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STATUTORY INSTRUMENTS

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**1998 No. 1943**

**The Education (Infant Class Sizes) (Wales) Regulations 1998**

**Citation, commencement, application and extent**

1.—(1) These Regulations may be cited as the Education (Infant Class Sizes) (Wales) Regulations 1998, and shall come into force on 1st September 1998.

(2) These Regulations apply in relation to any school in Wales which contains an infant class.

**Interpretation**

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996(1);

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

“admission arrangements”, in relation to a school, means the arrangements for the admission of pupils to the school, including the school’s admission policy, as published under—

(a) in the case of a school which is not a grant-maintained school, section 414 of the 1996 Act(2) or section 92 of the 1998 Act(3); or

(b) in the case of a grant-maintained school, the articles of government of the school;

“admission school year”, in relation to a pupil in an infant class at any school, means the school year in which he was first admitted to that school;

“child with a statement” means a child in relation to whom a statement is maintained by an LEA;

“class” and “infant class” in each case has the meaning given by section 4 of the 1998 Act;

“LEA” means a local education authority;

“ordinary teaching session” has the meaning given by section 4 of the 1998 Act;

“pupil” has the meaning given by section 3(1) of the 1996 Act(4);

“qualified teacher” has the meaning given by section 4 of the 1998 Act;

“reception class” has the meaning given by section 142(1) of the 1998 Act;

“relevant person”, in relation to a school, means the body or person responsible under the school’s admission arrangements for determining which children should be admitted to the school;

“school” means—

(a) in relation to any time before the appointed day (which is defined in section 20(7) of the 1998 Act)—

(i) a county, voluntary or maintained special school, or

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(1) 1996 c. 56.

(2) Section 414 is prospectively repealed by Schedule 31 to the 1998 Act.

(3) Section 92 is not yet in force.

(4) Section 3(1) of the 1996 Act was amended by paragraph 9 of Schedule 7 to the Education Act 1997 (c. 44).

- (ii) a grant-maintained school, within the meaning of the 1996 Act; and
  - (b) in relation to any time on or after that day, a maintained school (which is also defined in section 20(7) of the 1998 Act);
- “special school” has the meaning given in section 337 of the 1996 Act<sup>(5)</sup>;
- “statement” means a statement of special educational needs made by an LEA pursuant to section 324 of the 1996 Act<sup>(6)</sup>;
- “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have.
- (2) For the purposes of these Regulations a child shall be treated as having been admitted to a school outside a normal admission round where paragraph (3) or (4) applies to him.
- (3) This paragraph applies to a child where, at the time of his admission to the school, he did not fall within an age group in which pupils are normally admitted to the school.
- (4) This paragraph applies to a child where—
- (a) at the time of his admission to the school, he fell within an age group in which pupils are normally admitted to the school;
  - (b) the number of pupils in that age group seeking admission to the school in the admission school year was greater than the number of pupils which it was intended to admit to the school in that age group in that year; and
  - (c) he was offered a place at the school after the time when the relevant person had determined, in accordance with the school’s admission arrangements, which children in that age group were to be admitted to the school.
- (5) Children admitted to a school for nursery education and subsequently transferred to a reception class at the school, shall be regarded for the purposes of these Regulations as admitted to the school on being so transferred.

### **Limit on infant class sizes**

- 3.—**(1) This regulation has effect for limiting class sizes for infant classes at schools in Wales for the purposes of section 1 of the 1998 Act and shall apply as provided in paragraph (5).
- (2) No infant class at such a school shall contain more than 30 pupils while an ordinary teaching session is conducted by a single qualified teacher.
- (3) Where an ordinary teaching session in the case of any such class is conducted by more than one qualified teacher, paragraph (2) shall be taken to prohibit the class from containing more than 30 pupils for every one of those teachers.
- (4) Where an infant class at such a school contains any excepted pupil (as defined by regulation 4), paragraph (2) or (3) shall apply as if he were not included in the class.
- (5) Any limit imposed by this regulation shall apply—
- (a) in relation to the 1999/2000 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 5 during the course of the school year;
  - (b) in relation to the 2000/2001 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 6 during the course of the school year; and

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<sup>(5)</sup> Section 337 of the 1996 Act is prospectively substituted by paragraph 80 of Schedule 30 to the 1998 Act.

<sup>(6)</sup> Section 324 is prospectively amended by paragraph 77 of Schedule 30 to the 1998 Act.

(c) in relation to the 2001/2002 school year and any subsequent school year, in the case of classes containing pupils the majority of whom will attain the age of 7 during the course of the school year.

(6) References in the 1998 Act to any limit imposed under section 1 of that Act shall, in relation to schools in Wales, be construed in accordance with this regulation.

### **Excepted pupils**

4.—(1) For the purposes of regulation 3, a child to whom any of paragraphs 2 to 8 of the Schedule applies is an excepted pupil in relation to an infant class at a school unless suitable education could be provided for him in another infant class at that school without relevant measures having to be taken.

(2) In paragraph (1) “relevant measures” means measures which would—

- (a) be required to be taken to ensure compliance with the duty imposed by section 1(6) of the 1998 Act, and
- (b) prejudice the provision of efficient education or the efficient use of resources.