

To: Business Committee

From: Jane Davidson AM  
Minister for Education and Lifelong Learning

## EXPLANATORY MEMORANDUM

### EDUCATION, WALES

#### THE EDUCATION (DETERMINATION OF ADMISSION ARRANGEMENTS) (WALES) REGULATIONS 2006

##### Summary

Section 89 of the School Standards and Framework Act 1998 provides that the admission authority for every maintained school must determine the school's admission arrangements annually in accordance with the requirements set out in the section. (The admission authority of a foundation or voluntary aided school is the governing body; in the case of a community or voluntary controlled school it is the LEA.) These implementing Regulations set out the procedure which admission authorities should follow when determining their admission arrangements, including the consultation and notification process. They revoke and replace the existing Education (Determination of Admission Arrangements) Regulations 1999 to reflect amendments made to the 1998 Act by the Education Act 2002 (the 2002 Act).

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the Education (Determination of Admission Arrangements) (Wales) Regulations 2006, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

##### Enabling Powers

3. The powers enabling this Instrument to be made are contained in sections 89(2), (2A), (8), (8A), 89A(3), 138(7) and 144(1) of the School Standards and Framework Act 1998. These powers have been transferred to the National Assembly for Wales and, in turn, have been delegated to my portfolio as Minister for Education and Lifelong Learning.

##### Effect

4. Changes from the 1999 Regulations are as follows:
  - clarification that the whole of the consultation and determination of admissions arrangements process should take place between 1 September and 15 April in the determination year (which is the school year beginning two years before the school year in which the pupils will be admitted). Consultation on the arrangements should not take place before 1 September;

- a new duty to have regard to the capacity assessment method set out in Assembly Guidance when setting the admission number of a school;
- simplification of the requirement for admission authorities which are governing bodies to consult neighbouring local education authorities. Reference to the radial area, which extends 3.2 kilometres around a primary school and 8 kilometres around a secondary school, is removed. It is made clear that the governing body's duty is to consult those LEAs whose areas fall within or adjoin the school's relevant area;
- schools which are their own admission authority are currently required to consult annually on their admission arrangements. The Regulations allow such governing bodies to suspend annual consultation for up to 3 years providing the arrangements remain unchanged; and
- in future, when an admission authority determines an admission number which is lower than the number indicated by the capacity assessment, this must be published in a local newspaper. The notice must explain that parents may object to this lower admission number. On request the admission authority must provide further details relating to the calculation of the admission number and parents' right of objection. Separate Regulations deal with the procedures for handling objections.

### **Target Implementation**

5. It is intended that this Instrument be made on 31 January 2006 with a coming into force date of 1 February 2006. If the intended dates are not met but section 47 and Schedule 4 of the Education Act are commenced by the Education Act 2002 (Commencement No. 8) (Wales) Order 2006, scheduled to be made on 1 February 2006, there will be the following consequences:
  - standard numbers, which represent the minimum number of pupils schools must admit if sufficient applications for places are received, will no longer be in existence. Admission authorities will, however, be under no duty to set new admission numbers in accordance with new Assembly guidance;
  - there will be no facility for suspension of the consultation requirements by voluntary aided and foundation governing bodies; and
  - there will be no requirement for admission authorities to publish a notice notifying parents of their right of objection where an admission number is set lower than that indicated by the capacity of the school. The existing arrangements for objections to standard number changes will, however, have been repealed.

### **Financial Implications**

6. The extension of the duty on admission authorities to consult is imposed by the Education Act 2002. As consultation can be carried out electronically it is unlikely to give rise to additional cost. The additional

burden of publishing an admission number lower than the capacity assessment indicates and details of parents' right to object should occur only occasionally and will be more than outweighed by the benefits of a less bureaucratic system for setting and changing admission numbers.

7. There will be no additional financial implications for the National Assembly for Wales or local authorities in Wales as a result of making these Regulations.

