

2002 No. 2901

EDUCATION, ENGLAND

**The Education (Objection to Admission Arrangements)
(Amendment) (England) Regulations 2002**

Made - - - - - *18th November 2002*

Laid before Parliament *2nd December 2002*

Coming into force - - *20th January 2003*

In the exercise of the powers conferred upon the Secretary of State by sections 90(1), (2), (3), (9) and (10), and 138(7) of the School Standards and Framework Act 1998(a), and after consulting the Council on Tribunals, the Secretary of State for Education and Skills hereby makes the following Regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Objection to Admission Arrangements) (Amendment) (England) Regulations 2002 and shall come into force on 20th January 2003.

(2) These Regulations apply only in relation to England.

Amendment of the Regulations

2.—(1) The Education (Objection to Admission Arrangements) Regulations 1999(b) shall be amended as follows—

(2) For regulation 1(2) (Citation, commencement and interpretation) there shall be substituted the following paragraphs—

(1) In these Regulations—

“the Act” means the School Standards and Framework Act 1998;

“admission number” 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)(c);

(a) 1998 c. 31; see section 142(1) for the meaning of “prescribed” and “regulations”. Section 90(1) was amended by paragraph 6 of Schedule 4 to the Education Act 2002 (c. 32). By virtue of S.I. 1999/672 the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.

(b) S.I.1999/125.

(c) Section 89A(1) was inserted by section 47(2) of the 2002 Act.

“indicated admission number” means the number of pupils in any relevant age group referred to as such and determined in accordance with the net capacity assessment method set out in the guidance, *Assessing the Net Capacity of Schools(a)*, issued by the Department for Education and Skills in August 2002.

(2) Any reference in these Regulations to a numbered section is a reference to that section of the Act.”.

(3) For regulation 2 (Cases where an objection may not be referred) there shall be substituted—

“**2.**—(1) This regulation prescribes the description of objections that, by virtue of section 90(1)(c), may not be referred under subsection 90(1).

(2) An objection may not be referred under that subsection—

(a) if the substance of the objection is to seek an alteration to the admission arrangements in question—

(i) (in the case of a grammar school) which by virtue of section 104(4) may only be made in accordance with sections 105 to 109,

(ii) in respect of which section 90 is excluded from applying by virtue of section 103(1) and (2) (an introduction, variation or abandonment of provision for selection which would constitute a prescribed alteration for the purposes of section 28), or

(iii) (except where subparagraph (ii) applies) which would constitute a prescribed alteration for the purposes of section 28; or

(b) in any case where the body seeking to make an objection are the governing body of a community or voluntary controlled school, responsibility for determining the admission arrangements for the school not having been delegated to them under section 88(1)(a)(ii), and the objection is to—

(i) the admission arrangements for any other community or voluntary controlled school in the relevant area(b) for whom the local education authority are the admission authority, or

(ii) the admission arrangements for the school for which they are the governing body, unless the substance of the objection relates to the determination of any admission number for that school.”.

(4) For regulation 4 (Parents who are eligible to refer an objection) there shall be substituted—

“**4.** For the purposes of section 90(2)(b) the description of a parent who may refer an objection relating to admission arrangements under that subsection is an individual who is—

(a) where the objection falls within regulation 5(1)(a), the parent(c) of a child of compulsory school age receiving primary education, or

(a) where the objection falls within regulation 5(1)(b), the parent of a child who has attained the age of two but has not attained the age of five or whose child is of compulsory school age receiving primary education,

and (in either case) is resident in the relevant area for which consultation under section 89(2)(b) relating to those admission arrangements applies.”.

(5) For regulation 5(1) (Objections that may be referred by parents) there shall be substituted—

“(1) For the purposes of section 90(2)(c) the description of objection that may be referred under that subsection is—

(a) an objection relating to pre-existing selection arrangements;

(b) an objection relating to an admission number for any relevant age group which is lower than the indicated admission number for that age group.”.

(6) For regulation 8(1)(a) and (b) (Publication of decision) there shall be substituted—

“(a) by notification in writing to the parties to the objection and to all other bodies whom

(a) Reference DfES 0739/2001REV, ISBN 1 84185 610 X.

