
 STATUTORY INSTRUMENTS

1983 No. 1499

EDUCATION, ENGLAND AND WALES

The Education (Approval of Special Schools) Regulations 1983

<i>Made</i> - - - - -	13th October 1983
<i>Laid before Parliament</i>	1st November 1983
<i>Coming into Operation</i>	1st December 1983

In exercise of the powers conferred by sections 12 and 19 of the Education Act 1981(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:—

Citation and operation

1. These Regulations may be cited as the Education (Approval of Special Schools) Regulations 1983 and shall come into operation on 1st December 1983.

Interpretation

2. In these Regulations—

“the Act of 1944” means the Education Act 1944(b);

“the Act of 1980” means the Education Act 1980(c);

“the Act of 1981” means the Education Act 1981;

“approval” (except in paragraph 1(2) of Schedule 2) means approval as a special school under section 9(5) of the Act of 1944;

“education authority” means a local education authority;

“non-maintained school” means a special school which is not maintained by an education authority.

Cross-references

3. Except where the context otherwise requires, any reference in these Regulations to a Regulation or Schedule is a reference to a Regulation contained therein or to a Schedule thereto, any reference in a Regulation or Schedule to a paragraph is a reference to a paragraph of that Regulation or

(a) 1981 c. 60.
 (b) 1944 c. 31.
 (c) 1980 c. 20.

Schedule and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

Revocations

4. The Regulations specified in Schedule 1 are hereby revoked.

Conditions of approval as a special school

5. The requirements set out in Part I of Schedule 2 shall be complied with by a school as a condition of its approval as a special school.

Requirements to be complied with by a special school

6.—(1) This Regulation shall apply to a special school while an approval is in force with respect to it.

(2) The school shall comply with the requirements set out in both Parts I and II of Schedule 2.

(3) In the case of a non-maintained school, the governing body—

- (a) shall prepare and publish in advance of each school year a prospectus giving information about the school in relation to the school year in question including, in particular, the information specified in Schedule 3, and
- (b) shall furnish a copy of each year's prospectus to the Secretary of State and, on request, to any local authority which arranges for pupils to attend the school.

Withdrawal of approval as a special school

7.—(1) Subject to paragraph (2), the Secretary of State may withdraw his approval of a school on the ground that, in the case of that school, there has been a failure to comply with any requirement applicable to the school and contained in—

- (a) these Regulations;
- (b) the regulations (a) from time to time in force under section 27 of the Act of 1980, or
- (c) the regulations (b) from time to time in force under section 10 of the Act of 1944.

(2) Unless the Secretary of State is of the opinion that it is necessary or expedient so to do in the interests of the health, safety or welfare of pupils at a

(a) The regulations currently in force are, first, the Education (Schools and Further Education) Regulations 1981 (S.I. 1981/1086), as amended by the Education (Schools and Further Education) (Amendment) Regulations 1983 (S.I. 1983/262) and, secondly, the Education (Teachers) Regulations 1982 (S.I. 1982/106).

(b) The regulations currently in force are the Education (School Premises) Regulations 1981 (S.I. 1981/909).

school, he shall not withdraw his approval of the school in pursuance of paragraph (1) without—

- (a) consulting the education authority by whom the school is maintained or, in the case of a non-maintained school, the governing body thereof, and
- (b) if that education authority or governing body so request, affording the school a period specified by him within which to comply with the requirement which has not been complied with;

but, if he so directs, pending compliance with that requirement, the arrangements as respects the matter to which it relates shall be such as are temporarily approved by him.

(3) In the case of a non-maintained school, the Secretary of State shall withdraw his approval of the school if the governing body thereof in writing request him so to do.

Application of Regulations to special schools in hospitals

8.—(1) This Regulation shall apply in the case of a special school which provides wholly or mainly for pupils who reside as patients, and receive education, in a hospital.

(2) Paragraph 4 of Schedule 2 shall not apply in the case of the school and paragraphs 8 and 10 thereof shall only apply in relation to such pupils, if any, as do not reside as patients in the hospital.

