
 STATUTORY INSTRUMENTS

1980 No. 917

EDUCATION, ENGLAND AND WALES

The Education (Areas to which Pupils belong) Regulations 1980

<i>Made</i> - - - - -	1st July 1980
<i>Laid before Parliament</i>	10th July 1980
<i>Coming into Operation</i>	1st August 1980

In exercise of the powers conferred on the Secretary of State by sections 31(1) and (3), 35(4) and 38(5) of the Education Act 1980(a), the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:—

PART I

GENERAL

Citation and operation

1. These Regulations may be cited as the Education (Areas to which Pupils belong) Regulations 1980 and shall come into operation on 1st August 1980.

Interpretation

2.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, namely—

“the Act” means the Education Act 1980;

“further education” does not include advanced further education, that is to say, education of a kind such that expenditure on its provision would fall within paragraph 3A of Schedule 2 to the Local Government Act 1974(b);

“further education pupil” means a pupil in respect of whom provision for further education is made;

“handicapped pupil” means a pupil falling within the definition of the categories of pupils requiring special educational treatment contained in regulations from time to time in force under section 33(1) of the Education Act 1944(c);

“hospital” includes a nursing home or other establishment (not being a school) for the care of patients who are sick or disabled (including handicapped pupils);

(a) 1980 c. 20.

(b) 1974 c. 7.

(c) 1944 c. 31.

“school pupil” means a pupil in respect of whom provision for primary or secondary education is made;

“provision for education” shall be construed as provided in section 31(6) of the Act;

and cognate expressions shall be construed accordingly.

(2) Any reference in these Regulations to a pupil’s parents is a reference—

- (a) in the ordinary case, to his father and mother or the survivor where one is dead;
- (b) where he has been adopted in pursuance of adoption proceedings, to the person or persons by whom he was adopted or the survivor where one is dead;
- (c) where he has no parents defined as aforesaid, to his guardian, or if he has no guardian, the person who has actual custody of the pupil;
- (d) where he has two parents defined as aforesaid but they have not the same ordinary residence, to that one of them who has responsibility for him as mentioned in paragraph (4).

(3) Any reference in these Regulations to the person responsible for a pupil is a reference to a person who is a parent of the pupil as defined in section 114(1) of the Education Act 1944 or, where there is more than one such person and they have not the same ordinary residence, to that one of those persons who has responsibility for him as mentioned in paragraph (4).

(4) For the purposes of paragraphs (2)(d) and (3) a person shall be treated as having responsibility for a pupil where the pupil ordinarily resides with him or, where the pupil does not so reside with any person mentioned in the paragraph in question, where he has legal custody of the pupil or otherwise has chief responsibility for him.

(5) In these Regulations any reference to a Part or to a Regulation is a reference to a Part or Regulation of these Regulations and a reference in a Regulation to a paragraph is a reference to a paragraph of that Regulation.

Application of Regulations

3.—(1) Parts II, III and IV shall apply for the purposes of determining whether a pupil shall be treated—

- (a) as not belonging to the area of a particular local education authority for the purposes of section 8(3)(d) of the Act or as belonging to such an area for the purposes of section 31(1), (3) and (4) thereof;
- (b) as not belonging to the area of any local education authority for the purposes of section 32(2) of the Act.

(2) Part V shall apply for the purposes of determining whether a pupil shall be treated as not belonging to the area of any education authority in Scotland for the purposes of section 32(2) of the Act.

(3) Part VI shall apply for the purposes of determining the period within which recoupment is to be claimed under section 31(1) or (3) of the Act.

Transitional provisions relating to further education pupils

4. Notwithstanding anything in Parts II, III and IV, a pupil for whom provision for further education is made by way of a course which he began before 1st August 1980 shall, for the purposes mentioned in Regulation 3(1), in relation to that course, be treated as belonging to the area of a particular

local education authority or as not belonging to the area of any such authority as he would have been so treated for the purposes of section 7 of the Education (Miscellaneous Provisions) Act 1953(a) had that section not been repealed by section 38(6) of the Act.

