

2007 No. 1870

EDUCATION, ENGLAND

The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007

<i>Made</i>	- - - -	<i>27th June 2007</i>
<i>Laid before Parliament</i>		<i>6th July 2007</i>
<i>Coming into force</i>	- -	<i>1st September 2007</i>

The Secretary of State, in exercise of the powers conferred by sections 19(3A) and (3B) and 569(4) of the Education Act 1996(a), sections 52(3) and 210(7) of the Education Act 2002(b) and sections 100, 104 and 181(2) of the Education and Inspections Act 2006(c), makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 and shall come into force on 1st September 2007.

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

Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996; and

“the 2006 Act” means the Education and Inspections Act 2006.

(2) A reference in these Regulations to a relevant school is a reference to a relevant school—

(a) as given by sections 100(5) and 111 (meaning of relevant school) of the 2006 Act, for purposes relating to the duty imposed by section 100 (duty of governing body or proprietor where pupil excluded for fixed period);

(b) as defined in subsection (6) of section 19 (exceptional provision of education in pupil referral units or elsewhere) of the 1996 Act, for purposes relating to the duty in subsection (3A) of that section(d).

(a) 1996 c.56. Subsections (3A) and (3B) were inserted into section 19 by 2006 c. 40, section 101(2); for the meaning of “prescribed” and “regulations”, see section 579(1).
(b) 2002 c.32; for the meaning of “prescribed” and “regulations” see section 212(1).
(c) 2006 c. 40; for the meaning of “prescribed” and “regulations” see section 100(5) and 104(8).
(d) Subsection (6) of section 19 was inserted by section 101(3) of the 2006 Act.

Duty of governing body or proprietor to provide education where pupil excluded for fixed period

3.—(1) Except in a case prescribed by regulation 5, in relation to the duty of the governing body of a relevant school under section 100 of the 2006 Act to make arrangements for the provision of suitable full-time education for a pupil of compulsory school age who is excluded from the school for a fixed period on disciplinary grounds, the day from which the education must be provided is the relevant day.

(2) Nothing in paragraph (1) prevents the governing body of a relevant school from providing such education before the relevant day.

(3) In this Regulation “relevant day” in relation to a pupil means the sixth school day of the exclusion.

Duty of local education authority to provide education in relation to excluded pupils

4.—(1) Except in a case prescribed by regulation 5, in relation to the duty of a local education authority under section 19(1) and (3A) of the 1996 Act^(a) to make arrangements for the provision of suitable full-time education for a pupil of compulsory school age who is permanently excluded from a relevant school or pupil referral unit, or excluded from a pupil referral unit for a fixed period, on disciplinary grounds, the day from which the education must be provided is the relevant day.

(2) Nothing in paragraph (1) prevents the local education authority from providing such education before the relevant day.

(3) In this regulation, “relevant day” in relation to a pupil means—

- (a) where the pupil is permanently excluded from a relevant school or a pupil referral unit, from the sixth school day following the day on which the permanent exclusion took place;
- (b) where the pupil is excluded for a fixed period from a pupil referral unit, the sixth school day of the exclusion.

Exceptions to duty to provide full-time education

5.—(1) The duty to make arrangements for the provision of full-time education imposed by—

- (a) section 100 of the 2006 Act; or
- (b) section 19(3A) of the 1996 Act,

does not apply in the cases prescribed in paragraph (2).

(2) The cases prescribed are—

- (a) the pupil is in year 11 and has already taken (or missed, if the pupil failed or was unable to attend) all the public examinations for which the pupil was entered in that year;
- (b) a statement of special educational needs is maintained by the local education authority in respect of a pupil pursuant to section 324 of the 1996 Act which indicates (however expressed) that the pupil should be provided at any time with a maximum number of hours’ education per week, being a number of hours less than that ordinarily provided for children of the same age as the pupil by the authority, where the authority is providing education for the maximum number of hours so indicated in accordance with the requirements of the statement.

(a) Subsection (3A) of section 19 was inserted by section 101(2) of the 2006 Act.

Prescribed time for head teacher to give notice to parent in relation to exclusion

6.—(1) Paragraphs (2) to (6) prescribe, in different cases, the time by which the head teacher of a relevant school in England, on excluding from the school a pupil of compulsory school age, must give the parent a notice in writing under section 104(1) of the 2006 Act.

(2) Subject to paragraph (3), where a pupil is excluded during the course of a school day but before the beginning of any afternoon session on that day, the time prescribed is the start of the afternoon session.

(3) If any of the information referred to in regulation 7(1) is not known to and cannot be ascertained without unreasonable difficulty by the head teacher to enable the notice to be given by the time prescribed by paragraph (2), the time prescribed is the end of the afternoon session.

(4) Subject to paragraph (5), where an excluded pupil is excluded during the course of a school day but after the beginning of any afternoon session on that day, the prescribed time is the end of the afternoon session.

(5) If any of the information referred to in regulation 7(1) is not known to and cannot be ascertained without unreasonable difficulty by the head teacher to enable the notice to be given by the time prescribed by paragraph (4), the time prescribed is the end of the first school session on the school day next following (or if it is the only school session on that day, the end of that session).

(6) Paragraph (4) applies to a pupil excluded during the course of a school day on which there is only one session as if the word “afternoon” was omitted on both occasions it occurs.

