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## STATUTORY INSTRUMENTS

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**2012 No. 1201**

### **EDUCATION, ENGLAND**

#### **The Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2012**

<i>Made</i>	- - - -	<i>1st May 2012</i>
<i>Laid before Parliament</i>		<i>8th May 2012</i>
<i>Coming into force</i>		
<i>For the purposes of regulations 1, 2 and 4</i>		<i>31st May 2012</i>
<i>For all other purposes</i>		<i>1st September 2012</i>

The Secretary of State for Education makes these regulations in exercise of the powers conferred by section 569(4) of, and paragraph 3 of Schedule 1 to, the Education Act 1996 <sup>(1)</sup> and section 1D(2) of the Academies Act 2010 <sup>(2)</sup>.

#### **Citation and commencement**

1.—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2012.

(2) This regulation and regulations 2 and 4 come into force on 31st May 2012.

(3) Regulation 3 comes into force on 1st September 2012.

#### **Amendment of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007**

2. Part 1 of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007<sup>(3)</sup> is amended as follows.

3. After paragraph 20 insert—

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<sup>(1)</sup> 1996 c.56. See section 579(1) of the Education Act 1996 for the definition of “regulations”.

<sup>(2)</sup> 2010 c.32. Section 1D was inserted by section 53 of the Education Act 2011 (c.21).

<sup>(3)</sup> SI 2007/2979, amended by SI 2010/1074 which was revoked by SI 2010/1919.

#### **“Children Act 2004**

**20B.** Section 10 of the Children Act 2004<sup>(4)</sup>(Co-operation to improve well-being) applies in relation to units as it applies in relation to maintained schools with the modification that subsection (4)(fa) has effect as if for “the governing body of a maintained school” there were substituted “the management committee of a unit”.

#### **4. After paragraph 23 insert—**

#### **“Academies Act 2010**

**23B.—**(1) Section 3 of the Academies Act 2010<sup>(5)</sup> (Application for Academy Order) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

- (a) for “The governing body of a maintained school” there were substituted “The management committee of a unit”, and
- (b) for “the school” there were substituted “the unit”.

(3) Subsections (2) to (6) do not apply to units.

**23C.—**(1) Section 4 of that Act<sup>(6)</sup> (Academy Orders) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

- (a) for “maintained school” there were substituted “unit”,
- (b) in subsection (1)(a) for “the school” there were substituted “the unit”, and
- (c) for subsection (1)(b) there were substituted—  
“if at any time the circumstances in relation to maintained schools as set out in section 61 or section 62 of the Education and Inspections Act 2006 apply in relation to a unit.”

(3) Subsection (1A) does not apply to units.

(4) Subsection (2) has effect as if—

- (a) for “school” in each place where the word occurs there were substituted “unit”, and
- (b) for “into an Academy” there were substituted “into an alternative provision Academy”.

(5) Subsection (3) has effect as if the following were substituted for it —

“(3) A unit is “converted into” an alternative provision Academy if Academy arrangements are entered into in relation to the unit, or the school that replaces it.”.

(6) Subsections (4) and (5) have effect as if —

- (a) for “governing body and head teacher” in each place where the words occur there were substituted “management committee and teacher in charge”,
- (b) for “school” in each place where the word occurs there were substituted “unit”,
- (c) for “local authority” in each place where the word occurs there were substituted “local authority that maintains the unit”, and

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<sup>(4)</sup> 2004 c 31. Section 10 was amended by section 193 of the Apprenticeships, Skills, Children and Learning Act 2009 (c 22).

<sup>(5)</sup> Section 3 of the Academies Act 2010 was amended by section 57 of the Education Act 2011.

<sup>(6)</sup> Section 4 of the Academies Act 2010 was amended by section 57 of, and Schedule 13 to, the Education Act 2011.

(d) paragraph (c) of both subsections were omitted.

(7) Subsections (8) to (11) do not apply to units.

