
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 19 of the Education Act 1996 imposes a duty on local authorities to make arrangements for securing suitable education for children who, because of exclusion from school or for any other reason, may not receive such education if the arrangements are not made for them. Section 19(2B) recognises that local authorities may fulfil this duty by establishing and maintaining schools which are specifically organised to make educational provision for children falling within that section and where they do so, these schools are known as pupil referral units. Section 249(1) of the Apprenticeships, Skills, Children and Learning Act 2009 changes the name of any school falling within section 19(2B) of the Education Act 1996 from “pupil referral unit” to “short stay school”. It comes into force on 1 September 2010.

The Secretary of State has the power to direct the closure of a school that is causing concern (Section 68, Part 4 of the Education and Inspections Act 2006). Section 68 is applied to short stay schools by paragraph 23 of Schedule 1 to [SI 2007/2979](#). Part 2 of these regulations enables the Secretary of State to direct the alternative education provision that will replace a short stay school that he decides should close (including specifying the features that the provision should exhibit) and to require the local authority to invite bids from external providers for the delivery of the provision.

The Education and Inspections Act 2006 limits the powers of a local authority to close schools maintained by it (sections 15 and 16 and schedule 2). Short stay schools are not covered by these limitations. Part 3 of these regulations provides that, in certain circumstances, a short stay school may not be closed without the consent of the Secretary of State. In seeking the Secretary of State’s consent, it is expected that the local authority would need to demonstrate that, in closing the short stay school, it had made arrangements to ensure that adequate and appropriate provision will be made for those children affected by the closure. A full regulatory impact assessment of the effect of this instrument was carried out during the passage of the Apprenticeships, Skills, Children and Learning Act 2009 and relevant extracts are annexed to the Explanatory Memorandum. The full impact assessment is available from Lesley Hollick, Exclusions and Alternative Provision Team, DCSF - lesley.hollick@dcf.gov.uk