(b) See section 89(3) for the meaning of “relevant area” and the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999, S.I. 1999/124.

(c) See section 576 of the Education Act 1996 (c. 56) for the meaning of “parent”.

the admission authority were required to consult under section 89(2), or would but for section 89(2A) have been required so to consult about the proposed admission arrangements; and

(b) in the case of a decision on an objection relating to—

(i) pre-existing selection arrangements within the meaning of regulation 5(2), or

(ii) an admission number which is lower than the indicated admission number,

(whether or not such objections were referred by a parent) by publishing the information in paragraph (2) of this regulation in a newspaper circulating in the area served by the school in question within 14 days after the date when the decision and reasons were given.”.

(7) For regulation 10(3) and (4) there shall be substituted—

“(3) Any such determination may only be made if—

(a) such arrangements are made within two months of the date on which the decision and the reasons for it were notified in accordance with regulation 8(1)(a); and

(b) the relevant authority have informed each admission authority, whom they were required to consult under section 89(2), or would but for section 89(2A) have been required to so consult, about the admission arrangements which they are seeking to revise under this regulation.

(4) In this regulation “relevant admission authority” means an admission authority who, before they determined the admission arrangements that they wish to revise, were required to consult under section 89(2), or would but for section 89(2A) have been required to consult the admission authority against whom the decision was made.”.

David Miliband
Minister of State

18th November 2002

Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Education (Objection to Admission Arrangements) Regulations 1999 (S.I. 1999/125) (“the principal Regulations”). They are consequential upon amendments made to the School Standards and Framework Act 1998 by the Education Act 2002.

Regulation 2(3) re-enacts regulation 2 (Cases where an objection may not be referred to an adjudicator) of the principal Regulations with amendments. By virtue of section 89(2) of the 1998 Act, as amended, governing bodies of community and voluntary controlled schools in a relevant area who are not admission authorities are now included among the bodies whom an admission authority must consult about their proposed admission arrangements. However, regulation 2(2)(b) of the principal Regulations as amended limits these governing bodies’ rights to object to the adjudicator under section 90(1) in two ways. Firstly, they may not object to the admission arrangements for any other community or voluntary controlled school in the relevant area whose admission arrangements have been determined by the local education authority; and secondly, they may not object to the admission arrangements determined for their own school unless the objection relates to the determination of any admission number for that school.

Regulation 2(4) and (5) respectively re-enact regulations 4 (Parents who are eligible to refer an objection) and 5 (Objections that may be referred by parents) of the principal Regulations with amendments. The amendment to regulation 5 extends a parent’s right to refer an objection to the adjudicator under section 90(2) of the 1998 Act in circumstances where the admission authority for a school have determined an admission number for any relevant age group which is lower than the number indicated by the net capacity assessment method set out in guidance (Assessing the Net Capacity of Schools). This guidance can be obtained from DfES Publications, PO Box 5050, Sherwood Park, Annesley, Nottingham, NG15 0DJ. The amendment to regulation 4 defines a parent who may refer an objection to the adjudicator according to whether the objection is about pre-existing selection arrangements or the determination of a lower admission number.

Regulation 2(6) re-enacts regulation 8(1)(a) and (b) (Publication of decisions) of the principal Regulations with amendments. Regulation 8(1)(a) now requires that any decision of the adjudicator or the Secretary of State on an objection is to be notified to the parties to the objection and all the other bodies whom the admission authority in question were required so to consult under section 89(2), or would but for sub-section (2A) of that section have been required so to consult, about their proposed admission arrangements. Regulation 8(1)(b) now requires that where the objection relates to pre-existing selection arrangements or an admission number which is lower than the indicated admission number, the decision must also be published in a newspaper circulating in the area served by the school, whether or not any such objections were referred by a parent.

Regulation 2(7) re-enacts regulation 10(3) (Power to alter arrangements following an objection) of the principal Regulations with amendments. Where an admission authority determine to revise their admission arrangements to achieve consistency with a decision by the adjudicator or Secretary of State upholding an objection to another admission authority’s admission arrangements, they must do so within two months of being notified of the decision. They must now notify all the admission authorities that they were required to consult under regulation 89(2) on their own arrangements, or would but for sub-section (2A) of that section have been required to so consult, of any such revised arrangements.

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