PART II

GENERAL RULES FOR THE PURPOSES OF SECTIONS 8(3)(d), 31(1), (3) AND (4) AND 32(2) OF THE ACT

School and full-time further education pupils belonging to a local education authority area

5. Where a school or full-time further education pupil is ordinarily resident in the area of a local education authority he shall be treated as belonging to that area unless—

- (a) he is treated as belonging to some other area in pursuance of any Regulation in Part III, or
- (b) he is a no area pupil under Regulation 6 or any Regulation in Part IV.

School and full-time further education pupils not belonging to any local education authority area

6.—(1) Where a school or full-time further education pupil is not ordinarily resident in the area of any local education authority he shall be a no area pupil unless he falls to be treated as belonging to a local education authority area in pursuance of any Regulation in Part III.

(2) A school or full-time further education pupil to whom any Regulation in Part III applies but who does not fall to be treated as belonging to the area of a local education authority in pursuance of the Regulation in question shall be a no area pupil.

(3) A pupil who is a no area pupil under this Regulation or any Regulation in Part IV shall be treated as not belonging to the area of any local education authority.

Part-time further education pupils

7.—(1) A part-time further education pupil shall be treated as belonging to the area of the local education authority in which he is for the time being resident unless paragraph (2) applies to him.

(2) A part-time further education pupil who is a no area pupil under Regulation 21 or 25 or is for the time being resident in Scotland shall be treated as not belonging to the area of any local education authority.

(3) For the purposes of this Regulation a pupil shall not be resident in the area of a local education authority if he has no fixed abode therein; and a part-time further education pupil with no fixed abode shall be treated as not belonging to the area of any local education authority.

Open University students

8.—(1) This Regulation shall apply in the case of a student who is pursuing a course provided by the Open University; and, in the case of such a student, none of the preceding Regulations in this Part or of the Regulations in Parts III and IV shall have effect save in so far as they are applied by paragraph (2).

(2) So long as such a student pursues the course in question during a particular calendar year he shall be treated—

- (a) as belonging to the area of a particular local education authority, or
- (b) as not belonging to the area of any such authority

as he would have been so treated on 31st October preceding that calendar year, in pursuance of the Regulations referred to in paragraph (1), if he had then been a pupil attending a full-time course of further education.

PART III

SPECIAL RULES FOR THE PURPOSES OF SECTIONS 8(3)(d), 31(1), (3) AND (4) AND 32(2) OF THE ACT—PUPILS BELONGING TO A LOCAL EDUCATION AUTHORITY AREA

Construction of Part III

9. A pupil who is a no area pupil under any Regulation in Part IV shall not in pursuance of any Regulation in this Part be treated as belonging to the area of a local education authority and, accordingly, any reference in this Part to a pupil excludes a reference to such a no area pupil.

School pupils boarded out

- 10.—(1) This Regulation shall apply in the case of a school pupil who—
- (a) is provided with boarding accommodation otherwise than at his school, in pursuance of section 50(1) of the Education Act 1944, and
 - (b) spends his holidays at that accommodation.

(2) Where the person responsible for such a pupil is ordinarily resident in the area of a local education authority the pupil shall be treated as belonging to that area.

Handicapped pupils at boarding schools

11.—(1) This Regulation shall apply in the case of a handicapped pupil who—

- (a) attends a boarding school, and
- (b) does not spend his holidays with the person responsible for him.

(2) Where the person responsible for such a pupil is ordinarily resident in the area of a local education authority the pupil shall be treated as belonging to that area.

School pupils educated in hospitals

12.—(1) This Regulation shall apply in the case of a school pupil who—

- (a) resides as a patient in a hospital, and
- (b) receives education therein.

(2) Where the person responsible for such a pupil is ordinarily resident in the area of a local education authority the pupil shall be treated as belonging to that area.

Further education pupils becoming ordinarily resident for education purposes

13.—(1) This Regulation shall apply in the case of a pupil undertaking a course of full-time further education (“his current course”) where he became ordinarily resident in the area of a local education authority for the purpose of undertaking either his current course or such a previous course as is mentioned in paragraph (3).