(3) If the school makes arrangements approved by the Secretary of State in relation to any matter mentioned in any other provision of these Regulations then, in relation to that matter, that provision shall not apply; but a failure to comply with any requirement mentioned in the approved arrangements shall, for the purposes of Regulation 7, be treated as a failure to comply with a requirement contained in these Regulations.

SCHEDULE 1

REGULATIONS REVOKED

Regulations revoked	Reference
The Handicapped Pupils and Special Schools Regulations 1959	S.I. 1959/365
The Handicapped Pupils and Special Schools Amending Regulations 1966	S.I. 1966/1576
The Handicapped Pupils and Special Schools (Size of Classes) Regulations 1973	S.I. 1973/340
The Non-maintained Special Schools (Fees) Regulations 1977	S.I. 1977/278
The Handicapped Pupils and Special Schools (Amendment) Regulations 1978	S.I. 1978/1146
The Handicapped Pupils and Special Schools (Amendment) Regulations 1980	S.I. 1980/888
The Handicapped Pupils and Special Schools (Amendment) Regulations 1981	S.I. 1981/1087
The Handicapped Pupils and Special Schools (Amendment) Regulations 1982	S.I. 1982/129

SCHEDULE 2

REQUIREMENTS

PART I

CONDITIONS OF APPROVAL AND CONTINUING REQUIREMENTS

Special educational provision

1.—(1) The arrangements as respects—

(a) the pupils for whom provision is made categorised by reference to—

(i) the number, age and sex of day and of boarding pupils, respectively, and

(ii) their respective special educational needs, and

(b) the special educational provision made for those pupils,

shall be such as have been approved by the Secretary of State.

(2) An approval given for the purposes of this paragraph may be expressed to have effect for only a limited period and subject to such conditions, if any, as are specified therein being observed.

Governing body

2. In the case of a non-maintained school, the arrangements as respects the governing body (including, in particular, the composition and functions of that body and the appointment or election of the members thereof) shall be such as have been approved by the Secretary of State.

School not to be conducted for profit

3. In the case of a non-maintained school—

(a) the school shall not be conducted for profit, and

(b) no member of the staff shall have a financial interest therein otherwise than by reason only of his being employed for the purposes thereof at a salary unrelated to the financial performance of the school.

Premises

4.—(1) In the case of a non-maintained school, the premises of the school shall, subject to sub-paragraph (2), conform to the standards prescribed by regulations (a) from time to time in force under section 10 of the Act of 1944 and applicable in the case of a maintained special school.

(2) If the Secretary of State is satisfied with respect to the school that it would be unreasonable to require conformity with a requirement of the said regulations as to any matter having regard to all the circumstances of the case, he may give a direction that the school premises shall, while the direction

(a) The regulations currently in force are the Education (School Premises) Regulations 1981 (S.I. 1981/909).

remains in force, be deemed to conform to the prescribed standards as respects matters with which the direction deals if such conditions, if any, as may be specified in the direction as respects those matters are observed.

PART II

FURTHER CONTINUING REQUIREMENTS

Changes as respects special educational provision or governing body

5.—(1) Where any change is proposed in the arrangements mentioned in paragraph 1 or, in the case of a non-maintained school, in paragraph 1 or 2, the Secretary of State shall be given written notice of the proposed change and effect shall not be given to the proposal unless and until the changed arrangements have been approved by him for the purposes of the paragraph in question.

(2) If, in the case of a non-maintained school, the arrangements mentioned in paragraph 2 do not provide for the governing body to include—

- (a) at least one member appointed by one or more local education authorities;
- (b) at least one member elected by teachers at the school from among their number, and
- (c) at least one member elected by, or appointed to represent, parents of children at the school, being if not such a parent a person with a child of compulsory school age,

then, at the request of the Secretary of State and by a date specified by him, changed arrangements shall be proposed (to take effect as soon as is reasonably practicable) which would result in the governing body including such members appointed or elected as aforesaid as are specified by the Secretary of State; and any steps necessary or expedient for the purposes of making such a change shall be taken.