### **Regulatory Appraisal**

8. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

### **Consultation**

#### With stakeholders

9. In July 2003 the Assembly published a consultation document – 'Changes to School Admissions Procedures' – which sought views on general revisions to Admissions policy in Wales. Responses to that consultation were taken into account in drafting these Regulations.
10. A further consultation on a new capacity methodology and Regulations relating to school admission arrangements, which included these Regulations and associated regulatory appraisal, took place with all relevant stakeholders between 14 July and 20 October 2005. The document was available in electronic format only. Consultees included: all Local Education Authorities (LEAs) in Wales; Church Diocesan Authorities; Governors of Voluntary Aided and Foundation Schools; Estyn; Welsh Language Board; Children's Commissioner and Secretaries of Professional Organisations in Wales.
11. The following issues were raised by respondents:
  - the fact that admission arrangements have to be determined so far in advance restricts changes which may be made in the interval between determination and application of the arrangements;
  - the concession allowing governing bodies which are admission authorities to suspend annual consultation on admission arrangements could in certain circumstances be extended to LEAs;
  - it is expensive to publish a notice in the local paper if the admission authority wishes to lower any admission number; and
  - the consultation document does not address who will monitor and audit this process.
12. It is not proposed to amend the Regulations in the light of this feedback for the following reasons:
  - following receipt of the feedback, admission officers at all the LEAs were contacted about the feasibility of moving the date by which arrangements should be determined. Changes to the timetable are constrained, as sufficient time must be allowed for notification of

consultees, for any objections to be made and for consideration of any objections by the Assembly prior to publication of the composite prospectus, usually early in the autumn term. Admission officers were therefore asked whether the determination date might be put back from 15 April to 1 June. There was not, however, a consensus of support for this change. The position will be reviewed in 2 years time;

- we consider that fresh consultation would be required before we could suspend the requirements on LEAs to consult annually. This option will be considered when the new admissions framework is reviewed in 2 years time; and
- the proposed procedure for setting and varying admission numbers is considerably less expensive than the current system which requires publication of a statutory notice for every change to the admission number. The publication requirement in the Regulations is intended to safeguard the interests of parents where an admission number is set lower than the capacity of the school indicates. It is anticipated that this will occur only infrequently.
- The Regulations state that the LEA should notify the Assembly that appropriate consultation has taken place prior to the suspension of the consultation requirement. Further guidance on this issue will be included in a revised Code of Practice on school admissions, which is planned to be issued in 2006.

#### With Subject Committee

13. These Regulations were notified to the Education and Lifelong Learning Committee via the list of forthcoming legislation on 28 January 2004 (ELL(2)02-04(p.1) Annex B Item Number: ELL-26-04) in its meeting of 28 January 2004. The Instrument has remained on the list of forthcoming legislation ever since and was not originally identified for formal scrutiny. However, as there are four inter-related sets of Regulations on changes to the admissions framework and the Committee had expressed an interest in scrutinising two sets of the Regulations, it was advised that all four sets be scrutinised. It was agreed that the scrutiny would take place at the Committee meeting scheduled for the 30 November 2005.

#### **Recommended Procedure**

14. Subject to the views of the Business Committee, I recommend that this Instrument proceeds to Plenary under the Standard procedure to give members the opportunity to further debate these Regulations.

#### **Compliance**

15. I confirm that the proposed legislation will (as far as is applicable):
- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
  - be compatible with the Assembly's scheme for sustainable development (section 121);
  - be compatible with Community law (section 106);

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- be compatible with the Assembly's human rights legislation (section 107);
  - be compatible with any international obligations binding the UK Government and the Assembly (section 108)
16. The information in this Memorandum has been cleared with the Directorate of Legal Services and the Assembly Compliance Office.
17. Policy division contact: Kathryn Massey SMD3, Ext 1013
18. Head of Division: Elizabeth Taylor SMD, Ext 6087
19. Drafting Lawyer: Helen Roberts, DLS Ext 5617

