

2002 No. 1983

EDUCATION, ENGLAND

**The Education (Middle School) (England)
Regulations 2002**

Made - - - - - *24th July 2002*

Laid before Parliament *5th August 2002*

Coming into force - - *1st September 2002*

In exercise of the powers conferred on the Secretary of State by section 5(4) the Education Act 1996(a), the Secretary of State for Education and Skills hereby makes the following Regulations—

Citation and commencement

1.—(1) These Regulations may be cited as The Education (Middle School) (England) Regulations 2002, and shall come into force on 1st September 2002.

(2) These Regulations apply only in relation to England.

Interpretation

2. In these Regulations—

“Education Act purposes” means the purposes of the Education Act 1996 and the other enactments relating to education;

“governing body” includes a temporary governing body constituted in accordance with section 44 of the School Standards and Framework Act 1998(b);

“middle school” means a school in respect of which middle school proposals are implemented;

“middle school proposals” means such proposals as are referred to in section 28(1) and section 28(2) of the School Standards and Framework Act 1998 which are proposals, which—

- (a) specify an age which is below the age of 10 years 6 months and an age which is above the age of 12 years, and
- (b) provide that the school to which the proposals relate is to be a school providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

“primary age range” means the range of years during which a pupil is between the age of 11 years and the lower age specified in the middle school proposals.

“promoters” has the same meaning as in section 28(2) of the School Standards and Framework Act 1998.

“secondary age range” means the range of years during which a pupil is between the age of 11 years and the higher age specified in the middle school proposals.

(a) 1996 c. 56. By virtue of S.I. 1996/672 the powers conferred by this section are exercisable by the Secretary of State only in relation to England.

(b) 1998 c. 31.

Classification of middle schools for Education Act purposes

3.—(1) This regulation shall apply where:

- (a) the school, to which the middle school proposals relate, has a wider secondary age range of pupils than of primary age range pupils; or
- (b) the school proposes to provide education for pupils until or beyond compulsory school age; and
- (c) (where sub-paragraph (b) applies) the Secretary of State has not made a determination under regulation 5.

(2) In such a case, the middle school to which the proposals relate shall be deemed for Education Act purposes to be a secondary school.

4.—(1) This regulation shall apply where the school, to which the middle school proposals relate, has a wider primary age range of pupils than of secondary age range pupils, and either

- (a) regulation 3(1)(b) above does not apply; or
- (b) regulation 3(1)(b) above does apply but the Secretary of State has made a determination under regulation 5.

(2) In such a case, the middle school to which the proposals relate shall be deemed, for Education Act purposes, to be a primary school.

5.—(1) The Secretary of State may make a determination under this regulation that the middle school to which the proposals relate shall be deemed, for Education Act purposes, to be a primary school where:

- (a) regulation 3(1)(b) applies; but
- (b) the local education authority, governing body or promoters request the Secretary of State to make a determination under this regulation; and
- (c) the Secretary of State deems such a determination to be appropriate.

6.—(1) This regulation applies where:

- (a) the school, to which the middle school proposals relate, has a primary age range of pupils which is equal to that of its secondary age range of pupils; and
- (b) regulation 3(1)(b) does not apply.

(2) In such a case, the Secretary of State shall determine whether the middle school to which the proposals relate shall be deemed for Education Act purposes to be a primary or secondary school.

(3) Before making such a determination, the Secretary of State shall:

- (a) allow the local education authority, governing body or promoters an opportunity to make representations; and
- (b) take into consideration any representations made by them.

Revocation and Saving

7.—(1) Subject to paragraph (2) the Education (Middle School) Regulations 1980(a) as amended by The Education (Middle School) (Amendment) Regulations 1994(b) are revoked in relation to England.

(2) The Regulations referred to in paragraph (1) shall however continue to apply in relation to those middle school proposals which have been implemented before the date on which these Regulations come into force.

David Miliband
Minister of State,

Department for Education and Skills

24th July 2002

(a) S.I. 918/1980.
(b) S.I. 581/1994.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (Middle School) Regulations 1980 as amended by the Education (Middle School) (Amendment) Regulations 1994.

These Regulations specify the circumstances in which a middle school shall be classified to be either a primary or secondary school, for the purposes of the Education Acts.

Regulation 3 specifies that a middle school shall be deemed to be a secondary school where that school has a wider range of pupils of secondary school age, than primary school age, or, unless a determination has been made under regulation 5, where that school provides education until or beyond compulsory school age.

Regulation 4 specifies that a middle school shall be deemed to be a primary school where that school has a wider range of pupils of primary school age, than secondary school age, and where that school does not provide education until or beyond compulsory school age.

Under regulation 5, a middle school may be deemed to be a primary school by virtue of a determination by the Secretary of State where the school in question provides education until or beyond compulsory school age, and either the local education authority, governing body or promoters request the Secretary of State to make such a determination.

The Secretary of State also has the power under regulation 6 to determine whether a middle school shall be deemed to be primary or secondary where the school in question has an equal range of pupils of primary and secondary school age, and where that school does not provide education up to compulsory school age. The Secretary of State shall, under this regulation, allow the local education authority, governing body or promoters to make representations and shall take any representations made into account.

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