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STATUTORY INSTRUMENTS

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**2007 No. 2979**

**EDUCATION, ENGLAND**

**The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007**

<i>Made</i>	- - - -	<i>16th October 2007</i>
<i>Laid before Parliament</i>		<i>23rd October 2007</i>
<i>Coming into force</i>	- -	<i>1st February 2008</i>

The Secretary of State for Children, Schools and Families makes these regulations in exercise of the powers conferred by sections 29(5), 537A and 569(4) and (5) of, and paragraphs 3 and 15(1) and (2)(h) of Schedule 1 to, the Education Act 1996(1):

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 and come into force on 1st February 2008.

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

(3) In these Regulations and in any enactment applied by these Regulations—

“management committee” means, in relation to a unit, the committee established by the local education authority pursuant to the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007(2); and

“unit” means a pupil referral unit.

**Revocation**

2. The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005(3), the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2006(4) and the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) (No.2) Regulations 2006(5) are revoked.

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(1) 1996 c. 56; section 537A was inserted by the Education Act 1997 (c. 44), section 20, and substituted by the School Standards and Framework Act 1998 (c. 44), Schedule 30, paragraphs 57 and 153; 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. See section 579(1) for the definitions of “prescribed” and “regulations”.

(2) S.I. 2007/2978.

(3) S.I. 2005/2039.

(4) S.I. 2006/1068.

(5) S.I. 2006/3226.

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**Application and modification of enactments**

3. The enactments specified in Schedule 1 apply in relation to units or management committees with the modifications prescribed in that Schedule.

**Enactments disapplied**

4. The enactments specified in Schedule 2 do not apply in relation to units.

**Further amendment of subordinate legislation**

5. The subordinate legislation specified in Schedule 3 is amended in accordance with that Schedule.

16th October 2007

*Kevin Brennan*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families

## SCHEDULE 1

Regulation 3

### Enactments applying (with or without modifications) in relation to units or management committees

## PART 1

### Primary Legislation

#### Education Act 1996

1. Section 313(2) of the Education Act 1996 applies to management committees as it applies to the governing bodies of maintained schools and maintained nursery schools.

2.—(1) Section 317(1) to (3) and (4)(6) of that Act applies in relation to units as it applies in relation to community, foundation or voluntary schools or maintained nursery schools with the following modifications.

(2) Subsection (1) has effect as if for “The governing body of a community, foundation or voluntary school or a maintained nursery school shall” there were substituted “The local education authority and the management committee of a unit shall each”.

(3) Subsection (2) has effect as if—

- (a) for “governor” in each place where the word occurs there were substituted “member of the management committee”, and
- (b) for “governing body” in each place where the words occur there were substituted “management committee”.

(4) Subsection (3)(a) has effect as if—

- (a) for “the governing bodies of community, foundation and voluntary schools and maintained nursery schools” there were substituted “management committees”, and
- (b) for “other such schools” there were substituted “community, foundation and voluntary schools and community and foundation special schools”.

3. Section 404 of that Act(7) (sex education: statements of policy) applies in relation to management committees as it applies in relation to governing bodies of maintained schools, but only in relation to pupils who are provided with secondary education at the unit.

4. Section 405 of that Act (exemption from sex education) applies in relation to units as it applies in relation to maintained schools with the modification that the section has effect as if the words “, except so far as such education is comprised in the National Curriculum,” were omitted.

5. Section 495(1) and (2) of that Act (determination of disputes) applies in relation to units as it applies in relation to schools to which those subsections apply, with the modification that for “the governing body of a school” there were substituted “the management committee”.

6. Sections 496 (power to prevent unreasonable exercise of functions) and 497 (general default powers) of that Act (8) apply in relation to units as they apply in relation to community, foundation, voluntary, community special, foundation special and maintained nursery schools with

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(6) Section 317 was amended by the School Standards and Framework Act 1998 (c.31) Schedule 30 paragraph 74 and the Education Act 2002 (c. 32) Schedule 21 paragraph 39.

(7) Section 404 was amended by paragraph 103 of Schedule 30 to, the School Standards and Framework Act 1998 , and section 148(6) of the Learning and Skills Act 2000 (c. 21).

(8) Sections 496 and 497 were amended by, respectively, paragraphs 129 and 130 of Schedule 30 to the School Standards and Framework Act 1998 and by section 168 of the Education and Inspections Act 2006 (c.40).