**JANE DAVIDSON AM**

**NOVEMBER 2005**

**MINISTER FOR EDUCATION AND LIFELONG LEARNING**

**Regulatory Appraisal****EDUCATION, WALES****THE EDUCATION (DETERMINATION OF ADMISSION ARRANGEMENTS)  
(WALES) REGULATIONS 2006****Purpose and intended effect of the measure**

1. Section 89 of the School Standards and Framework Act 1998 provides that the admission authority for every maintained school must determine the school's admission arrangements annually in accordance with the requirements set out in that section. (The admission authority of a foundation or voluntary aided school is the governing body; in the case of a community or voluntary controlled school it is the LEA.) These implementing Regulations set out the procedure which admission authorities should follow when determining their admission arrangements, including the consultation and notification process. They revoke and replace the existing Education (Determination of Admission Arrangements) Regulations 1999 to reflect amendments made to the 1998 Act by the Education Act 2002 (the 2002 Act).
2. CHANGES FROM THE 1999 REGULATIONS ARE AS FOLLOWS:
  - CLARIFICATION THAT THE WHOLE OF THE CONSULTATION AND DETERMINATION OF ADMISSIONS ARRANGEMENTS PROCESS SHOULD TAKE PLACE BETWEEN 1 SEPTEMBER AND 15 APRIL IN THE DETERMINATION YEAR (WHICH IS THE SCHOOL YEAR BEGINNING TWO YEARS BEFORE THE SCHOOL YEAR IN WHICH THE PUPILS WILL BE ADMITTED). CONSULTATION ON THE ARRANGEMENTS SHOULD NOT TAKE PLACE BEFORE 1 SEPTEMBER;
  - A NEW DUTY TO HAVE REGARD TO THE CAPACITY ASSESSMENT METHOD SET OUT IN ASSEMBLY GUIDANCE WHEN SETTING THE ADMISSION NUMBER OF A SCHOOL;
  - SIMPLIFICATION OF THE REQUIREMENT FOR ADMISSION AUTHORITIES WHICH ARE GOVERNING BODIES TO CONSULT NEIGHBOURING LOCAL EDUCATION AUTHORITIES. REFERENCE TO THE RADIAL AREA, WHICH EXTENDS 3.2 KILOMETRES AROUND A PRIMARY SCHOOL AND 8 KILOMETRES AROUND A SECONDARY SCHOOL, IS REMOVED. IT IS MADE CLEAR THAT THE GOVERNING BODY'S DUTY IS TO CONSULT THOSE LEAS WHOSE AREAS FALL WITHIN OR ADJOIN THE SCHOOL'S RELEVANT AREA;
  - SCHOOLS WHICH ARE THEIR OWN ADMISSION AUTHORITY, ARE CURRENTLY REQUIRED TO CONSULT ANNUALLY ON THEIR ADMISSION ARRANGEMENTS. THE REGULATIONS ALLOW SUCH GOVERNING BODIES TO SUSPEND ANNUAL CONSULTATION FOR UP TO 3 YEARS PROVIDED THE ARRANGEMENTS REMAIN UNCHANGED;

- IN FUTURE, WHEN AN ADMISSION AUTHORITY DETERMINES AN ADMISSION NUMBER WHICH IS LOWER THAN THE NUMBER INDICATED BY THE CAPACITY ASSESSMENT THIS MUST BE PUBLISHED IN A LOCAL NEWSPAPER. THE NOTICE MUST EXPLAIN THAT PARENTS MAY OBJECT TO THIS LOWER ADMISSION NUMBER. ON REQUEST THE ADMISSION AUTHORITY MUST PROVIDE FURTHER DETAILS RELATING TO THE CALCULATION OF THE ADMISSION NUMBER AND PARENTS' RIGHT OF OBJECTION. SEPARATE REGULATIONS DEAL WITH THE PROCEDURES FOR HANDLING OBJECTIONS.

### **Risk assessment**

3. The need to publish details of an admission number set lower than indicated by the capacity assessment and inviting parents to object should arise only very occasionally. Any new burden on LEAs will be more than outweighed by the advantages of a less bureaucratic system for setting and changing admission numbers in general. Currently any change in a standard number requires consultation, the publication of a statutory notice and approval by the Assembly.

