

**2006 No. 3226**

**EDUCATION, ENGLAND**

**The Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) (No. 2) Regulations 2006**

*Made* - - - - *4th December 2006*  
*Laid before Parliament* *11th December 2006*  
*Coming into force* - - *1st January 2007*

The Secretary of State for Education and Skills, in exercise of the powers conferred by section 569(4) of, and paragraph 3 of Schedule 1 to, the Education Act 1996(a), makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) (No. 2) Regulations 2006 and come into force on 1<sup>st</sup> January 2007.

(2) These Regulations apply to England.

**Amendment of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005**

2.—(1) Part 2 of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005(b) is amended as follows.

(2) For paragraph 14A substitute—

“**14A.**—(1) Regulations 11, 15A and 18A of the School Staffing (England) Regulations 2003(c) apply to units(d) as they apply to community, voluntary controlled, community special and maintained nursery schools with the following modifications.

(2) In regulation 11—

(a) for paragraph (1) substitute—

“(1) This paragraph applies to a person whom an authority approves for appointment as a member of staff.”,

(b) in paragraph (2) for “any such person” substitute “a person to whom paragraph (1) applies”, and

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(a) 1996 c. 56. See section 579(1) for the definition of “prescribed” and “regulations”. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), the powers conferred by these provisions are exercisable by the Secretary of State only in relation to England.

(b) S.I. 2005/2039, amended by S.I. 2006/1068.

(c) S.I. 2003/1963, amended by S.I. 2006/1067 and S.I. 2006/3197.

(d) A “unit” is a pupil referral unit: see regulation 1(3) of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005. See section 19(2) of the Education Act 1996 for the definition of “pupil referral unit”.

(c) after paragraph (14) insert—

“(15) In this regulation “member of staff” includes a person who works in the temporary absence of a member of staff (but does not include a person supplied by an employment business).”.

(2) In regulation 15A—

- (a) in paragraph (1) for “or (as the case may be) the governing body have” substitute “has”, and
- (b) in paragraph (5) omit “or (as the case may be) the governing body”.

4th December 2006

*Jim Knight*  
Minister of State  
Department for Education and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

This instrument amends paragraph 14A of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005. Regulations 11, 15A and 18A of the School Staffing (England) Regulations 2003 (“the School Staffing Regulations”) are, with modifications, applied to pupil referral units in England with effect from 1<sup>st</sup> January 2007.

There is currently a requirement, subject to exceptions, to obtain enhanced criminal record certificates in respect of members of staff of pupil referral units. The effect of the application of regulation 11 of the School Staffing Regulations (as modified) to pupil referral units is to impose new requirements on local education authorities to check, before appointment, the identity and right to work in the United Kingdom of members of staff. The instrument removes the exception from the requirement to obtain an enhanced criminal record certificate in the case of foreign nationals in respect of whom the obtaining of the certificate was inappropriate. It also extends the requirement to carry out such further checks as the local education authority considers appropriate, having regard to any guidance issued by the Secretary of State, on those who have lived outside the United Kingdom if obtaining an enhanced criminal record certificate is not sufficient to establish suitability to work with children. (The current requirement relates only to foreign nationals.) A register must be kept recording the checks made on members of staff of pupil referral units and the information provided by supply agencies in respect of checks made on personnel supplied by them.

The application of regulation 15A of the School Staffing Regulations (as modified) to pupil referral units means that a person supplied to a unit by a supply agency to work as a teacher or other member of staff may not begin work until the local education authority has received written notification from the supply agency that certain specified checks have been made, that an application for an enhanced criminal record certificate has been made (or such a certificate obtained), and, where such a certificate is obtained before work commences, of certain information as to its contents. In certain cases the supply agency must provide a copy of the certificate. The local education authority is required in any contract or other arrangements it makes to ensure that supply agencies are under an obligation to provide this information and any certificates required. Irrespective of any identity checks carried out by a supply agency, there must be a separate identity check before a person supplied by an agency may begin work at the unit.

The application of regulation 18A of the School Staffing Regulations to pupil referral units means that an enhanced criminal record certificate must be obtained in respect of a member of staff of a unit appointed before 12<sup>th</sup> May 2006 to a post which did not bring him regularly into contact with children who moves to a post in the unit which does.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from Colin Green, Department for Education and Skills, Caxton House, Tothill Street, London SW1H 9NA, and on the Department’s website ([www.dfes.gov.uk/ria](http://www.dfes.gov.uk/ria)).

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£3.00

ISBN 0-11-075421-2

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Printed and published in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's  
Stationery Office and Queen's Printer of Acts of Parliament.

E1530 12/2006 161530T 19585

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