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STATUTORY INSTRUMENTS

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**2007 No. 496**

**The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007.

(2) These Regulations, except regulation 4, come into force on 27th March 2007.

(3) Regulation 4 comes into force on the coming into force of regulations made under section 18 of EIA 2006.

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

**Interpretation**

2.—(1) In these Regulations—

“SSFA 1998” means the School Standards and Framework Act 1998.

“EIA 2006” means the Education and Inspections Act 2006;

“admission forum protocol” means an arrangement of the admission forum which aims to ensure that children who have no school place are offered a place at a suitable school as quickly as possible, and which applies to all admission authorities and Academies within the area of a local education authority which have agreed to comply with such an arrangement;

“admission number” means the number of children in any relevant age group intended to be admitted in any school year as determined or, where the context requires, proposed to be determined by an admission authority in accordance with section 89A(1)(1);

“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*, issued by the Department for Education and Skills in August 2002(2);

“oversubscription criteria” means the criteria to be used to allocate places at a school if the admission authority receives more applications than there are places available; and

“School Admission Code” means any code for school admissions issued under section 84.

(2) Save where otherwise appears, any reference in these Regulations to a numbered section is a reference to that section of SSFA 1998.

**Revocation of Regulations**

3. The Regulations set out in Schedule 1 are revoked.

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(1) Section 89A is inserted by section 47 of the Education Act 2002 (c.32).

(2) *Assessing the Net Capacity of Schools*, DfES/0739/2001 REV is available on the DfES website [www.dfes.gov.uk/netcapacity/](http://www.dfes.gov.uk/netcapacity/).

## Part 1

### Restriction on alteration of admission arrangements following establishment or expansion

#### **Restriction on alteration of admission arrangements following establishment or expansion**

4.—(1) For the purposes of section 89D(1)(d) the prescribed condition is that the proposals are not for the establishment of, or alteration to, a new foundation or voluntary school which is to provide education suitable only to the requirements of persons above compulsory school age.

(2) Where section 89D(2) applies in relation to a maintained school, the admission arrangements for the initial period and the period prescribed by paragraph (3) are to be the arrangements which fall to be implemented in accordance with the proposals or in accordance with the proposals as modified.

(3) For the purposes of section 89D(2)(a) the prescribed number of school years is two (“the prescribed period”).

(4) Section 89(1) and (2) to (10) does not apply to admission authorities for maintained schools to which section 89D applies, for school years falling within the initial period and the prescribed period.

(5) For the purposes of section 86(5) to (5B) the admission arrangements of all maintained schools to which section 89D applies that fall to be implemented in accordance with the proposals (with or without modifications) are, during the initial period and the prescribed period, to be treated as having been determined under section 89.

(6) For the purposes of section 89D(5) the prescribed circumstances are that there has been a major change in circumstances since the date when the admission arrangements were determined .

(7) At any time before the end of the prescribed period, upon the making of a reference by the admission authority (pursuant to section 89D(5) and paragraph (6)), the adjudicator may vary the admission arrangements.

(8) Where the adjudicator decides that the admission arrangements must be varied pursuant to paragraph (7), his decision is to be binding until the end of the prescribed period.

## Part 2

### Variation of admission arrangements

#### **Variation of admission arrangements**

5.—(1) This regulation prescribes for the purposes of section 89(8)(e) the circumstances, in addition to the circumstances set out in section 89(5), in which an admission authority may vary the admission arrangements they have determined for a particular school year.

(2) An admission authority may vary its admission arrangements to the extent that such variation is necessary to give effect to an admission forum protocol.

(3) An admission authority may vary its admission arrangements under which pupils are to be admitted to the school in the school year 2008-09 and in subsequent years to the extent that such variation is necessary to give effect to any mandatory requirements of—

- (a) the School Admissions Code; or
- (b) Part 3 of SSFA 1998 (school admissions).

## Part 3

### Objections to admission arrangements

#### Cases where an objection may not be referred

6.—(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 admission arrangements—

(i) for 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) (permitted selection: introduction, variation or abandonment of provision for such selection which constitutes a prescribed alteration)(3), or

(iii) except where sub-paragraph (ii) applies, which would constitute a prescribed alteration; 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 (as defined in section 89(3)) for which 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.

(3) For the purposes of paragraph (2) a “prescribed alteration” is a prescribed alteration for the purposes of section 18 of EIA 2006 or, until that section comes into force, a prescribed alteration for the purposes of section 28.

#### Time within which objection must be referred

7.—(1) Subject to paragraph (3), an objection may not be referred under section 90(1) unless it is received by the adjudicator within 6 weeks after the receipt by the objecting admission authority of the notification required by virtue of section 89(4)(b)(4).

(2) Subject to paragraph (3), an objection may not be referred under section 90(2) unless—

(a) in the case of an objection made by an individual within regulation 8(a) or (b), it is received by the adjudicator within 6 weeks after the date on which notice of the determination of the relevant admission arrangements was first published in a newspaper in the manner required by regulations under section 89; or

(b) in the case of an objection made by an individual within regulation 8(c), it is received by the adjudicator within 6 weeks after the date on which a notice, stating that such an individual is able to refer an objection, was first published in the manner required by regulations under section 89.