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the modification that subsection (2)(b) of each section has effect as if for “the governing body of any community, foundation or voluntary school, of any community or foundation special school, or of any maintained nursery school” there were substituted “the management committee”.

7. Section 538 of that Act<sup>(9)</sup> (provision of information to Secretary of State by governing bodies of maintained schools) applies in relation to units as it applies in relation to community, foundation or voluntary schools or community or foundation special schools with the modification that the section has effect as if for “The governing body or temporary governing body of a community, foundation or voluntary school or a community or foundation special school” there were substituted “The management committee of a unit”.

8. Section 559 of that Act<sup>(10)</sup> (power of local education authorities to prohibit or restrict employment of children) applies in relation to a child who is a registered pupil at a unit as it applies in relation to a child who is a registered pupil at a community, foundation, voluntary or special school.

### **School Standards and Framework Act 1998**

9.—(1) Section 62(1), (2) and (4) of the School Standards and Framework Act 1998<sup>(11)</sup> (LEA’s reserve power to prevent a breakdown of discipline) applies in relation to a unit as it applies in relation to a maintained school with the following modifications.

(2) Subsection (2)(b) has effect as if for “the governing body” there were substituted “the management committee”.

(3) Subsection (4) has effect as if for “the governing body” there were substituted “the management committee”.

10.—(1) Paragraph 1 of Schedule 13 to that Act<sup>(12)</sup> (control of school premises) applies in relation to units as it applies in relation to community and community special schools with the following modifications.

(2) The paragraph has effect as if—

- (a) for “the governing body” in each place where the words occur, there were substituted “the management committee”, and
- (b) sub-paragraph (2)(b) were omitted.

### **Education Act 2002**

11. Section 19(6) of the Education Act 2002<sup>(13)</sup> applies in relation to units in order for Schedule 1 to that Act to have effect in relation to units to the extent specified in paragraph 20 of this Schedule.

12.—(1) Section 21(5) to (9)<sup>(14)</sup> of that Act (general duties of governing body) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Section 21(5) of that Act has effect as if—

- (a) for “The governing body of a maintained school” there were substituted “The management committee”, and
- (b) for “their functions relating to the conduct of the school” there were substituted “their function of conducting the unit delegated to them by the local education authority”.

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<sup>(9)</sup> Section 538 was amended by paragraph 154 of Schedule 32 the School Standards and Framework Act 1998.

<sup>(10)</sup> Section 559 was amended by paragraph 171 of Schedule 30 to the School Standards and Framework Act 1998 and by paragraph 49(3) of Schedule 26 to the Criminal Justice Act 2003 (c. 44).

<sup>(11)</sup> 1998 c. 31.

<sup>(12)</sup> Schedule 13 is repealed by Schedule 22, Part 3 to the Education Act 2002 but the repeal is not in force.

<sup>(13)</sup> 2002 c. 32.

<sup>(14)</sup> Section 21(5) to (9) was inserted by section 38 of the Education and Inspections Act 2006 (c. 40).

- (3) Section 21(6) and (7) of that Act have effect as if—
- (a) for “the governing body of a maintained school” there were substituted “the management committee”, and
  - (b) for “those functions” there were substituted “that function”.

**13.**—(1) Section 27 and section 28(5) of that Act (power of governing body to provide community facilities etc.) apply in relation to units as they apply in relation to maintained schools with the following modifications.

- (2) Section 27 has effect as if—
- (a) in subsection (1) for “The governing body of a maintained school” there were substituted “The management committee”,
  - (b) in subsection (2)—
    - (i) for “a governing body” there were substituted “a management committee”, and
    - (ii) paragraph (a) were omitted, and
  - (c) for subsection (4) there were substituted—

“(4) The power under subsection (1) shall be exercised only with the consent of the local education authority who maintain the school.”.
- (3) Section 28(5) has effect as if “or consulting under subsection (4),” were omitted.

**14.**—(1) Section 29(1), (2) and (3) of that Act (additional functions of governing body) applies in relation to units as it applies in relation to maintained schools with the following modifications.

- (2) Section 29(1) and (3) of that Act have effect as if for “the governing body of a maintained school” there were substituted “the management committee”.
- (3) Section 29(2) of that Act has effect as if for “the governing body” there were substituted “the management committee”.

**15.** Section 29(5) of that Act applies in relation to units as it applies in relation to community and voluntary controlled schools, community special schools and maintained nursery schools with the modification that it has effect as if for “governing body” there were substituted “management committee”.

