WELSH STATUTORY INSTRUMENTS

2009 No. 828 (W.75)

EDUCATION, WALES

The Education (Infant Class Sizes) (Wales) (Amendment) Regulations 2009

Made - - - -	*31 March 2009*
Laid before the National Assembly for Wales - -	*1 April 2009*
Coming into force - -	*22 April 2009*

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 1 and 138(7) and (8) of the School Standards and Framework Act 1998 and now vested in them(**1**) hereby make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Infant Class Sizes) (Wales) (Amendment) Regulations 2009 and they come into force on 22 April 2009.

(2) These Regulations apply in relation to Wales.

Amendment of the Education (Infant Class Sizes) (Wales) Regulations 1998

2. The Education (Infant Class Sizes) (Wales) Regulations 1998(**2**) are amended in accordance with regulations 3 to 6.

3. After paragraph 2 of the Schedule insert—

> "**2A.** This paragraph applies at any time during the admission school year to any child who is looked after by a local authority (within the meaning of section 22(1) of the Children Act 1989)(**3**) and is admitted to the school outside the normal admission round."

4. In paragraph 5 of the Schedule—

(1) at the start of sub-paragraph (1) insert "Subject to sub-paragraph (3),"; and

(2) after sub-paragraph (2) insert—

(**1**) The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) S.I. 1998/1943.

(**3**) 1989 c. 41.

"(3) Where the admission authority for the school in question is not the local authority a child will not be an excepted child under this paragraph unless the local authority has confirmed in writing that it is satisfied the child fulfils the criteria listed in sub-paragraph (1)(a)."

5. After paragraph 5 of the Schedule insert—

"**5A.**—(1) Subject to sub-paragraph (3), this paragraph applies at any time during the admission school year to a child admitted to the school outside a normal admission round, where education at a school of a particular religious character is desired and the school is the only such school within a reasonable distance of the child's home.

(2) In this paragraph "a school of a particular religious character" means a school designated as having such a character by an order made under section 69(3) of the 1998 Act(**4**).

(3) Where the admission authority for the school in question is not the local authority the child will not be an excepted child under this paragraph unless the local authority has confirmed in writing that there are no places available at another school of the particular religious character within a reasonable distance of the child's home.

5B.—(1) This paragraph applies to a child where—

(a) at the time of the child's admission to the school, the child fell within an age group in which pupils are normally admitted to the school;

(b) the number of pupils in that age group seeking admission to the school in the admission school year was fewer than the number of pupils which it was intended to admit to the school in that age group in that year;

(c) the child was offered a place at the school after the first day of the relevant school year; and

(d) the school has organised its classes for that age group seeking admission to the school in the admission school year and, unless suitable education could be provided for the child in another infant class at that school, the admission of the child would require relevant measures to be taken.

(2) In this paragraph "relevant measures" has the meaning given to that expression in regulation 4 of these Regulations."

6. Delete paragraph 6 of the Schedule and replace with—

"**6.**—(1) Subject to sub-paragraph (3), this paragraph applies at any time during the admission school year to a child admitted to the school outside a normal admission round, where education at a school which is Welsh-speaking is desired and the school is the only such school within a reasonable distance of the child's home.

(2) In this paragraph "a school which is a Welsh-speaking school" has the meaning given to that expression in section 105(7) of the Education Act 2002(**5**).

(3) Where the admission authority for the school in question is not the local authority the child will not be an excepted child under this paragraph unless the local authority has confirmed in writing that there are no places available at another Welsh-speaking school within a reasonable distance of the child's home."

7. In paragraph 9 of the Schedule for "3" substitute "2A".

(**4**) 1998 c. 31.
(**5**) 2002 c. 32.