Admissions and special educational provision

6. No pupil shall be admitted to the school unless he falls within a category specified in the arrangements mentioned in paragraph 1 which are for the time being approved for the purposes thereof (“the approved arrangements”) and the special educational provision made in pursuance of those arrangements shall be suited to the pupils at the school (having regard to their different ages, abilities and aptitudes and, in particular, special educational needs) and shall be efficiently provided.

Pupil numbers

7. The number of pupils at the school shall at no time exceed the number specified in the approved arrangements.

Health of pupils

8.—(1) Provision shall be made—

- (a) for the care and supervision of the health of the pupils at the school by

appropriately qualified persons with, in the case of a school providing for pupils with a particular type of disability, experience relevant thereto, and

(b) for the maintenance of medical and dental records.

(2) Without prejudice to the generality of sub-paragraph (1), in the case of a non-maintained school, provision shall be made (by way of arrangements in pursuance of paragraph 1(b) of Schedule 1 to the National Health Service Act 1977(a) or otherwise) for the medical and dental inspection at appropriate intervals of the pupils and their medical and dental treatment.

Religious worship and instruction

9. Arrangements shall be made to secure that, so far as practicable, every pupil attending the school will attend religious worship and religious instruction unless his parent has expressed a wish to the contrary, in which case the pupil shall be withdrawn from attendance at such worship or instruction in accordance with that wish.

Milk, meals and refreshment

10.—(1) In the case of a non-maintained school, the governing body—

(a) shall provide such facilities as they consider appropriate for the consumption of any meals or refreshment brought to school by day pupils, and

(b) shall ensure, in relation to a day pupil whose parents are in receipt of supplementary benefit or family income supplement, that such provision is made for him in the middle of the day, by way of milk, a meal or other refreshment, as appears to them to be requisite.

(2) In the case of such a school, no charge shall be made—

(a) for facilities provided in pursuance of sub-paragraph (1)(a), or

(b) for anything provided in pursuance of sub-paragraph (1)(b) for such a pupil as is there mentioned.

(3) In the case of such a school, where milk, meals or other refreshment are provided for day pupils and (subject to sub-paragraph (2)) charges are made therefor, the governing body shall remit the whole or part of any charge which would otherwise be made if, having regard to the particular circumstances of any pupil or class or description of pupils, they consider it appropriate to do so.

(4) Nothing in this paragraph shall be construed as precluding the governing body of a school, when determining the tuition and other fees payment of which is a condition of attendance at the school, from taking into account the net cost to them of providing for day pupils—

(a) such facilities as are mentioned in sub-paragraph (1)(a), and

(b) milk, meals and other refreshment.

(a) 1977 c. 49.

Incident and punishment books

11.—(1) An incident book shall be kept in which there shall be recorded—

- (a) any incident involving a person who either is a pupil or is employed at the school which results in personal injury (to that or some other person) or damage to property, and
- (b) any loss of, theft of, or damage to, property (otherwise than as a result of such an incident) where the property is that of such a person as aforesaid or school property,

without prejudice, however, to the recording therein of other incidents and matters.

(2) A punishment book shall be kept in which there shall be recorded disciplinary measures taken against pupils.

Reports on pupils to education authorities

12. A report on each pupil in respect of whom an education authority maintain a statement in pursuance of the Act of 1981 shall be furnished to that authority at least once a year.

Non-teaching staff

13.—(1) In the case of a residential school, there shall be employed staff suitable and sufficient in number for the purposes of securing the proper care and supervision of the children accommodated thereat, including any children so accommodated during school holidays, and of attending to their welfare.

(2) In the case of a non-maintained school (whether or not a residential school)—

- (a) a person shall not be appointed to, or continue in, non-teaching employment which would bring, or brings him regularly into contact with the pupils if his appointment, or continued employment, would be precluded by regulations^(a) from time to time in force under section 27 of the Act of 1980 if the employment had been employment by an education authority as a worker with children or young persons (within the meaning of such regulations), and
- (b) where a person on grounds of his misconduct (whether or not he is convicted of a criminal offence) is dismissed from such employment or, but for his resignation, would have been dismissed or his dismissal would have been considered, the facts of the case shall be reported to the Secretary of State, in writing, within a month of the notice of dismissal or, as the case may be, of resignation being given.

