
STATUTORY INSTRUMENTS

1999 No. 1671

The Education (School Organisation Proposals) (Wales) Regulations 1999

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Education (School Organisation Proposals) (Wales) Regulations 1999 and shall come into force on 1st September 1999.

(2) These Regulations apply to local education authorities and schools maintained by (or, in the case of new schools, proposed to be maintained by) local education authorities in Wales.

Interpretation

2.—(1) In these Regulations—

“admission arrangements” has the meaning given to it by section 88(2) of the Act;

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

“the Assembly” means the National Assembly for Wales or Cynulliad Cenedlaethol Cymru⁽¹⁾;

“mainstream school” means a community, foundation or voluntary school;

“relevant age group” has the meaning given to it by section 142(1) of the Act;

“special educational needs” has the meaning given to it by section 312(1) of the Education Act 1996; and

“statement of special educational needs” means a statement of special educational needs made by a local education authority under section 324 of the Education Act 1996.

(2) For the purposes of these Regulations except Part VI of Schedule 4 the capacity of a school shall be determined in accordance with Schedule 1.

(3) Unless the context otherwise requires, a reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule to these Regulations so numbered and a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Alterations for which proposals must be published

3. For the purposes of subsections (1)(b), (1)(c) and (2)(b) of section 28 of the Act, the alterations specified in Schedule 2 are prescribed as alterations for which proposals must be published under that section.

(1) The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All the functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) with effect from 1st July 1999. Accordingly, in relation to Wales, references to the Secretary of State in the relevant sections and Schedules to the School Standards and Framework Act 1998 are to be construed as being, or including, a reference to the Assembly *see* section 43 of the Government of Wales Act 1998.

Information to be contained in published proposals

4.—(1) This regulation prescribes for the purposes of sections 28(3)(a) and 29(3)(a) of, and paragraph 5(2)(a) of Schedule 7 and paragraph 9(1)(a) of Schedule 23 to, the Act the information which proposals relating to mainstream schools (including new schools) published under section 28 or 29 of, or paragraph 5 of Schedule 7 or paragraph 9 of Schedule 23 to, the Act must contain.

(2) Proposals published under section 28 or 29 of, or paragraph 5 of Schedule 7 to, the Act must contain the information specified in Part I of Schedule 3 together with—

- (a) the information specified in Part II of that Schedule where the proposals are to establish a new school, or
- (b) the information specified in Part III of that Schedule where the proposals are to make a prescribed alteration to a school, or
- (c) the information specified in Part IV of that Schedule where the proposals are to discontinue a school.

(3) Proposals published under paragraph 9 of Schedule 23 to the Act must contain the information specified in Part V of Schedule 3.

Manner of publication of proposals

5.—(1) This regulation prescribes for the purposes of sections 28(3)(b) and 29(3)(b) of, and paragraph 10(4) of Schedule 6, paragraph 5(2)(b) of Schedule 7 and paragraph 9(1)(a) of Schedule 23 to, the Act the manner in which proposals relating to mainstream schools (including new schools) required to be published under sections 28 and 29 of, and paragraph 10(4) of Schedule 6, paragraph 5 of Schedule 7 and paragraph 9 of Schedule 23 to, the Act shall be published.

(2) Any proposals for the establishment of a school shall be published—

- (a) by being posted in a conspicuous place in the area to be served by the school; and
- (b) in at least one newspaper circulating in that area.

