

EXPLANATORY MEMORANDUM TO
THE SCHOOL ADMISSIONS (ENGLAND) (CORONAVIRUS) (APPEALS
ARRANGEMENTS) (AMENDMENT) REGULATIONS 2022

2022 No. 662

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations amend the expiry provision of [The School Admissions \(England\) \(Coronavirus\) \(Appeals Arrangements\) \(Amendment\) Regulations 2020](#) (“the 2020 Regulations”), correcting an error and ensuring they expire at the end of 30 September 2022 instead of the beginning of 30 September 2022.
- 2.2 The procedure for free issue has therefore been applied and a printed copy of these Regulations is being issued free of charge to all known recipients of [The School Admissions \(England\) \(Coronavirus\) \(Appeals Arrangements\) \(Amendment\) \(No 2\) Regulations 2021](#) (“the 2021 No. 2 Regulations”), which last amended the expiry provisions in the 2020 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These Regulations correct an error in the 2020 Regulations. A printed copy of these Regulations is therefore being issued free of charge to all known recipients of the 2021 No. 2 Regulations, which last amended the relevant provisions in the 2020 Regulations.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The 2020 Regulations amended the School Admissions (Appeals Arrangements) (England) Regulations 2012 (“the 2012 Regulations”) for a temporary period. Where it was not reasonably practicable for certain existing constitutional and procedural requirements relating to school admissions appeals to be complied with for a reason related to the incidence or transmission of coronavirus, other more flexible constitutional and procedural requirements were made available.

- 6.2 Regulation 2 of the 2020 Regulations states that those Regulations apply to appeals to which the 2012 Regulations apply and which are lodged on or after 24 April 2020 but on or before 30 September 2022, and to those appeals lodged before 24 April 2020 but where the appeal has not been fully determined on or before that date. However, regulation 3(2) of the 2020 Regulations states that regulations 6 to 11 of those Regulations cease to have effect on 30 September 2022.
- 6.3 Regulation 2 of these Regulations amends regulation 3(2) of the 2020 Regulations so that regulations 6 to 11 cease to have effect at the end of 30 September 2022 rather than at the beginning of that date. This brings the expiry of the 2020 Regulations into line with regulation 2(a) of those Regulations, which makes provision for the 2020 Regulations to apply to appeals lodged on 30 September 2022.

7. Policy background

What is being done and why?

- 7.1 The 2020 Regulations, introduced as a result of the COVID-19 pandemic, enabled appeals to be considered by a panel of two members where the third member had to withdraw for a reason related to COVID-19; for hearings to be held remotely, rather than in person, or in some cases on the basis of written submission only; and changed the timescales relevant to appeals and replaced the fixed deadlines. These changes were necessary in order to enable appeals to continue to be heard whilst restrictions were in place during the pandemic. The intention was for these changes to come to an end on 30 September 2022, subject to certain savings provisions.
- 7.2 The 2020 Regulations were due to expire on 31 January 2021 but were extended until September 2021 by the School Admissions (England) (Coronavirus) (Appeal Arrangements) (Amendment) Regulations 2021 and further extended by the 2021 No. 2 Regulations to expire on 30 September 2022.
- 7.3 These Regulations will ensure that any appeals lodged on or before 30 September 2022, which have not yet been decided, can be concluded (in accordance with the original policy intention) using the rules set out in the 2020 Regulations where it would be unduly burdensome to revert to the rules set out in the School Admission Appeals Code 2012 and the 2012 Regulations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There is no plan to consolidate.

10. Consultation outcome

- 10.1 Due its technical nature, no consultation took place on this instrument.

11. Guidance

- 11.1 Guidance for admissions authorities is available here:
<https://www.gov.uk/government/publications/admission-appeals-for-school-places/coronavirus-covid-19-school-admission-appeals>

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is on the state-funded schools sector including local authorities, governing bodies and academy trusts to the extent that these bodies are responsible for setting up appeal panels. These regulations apply directly to maintained schools and indirectly to academies by virtue of their funding agreement.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant impact on business, charities or voluntary bodies.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 A statutory review clause is included in the 2020 Regulations and places an obligation on the Secretary of State to review the effectiveness of the regulations during the period for which they have effect. The instrument will expire at the end of 30 September 2022 subject to amendments made by these Regulations.

15. Contact

- 15.1 Jane Whitfield at the Department for Education, email: jane.whitfield@education.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Kim Sibley, Deputy Director for Admissions, School Organisation and Transport, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Barran MBE, Parliamentary Under Secretary of State for the Schools System at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.