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).