

2013 No. 492

EDUCATION, ENGLAND AND WALES

The Inter-authority Recoupment (England) Regulations 2013

Made - - - - *4th March 2013*

Laid before Parliament *11th March 2013*

Coming into force - - *1st April 2013*

The Secretary of State for Education, in exercise of the powers conferred by sections 207(1) and 210(7) of the Education Act 2002(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Inter-authority Recoupment (England) Regulations 2013 and come into force on 1st April 2013.

(2) Regulations 4, 5, 7 and 8 apply in relation to education provided on or after 1st April 2013.

(3) These Regulations apply only in relation to provision for education which is made by a providing authority(b) in England or Wales in respect of a person who belongs to the area of a home authority(c) in England.

Amendments to the Education (Inter-authority) Recoupment Regulations 1994

2.—(1) The Education (Inter-authority) Recoupment Regulations 1994(d) are amended as follows—

(2) After regulation 1 insert—

“Application

4A. Except for regulation 5, these Regulations do not apply to any provision for education which is made by a local authority in respect of a person who belongs to the area of another authority, where the authority to which the person belongs is in England.

4B. Regulation 5 applies to claims for recoupment by providing authorities in Wales.”

Interpretation

3. In these Regulations—

“EA 1996” means the Education Act 1996(e);

(a) 2002 c.32.

(b) “Providing authority” is defined in section 207(1) of the Education Act 2002 (c.32).

(c) “Home authority” is defined in section 207(1) of the Education Act 2002 (c.32).

(d) S.I. 1994/3251.

(e) 1996 c.56.

“looked after child” means a person who, for the purposes of section 22(1) of the Children Act 1989^(a), is a child looked after by a local authority; and

“special school” has the meaning given in section 6(2) of EA 1996.

Cases in which recoupment is required: English home authority, Welsh providing authority

4.—(1) This regulation applies to education provided to—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of EA 1996;
- (b) a person attending a special school;
- (c) a person who has not attained the age of nineteen years who—
 - (i) is a patient in a hospital; and
 - (ii) receives education in a special school established in a hospital, or under any arrangements made by a local authority under section 19 of EA 1996 otherwise than at a school.

(2) Where provision for any education to which this regulation applies is made by a providing authority in Wales in respect of a person who belongs to the area of a home authority in England, the home authority must pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is required: English home authority, English providing authority

5.—(1) This regulation applies to education provided to a looked after child who is—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of EA 1996; or
- (b) a person attending a special school.

(2) Where—

- (a) provision for any education to which this regulation applies is made by a providing authority in England in respect of a person who belongs to the area of a home authority in England; and
- (b) the providing authority incurs cost by making provision for the education of that child in another local authority area in England or Wales,

the home authority must pay to the providing authority such amount as the home authority and the providing authority may agree.

Cases in which recoupment is required: transitional provision

6.—(1) This regulation applies to education provided before 1st April 2013 to—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of EA 1996;
- (b) a person attending a special school;
- (c) a person who has not attained the age of nineteen years who—
 - (i) is a patient in a hospital; and
 - (ii) receives education in a special school established in a hospital, or under any arrangements made by a local authority under section 19 of EA 1996 otherwise than at a school.

(2) Where provision for any education to which this regulation applies is made by a providing authority in England or Wales in respect of a person who belongs to the area of the home authority

(a) 1989 c.41.

in England, the home authority must pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is permitted: English home authority, Welsh providing authority

7.—(1) This regulation applies to primary and secondary education, and part-time education for those who have not attained the age of five years, but it does not apply to education to which regulation 4 or 5 applies.

(2) Where provision for any education to which this regulation applies is made by a providing authority in Wales in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is permitted: English home authority, English providing authority

8.—(1) This regulation applies to the following types of education when provided to a looked after child, subject to paragraph (2)—

- (a) primary education;
- (b) secondary education;
- (c) part-time education where the child has not attained the age of five years.

(2) This regulation does not apply to education to which regulation 4 or 5 applies.

(3) Where provision for any education to which this regulation applies is made by a providing authority in England in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is permitted: transitional provision

9.—(1) This regulation applies to the following types of education provided before 1st April 2013, subject to paragraph (2)—

- (a) primary education;
- (b) secondary education;
- (c) part-time education where the child has not attained the age of five years.

(2) This regulation does not apply to education to which regulation 6 applies.

(3) Where provision for any education to which this regulation applies is made by a providing authority in England or Wales in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amount as the authorities may agree.

Claims for recoupment

10. Any claim for payment which a providing authority in England makes to a home authority in England or Wales by virtue of these Regulations must—

- (a) be made in writing;
- (b) specify the person in respect of whom payment is claimed and the amount claimed; and
- (c) be submitted to the appropriate home authority within 12 months from the end of the financial year in which the provision for education to which the claim relates was made.

4th March 2013

David Laws
Minister of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 207(1) of the Education Act 2002 and make provision for recoupment between local authorities where a person belonging to the area of one authority (“the home authority”) in England is educated by another authority (“the providing authority”) in England or Wales.

Regulation 2 amends the Education (Inter-authority Recoupment) Regulations 1994 so that those Regulations only apply to recoupment where the home authority is in Wales, except that regulation 5 of those Regulations (concerning how a providing authority makes a claim for recoupment) continues to apply to any claims made by a Welsh providing authority where the home authority is in England or in Wales.

Regulation 4 provides for circumstances where recoupment is mandatory between a home authority in England and a providing authority in Wales.

Regulation 5 provides for circumstances where recoupment is mandatory between a home authority in England and a providing authority in England.

Regulation 7 provides for circumstances where recoupment is optional between a home authority in England and a providing authority in Wales.

Regulation 8 provides for circumstances where recoupment is optional between a home authority in England and a providing authority in England.

Regulations 6 and 9 provide for transitional arrangements in relation to education provided before 1st April 2013.

Regulation 10 makes provision for how providing authorities in England should make their claims for recoupment.

An impact assessment has not been produced for this instrument as no impact on the private sector or civil society organisations is foreseen. The impact on the public sector is minimal.

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