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STATUTORY INSTRUMENTS

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**2012 No. 9**

**EDUCATION, ENGLAND**

**The School Admissions (Appeals Arrangements) (England) Regulations 2012**

*Made* - - - - *3rd January 2012*  
*Laid before Parliament* *10th January 2012*  
*Coming into force* - - *1st February 2012*

The Secretary of State for Education, after consulting the Administrative Justice and Tribunals Council pursuant to paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007<sup>(1)</sup>, makes the following Regulations in exercise of the powers conferred by sections 94(5), (5A) and (5C), 95(3), (3A) and (3B) and 138(7) of the School Standards and Framework Act 1998<sup>(2)</sup>:

**Citation, commencement and application**

- 1.—(1) These Regulations may be cited as the School Admissions (Appeals Arrangements) (England) Regulations 2012 and come into force on 1st February 2012.
- (2) These Regulations apply in relation to maintained schools in England.

**Transitional provision**

2. These Regulations apply to appeals lodged on or after 1st February 2012.

**Interpretation**

3. In these Regulations—
  - (a) “the 1972 Act” means the Local Government Act 1972<sup>(3)</sup>;
  - (b) “SSFA 1998” means the School Standards and Framework Act 1998.

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(1) 2007 c.15; admission appeal panels in England became listed tribunals under the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (2007/2951).

(2) 1998 c.31; section 94 was amended by the Education Act 2002 (c.32), section 50 and Schedule 4, paragraph 8; the Education and Inspections Act 2006 (c.40), section 43(4) and (5); and the Education and Skills Act 2008 (c.18), section 152 and Schedule 1, paragraph 66, and Schedule 2. Section 95 was amended by the Education Act 2002 (c.32), section 50 and Schedule 4, paragraph 9; the Education and Inspections Act 2006 (c.40), section 48(1); and the Education and Skills Act 2008 (c.18), Schedule 1, paragraph 67, and Schedule 2.

(3) 1972 c.70.

### **Regulations revoked**

4. Save that they continue to apply in relation to appeals lodged before 1st February 2012, the following Regulations are revoked—

- (a) The Education (Admissions Appeals Arrangements) (England) Regulations 2002(4);
- (b) The Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2007(5);
- (c) The Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008(6).

### **Constitution of appeal panels**

5. An appeal pursuant to arrangements made by a local authority or governing body of a foundation or voluntary aided school under section 94 or a local authority under section 95 of SSFA 1998 is to an appeal panel constituted in accordance with the relevant paragraphs of the Schedule.

### **Payment of allowances**

6.—(1) For the purpose of the payment of financial loss allowance under section 173(4) of the 1972 Act(7), that provision applies to any member of an appeal panel constituted in accordance with the Schedule; and in that section as it so applies the reference to an approved duty is to be read as a reference to attendance at a meeting of an appeal panel or associated training.

(2) Section 174(1) of the 1972 Act(8) applies in relation to any appeal panel constituted in accordance with the Schedule; and in that section as it so applies the reference to payments at rates determined by the body in question is to be read as a reference to payments at rates determined by the local authority or the governing body or bodies of the school or schools in question.

3rd January 2012

*Nick Gibb*  
Minister of State  
Department for Education

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(4) [S.I. 2002/2899](#) as amended by [S.I. 2007/3026](#) and S.I.2008/3092.

(5) [S.I. 2007/3026](#).

(6) [S.I. 2008/3092](#).

(7) Section 173(4) was amended by the Local Government and Housing Act 1989 (c.42), section 194 and Schedule 11, paragraph 26.

(8) Section 174(1) was amended by the Local Government, Planning and Land Act 1980 (c.65), section 25.

## SCHEDULE

Regulation 5

### Constitution of Appeal Panels

#### **Arrangements made by a local authority or governing body**

1.—(1) Where arrangements are made by a local authority or a governing body of a foundation or voluntary aided school for an appeal under section 94 of SSFA 1998, an appeal panel must consist of a minimum of three members appointed by the relevant local authority or governing body from—

- (a) persons who are eligible to be lay members, and
- (b) persons who have experience in education, are acquainted with educational conditions in the area of the authority or are parents of registered pupils at a school.