Staff not to suffer discrimination on grounds of religion

14.—(1) No person shall be disqualified, by reason of his religious opinions

^(a) The relevant regulations currently in force are Regulations 6(a), 8, 9 and 10 of the Education (Teachers) Regulations 1982 (S.I. 1982/106).

or of his attending or omitting to attend religious worship (“reasons of religion”) from being appointed to any teaching or other post at the school:

Provided that this sub-paragraph shall not apply—

(a) in the case of a non-maintained school if a majority of the governing body have been appointed to represent the interests of a particular religious denomination or if the school has other such denominational affiliations;

(b) in the case of any school, in relation to the appointment of a Chaplain.

(2) No person employed at the school shall, for reasons of religion or because he does or does not give religious instruction, receive any less emolument or be deprived of, or be disqualified for, promotion or other advantage.

Age limit for teachers

15. In the case of a non-maintained school, no teacher shall be employed thereat after the end of the term in which he attains the age of 65 years except in pursuance of arrangements approved by the Secretary of State in the circumstances of a particular case.

Remuneration of teachers

16. In the case of a non-maintained school, the Secretary of State shall, on request, be notified of the arrangements as respects the remuneration of teachers and, if he so directs, those arrangements shall be such as are approved by him.

Accounts

17.—(1) In the case of a non-maintained school—

(a) proper accounts, and proper records in relation to those accounts, shall be kept;

(b) an annual statement of accounts shall be prepared, and

(c) the accounts and annual statement shall be audited by a professional auditor.

(2) If the Secretary of State so directs in the case of such a school, he shall be furnished with a copy of the annual statement of accounts for any year or years specified in his direction and the auditor’s report in respect of that year or those years.

(3) A copy of the annual statement of accounts for such a school, for the last year for which it is available shall, on request, be furnished to any local authority which arranges for pupils to attend the school.

(4) In sub-paragraph (1) the reference to a professional auditor is a reference to an auditor who is a member, or a firm all the persons wherein are members, of one or more of the following bodies, that is to say—

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;
The Association of Certified Accountants;
The Chartered Institute of Public Finance and Accountancy;
The Institute of Chartered Accountants in Ireland.

Reports and returns

18.—(1) In the case of a non-maintained school, the Secretary of State shall be furnished with such reports, returns or information relating to the school as he may require.

(2) In the case of any school taking boarding pupils, any death occurring among those pupils shall be forthwith reported to the Secretary of State in writing.

Access to school by local authorities

19. In the case of a non-maintained school, a person acting with the authority of a local authority which arranges for pupils to attend the school shall be afforded access to the school at all reasonable times.

SCHEDULE 3

INFORMATION TO BE PUBLISHED BY THE GOVERNING BODY OF A NON-MAINTAINED SPECIAL SCHOOL

1. The name, address and telephone number of the school and the names of the Head Teacher and of the Chairman of the governing body.
2. The classification of the school as a day or boarding school or a school taking both day and boarding pupils.
3. The description of pupils for whom provision is made categorised by reference to—
 - (a) the number, age and sex of day and of boarding pupils, respectively, and
 - (b) their respective special educational needs.
4. Where there are specific arrangements for parents of pupils at the school, or parents considering sending their child to the school, to visit it, particulars of those arrangements.
5. Particulars of the school curriculum including, in particular—
 - (a) of the curricula for different age groups;

- (b) of the subject choices, if any, available (including the arrangements for the making by parents and pupils of such choices);
- (c) of the manner and context in which education as respects sexual matters is given, and
- (d) of the careers education and advice provided for senior pupils.

6.—(1) The affiliation, if any, of the school with a particular religious denomination.

(2) Without prejudice to paragraph 5, particulars of the religious education provided at the school and of any arrangements for the parent of a pupil to express his wish that the pupil be withdrawn from attendance at religious worship or instruction, as mentioned in paragraph 9 of Schedule 2.