(3) Any proposals—

- (a) for the making of a prescribed alteration to a school which would not alter the area to be served by the school;
- (b) for the discontinuance of the school; or
- (c) to apply to the Assembly to vary any standard number which applies to the school;

shall be published

- (d) by being posted in a conspicuous place in the area served by the school;
- (e) in at least one newspaper circulating in that area; and
- (f) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(4) Any proposals for the making of a prescribed alteration to a school which would alter the area proposed to be served by the school shall be published—

- (a) by being posted in a conspicuous place in the area served by the school and the area proposed to be served by the school;
- (b) in at least one newspaper circulating in the areas referred to in sub-paragraph (a) above; and
- (c) by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

(5) Any proposals that paragraph 10(1) of Schedule 6 to the Act (requirement to implement proposals) should cease to apply in relation to proposals published under section 28 or 29 of the Act, shall be published—

- (a) by being posted in a conspicuous place in the area or areas in which notice of the original proposals was required to be posted;
- (b) in at least one newspaper circulating in the areas referred to in sub-paragraph (a) above; and
- (c) where the proposals relate to an existing school, by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

Information to be provided to the Assembly

6.—(1) This regulation prescribes for the purposes of section 28(7)(b) and section 29(6)(b) of, and paragraph 9(1)(b) of Schedule 23 to, the Act the information in connection with proposals published under sections 28 and 29 of, and paragraph 9 of Schedule 23 to, the Act which must be sent to the Assembly.

(2) Where proposals have been published under section 28 or 29 of the Act the relevant body or promoters shall send to the Assembly the information specified in Part II of Schedule 4 together with—

- (a) such of the information specified in Part III of that Schedule as applies to the proposals, where the proposals are to establish a new school;
- (b) such of the information specified in Part IV of that Schedule as applies to the proposals, where the proposals are to make a prescribed alteration to a school;
- (c) such of the information specified in Part V of that Schedule as applies to the proposals, where the proposals are to discontinue a school.

(3) Where proposals have been published under paragraph 9 of Schedule 23 to the Act the local education authority or governing body shall send to the Assembly the information specified in Part VI of Schedule 4.

Objections to proposals

7.—(1) This regulation—

- (a) prescribes for the purposes of paragraph 7(2)(a) and (3) of Schedule 6, paragraph 12(2) of Schedule 7 and paragraph 9(6) of Schedule 23 to the Act the period within which objections to proposals mentioned in those paragraphs relating to mainstream schools may be sent to the local education authority or the Assembly (as the case may be); and
- (b) prescribes for the purposes of paragraph 7(2)(b) of Schedule 6 to the Act the period within which a local education authority must send to the Assembly copies of objections to proposals relating to mainstream schools.

(2) Objections to proposals published under section 28 or 29 of, or paragraph 5 of Schedule 7 or paragraph 9 of Schedule 23 to, the Act shall be sent to the local education authority or the Assembly (as the case may be)—

- (a) within the period of two months after the date of publication of the proposals, except where sub-paragraph (b) applies, or
- (b) within the period of one month after the date of publication of the proposals, where—
 - (i) the proposals are published under section 28 of the Act to make a prescribed alteration to, or published under section 29 of the Act to discontinue, a school to which section 15 of the Act applies, or

(ii) the proposals are published under section 28 of the Act to establish a new school on the same site as a school to which section 15 of the Act applies and which it is proposed to discontinue.

(3) The local education authority shall send copies of objections made (and not withdrawn in writing) within the objection period, together with their observations thereon, to the Assembly in accordance with paragraph 7(2)(b) of Schedule 6 to the Act within—

- (a) the period of one month after the end of the objection period except where the proposals fall within paragraph (2)(b); and
- (b) the period of two weeks after the end of the objection period where the proposals fall within paragraph (2)(b).

Approval of proposals with modifications after consultation

8.—(1) This regulation prescribes, for the purposes of paragraph 8(2)(c) of Schedule 6 to the Act, the persons or bodies with whom the Assembly must consult before approving, with modifications, proposals under section 28 or 29 of the Act.

- (2) Those persons or bodies are the persons or body who published the proposals, and—
 - (a) where the proposals are to establish a new foundation or voluntary school, the local education authority whom it is proposed should maintain the school;
 - (b) where the proposals were published by the governing body of the school, the local education authority who maintain the school; and
 - (c) where the proposals were published by the local education authority to discontinue a voluntary or foundation school or to make a prescribed alteration to a foundation school consisting of an enlargement of the premises of the school, the governing body of the school.