### **Options**

Option 1: Do Nothing

4. If the Regulations were not made the admission authority would not be under a duty to set new admission numbers by reference to the capacity of the school as measured in accordance with Assembly guidance. Further, there would no duty on the admission authority to notify parents where it was proposed to determine an admission number for a school which was lower than that indicated by the school's capacity. Governing bodies of voluntary aided and foundation schools would still be under a duty to consult interested parties annually about their admission arrangements.

Option 2: Make the Legislation

5. The Regulations will enable schools which are their own admission authority to suspend annual consultation on their admission arrangements for up to three years providing the arrangements were unchanged. Admission authorities will also be under a duty to set admission numbers by reference to the capacity of the school with parents' interests safeguarded by admission authorities duty to notify where an admission number is set lower than the school's capacity indicates.

### **Benefits**

6. The administrative burden on school governing bodies will be eased as they will only have to consult on their admission arrangements every third year instead of annually in certain circumstances. In addition, the Assembly Government has requested that local authorities review 'relevant areas' for admissions purposes before the Regulations come into effect. Admission authorities are under a duty to consult all other admission authorities in the "relevant area" as determined by the

authority. In the past the relevant area is often defined as the whole local authority area. As a result, the duty on voluntary aided and foundation schools to consult could be quite onerous. Redefinition of the relevant areas to more accurately reflect travel to school areas should reduce the burden. A significant number of LEAs have already reviewed the relevant areas for foundation and voluntary aided schools, with the result that these areas are now smaller and more appropriate. Other authorities have scheduled discussion on relevant areas for the next meeting of their admissions forum.

### **Costs**

7. The extension of the duty on admission authorities to consult is imposed by the Education Act 2002. As consultation can be carried out electronically it is unlikely to give rise to additional cost. The additional burden of publishing an admission number lower than the capacity assessment indicates and details of parents' right to object should occur only occasionally and will be more than outweighed by the benefits of a less bureaucratic system for setting and changing admission numbers.
8. There will be no additional financial implications for the National Assembly for Wales or local authorities in Wales as a result of making these Regulations.

### **Consultation**

#### **With Stakeholders**

9. In July 2003 the Assembly published a consultation document – Changes to School Admissions Procedures – which sought views on general revisions to Admissions policy in Wales. Responses to that consultation were taken into account in drafting these Regulations.
10. A further consultation on a new capacity methodology and Regulations relating to school admission arrangements, which included these Regulations and associated regulatory appraisal, took place with all relevant stakeholders between 14 July and 20 October 2005. The document was available in electronic format only. Consultees included all Local Education Authorities (LEAs) in Wales, Church Diocesan Authorities, Governors of Voluntary Aided and Foundation Schools, Estyn, Welsh Language Board, Children's Commissioner and Secretaries of Professional Organisations in Wales.
11. The following issues were raised by respondents:

- the fact that admission arrangements have to be determined so far in advance restricts changes which may be made in the interval between determination and application of the arrangements;
- the concession allowing governing bodies which are admission authorities to suspend annual consultation on admission arrangements could in certain circumstances be extended to LEAs;



- it is expensive to publish a notice in the local paper if the admission authority wishes to lower any admission number;
- the consultation document does not address who will monitor and audit this process.

12. It is not proposed to amend the Regulations in the light of this feedback for the following reasons:

- following receipt of the feedback, admission officers at all the LEAs were contacted about the feasibility of moving the date by which arrangements should be determined. Changes to the timetable are constrained, as sufficient time must be allowed for notification of consultees, for any objections to be made and for consideration of any objections by the Assembly prior to publication of the composite prospectus, usually early in the autumn term. Admission officers were therefore asked whether the determination date might be put back from 15 April to 1 June. There was not, however, a consensus of support for this change. The position will be reviewed in 2 years time;
- we consider that fresh consultation would be required before we could suspend the requirements on LEAs to consult annually. This option will be considered when the new admissions framework is reviewed in 2 years time;
- the proposed procedure for setting and varying admission numbers is considerably less expensive than the current system which requires publication of a statutory notice for every change to the admission number. The publication requirement in the Regulations is intended to safeguard the interests of parents where an admission number is set lower than the capacity of the school indicates. It is anticipated that this will occur only infrequently; and
- the Regulations state that the LEA should notify the Assembly that appropriate consultation has taken place prior to the suspension of the consultation requirement. Further guidance on this issue will be included in a revised Code of Practice on school admissions which should be issued in 2006.