**16.** Section 30(4) of that Act (other information to be provided by governing body) applies in relation to units as it applies in relation to maintained schools with the modification that the subsection has effect as if for “the governing body” in each place where the words occur there were substituted “the management committee”.

**17.** Section 32 of that Act (responsibility for fixing dates of terms and holidays and times of sessions) applies in relation to units as it applies in relation to community, voluntary controlled and community special schools and maintained nursery schools with the modification that subsection (1) (b) has effect as if for “the governing body”, there were substituted “the local education authority together with the management committee” .

**18.**—(1) Section 62A of that Act(**15**) (power to require LEA in England to obtain advisory services) applies in relation to units as it applies in relation to schools mentioned in subsection (4) with the modification that subsection (2) has effect as if “or the governing body of any school maintained by them (or both)” were omitted.

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(15) Section 62A was inserted by paragraph 20 of Schedule 7 to the Education and Inspections Act 2006.

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(2) For the purpose of determining whether a unit falls, or may in the future fall, within subsection (1)(a), sections 61 and 62 of the Education and Inspections Act 2006 have effect as if the definition of “maintained school” in section 59(1) of that Act included a unit.

19. Section 80(1)(d) of that Act (curriculum to include sex education) applies in relation to units as it applies in relation to special schools.

20. Sub-paragraphs (1) and (2) of paragraph 3 of Schedule 1 to that Act (powers of governing body) apply to units as if—

- (a) for a reference to the governing body in each place where it occurs there were substituted a reference to the management committee, and
- (b) the powers in those paragraphs did not include the powers referred to in sub-paragraph (3) (and accordingly sub-paragraphs (4) to (6) do not apply to units).

### **Education Act 2005**

21.—(1) Part 1 of the Education Act 2005(16) (school inspections and other inspections by school inspectors) except sections 11A to 11C (17) (investigation of complaints) applies in relation to units as if they were schools to which section 5 of that Act applies and accordingly section 5(2) has effect as if after paragraph (g) there were inserted —

“(h) pupil referral units.”.

(2) Section 6 has effect as if for subsection (3) there were substituted—

“(3) In subsection (1), “the appropriate authority” in relation to a unit means the local education authority.”.

(3) Section 7(b) has effect as if for “the governing body” there were substituted “the management committee”.

(4) Section 13(2) has effect as if for “the governing body” in each place where the words occur there were substituted “the management committee”.

(5) Section 14 has effect as if —

(a) for subsection (2)(a) there were substituted—

“(a) the teacher in charge and the management committee of the unit”,

(b) subsection (2)(b) and (c) were omitted.

(6) Section 18 has effect as if—

(a) for the definition of “the appropriate authority” there were substituted—

““the appropriate authority” in relation to a unit means the local education authority;”,

and

(b) the definition of “maintained school” included a unit.

### **Education and Inspections Act 2006**

22.—(1) Section 5 of the Education and Inspections Act 2006 (school improvement partners) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if for “the governing body” there were substituted “the management committee”.

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(16) 2005 c. 18.

(17) Sections 11A to 11C were inserted by section 160 of the Education and Inspections Act 2006.

(3) Subsection (4) has effect as if for “the governing bodies of maintained schools” there were substituted “the management committees of units”.

**23.**—(1) Section 68 of that Act (power of Secretary of State to direct closure of school) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) applies if at any time the circumstances set out in section 62 of that Act apply in relation to a unit.

(3) Subsection (2) has effect as if—

(a) in paragraph (a) for “the governing body” there were substituted “the management committee”, and

(b) paragraphs (b) to (d) were omitted.

(4) Subsection (3) has effect as if for “the governing body of the school” there were substituted “the management committee”.

## PART 2

### Subordinate legislation

#### **Local Education Authority (Payment of School Expenses) Regulations 1999**

**24.** Regulation 2 of the Local Education Authority (Payment of School Expenses) Regulations 1999(18) applies in relation to a pupil attending a unit as it applies in relation to a child attending a community, foundation, voluntary or special school.

#### **Education (School Government) (Terms of Reference) (England) Regulations 2000**

**25.**—(1) Regulations 3, 4 and 5 of the Education (School Government) (Terms of Reference) (England) Regulations 2000(19) apply in relation to units as they apply in relation to community, foundation, voluntary, community special and foundation special schools with the following modifications.

