

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (PUPIL REGISTRATION) (ENGLAND) (AMENDMENT)
REGULATIONS 2013**

2013 No. 756

AND

**THE EDUCATION (PENALTY NOTICES) (ENGLAND) (AMENDMENT)
REGULATIONS 2013**

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1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instruments**
 - 2.1 The Education (Penalty Notices) (England) (Amendment) Regulations 2013 amend the Education (Penalty Notices) (England) Regulations 2007 Regulations to decrease the period of time parents have to pay a penalty notice.
 - 2.2 The Education (Pupil Registration) (England) (Amendment) Regulations 2013 make two amendments to the Education (Pupil Registration) (England) Regulations 2006, to:
 - clarify that leave of absence shall not be granted by schools unless there are “exceptional circumstances”; and
 - clarify that a school may delete the name of a pupil from their admission register when he is no longer of compulsory school age and he has failed to meet the academic entry requirements for the school’s sixth form.
3. **Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 **Penalty notices** may be issued to parents who have committed an offence under section 444 of the Education Act 1996 or section 106 of the Education and Inspections Act 2006. The notices were introduced to provide a quicker and cheaper alternative sanction to criminal prosecution. The Education (Penalty

Notices) (England) Regulations 2007¹ govern the process for issuing and the content of penalty notices, and has been amended by the Education (Penalty Notices) (England) (Amendment) Regulations 2012². The 2007 Regulations are amended to decrease the period of time parents have to pay a penalty notice to enable swifter enforcement of unpaid notices.

- 4.2 **School attendance and admission registers.** Section 434 of the Education Act 1996 requires the proprietor of a school to maintain a register of all pupils at the school. This applies to all schools, including independent schools. The Education (Pupil Registration) (England) Regulations 2006³ set out the circumstances in which a leave of absence can be granted and the grounds on which a pupil's name can be deleted from the admission register. The 2006 Regulations are amended to clarify that leave of absence shall not be granted by maintained schools unless there are "exceptional circumstances" and to make a minor change to bring them into line with the School Admissions Code 2012.

5. Territorial Extent and Application

- 5.1 These instruments apply only to England.

6. European Convention on Human Rights

- 6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- 7.1 For pupils to benefit from education and achieve their full potential they must attend school regularly. School attendance data from 2010/11 showed that 90 per cent of pupils with an absence rate of less than 4 per cent achieved 5 or more A*-C grades at GCSE or equivalent. In primary schools, 4 out of 5 pupils with an absence rate of less than 4 per cent achieved level 4 or above in both English and mathematics. The Government accepted the recommendations made by Charlie Taylor, the then Government adviser on behaviour, in 2012.

- 7.2 These amendments are designed to improve existing processes to help schools and local authorities address poor attendance. The amount of time a parent has to pay a penalty notice (fine) is reduced to allow swifter enforcement of unpaid notices. A parent currently has to pay £60 if payment is made within 28 days; and this rises to £120 if payment is made within 29-42 days of the notice being issued. If the notice is unpaid or paid in part at the end of the 42-day period, the local authority must decide whether to prosecute for the original offence or withdraw the notice.

¹ S.I 2007/ 1867.

² The Education (Penalty Notices) (England) (Amendment) Regulations 2012 raised the amount of the penalty from £50 to £60 and from £100 to £120 from 1st September 2012.

³ S.I. 2006/ 1751.

In 2010/11, there were 32,641 penalty notices issued and only 1,515 were paid between 29 and 42 days. This means that in many cases education welfare officers will be aware that a parent is unlikely to pay after 28 days but the local authority must wait for 42 days before starting proceedings to prosecute. The Education (Penalty Notices) (England) (Amendment) Regulations 2013 reduce the amount of time a parent has to pay a notice. They will have to pay £60 within 21 days; and this will rise to £120 if paid within 22 -28 days of the notice being issued. This will bring the timescales for payment into line with other types of penalty notices.

- 7.3 The 2006 Regulations refer to parents applying for family holiday in “special circumstances” and to schools having discretion to grant up to ten school days of holiday per year. Many parents and some schools have interpreted this law as an automatic entitlement to an annual two-week term time holiday. Charlie Taylor noted that if children are taken away for a two-week holiday every year and have an average number of days off for sickness and appointments, then by the time they leave school at sixteen they will have missed a year of school. The Education (Pupil Registration) (England) (Amendment) Regulations 2013 amend the 2006 Regulations to clarify that leave of absence during term time shall not be granted unless there are “exceptional circumstances”.
- 7.4 A minor amendment is made to the Education (Pupil Registration) (England) Regulations 2006 to bring the circumstances in which a pupil’s name can be deleted from the admissions register into line with the new School Admissions Code. The Regulations are amended to clarify that a school may delete the name of a pupil from their admission register when he is no longer of compulsory school age and he has failed to meet the academic entry requirements for the school’s sixth form.

8. Consultation outcome

- 8.1 **Term time holiday.** Charlie Taylor consulted widely during his review. In April 2012, the Government accepted his recommendation to challenge the culture of expectation to term time holiday and set out a clear expectation that term time leave should only be granted in exceptional circumstances.
- 8.2 **Penalty notices.** The Department has consulted informally with schools, local authorities and education welfare officers who have welcomed the proposals to shorten the time parents have to pay penalty notices.

9. Guidance

- 9.1 The Department’s advice to schools and local authorities on school attendance, will be updated to reflect the changes made by these regulations. The guidance is available at: www.education.gov.uk/schools/pupilsupport/behaviour/attendance.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for these instruments, as they have no impact on business, charities or voluntary bodies. The instruments have no impact on the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Ofsted will continue to monitor and challenge poor attendance statistics as part of their regular inspections of all schools. The Department will monitor the impact of its school attendance policies in the course of its usual functions.

13. Contact

13.1 Peter Jackson at the Department for Education (tel: 020 7340 7491 or email peter.jackson@education.gsi.gov.uk) can answer any queries regarding the instruments.