**23D.**—(1) Section 5 of that Act<sup>(7)</sup> (Consultation on conversion) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

(a) for “maintained school” there were substituted “unit”, and

(b) for “Academy” there were substituted “alternative provision Academy”.

(3) Subsection (2) has effect as if for “the school” there were substituted “the unit”.

(4) Subsection (3) has effect as if the following were substituted for it—

“(3) In the case of a unit where the circumstances set out in section 61 or section 62 of the Education and Inspections Act 2006 apply, the consultation may be carried out by—

(a) the unit’s management committee, or

(b) a person with whom the Secretary of State proposes to enter into Academy arrangements in respect of the unit or the school that replaces it.”.

(5) Subsection (4) has effect as if for “the school’s governing body” there were substituted “the unit’s management committee”.

(6) Subsection (6) does not apply to units.

**23E.**—(1) Section 6 of that Act<sup>(8)</sup> (Effect of Academy Order) 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 “school” there were substituted “unit”.

(3) Subsection (2) has effect as if the following were substituted for it—

“(2) The local authority must cease to maintain the unit on the date (“the conversion date”) on which the unit, or a school which replaces it, opens as an Academy (“the alternative provision Academy”).”.

(4) Subsection (2A) has effect as if for “local authority” there were substituted “local authority that maintains the unit”.

(5) Subsections (3) and (4) do not apply to units.

(6) Subsection (5) has effect as if for “Academy school” there were substituted “alternative provision Academy”.

(7) Subsections (7) to (9) do not apply to units.

**23F.**—(1) Section 8 of that Act (Transfer schemes: other property, rights and liabilities) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1)(a) has effect as if for “school” there were substituted “unit”.

(3) Subsection (1)(b) has effect as if—

(a) for “school” there were substituted “unit”, and

(b) for “Academy” there were substituted “alternative provision Academy”.

(4) Subsection (2) has effect as if—

(a) for “school” in each place where the word occurs there were substituted “unit”,

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(7) Section 5 of the Academies Act 2010 was amended by section 56 of the Education Act 2011.

(8) Section 6 of the Academies Act 2010 was amended by section 58 of, and Schedule 13 to, the Education Act 2011.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (b) for “local authority” there were substituted “local authority that maintains the unit”,
- (c) for “the school’s governing body” there were substituted “the unit’s management committee”, and
- (d) for “the governing body” there were substituted “the management committee”.”

1st May 2012

*Nick Gibb*  
Minister of State  
Department for Education

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## EXPLANATORY NOTE

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

Section 19 of the Education Act 1996 requires local 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 authority which is specially organised to provide education for such children is known as a pupil referral unit (section 19 (2B) of the Education Act 1996). Schedule 1 to that Act provides that enactments which apply to maintained schools can be applied with or without modification, to pupil referral units by regulations.

These Regulations amend the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (“the 2007 Regulations”) which modify the application of enactments in relation to pupil referral units.

New paragraph 20B applies section 10 of the Children Act 2004 so that the local authorities’ duty to co-operate with “relevant partners” is extended to the management committees of pupil referral units.

The Academies Act 2010 (as amended by the Education Act 2011) provides for maintained schools to convert to Academies. Sections 1A to 1C of that Act provide for 3 types of Academies: Academy schools, 16 to 19 Academies and alternative provision Academies. Section 1D of that Act provides that enactments which apply to Academy schools can be applied with or without modification to alternative provision Academies. Paragraph 3 of Schedule 1 to the Education Act 1996 provides a power to apply legislation which applies to maintained schools to pupil referral units with or without modification. New paragraphs 23B to 23F apply the relevant provisions of the Academies Act 2010 with modifications to pupil referral units and alternative provision Academies so that they can convert to become alternative provision Academies.

An impact assessment has not been produced for this instrument because it has no impact on businesses or civil society organisations and the total unfunded cost on the public sector is less than £5 million.