
STATUTORY INSTRUMENTS

2010 No. 657

**The Health Protection (Local
Authority Powers) Regulations 2010**

Requirement to keep a child away from school

- 2.—(1) This regulation applies where a local authority is satisfied in relation to a child (C) that—
- (a) C is or may be infected or contaminated⁽¹⁾;
 - (b) the infection or contamination is one which presents or could present significant harm to human health;
 - (c) there is a risk that C might infect or contaminate others;
 - (d) it is necessary to keep C away from school in order to remove or reduce that risk; and
 - (e) keeping C away from school is a proportionate response to the risk to others presented by C.
- (2) The local authority may by serving notice⁽²⁾ on C's parent (PT) require that PT keep C away from school.
- (3) The notice must include the following information—
- (a) the date from which the requirement commences;
 - (b) the duration of the requirement (up to a maximum of 28 days);
 - (c) why the requirement is believed to be a necessary and proportionate measure;
 - (d) the penalty for failing to comply with the notice; and
 - (e) contact details for an officer of the local authority who is able to discuss the notice.
- (4) The local authority must as soon as reasonably practicable after serving notice under paragraph (2) inform the headteacher of C's school—
- (a) that it has served such a notice in relation to C; and
 - (b) of the contents of that notice.
- (5) PT may request that the local authority review the notice at any time before the requirement lapses.
- (6) The local authority—
- (a) must review the notice within 5 working days beginning with the day on which the request is made where PT is requesting a review in respect of that notice for the first time; or
 - (b) may review the notice in the case of all other requests.
- (7) The local authority must inform PT and the headteacher of C's school of the outcome of any review it conducts as soon as reasonably practicable after the review is concluded.
- (8) A local authority may vary or revoke a notice.

(1) See section 45A of the Public Health (Control of Disease) Act 1984 (c.22) ("the 1984 Act") for the interpretation of "infection" and "contamination" and related expressions.

(2) See sections 58 and 60 of the 1984 Act for the form of a notice and the methods by which it can be served; sections 58 and 60 were amended by the 2008 Act, Schedule 11, paragraphs 13 and 15 respectively.

(9) A local authority must as soon as reasonably practicable after varying or revoking a notice under paragraph (8) inform PT and the headteacher of C's school that the notice has been varied or revoked and, if varied, the nature of the variation.

(10) A local authority may serve consecutive notices under paragraph (2).

(11) A local authority must inform PT and the headteacher of C's school as soon as reasonably practicable where a notice has expired and no further notice is to be served.

(12) It is an offence for PT to fail without reasonable excuse to comply with a notice served under paragraph (2) or varied under paragraph (8).

(13) Any person who commits an offence under this regulation is liable on summary conviction to one or both of—

(a) a fine not exceeding level 2 on the standard scale;

(b) a further fine not exceeding an amount equal to 50% of level 1 on the standard scale for each day on which the default continues after conviction.

(14) In this regulation—

“child” means a person under 18 years of age;

“headteacher” means the headteacher or, if the headteacher is absent, the person deputising for the headteacher;

“parent” has the meaning given to it by section 576 of the Education Act 1996⁽³⁾;

“school” has the meaning given to it by section 4 of the Education Act 1996⁽⁴⁾; and

“working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971⁽⁵⁾.

(3) 1996 c.56; section 576 was amended by the Schools Standard and Framework Act 1998 (c.31), Schedule 30, paragraph 180(a).

(4) Section 4 of the Education Act 1996 (c.56) was amended by the Education Act 1997 (c.44), section 51, Schedule 7, paragraph (10) and Schedule 8, the Education Act 2002 (c.32), Schedule 22, Part 3 and the Childcare Act 2006 (c.21), section 95(1) and (3).

(5) 1971 c.80.