(2) Regulation 3 has effect as if—

(a) paragraph (1) were omitted,

(b) for “the governing body” in each place where the words occur there were substituted “the management committee”.

(c) in paragraph (2) after “their functions” there were inserted “and any functions delegated by the local education authority”.

(3) Regulation 4 has effect as if—

(a) in paragraph (1) after “their functions” there were inserted “and any functions delegated by the local education authority”,

(b) in paragraphs (2), (3) and (4) for “the governing body” there were substituted “the management committee and the local education authority”, and

(c) paragraph (4)(a) were omitted.

(4) Regulation 5 has effect as if for “the governing body” in each place where the words occur there were inserted “the management committee and the local education authority”.

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(18) S.I. 1999/1727.

(19) S.I. 2000/2122, to which there are amendments not relevant to these Regulations.

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### **School Staffing (England) Regulations 2003**

**26.**—(1) Regulations 11, 15A and 18A of the School Staffing (England) Regulations 2003(20) apply in relation to units as they apply in relation to community, voluntary controlled, community special and maintained nursery schools with the following modifications.

- (2) Regulation 11 has effect as if—
- (a) for paragraph (1) there were substituted—
    - “(1) This paragraph applies to a person whom an authority approves for appointment as a member of staff of a unit”,
  - (b) in paragraph (2) for “any such person” there were substituted “a person to whom paragraph (1) applies”, and
  - (c) after paragraph (14) there were inserted—
    - “(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).”
- (3) Regulation 15A has effect as if—
- (a) in paragraph (1) for “or (as the case may be) the governing body have” there were substituted “has”, and
  - (b) in paragraph (5) “or (as the case may be) the governing body” were omitted.

### **Education (School Inspection) (England) Regulations 2005**

**27.**—(1) Parts 1 and 2 of the Education (School Inspection) (England) Regulations 2005(21) apply in relation to units as they apply in relation to schools to which section 5 of the Education Act 2005 applies, with the following modifications.

- (2) Regulation 4(1) has effect as if—
- (a) for sub-paragraph (a) there were substituted—
    - “(a) the chair of the management committee;”, and
  - (b) sub-paragraphs (b) to (d) were omitted.
- (3) Regulation 4(1)(f) applies to units as it applies to secondary schools.

### **Education (School Attendance Targets) (England) Regulations 2007**

**28.**—(1) The Education (School Attendance Targets) (England) Regulations 2007(22) apply in relation to units as they apply in relation to the schools referred to in regulation 3 of those regulations with the modifications specified in paragraphs (2) to (10).

- (2) Regulation 3 has effect as if the following was substituted for it—
- “**3.** The local education authority and the management committee of every unit (acting jointly) must set annual targets for reducing the number of absences from school in accordance with regulation 4.”.
- (3) Regulation 4 has effect as if —
- (a) in paragraph (1) for “The governing body must set a target and must submit it to the local education authority” there were substituted “The local education authority and the management committee (acting jointly) must set a target”, and

(20) [S.I. 2003/1963](#); regulations 15A and 18A were inserted by [S.I. 2006/3197](#).

(21) [S.I. 2005/2038](#).

(22) [S.I. 2007/226.1](#)



- (b) in paragraph (2) for “the governing body intends” there were substituted “the local education authority and the management committee intend”.
- (4) Regulation 5(1) has effect as if—
  - (a) for “the governing body of a school” there were substituted “the local education authority and the management committee of a unit”, and
  - (b) for “that body” there was substituted “those bodies (acting jointly)”.
- (5) Regulation 6 has effect as if—
  - (a) in paragraph (1)—
    - (i) for “the governing body of that school” there were substituted “the local education authority and the management committee of that unit”, and
    - (ii) for “it is” there were substituted “(acting jointly) they are”,
  - (b) in paragraph (2) for “the governing body intends” there were substituted “the local education authority and the management committee (acting jointly) intend”.
- (6) Regulation 7 has effect as if—
  - (a) in paragraph (1)—
    - (i) for “the governing body of that school” there were substituted “the local education authority and the management committee of that unit”, and
    - (ii) for “it is” there were substituted “(acting jointly) they are”,
  - (b) in paragraph (2) for “the governing body intends” there were substituted “the local education authority and the management committee (acting jointly) intend”.
- (7) Regulation 8(1) has effect as if—
  - (a) for “the governing body of that school” there were substituted “the local education authority and the management committee of that unit”, and
  - (b) for “it is” there were substituted “(acting jointly) they are”.
- (8) Regulation 9(1) has effect as if for sub-paragraph (c) there were substituted—
  - “(c) must contain a date by which the target should be set.”.
- (9) Regulation 10 has effect as if paragraphs (1) and (2) were omitted.
- (10) Regulation 12 has effect as if for “A governing body must not” there were substituted “Neither a local education authority nor a management committee may”.
- (11) Nothing in paragraphs (1) to (10) requires a management committee to set any target under regulation 4 of those regulations for any school year before the school year commencing in 2010.