With Subject Committee

13. These Regulations were notified to the Education and Lifelong Learning Committee via the list of forthcoming legislation on 28 January 2004 ( (ELL(2)02-04(p.1)Annex B Item Number: ELL-26-04) . The Committee identified these Regulations for detailed scrutiny at its meeting on 28 January 2004. The Instrument has remained on the list of forthcoming legislation ever since and was not originally identified for formal scrutiny. However, as there are four inter-related sets of Regulations on changes to the admissions framework and the Committee had expressed an interest in scrutinising two sets of the Regulations, it was advised that all

four sets be scrutinised. It was agreed that the scrutiny would take place at the Committee meeting scheduled for the 30 November 2005.

**Review**

- 14 Officials from Schools Management Division will write to admission authorities within two years of these Regulations coming into force to review the impact of the changes to schools admissions legislation.

**Summary**

- 15 These Regulations largely reflect the procedures which are already in place in current legislation. The additional burden on an admission authority to publish a notice where an admission number is set lower than that indicated by the capacity of a school should occur only occasionally and will be more than offset by simplified procedures for setting and varying admission numbers. The facility for admission authorities for foundation and voluntary aided schools to suspend annual consultation should reduce the administrative burden for these schools.

## NATIONAL ASSEMBLY FOR WALES

## STATUTORY INSTRUMENTS

2006 No. (W. )

## EDUCATION, WALES

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

## 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 guidance ‘Measuring the capacity of schools in Wales’. This guidance is available on the National Assembly’s website at [www.learning.gov.uk](http://www.learning.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 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.

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 STATUTORY INSTRUMENTS
 

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2006 No. (W. )

## EDUCATION, WALES

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

*Made* [ ] 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<sup>(1)</sup>, now vested in the National Assembly for Wales<sup>(2)</sup>.

**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<sup>(3)</sup> 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);

“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;

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(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.

“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 guidance “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.
- (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.

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(4) This guidance is available on the National Assembly website at [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk).

(5) Welsh Office Circular 13/95.

(6) S.I. 1999/124.

### 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;

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 —

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

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 —

- (c) the names of the admission authority and of the school or schools in respect of admission to which the provision for selection applies;
- (d) the fact that admission arrangements have been determined which make provision for selection and a statement summarising the effect of the selection arrangements;
- (e) the fact that parents living in the relevant area are able to refer an objection about the selection arrangements to the National Assembly(7);

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(7) School Management Division 3.



- (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 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 —
- (h) 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;
  - (i) the current indicated admission number relating to each relevant age group to which the admission authority had regard when determining a lower admission number;
  - (j) the determined admission number relating to each relevant age group which is lower than the current indicated admission number for that age group;
  - (k) the admission authority's reasons for determining an admission number which is lower than the current indicated admission number;
  - (l) the fact that parents living in the relevant area are able to refer an objection about the admission number to the National Assembly;
  - (m) the address to which and the date by which such an objection must be sent to the National Assembly;
  - (n) 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**

- (o) 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 —
- (d) a statement explaining the effect of section 90(2);
  - (e) the relevant area that applied to the admission authority's consultation on the admission arrangements;
  - (f) an explanation of the following requirements that apply to an objection by a parent —
- 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,
- the description of parent who is entitled to refer an objection, and
- 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<sup>(8)</sup>.

Date

The Presiding Officer of the National Assembly

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<sup>(8)</sup> 1998 c.38.