(2) Of the members of an appeal panel—

- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
- (b) at least one must be a person falling with sub-paragraph (1)(b).

(3) For the purposes of this paragraph a person is eligible to be a lay member if that person has no personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).

(4) No person may be a member of an appeal panel if that person is disqualified by paragraph 4.

(5) In this paragraph, “registered pupil” has the meaning in section 434(5) of the Education Act 1996<sup>(9)</sup>.

#### **Joint arrangements**

2.—(1) Arrangements for an appeal under section 94 of SSFA 1998 may be made jointly between—

- (a) a governing body of a foundation or voluntary aided school and one or more governing bodies of other foundation or voluntary aided schools maintained by the same local authority;
- (b) a local authority and one or more governing bodies of foundation or voluntary aided schools maintained by that authority.

(2) Where joint arrangements are made under sub-paragraph (1)—

- (a) paragraph 1 applies as if any reference to the governing body were a reference to the governing bodies of both or all the schools; and
- (b) paragraph 4 applies as if any reference to the governing body of the school in question or to that school were a reference to any of those governing bodies or to any of those schools.

#### **Appeals by a governing body under section 95 of SSFA 1998**

3.—(1) Subject to sub-paragraph (2), the provisions of paragraph 1 apply to the arrangements made by a local authority for an appeal by a governing body under section 95 of SSFA 1998 as they do to arrangements for an appeal under section 94.

(2) A person may not be a member of an appeal panel for the consideration of an appeal under section 95(2) if that person has to any extent been involved in any previous consideration of whether the child in question should or should not be reinstated at any school from which that child has at any time been permanently excluded, or in any previous appeal under section 95(2) relating to the child.

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(9) 1996 c.56.

## **Disqualification from membership of an appeal panel**

- 4.—(1) The following persons are disqualified from membership of an appeal panel—
- (a) any member of the local authority which is making the arrangements or which maintains the school in question;
  - (b) any member or former member of the governing body of the school in question;
  - (c) any person employed by the authority or the governing body of the school in question, other than a person employed as a teacher or as a teaching assistant;
  - (d) any person who has, or at any time has had, any connection with the authority or the school in question, or with any person within sub-paragraph (c), of a kind which might reasonably be taken to raise doubts about that person’s ability to act impartially in relation to the authority or the school;
  - (e) any person who has not attended training required by the local authority or governing body arranging the appeal panel.
- (2) A person employed as a teacher or as a teaching assistant by the local authority or by the governing body of another school maintained by the authority may not be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (1) (d).
- (3) A person who is a teacher or a teaching assistant at a school may not be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.
- (4) A person may not be a member of an appeal panel for the consideration of an appeal against a decision if the person was among those who made the decision or provided information which contributed to the decision.
- (5) A teaching assistant is a person who carries out work under paragraph 10 of Schedule 2 to the Education (Specified Work and Registration) (England) Regulations 2003<sup>(10)</sup>.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations prescribe matters relating to appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998, as amended by the Education Act 2002, the Education and Inspections Act 2006, and the Education and Skills Act 2008. They prescribe the manner in which an appeal panel is to be constituted (**regulation 5 and the Schedule**) and the payment of allowances to appeal panel members by the body or bodies responsible for making the arrangements in respect of financial loss, and travel and subsistence expenses (**regulation 6**).

These Regulations revoke and replace the Education (Admission Appeals Arrangements) (England) Regulations 2002 and two sets of Regulations that amended them. Those Regulations provided for matters of procedure and decision making in appeals and imposed duties to advertise for lay members and train and indemnify panels. Those provisions are not replicated in these Regulations as such matters are provided for in the School Admission Appeals Code issued by the Secretary of State

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<sup>(10)</sup> S.I. 2003/1663.

under section 84 of the School Standards and Framework Act 1998. These Regulations condense provisions of the previous Regulations relating to the composition of appeal panels, and permit panels to consist of any number of members provided there are at least three (**the Schedule**).