Information to be provided in a notice relating to excluded pupil

7.—(1) Subject to paragraph (2), the following information is prescribed as the other information (in addition to that provided by section 104(2) and (3) of the 2006 Act^(a)) which must be contained in the notice the head teacher of a relevant school in England must give the parent under section 104(1) of the 2006 Act—

- (a) the address at which suitable full-time education is to be provided for the pupil;
- (b) particulars identifying the person to whom the pupil should report on first attending that address for the purpose of receiving suitable full-time education;
- (c) in relation to that suitable-full-time education—
 - (i) where two sessions per day are provided, the times at which the morning session commences, the afternoon session ends and the break between them commences and ends; or
 - (ii) where a single session per day is provided, the times at which the session commences and ends.

(2) So much of the information in paragraph (1)(a) to (c) is not prescribed information where it is not known to the head teacher at the time prescribed by regulation 6(3) or (5) (as the case may be).

(3) The information in paragraph (1)(a) to (c) which is not prescribed information by virtue of paragraph (2) must, in the case of a temporary exclusion, be given by the head teacher to the parent in writing 48 hours before the suitable full-time education is to be provided.

Combination of notices

8. A notice under section 104 of the 2006 Act may be combined with—

(a) Section 104(1) also specifies that the notice must comply with subsections (2) and (3) which, respectively, provide that the notice must specify the first day on which full-time education is to be provided for the excluded pupil and the days on which the parent is to be subject to the duty under s 103.

- (a) a notice to the parent given in accordance with regulations made under section 52(3)(a) of the Education Act 2002(a), or a notice with a similar purpose given to the parent on exclusion of the pupil from a relevant school other than a maintained school; and
- (b) a notice given in accordance with regulations made under section 102 of the 2006 Act.

Supplementary provision as to notices

9.—(1) The failure to give a notice by the time prescribed by regulation 6 does not relieve the head teacher of the duty to serve the notice.

(2) A notice which the head teacher has failed to give by the time prescribed by regulation 6 is not ineffective by reason only of that failure for the purposes of sections 103(1)(b) and 104 of the 2006 Act.

Amendments

10.—(1) After regulation 4(4) of the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002(b), insert—

“(4A) Where—

- (a) paragraph (4) applies in a case failing within paragraph (3)(b) or (c); and
- (b) the pupil resides in the area of a different local education authority,

the head teacher shall (without delay) inform in addition that local education authority of the matters in paragraph (4).”.

(2) After sub-paragraph (a) of regulation 5(3) of the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002(c) omit “and” and insert—

“(aa) if the pupil resides in the area of a different local education authority, in addition inform that local education authority of the decision and the reasons for it; and”.

27th June 2007

Jim Knight
Minister of State
Department for Education and Skills

(a) The regulations are S.I. 2002/3178 (as amended by S.I. 2003/1377, 2004/402 and 2006/2189 and regulation 9(1) of these Regulations) and S.I. 2002/3179 (as amended by S.I. 2004/402 and 2006/2189 and regulation 9(2) of these Regulations).
(b) S.I. 2002/3178 (as amended by S.I. 2006/2189, there are other amending instruments but none is relevant).
(c) S.I. 2002/3179 (to which there are amendments not relevant to these Regulations).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide—

- (a) that the duty of school governing bodies and local education authorities in sections 100 and 101 of the Education and Inspections Act 2006 (“the 2006 Act”) to provide suitable full-time education for excluded pupils is to apply from the sixth school day of exclusion (regulations 3 and 4);
- (b) exceptions to that duty for pupils in Year 11 who have no further examinations to take, and for pupils with a statement of special educational needs specifying fewer hours’ education than the number of hours provided for pupils in full-time education (regulation 5);
- (c) in relation to the notice to be given to parents under section 104 of the 2006 Act (about the full-time education to be provided following the exclusion, and the days on which the parent is required by section 103 of the 2006 Act to ensure that the pupil is not in a public place during school hours without reasonable justification)—
 - (i) for the time by which the notice must be given (regulation 6), and
 - (ii) for the information to be contained in the notice (regulation 7).

The times by which the notice under section 104 of the 2006 Act must be given in accordance with regulation 6 are as follows. Where a pupil is excluded during a morning session, the notice must be given by the start of the afternoon session. Where the pupil is excluded during the afternoon session, the notice must be given by the end of the afternoon session. The regulation provides for slightly later times – the end of the afternoon session and the end of the morning session of the next school day, respectively – where the information referred to in regulation 7 is not known to and cannot be ascertained without unreasonable difficulty by the head teacher to enable the notice to be given by the earlier time. If that information is unknown to the head teacher by the later time, it is not prescribed and need not be added to the notice (but the notice should still be sent containing the information in section 104(2) and (3) of the 2006 Act). In the case of a temporary exclusion, that information must nevertheless be given by the head teacher to the parent in writing at least 48 hours before the suitable full-time education is to be provided.

Regulation 8 allows the notice under section 104 to be combined with one or both of the notices given under section 52 of the Education Act 2002 about the exclusion (or a similar notice given by an Academy, city technology college or city college for the technology of the arts) and under section 102 of the 2006 Act about the reintegration interview.

Regulation 9 provides that a head teacher must give the notice even if the specified time for giving it has passed. It provides that a notice given late which is otherwise acceptable is effective to inform the parent of the days on which the parent must ensure that the pupil is not present in a public place at any time during school hours (section 103 of the 2006 Act) and the first day on which education is to be provided for the pupil (section 104 of the 2006 Act).

Regulation 10 amends the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 (S.I. 2002/3178) so that the head teacher of a school must inform the local authority in whose area a permanently excluded pupil resides, if it is different from the school’s local authority, that the pupil has been permanently excluded. It amends the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002 (S.I. 2002/3179) so that the teacher in charge must inform the local authority in whose area a permanently excluded pupil resides, if it is different from the unit’s local authority, that the pupil has been permanently excluded.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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