
STATUTORY INSTRUMENTS

2002 No. 3178

**The Education (Pupil Exclusions and Appeals)
(Maintained Schools) (England) Regulations 2002**

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 and shall come into force on 20th January 2003.

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

Interpretation

2.—(1) In these Regulations—

“the 2002 Act” means the Education Act 2002;

“the relevant person” means—

(a) in relation to a pupil under the age of 18, a parent of his;

(b) in relation to a pupil who has attained that age, the pupil himself.

(2) Any exclusion for a fixed period consisting of the period between the morning and afternoon school sessions shall for the purposes of these Regulations be taken as equivalent to half a school day.

Power of head teacher to exclude pupils

3. A head teacher may not exercise his power under section 52(1) of the 2002 Act so as to exclude a pupil from the school for one or more fixed periods if, as a result, the pupil would be excluded for more than 45 school days in any one school year.

Exclusion of pupils: duty to inform parents, governing body and local education authority

4.—(1) Where the head teacher of a maintained school excludes any pupil, the head teacher shall (without delay) take reasonable steps to inform the relevant person of the following matters—

(a) the period of the exclusion or, if the pupil is being permanently excluded, that he is being so excluded;

(b) the reasons for the exclusion;

(c) that he may make representations about the exclusion to the governing body; and

(d) the means by which such representations may be made.

(2) Where the head teacher decides that any exclusion of a pupil for a fixed period should be made permanent, he shall (without delay) take reasonable steps to inform the relevant person of—

(a) his decision, and

(b) the matters specified in sub-paragraphs (b) to (d) of paragraph (1).

(3) Paragraph (4) applies where the head teacher—

(a) excludes any pupil in circumstances where the pupil would, as a result of the exclusion—

- (i) be excluded from the school for a total of more than five school days in any one term, or
 - (ii) lose an opportunity to take any public examination,
 - (b) excludes a pupil permanently, or
 - (c) decides that any exclusion of a pupil should be made permanent.
- (4) Where this paragraph applies, the head teacher shall (without delay) inform the local education authority and the governing body of the following matters—
- (a) the period of the exclusion or, if the pupil is being permanently excluded, that he is being so excluded, or
 - (b) his decision that any exclusion of a pupil for a fixed period should be made permanent, and (in either case) of the reasons for it.
- (5) The head teacher shall in each term inform the local education authority and the governing body of any exclusions which do not fall within paragraph (3) and the reasons for them.

Functions of governing body in relation to excluded pupils

- 5.—(1) Paragraphs (2) to (6) apply where the governing body of a maintained school are informed under regulation 4(4) of—
- (a) the permanent exclusion of a pupil,
 - (b) a decision that any exclusion of a pupil should be made permanent,
 - (c) the exclusion of any pupil, and the circumstances are that the pupil would, as a result of the exclusion—
 - (i) be excluded from the school for a total of more than fifteen school days in any one term, or
 - (ii) lose an opportunity to take a public examination, or
 - (d) the exclusion of any pupil where the pupil would as a result of the exclusion be excluded from the school for a total of more than five school days in any one term and the relevant person expresses a wish to make representations in pursuance of regulation 4(1)(c).
- (2) The governing body shall in any such case—
- (a) consider the circumstances in which the pupil was excluded;
 - (b) consider any representations about the exclusion made to the governing body—
 - (i) by the relevant person in pursuance of regulation 4(1)(c), or
 - (ii) by the local education authority;
 - (c) allow each of the following, namely—
 - (i) the relevant person, and
 - (ii) an officer of the local education authority nominated by the authority,
 to attend a meeting of the governing body and to make oral representations about the exclusion; and
 - (d) consider any oral representations so made.
- (3) The governing body shall consider whether or not the pupil should be reinstated and where they consider that the pupil should be reinstated, they shall in addition consider whether he should be reinstated immediately, or reinstated by a particular date.
- (4) If the governing body decide that the pupil should be reinstated, they shall forthwith—
- (a) give the appropriate direction to the head teacher, and

- (b) inform the relevant person and the local education authority of their decision.
- (5) The head teacher shall comply with any direction of the governing body for the reinstatement of a pupil who has been excluded from the school.
- (6) If the governing body decide that the pupil should not be reinstated, they shall forthwith—
 - (a) inform the relevant person, the head teacher and the local education authority of their decision, and
 - (b) in addition, in the case of a pupil who is permanently excluded, give the relevant person notice in writing referring to that decision and stating the following matters—
 - (i) the reasons for the decision,
 - (ii) his right to appeal against the decision,
 - (iii) the person to whom he should give any notice of appeal,
 - (iv) that any notice of appeal must contain the grounds of appeal, and
 - (v) the last date on which an appeal may be made.
- (7) Where—
 - (a) the head teacher of a maintained school excludes a pupil in a case where paragraphs (2) to (6) do not apply, and
 - (b) the governing body receive any representations made in pursuance of regulation 4(1)(c) by the relevant person about the exclusion,they shall consider those representations.
- (8) Subject to paragraph (9), the governing body shall take each of the steps referred to in paragraph (2)—
 - (a) not earlier than six school days; and
 - (b) not later than 15 school days, in the case of a permanent exclusion or an exclusion for a fixed period of more than 15 school days; or
 - (c) not later than 50 school days, in the case of an exclusion for a fixed period of 15 school days or fewer,after the date on which they were informed of the matters referred to in regulation 4(4).
- (9) Where a pupil has been excluded in circumstances in which he would, as a result of the exclusion, lose an opportunity to take a public examination, the governing body shall (so far as it is practical for them to do so) take each of the steps referred to in paragraph (2) before the date on which the pupil is due to take the examination and in any event no later than is required by paragraph (8).
- (10) The governing body shall not be relieved of the duty to take any step referred to in paragraph (2) because it has not been taken within the periods specified in paragraphs (8) and (9).
- (11) The notice in writing referred to in paragraph (6)(b) may be given either—
 - (a) by delivering it to the relevant person’s last known address, or
 - (b) by properly addressing, pre-paying and sending by first class post to the relevant person’s last known address a letter containing the notice.