(2) Where immediately before so becoming ordinarily resident such a pupil was ordinarily resident in the area of another local education authority, he shall be treated as belonging to the area of that other authority for so long as he attends his current course.

(3) The reference in paragraph (1) (and in Regulation 14(1)) to a previous course is a reference to a full-time course of further education or advanced further education which, disregarding an intervening vacation, the pupil was attending immediately before undertaking his current course.

Further education pupils who change ordinary residence

14.—(1) This Regulation shall apply in the case of a pupil whose ordinary residence changes while he is attending a course of full-time further education (“his current course”) or such a previous course as is mentioned in Regulation 13(3).

(2) Where the pupil was treated as belonging to the area of a local education authority immediately before his change of ordinary residence (or would have been so treated had his previous course not been an advanced course), he shall continue to be treated as belonging to that area for so long as he attends his current course.

Further education pupils in receipt of awards

15.—(1) This Regulation shall apply in the case of a pupil undertaking a course of full-time further education in respect of which he is granted an award by a local education authority (otherwise than pursuant to section 1 of the Education Act 1962(a)) and shall so apply to the exclusion of any preceding Regulation in this Part (other than Regulation 9) which would otherwise apply in his case.

(2) The pupil shall be treated as belonging to the area of the authority by whom the award was granted so long as he attends the course in question.

Pupils in local authority care

16.—(1) This Regulation shall apply in the case of a pupil in the care of a local authority—

(a) under section 1 of the Children Act 1948(b), or

(b) by virtue of a care order other than an interim order within the meaning of the Children and Young Persons Act 1969(c),

and shall so apply to the exclusion of any preceding Regulation in this Part which would otherwise apply in his case.

(2) Save as provided by paragraph (3) below, such a pupil shall be treated as belonging to the local education authority area which coincides with or includes the area of the local authority in whose care he is.

(3) Where the pupil is in the care of a local authority under section 1 of the Children Act 1948 and under subsection (4)(b) of that section the authority

(a) 1962 c. 12.

(b) 1948 c. 43.

(c) 1969 c. 54.

recover expenses from some other local authority, he shall be treated as belonging to the local education authority area comprising the area of that other authority.

PART IV

SPECIAL RULES FOR THE PURPOSES OF SECTIONS 8(3)(d), 31(1), (3) AND (4) AND 32(2) OF THE ACT—NO AREA PUPILS

Construction of Part IV

17. Nothing in this Part shall apply in the case of a school or further education pupil in the care of a local authority as mentioned in Regulation 16(1); and any reference in this Part to a pupil shall be construed as excluding a reference to a pupil so in care.

School and further education pupils whose parents are outside England and Wales

18.—(1) This Regulation shall apply in the case of either—

- (a) a school pupil, or
- (b) a full-time further education pupil who had not attained the age of 19 years before undertaking his course.

(2) Such a pupil whose parents are either—

- (a) ordinarily resident, or
- (b) for the time being resident,

outside England and Wales shall be a no area pupil.

Boarding school pupils whose circumstances change

19.—(1) This Regulation shall apply in the case of a pupil, other than a handicapped pupil, who attends a boarding school as a boarder where—

- (a) the school is maintained by a local education authority, or
- (b) he so attends pursuant to arrangements made by such an authority under section 33 of the Education Act 1944 or section 6 of the Education (Miscellaneous Provisions) Act 1953, or
- (c) any fees or expenses which are related to his attendance are paid, in whole or in part, by such an authority under regulations for the time being in force under section 81 of the Education Act 1944.

(2) Such a pupil who, by reason of a change of circumstances—

- (a) ceases to be treated as belonging to the area of a particular local education authority in pursuance of Regulation 5 or any Regulation in Part III, and
- (b) would, but for this Regulation, fall to be so treated as belonging to the area of some other local education authority,

shall be a no area pupil for so long as he is a boarder at the school in question.