Modification of approved proposals

9.—(1) This Regulation prescribes, for the purposes of paragraph 10(2) of Schedule 6 to the Act, the persons or body—

- (a) at whose request the Assembly may modify approved proposals relating to a mainstream school;
 - (b) whom the Assembly must consult before modifying such approved proposals; and
 - (c) at whose request the Assembly may, where approval of proposals in respect of a mainstream school was given in accordance with paragraph 8(3) of that Schedule (approval expressed to take effect only if an event specified in the approval occurs by a date so specified), specify a later date by which the event in question must occur.
- (2) The Assembly may modify approved proposals or specify a later date at the request of the persons or body who published the proposals.
- (3) Before modifying approved proposals, the Assembly shall consult—
- (a) where the proposals were to establish a new foundation or voluntary school, the local education authority who it is proposed should maintain the school;
 - (b) where the proposals were published by the governing body of the school, the local education authority who maintain the school;
 - (c) where the proposals were published by the local education authority to discontinue a voluntary or foundation school or to make a prescribed alteration to a foundation school consisting of an enlargement of the premises of the school, the governing body of the school.

(4) In this regulation references to approved proposals include references to proposals which the body or promoters by whom they were published have determined to implement under paragraph 9 of Schedule 6.

Application of and modification of provisions of the Act in special cases

10. Schedule 5 has effect for the purpose of applying with modifications (where specified) provisions of section 28 of, and Part II of Schedule 6 to, the Act in relation to proposals published under paragraph 10(4) of Schedule 6 to the Act relating to mainstream schools.

Review of Standard Number Decisions

11.—(1) This regulation makes provision, for the purposes of paragraph 10(7) of Schedule 23 to the Act, for enabling the Assembly—

- (a) to review any relevant decision, that is to say a decision of the Assembly under paragraph 10(1) of that Schedule varying or, as the case may be, refusing to vary any standard number, and
- (b) if appropriate, to revoke or vary that decision.

(2) The Assembly may carry out such a review of a relevant decision where it is satisfied, upon the application of the local education authority or the governing body, that—

- (a) the decision was wrongly made by virtue of a material error of fact contained in the information provided to the Assembly in accordance with regulation 6(3), or
- (b) there as an obvious error in the decision.

(3) No such application for the review of a relevant decision shall be made later than one month after the date on which the person mentioned in paragraph 8(3) or (4) of Schedule 23 who made the application to the Assembly for the decision was given written notice of that decision by the Assembly.

(4) Every application for a review of a relevant decision shall be by notice in writing setting out the grounds on which it is made; and the body making the application shall forthwith serve a copy of it on the governing body or (in a case where it was made by that body) the local education authority who, in either case, shall then be entitled, not later than 14 days after the date of service, to make written representations to the Assembly in relation to the application.

(5) If, having considered the application and any representations made as mentioned in paragraph (4), the Assembly determines that it is not satisfied as mentioned in paragraph (2) and that therefore the relevant decision does not fall to be reviewed, or (where the Assembly is so satisfied) that the relevant decision should be revoked or varied, the Assembly shall forthwith give written notice of that determination to the governing body and the local education authority.

Amendment of transitional Regulations

12. Regulation 12 of the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999(2) shall be amended in relation to Wales by the substitution for the words “section 42(1)(b)” in paragraph (b)(i) and (ii) (in both places where they occur) of the words “section 41(1)(b)”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Revocation

13. The Education (Publication of Proposals for Reduction in Standard Numbers) Regulations 1991⁽³⁾ and the Education (Publication of School Proposals and Notices) Regulations 1993⁽⁴⁾ (insofar as they have not ceased to have effect by virtue of the repeal without re-enactment of the provisions containing the powers under which they were made) are hereby revoked in relation to Wales.

Signed by authority of the Secretary for Wales

Peter Hain
Parliamentary Under Secretary of State, Welsh
Office

9th June 1999

(3) S.I. 1991/411.
(4) S.I. 1993/3113.