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(3) Section 103 is amended by section 54(3) of EIA 2006.

(4) Section 89(4)(b) is amended by paragraph 5 of Schedule 4 to Education Act 2002.

(3) An objection which is received after the end of the period specified in paragraph (1) or (2) is to be regarded as properly referred if it was not reasonably practicable for the objection to have been received earlier than the time it was received.

### **Parents who are eligible to refer an objection**

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

- (a) where the objection falls within regulation 9(1)(a), the parent of a child of compulsory school age receiving primary education;
- (b) where the objection falls within regulation 9(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; or
- (c) where the objection falls within regulation 9(1)(c), the parent of a child who has attained the age of two but is not above compulsory school age and who has been, is, or will be eligible to apply to the school whose admission arrangements are the subject of the objection;

and, in the case of the matters referred to in either paragraph (a) or (b), is resident in the relevant area for which consultation under section 89(2)(b) relating to those admission arrangements applies.

### **Objections that may be referred by parents**

**9.—(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; or
- (c) an objection that any aspect of a school’s admission arrangements does not comply with any mandatory requirements in the School Admissions Code or Part 3 of SSFA 1998 (school admissions).

(2) For the purposes of this regulation “pre-existing selection arrangements” means any provision in the admission arrangements for a school—

- (a) for the selection of pupils by ability or by aptitude within the meaning of section 99(5);
- (b) which were included in the admission arrangements for the school at the beginning of the school year 1997/98 and for each subsequent school year; and
- (c) which depend solely for their lawfulness on section 100(5).

(3) For the purposes of paragraph (2)(c) selection arrangements are to be regarded as depending solely for their lawfulness on section 100 if they are not rendered lawful by section 99(2)(c) (sixth forms), section 101 (pupil banding), section 102 (aptitude for particular subjects), or section 39(1)(b) of EIA 2006 (grammar schools) (6).

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(5) Section 100 is amended by section 53 of EIA 2006.

(6) Sections 101 and 102 are amended by section 54 of EIA 2006.

### **Condition to be met before determination of objections by parents**

**10.**—(1) In relation to objections that fall within regulation 9(1)(b), the condition in paragraph (2) must be satisfied before the adjudicator or, as the case may be, the Secretary of State is required to determine an objection referred by a parent under section 90(2).

(2) The condition is that not less than ten parents who satisfy the requirement in regulation 8 have referred objections under section 90(2) (or one or more such objections jointly) which—

- (a) are about the same admission arrangements; and
- (b) raise the same or substantially the same issue.

### **Information to be provided by the admission authority**

**11.** Where the adjudicator or the Secretary of State is carrying out his functions under section 90 and makes a request to the admission authority for any of the information set out in Schedule 2, the admission authority must provide the requested information to the adjudicator or the Secretary of State.

### **Publication of reports**

**12.** Reports by the adjudicator or the Secretary of State required by section 90(5B)(7)—

- (a) must be provided to the parties to the objection and to all other bodies whom 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 an objection relating to—
  - (i) pre-existing selection arrangements within the meaning of regulation 9(2), or
  - (ii) an admission number which is lower than the indicated admission number,

whether or not the objection was referred by a parent, must be published in a newspaper circulating in the area served by the school in question within 14 days after the date when the decision on the objection was made.

### **Power to alter arrangements following decision on an objection**

**13.**—(1) This regulation applies where—

- (a) the adjudicator or the Secretary of State has made a decision upholding to any extent an objection to admission arrangements determined by an admission authority; and
- (b) a relevant admission authority reasonably believe that the arrangements which they have determined are, so far as material—
  - (i) the same as those arrangements, or
  - (ii) sufficiently similar for the same decision to have been made against them had an objection been made.

(2) In a case where this regulation applies, the relevant admission authority may revise their admission arrangements by making such alterations as are necessary to achieve consistency with the decision, and may determine their arrangements in that revised form.

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

- (a) such arrangements are made within two months of the date on which the report was published in accordance with regulation 12(b); 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)(8) have been required so to 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.

#### **Restriction on alteration of admission arrangements following adjudicator’s decision**

14.—(1) For the purposes of section 90A(2) and (3)(a) the required number of school years is two.

(2) Section 89(1) and (2) to (10) does not apply to admission authorities for maintained schools to which section 90A applies, in respect of admission arrangements that are part of the adjudicator’s decision to uphold an objection or make a modification pursuant to section 90 (8).

(3) For the purposes of section 90A(6) the prescribed circumstances are that there has been a major change in circumstances since the beginning of the period prescribed by paragraph (1).

(4) On the making of a reference by the admission authority (pursuant to section 90A(6) and paragraph (3)), the adjudicator may vary the admission arrangements.

(5) Where the adjudicator decides that the admission arrangements must be varied his decision is to be binding.

26th February 2007

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