EXPLANATORY MEMORANDUM TO

THE SCHOOL ADMISSIONS (ALTERATION AND VARIATION OF, AND OBJECTIONS TO, ARRANGEMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2008

2008 No. 1258

1. This Explanatory Memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument makes one amendment to Regulation 7 of the School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (SI 2007/496). Regulation 7 sets out the time periods within which different categories of objections must be referred.

2.2 This amendment will replace these different time periods with a single deadline (31 July) by which all objections must be referred to the Schools Adjudicator under section 90(1) or (2) of the School Standards and Framework Act 1998.

2.3 The amending Regulations contain the same provision as in the existing Regulations - that an objection received after the specified time period 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.

2.4 These amending Regulations will first apply to admission arrangements for entry to schools in September 2009.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Maintained schools' admission arrangements are determined under section 89 of the School Standards and Frameworks Act 1998 and there is then a right of objection set out in section 90. Current Regulations give potential objectors 6 weeks in which to object. The start of the 6 week period differs according to the class of objector. For local education authorities and governing bodies it is the date on which they are notified of the determined arrangements under section 89(4)(b). For parents it is the date (a) a notice of the determination of the admission arrangements or (b) a notice stating that they have the right to object, is first published in a newspaper, depending on the type of objection they wish to make. The amendment extends and standardises the time period in which objections may be made.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

7.1 The policy aim of this change is to extend the period within which objections can be referred to the Schools Adjudicator. This will allow local authorities, schools, parents, and others enough time to fully consider the determined admission arrangements for schools in their area and put together and refer objections. This extension will ease the burden on local authorities who must consider the admission arrangements for a large number of schools in their own and neighbouring areas and also have a duty to object to arrangements. Anecdotal evidence suggests that local authorities find it difficult to fulfil this duty within the current timeframe. The Adjudicator has discretion to consider late objections, but parents and local authorities are unlikely to object if they miss the end date as they are not always aware of this discretion.

7.2 Extending the time in which referrals may be made and asking the Adjudicator to report to the Secretary of State in August, provides time for local authorities to refer objections or, if necessary, the Secretary of State to intervene to ensure full compliance.

7.3 This change is part of the wider policy aim to make it easier for those who can object to unlawful admission arrangements to do so, to ensure full compliance with the School Admissions Code and admissions legislation and to engage parents and communities with the admissions process, to ensure fair admission arrangements are set.

7.4 We recently conducted a six week public consultation on an amendment to the Regulations to extend the objection period by around sixteen weeks to the 21 August. 80% of respondents did not support this proposal, the majority of whom recognised that an extension would be helpful, but preferred to reduce the proposed extension by a few weeks:

- to enable local authorities to have all admission arrangements finalised and published on their composite prospectus over the summer holidays;

- to ensure that Choice Advisers have enough time to familiarise themselves with the determined arrangements, thus improving their effectiveness; and

- because of concerns, raised by some head teachers and local authorities, that the extension will create an unnecessarily long period when schools and parents cannot be certain of the finalised criteria.

7.5 Given these responses, we have revised the amending Regulations to extend the deadline by which objections can be referred to the Schools Adjudicator to 31 July, rather than 21 August.

7.6 We believe that this amendment will still offer the benefits to parents and local authorities of extending the deadline and takes on board the comments raised during the consultation. To support this, we are resourcing the Office of the Schools Adjudicator to ensure that objections are determined quickly and all local authorities and admission authorities should be ensuring that their arrangements are fair and lawful in the first place. This should ensure that the shorter extension period is sufficient for any objections to be made in time.

8. Impact

8.1 We have considered and assessed the impact of this instrument. Amending the Regulations will give schools, local authorities and others more time to identify and make their case for referring objections to the Schools Adjudicator on unlawful admission arrangements. An initial assessment of the costs and benefits associated with these amended Regulations confirmed that there are no additional costs on schools or local authorities, and so this is why no formal Impact Assessment accompanies the Regulations.

9. Contact

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