of the assessment of the school's current indicated admission number relating to any relevant age group for which a lower admission number has been determined;

- (c) a written statement of information about parents' right of objection specified in paragraph (2).
- (2) The information to be provided under paragraph (1)(c) is—
 - (a) a statement explaining the effect of section 90(2);
 - (b) the relevant area that applied to the admission authority's consultation on the admission arrangements;
 - (c) an explanation of the following requirements that apply to an objection by a parent—
 - (i) the requirement that a parent may only refer an objection about pre-existing selection arrangements (within the meaning of regulation 11(2)(a)), or the determination of an admission number which is lower than the indicated admission number,
 - (ii) the description of parent who is entitled to refer an objection, and
 - (iii) the requirement that a specified number of parents must refer an objection or objections raising substantially the same issue before such an objection can be determined by the National Assembly.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8).

31 January 2006

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (Determination of Admission Arrangements) Regulations 1999, to take into account the amendments made to the School Standards and Framework Act 1998 (“the 1998 Act”) in relation to school admission arrangements by the Education Act 2002. These Regulations set out the procedure which admission authorities should follow when determining their admission arrangements, including the consultation and notification process.

Section 89 of the 1998 Act provides that the admission authority for every maintained school must determine the school’s admission arrangements for each school year in accordance with the requirements set out in that section. These Regulations make provision for a number of purposes relating to the requirements of section 89.

Regulation 3 contains definitions of terms used in the Regulations.

Regulation 4 requires all admission authorities to complete the consultation required by section 89 of the 1998 Act before 1 March in the determination year (the school year beginning two years before the school year in which the pupils will be admitted). Consultation is not to take place before the beginning of the determination year, and admission authorities must determine the admission arrangements between 1 September and 15 April in the determination year.

There is a new duty to have regard to the indicated admission number for each relevant age group when determining the number of pupils to be admitted in any school year in any relevant age group.

The indicated admission number is the number calculated in accordance with the capacity assessment method set out in the guidance document ‘Measuring the capacity of schools in Wales’. This guidance is available on the National Assembly’s website at www.learning.wales.gov.uk.

Regulation 5 provides that where the admission arrangements are for a primary school, the duty under section 89(2)(b) of the 1998 Act to consult other admission authorities in the “relevant area” only applies to the authorities for other primary schools.

Regulation 6 specifies the additional consultation required by virtue of section 89(2)(d). An admission authority which is a local education authority must consult every neighbouring local education authority. An admission authority which is the governing body for a school must consult any other local education authority whose area falls within or adjoins the relevant area for consultation.

Regulation 7 provides a governing body who are an admission authority with a new power to suspend consultation requirements in certain circumstances. The requirements are disapplied if the governing body consulted on their proposed arrangements within the previous two determination years, those arrangements are unchanged, and no objection has been made to the National Assembly about their admission arrangements in the preceding five years. In addition the LEA maintaining the school must have notified the National Assembly that all the admission authorities in the relevant area undertook the required consultation for the determination year relating to 2008-2009 school year or any subsequent school year.

Regulation 8 provides that the consultation must relate to all of the proposed admission arrangements, except any “exempt arrangements”, that is arrangements which cannot be introduced or altered except by means of statutory proposals.

Regulation 9 provides that the admission authority must send a written copy of their proposed admission arrangements to each admission authority which they are required to consult, and invite

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their comments. Any exempt arrangements must be included in this written consultation document (though for information purposes only).

Regulation 10 sets out the requirements for notifying other admission authorities of the arrangements that are finally determined. This must be done in writing within 14 days from the date of the determination. There is a new requirement to notify all appropriate bodies who were entitled to be consulted even if they were not actually consulted because the consultation requirements have been suspended in accordance with Regulation 7.

Regulation 11 additionally requires details about admission arrangements which provide for selection of pupils by ability, to be published in a local newspaper. It also contains a new requirement for additional publication where the admission authority has determined an admission number for a relevant age group which is lower than the current indicated admission number for that age group. The details to be published must include an explanation of parents' right to object to such selection arrangements or such lower admission number to the National Assembly.

Regulation 12 requires an admission authority which must publish additional information under regulation 11 to provide, on request, further details relating to their admission arrangements and to the parents' right of objection.