### **Education (School Performance Information) (England) Regulations 2007**

**29.** Regulation 10 of, and Schedule 5 to, the Education (School Performance Information) (England) Regulations 2007(23) apply in relation to units as they apply in relation to maintained schools.

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## SCHEDULE 2

Regulation 4

### Enactments not applying in relation to units

#### **School Standards and Framework Act 1998**

1. Sections 86(24) and 94(25) of the School Standards and Framework Act 1998 do not apply in relation to units.

#### **Education (School Day and School Year) (England) Regulations 1999**

2. The Education (School Day and School Year) (England) Regulations 1999(26) do not apply in relation to units.

## SCHEDULE 3

Regulation 5

### Amendment of other subordinate legislation

#### **Education (School Information) (England) Regulations 2002**

1.—(1) The Education (School Information) (England) Regulations 2002(27) are amended as follows.

(2) In regulation 7(2) for “or special educational provision” substitute “, special educational provision or provision to which section 19 of the Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) applies”.

(3) In regulation 7(3)(a)(ii) for “or a special school” substitute “, a special school or a pupil referral unit”.

(4) In regulation 7(3)(b) for “or special schools” substitute “, special schools or pupil referral units”.

(5) In paragraph 3 of Schedule 1 after “special school” insert “or a pupil referral unit”.

(6) After paragraph 17 of Schedule 1 insert—

### “Part 3

#### Exceptional Provision of Education in Pupil Referral Units or Elsewhere

18. The authority’s general arrangements and policies in respect of the provision of education to which section 19 of the Education Act 1996 applies (exceptional provision of education in pupil referral units or elsewhere).”.

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(24) Section 86 was amended by section 47(1) of, and paragraph 3 of Schedule 4 to, the Education Act 2002 and sections 42 and 43(2) of the Education and Inspections Act 2006.

(25) Section 94 was amended by section 50 of, and paragraph 8 of Schedule 4 to, the Education Act 2002 and sections 43(4) and 51(1) of the Education and Inspections Act 2006.

(26) S.I. 1999/3181, amended by S.I. 2001/1429.

(27) S.I. 2002/2897, to which there are amendments not relevant to these Regulations.

## **Education (Information About Individual Pupils) (England) Regulations 2006**

2.—(1) The Education (Information About Individual Pupils) (England) Regulations 2006(28) are amended as follows.

(2) After regulation 3 insert the following regulation—

### **“Provision of information relating to pupil referral units by local education authorities relating to the Secretary of State**

**3A.** Within fourteen days of receiving a request from the Secretary of State a local education authority shall provide to the Secretary of State such of the information referred to in Schedule 1 to these Regulations relating to each pupil referral unit maintained by the authority and (where the request stipulates) in respect of such categories of pupils, or former pupils, at each such unit, as is so requested.”.

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## **EXPLANATORY NOTE**

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

The Education Act 1996 (section 19) requires local education authorities to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them. Any school established and maintained by a local education authority which is specially organised to provide education for such children is known as a pupil referral unit. Schedule 1 to the Act provides for adaptations and modifications of the application of enactments to pupil referral units.

These Regulations further modify the application of enactments in relation to pupil referral units and make amendments to subordinate legislation relating to pupil referral units. The regulations revoke the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039) and regulations which amend those regulations and re-enact the provisions with changes. The principal changes are the application with modifications of provisions in the Education and Inspections Act 2006 and changes consequential on the requirement, contained in the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007 (S.I.2007/2978), for local education authorities to establish management committees for pupil referral units.

A full regulatory impact assessment of the affect that this instrument will have is available from: Alternative Provision Plus Team, Area 7A, Department for Children, Schools and Families, Caxton House, 6-12 Tothill Street, London SW1H 9NA; 020 7273 5608 and annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.