7. Without prejudice to paragraph 5, particulars of special curricular and other arrangements made for particular classes or descriptions of pupil.

8.—(1) This paragraph shall only apply in the case of a school in Wales.

(2) Without prejudice to paragraph 5, particulars of the use of the Welsh language in the school by pupils of all age groups or of different age groups including, in particular—

- (a) of the use of Welsh as the language in which instruction is given in all or any subjects forming part of the curriculum and, where instruction in any subject is given in Welsh, of the extent, if any, to which alternative instruction in English is available in that subject;
- (b) of any normal requirement that pupils should learn Welsh, of the circumstances in which pupils are excepted from any such requirement and of any alternative instruction provided for pupils so excepted, and
- (c) of the extent, if any, to which Welsh is the normal language of communication at the school.

9. Particulars of the organisation of education at the school, in particular in respect of the teaching of children of different ages and abilities together or in separate groups (either generally or in particular subjects) and requirements as respects homework.

10. Particulars of arrangements for pastoral care.

11. General arrangements as to school discipline including, in particular, the practice of the school as respects corporal punishment and the arrangements for bringing school rules to the attention of pupils and parents.

12. The main societies and activities open to, and the facilities available to, pupils at the school otherwise than as part of the education provided therein.

13. Particulars of the tuition and other fees payment of which is a condition of attendance at the school, including boarding fees in the case of a school which takes boarding pupils.

Keith Joseph,
Secretary of State for
Education and Science.

13th October 1983.

Nicholas Edwards,
Secretary of State for Wales.

13th October 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, first, revoke the Handicapped Pupils and Special Schools Regulations 1959 and certain amending instruments (which, so far as they remain in force, have effect by virtue of section 17 of the Interpretation Act 1978 (c. 30) as if made under the Education Act 1981), secondly, they prescribe the requirements to be complied with by a school as a condition of its approval as a special school or while it is a special school and, thirdly, they make provision as respects the withdrawal of such approval (*Regulations 4 to 7*). In the case of a special school in a hospital, the Regulations apply subject to specified modifications (*Regulation 8*).

The conditions set out in Part I of Schedule 2 are both conditions of approval and requirements which must be complied with while an approval is in force. The special educational provision made by the school must be such as has been approved by the Secretary of State (*paragraph 1*). Where a school is not one maintained by a local education authority, the arrangements for its government must be similarly approved and it must not be conducted for profit (*paragraphs 2 and 3*). The premises of a non-maintained school must normally satisfy the statutory provisions which would be applicable if it were a maintained school (*paragraph 4*).

Part II of Schedule 2 contains additional requirements which must be complied with while an approval is in force. There are requirements supplemental to those in paragraphs 1 and 2 of Part I (*paragraphs 5, 6 and 7*). Provision must be made for the care of pupils' health (*paragraph 8*). Arrangements must be made for pupils to attend religious worship and instruction unless this is contrary to parental wishes (*paragraph 9*). There are requirements relating to the provision of milk, meals and refreshment in a non-maintained special school analogous to the statutory provisions applicable in the case of a maintained school (*paragraph 10*). Incident and punishment books must be kept (*paragraph 11*). In the case of pupils for whom a local education authority maintain statements of special educational needs, reports must be made to the authority concerned (*paragraph 12*). There are also requirements relating to staff (*paragraphs 13 to 16*), to school accounts (*paragraph 17*), to the making of reports and returns to the Secretary of State (*paragraph 18*) and to access to the school by local authorities (*paragraph 19*).

A non-maintained special school is required to publish an annual prospectus containing specified information (*Regulation 6(3) and Schedule 3*).

The Secretary of State may withdraw his approval of a school as a special school if it fails to comply with a requirement contained either in the present Regulations or in regulations in force under either section 10 of the Education Act 1944 or section 27 of the Education Act 1980 (*Regulation 7(1) and (2)*). In the case of a non-maintained school, he is required to withdraw his approval if so requested by the governing body (*Regulation 7(3)*).

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