Appeals against permanent exclusion of pupils

6.—(1) A local education authority shall make arrangements for enabling the relevant person to appeal against any decision of the governing body under regulation 5 not to reinstate a pupil who has been permanently excluded from a school maintained by the authority.

(2) The Schedule to these Regulations has effect in relation to the making and hearing of appeals pursuant to arrangements made under paragraph (1); and in paragraphs (3) to (6) “appeal panel” means an appeal panel constituted in accordance with paragraph 2 of the Schedule.

(3) In making any decision on an appeal pursuant to arrangements made under paragraph (1), an appeal panel shall have regard both to the interests of the excluded pupil and to the interests of other pupils and persons working at the school (including persons working at the school voluntarily).

(4) An appeal panel shall not determine that a pupil is to be reinstated merely because of a failure to comply with any procedural requirement imposed by or under these Regulations in relation to—

- (a) the decision under regulation 5 against which the appeal is brought, or
- (b) the exclusion or decision by the head teacher to which that decision related.

(5) The decision of an appeal panel on an appeal pursuant to arrangements made under paragraph (1) shall be binding on the relevant person, the governing body, the head teacher and the local education authority.

(6) On such an appeal the appeal panel may—

- (a) uphold the exclusion;
- (b) direct that the pupil is to be reinstated (either immediately or by a date specified in the direction), or
- (c) decide that because of exceptional circumstances or for other reasons it is not practical to give a direction requiring his reinstatement, but that it would otherwise have been appropriate to give such a direction.

Exclusion of pupils: guidance

7.—(1) This regulation applies to any functions of—

- (a) the head teacher or the governing body of a maintained school,
- (b) a local education authority, or
- (c) an appeal panel constituted in accordance with paragraph 2 of the Schedule,

under section 52(1) of the 2002 Act or these Regulations.

(2) In discharging any such function, such a person or body shall have regard to any guidance given from time to time by the Secretary of State.

Consequential Amendments

8.—(1) The Education (School Government) (England) Regulations 1999(1) shall be amended as follows—

- (a) in regulation 42(3), for “sections 65 to 68 of the 1998 Act” there shall be substituted “regulations 4 to 7 of the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002”, and
- (b) in regulation 48(3), for “subsections (2) to (4) of section 66 of the 1998 Act” there shall be substituted “paragraphs (2) to (4) and (6)(a) of regulation 5 of the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002”.

(2) In paragraph 6 of Schedule 9 to the Education (School Performance Information) (England) Regulations 2001(2), for “the duty under section 65(4) of the School Standards and Framework Act 1998” there shall be substituted “any duty imposed by regulations made under section 52 of the Education Act 2002”.

(1) S.I.1999/2163.

(2) S.I. 2001/3446.

(3) Regulation 9(4)(d) of the Education (Pupil Registration) Regulations 1995⁽³⁾ shall be amended as follows—

- (a) for the words “section 66 of the 1998 Act” there shall be substituted “regulations made under section 52 of the Education Act 2002”;
- (b) in sub-paragraph (i), for the words “section 67 of the 1998 Act” there shall be substituted “those regulations”.

Revocation

9.—(1) Subject to paragraph (2) the Education (Lay Members of Appeal Committees) Regulations 1994⁽⁴⁾ (to the extent that they have not already been revoked), the Education (Exclusions from School) (Prescribed Periods) Regulations 1999⁽⁵⁾ and the Education (Exclusions from School) (Prescribed Periods) (Amendment) (England) Regulations 2000⁽⁶⁾ are hereby revoked.

(2) The regulations revoked by paragraph (1) shall however continue to have effect in relation to any exclusion to which sections 64 to 68 of, and Schedule 18 to, the School Standards and Framework Act 1998⁽⁷⁾ applies by virtue of paragraph 4 of the Schedule to the Education Act 2002 (Commencement No. 3 and Savings and Transitional Provisions) Order 2002⁽⁸⁾ (pupils excluded before 20th January 2003).

17th December 2002

Ivan Lewis
Parliamentary Under Secretary of State
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(3) S.I. 1995/2089; a relevant amending instrument is S.I. 2001/2802.
(4) S.I. 1994/1303.
(5) S.I. 1999/1868.
(6) S.I. 2000/294.
(7) 1998 c. 31.
(8) S.I. 2002/2952.