(3) Such a pupil who, by reason of a change of circumstances, but for this Regulation—

- (a) would cease to be a no area pupil under Regulation 6 or any Regulation in this Part, and
- (b) would fall to be treated as belonging to the area of a local education authority in pursuance of Regulation 5 or any Regulation in Part III,

shall continue to be a no area pupil for so long as he is a boarder at the school in question.

School pupils with no fixed abode

20. A school pupil with no fixed abode shall be a no area pupil.

Further education pupils educated in hospitals

21. A further education pupil who—

- (a) is ordinarily resident in the area of a local education authority by reason only of his residing as a patient in a hospital in that area, and
- (b) receives education in that hospital,

shall be a no area pupil.

Further education pupils who would otherwise cease to be no area pupils

22. A full-time further education pupil who is a no area pupil under Regulation 6 or any Regulation in this Part when he begins his course shall be such for so long as he is attending that course notwithstanding that, apart from this Regulation, he would cease to be such a pupil.

School and further education pupils cared for by charitable foundations

23. A school or full-time further education pupil who—

- (a) is resident in both term time and during holidays or vacations in an establishment maintained by a charitable foundation, or
- (b) is boarded out by such a foundation, or
- (c) is sent to a boarding school by such a foundation

shall be a no area pupil.

School and further education pupils from Visiting Forces

24. A school or full-time further education pupil who is resident for the time being in England or Wales by reason only of his having a parent who is a member of a Visiting Force or of a civilian component of such a force (within the meaning of the Visiting Forces Act 1952(a)) shall be a no area pupil.

School and further education pupils resident in refugee camps etc.

25. A school or further education pupil who is for the time being resident in a camp or other accommodation or establishment provided for refugees or for displaced or similar persons shall be a no area pupil unless he is so resident by reason only of his being employed thereat or the person responsible for him being so employed.

PART V

PUPILS NOT BELONGING TO THE AREA OF A SCOTTISH EDUCATION AUTHORITY FOR THE PURPOSES OF SECTION 32(2) OF THE ACT

School and further education pupils

26. A school or further education pupil shall be treated as not belonging to the area of any education authority in Scotland if he would not be treated as so belonging for the purposes of section 24 of the Education (Scotland) Act 1962(b).

(a) 1952 c. 67.

(b) 1962 c. 47.

PART VI

CLAIMS FOR RECOUPMENT UNDER SECTION 31(1) AND (3) OF THE ACT

Time limit for claims

27. A local education authority shall only be entitled to recoupment under section 31(1) or (3) of the Education Act 1980 in respect of provision

- (a) made for a school pupil in any year ending with 31st March,
 - (b) made for a further education pupil in any year ending with 31st July,
- if a claim is made within 18 months after the end of the year in question.

1st July 1980.

Mark Carlisle,
Secretary of State for
Education and Science.

1st July 1980.

Nicholas Edwards,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, first, specify the circumstances in which pupils are to be treated as belonging, or not belonging, to particular areas for the purposes of certain provisions of the Education Act 1980. For the purposes of section 8(3)(d) (publication of school admission arrangements in respect of pupils not belonging to the area of the local education authority maintaining the school) Parts II, III and IV of the Regulations apply for the purposes of determining whether a pupil does not so belong (*Regulation 3(1)(a)*). (Section 8 has not yet been brought into force by an order under section 37 of the Act.) For the purposes of section 31(1), (3) and (4) (recoupment between local education authorities) the same Parts of the Regulations apply for the purpose of determining whether a pupil does belong to a particular local education authority area (*Regulation 3(1)(a)*). For the purposes of section 32(2) (education expenditure and rate support grant) Parts II, III, IV and V apply for the purpose of determining whether a pupil does not belong to the area of any local education authority or to the area of any education authority in Scotland (*Regulation 3(1)(b) and (2)*). In the case of a further education pupil who began his course before 1st August 1980 (the date on which the Regulations come into operation), Parts II, III and IV have effect subject to certain transitional provisions (*Regulation 4*).

Secondly, the Regulations prescribe the period within which a local education authority must make a claim in respect of the cost of providing education for a pupil belonging to the area of another such authority if they are to be entitled under section 31 of the Act to be recouped that cost (*Regulations 3(3) and 27*).