
WELSH STATUTORY INSTRUMENTS

2023 No. 420 (W. 63)

EDUCATION, WALES

**The Education (Admission Appeals Arrangements)
(Wales) (Amendment) Regulations 2023**

<i>Made</i>	- - - -	<i>11 April 2023</i>
<i>Laid before Senedd Cymru</i>		<i>12 April 2023</i>
<i>Coming into force</i>	- -	<i>3 May 2023</i>

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 94(5) and (5A), 95(3) and (3A) and 138(7) of the Schools Standards and Framework Act 1998⁽¹⁾ and now vested in them⁽²⁾ make the following Regulations:

Title and coming into force

1.—(1) The title of these Regulations is the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023.

(2) These Regulations come into force on 3 May 2023.

Revocation

2. The following Regulations are revoked—

- (a) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020⁽³⁾,
- (b) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2020⁽⁴⁾, and

(1) 1998 c. 31; see section 142(1) for the definitions of “the Assembly”, “prescribed” and “regulations”. Subsection (5) of section 94 was substituted, and subsection (5A) was inserted into section 94, by section 50 of the Education Act 2002 (c. 32). Subsection (5A) was further amended by section 152(1) and (7) of the Education and Skills Act 2008. Subsection (3) of section 95 was substituted, and subsection (3A) was inserted into section 95, by paragraph 9 of Schedule 4 to the Education Act 2002. Subsection (3A) was amended by S.I. 2010/1158, article 5(1), Schedule 2, Part 1, paragraph 10(1) and (2).

(2) The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) S.I. 2020/479 (W. 110), amended by S.I. 2021/996 (W. 232).

(4) S.I. 2020/1606 (W. 333).

- (c) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2021⁽⁵⁾.

Amendment of the Education (Admission Appeals Arrangements) (Wales) Regulations 2005

3.—(1) The Education (Admission Appeals Arrangements) (Wales) Regulations 2005⁽⁶⁾ are amended as follows.

(2) Regulation 2 is amended as follows—

(a) in paragraph (1), in the appropriate places insert—

““the admission authority” has the same meaning as in section 88(1)(a) and (b) of the 1998 Act;”,

““appeal hearing” (*“gwrandawriad apêl”*) means a hearing of an appeal for the purposes of Chapter 1 of Part 3 of the 1998 Act;”,

““presenting officer” (*“swyddog cyflwyno”*) means a person nominated by the appropriate authority, to make oral representations to the appeal panel in relation to the appeal;”,

““remote access” (*“mynediad o bell”*) means access to an appeal hearing to enable those who are not all present together at the same place to attend or participate simultaneously in the hearing by electronic means, including by live audio link and live video link;”, and

(b) after paragraph (2) insert—

“(3) A “live audio link”, in relation to a person (P) taking part in the appeal hearing, is a live telephone link or other arrangement which—

(a) enables P to hear all other persons taking part in the appeal hearing who are not in the same location as P, and

(b) enables all other persons taking part in the appeal hearing who are not in the same location as P to hear P.

(4) A “live video link”, in relation to a person (P) taking part in the appeal hearing, is a live television link or other arrangement which—

(a) enables P to see and hear all other persons taking part in the appeal hearing who are not in the same location as P, and

(b) enables all other persons taking part in the appeal hearing who are not in the same location as P to see and hear P.”

(3) In regulation 3 after the words “relevant paragraph of”, insert “Schedule 1”.

(4) In regulation 5 after the word “in accordance with”, insert “Schedule 2”.

(5) Schedule 2 is amended as follows—

(a) before paragraph 1 insert—

“A1. Appeal hearings

(1) An admission authority may decide an appeal hearing must be held—

(a) in person,

⁽⁵⁾ S.I. 2021/996 (W. 232).

⁽⁶⁾ S.I. 2005/1398 (W. 112), amended by S.I. 2009/823 (W. 73), S.I. 2010/1142 (W. 101), S.I. 2013/2535 (W. 250) and S.I. 2020/479 (W. 110).

- (b) wholly through the use of remote access (“a remote appeal”), provided the conditions in sub-paragraph (4) are met, or
 - (c) partly in person and partly through the use of remote access (“a hybrid appeal”), provided the conditions in sub-paragraph (4) are met.
- (2) A remote appeal may only be held entirely by live audio link if—
- (a) a live video link is not available for reasons relating to internet connectivity, and
 - (b) both the appellant and presenting officer agree.
- (3) If an admission authority decides either that a remote appeal or a hybrid appeal must be held it must make all necessary arrangements for the appeal panel to have access to the necessary remote access equipment.
- (4) The conditions referred to in sub-paragraphs (1)(b) and (c) are—
- (a) the parties are able to present their case fully,
 - (b) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the appeal hearing, and
 - (c) the admission authority considers that the appeal is capable of being heard fairly and transparently.
- (5) The admission authority may decide that an appeal will be decided on the written information submitted if either the presenting officer or the appellant are unable to attend on the date of the hearing.”,
- (b) in paragraph 1(6) omit the words “appearing and”, and
 - (c) in paragraph 2(6)(b) omit the words “appear and”.

11 April 2023

Jeremy Miles
Minister for Education and Welsh Language, one
of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”). The 2005 Regulations prescribe matters relating to appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998 (“the 1998 Act”) as amended by the Education Act 2002.

The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 (“the 2020 Regulations”) made temporary amendments to the 2005 Regulations to allow, in certain circumstances relating to the incidence or transmission of coronavirus—

- (a) appeal panels of two members;
- (b) appeal panels to hold hearings by remote access or to decide appeals on the basis of written information.

Regulation 2(2) of the 2020 Regulations provided that those amendments ceased to have effect on 31 January 2021, but that was subject to saving provisions in regulation 3 of the 2020 Regulations. That date was amended to 30 September 2021 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2020 (“the further 2020 Regulations”). The date was further amended to 30 September 2022 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2021 (“the 2021 Regulations”).

Regulation 2 of these Regulations revokes the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations. The effect is that the 2005 Regulations continue in effect unamended by the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations.

Regulation 3 of these Regulations makes a number of amendments to the 2005 Regulations. Regulation 3(5)(a) of these Regulations inserts a new paragraph A1 into Schedule 2 to the 2005 Regulations. Paragraph A1 allows admission authorities to decide in certain circumstances whether an appeal hearing is to be held in person, by remote access (“a remote appeal”) or partly in person and partly by remote access (“a hybrid appeal”) (paragraph A1(1) of Schedule 2 to the 2005 Regulations as inserted by these Regulations). If the admission authority decides to have a remote appeal or a hybrid appeal it must make all necessary arrangements for the appeal panel to have access to the necessary remote access equipment (paragraph A1(3) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Regulation 3 of these Regulations further amends the 2005 Regulations to allow the admission authority to decide that an appeal may be decided on the basis of written information in certain circumstances (paragraph A1(5) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Further provision in relation to admission appeals arrangements is made in a code under section 84 of the 1998 Act.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Education Business Planning and Governance Division of the Welsh Government at Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at www.gov.wales.

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