

SL(6)349 – The Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023

Background and Purpose

These Regulations amend the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”). The 2005 Regulations prescribe matters relating to appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998 (“the 1998 Act”) as amended by the Education Act 2002.

The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 (“the 2020 Regulations”) made temporary amendments to the 2005 Regulations to allow, in certain circumstances relating to the incidence or transmission of coronavirus—

- (a) appeal panels of two members;
- (b) appeal panels to hold hearings by remote access or to decide appeals on the basis of written information.

Regulation 2(2) of the 2020 Regulations provided that those amendments ceased to have effect on 31 January 2021, but that was subject to saving provisions in regulation 3 of the 2020 Regulations. That date was amended to 30 September 2021 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2020 (“the further 2020 Regulations”). The date was further amended to 30 September 2022 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2021 (“the 2021 Regulations”).

Regulation 2 of these Regulations revokes the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations. The effect is that the 2005 Regulations continue in effect unamended by the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations.

Regulation 3 of these Regulations makes a number of amendments to the 2005 Regulations. Regulation 3(5)(a) of these Regulations inserts a new paragraph A1 into Schedule 2 to the 2005 Regulations. Paragraph A1 allows admission authorities to decide in certain circumstances whether an appeal hearing is to be held in person, by remote access (“a remote appeal”) or partly in person and partly by remote access (“a hybrid appeal”) (paragraph A1(1) of Schedule 2 to the 2005 Regulations as inserted by these Regulations). If the admission authority decides to have a remote appeal or a hybrid appeal it must make all necessary arrangements for the appeal panel to have access to the necessary remote access



equipment (paragraph A1(3) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Regulation 3 of these Regulations further amends the 2005 Regulations to allow the admission authority to decide that an appeal may be decided on the basis of written information in certain circumstances (paragraph A1(5) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Further provision in relation to admission appeals arrangements is made in a code under section 84 of the 1998 Act.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Paragraphs (3) and (4) of regulation 3 amend regulations 3 and 5 of the 2005 Regulations by inserting the words "Schedule 1" and "Schedule 2" at the end of the respective regulations. The Explanatory Notes to these Regulations state:

Regulation 2 of these Regulations revokes the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations. The effect is that the 2005 Regulations continue in effect unamended by the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations.

If the effect is that the 2005 Regulations continue in effect unamended, why are the above amendments necessary? The words "Schedule 1" and "Schedule 2" already appear in the 2005 Regulations.



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

26 April 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee