
WELSH STATUTORY INSTRUMENTS

2007 No. 1069 (W.109)

EDUCATION, WALES

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

Made - - - - 27 March 2007

Coming into force - - 23 April 2007

In the exercise of its powers under section 569(4) and (5) of, and paragraph 3 of Schedule 1 to, the Education Act 1996(1), the National Assembly for Wales hereby makes the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 and they come into force on 23 April 2007.

(2) These Regulations apply in relation to units in Wales.

(3) In these Regulations “units” means pupil referral units.

Revocation

2. The Education (Pupil Referral Units) (Application of Enactments) Regulations 1994(2) and the Education (Pupil Referral Units) (Application of Enactments) (Amendment) Regulations 1996(3) are revoked.

Application and modification of enactments

3. The enactments mentioned in Schedule 1 to these Regulations apply in relation to units with the modifications prescribed in that Schedule.

Disapplication of enactments

4. The enactments mentioned in Schedule 2 to these Regulations do not apply in relation to units.

(1) 1996 c. 56. The powers were conferred upon the Secretary of State: see the definition of “regulations” in section 579 of the 1996 Act. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), the powers are exercisable by the Assembly in relation to Wales.

(2) S.I. 1994/2103.

(3) S.I. 1996/2087.

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4)

27 March 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

SCHEDULE 1

Regulation 3

ENACTMENTS APPLYING (WITH OR WITHOUT MODIFICATIONS) IN RELATION TO UNITS

PART 1

Primary Legislation

Education Act 1996

1. Section 404 of the Education Act 1996(5) applies in relation to the teacher in charge of a unit as it applies in relation to the governing body of a maintained school, but only in relation to pupils who are provided with secondary education at the unit.

2. Section 405 of that Act applies in relation to units as it applies in relation to maintained schools with the modification that the words “, except so far as such education is comprised in the National Curriculum,” are omitted.

3. Section 559 of that Act(6) 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

4.—(1) Section 19 of the School Standards and Framework Act 1998(7) applies in relation to units as it applies in relation to maintained schools in Wales with the following modifications.

(2) Subsection (1) applies if at any time the circumstances set out in section 15(6) of that Act apply in relation to a unit.

(3) In subsection (2) the reference to the governing body in paragraph (a) is omitted, and paragraphs (b) and (c) are omitted.

(4) In subsection (3) the reference to the governing body is omitted.

5. Section 61 of that Act applies in relation to units as it applies in relation to maintained schools in Wales (within the meaning of Part II of that Act) with the modification that for references to the governing body there are substituted references to the management committee of the unit or, in the case of a unit not having a management committee, the local education authority.

6. Subsections (1), (2) and (4) of section 62 of that Act apply in relation to units as they apply in relation to maintained schools (within the meaning of Part II of that Act) with the modifications that—

(a) the reference in subsection (2)(b) to the governing body is a reference to the teacher in charge of the unit, and

(b) the reference in subsection (4) to the governing body is omitted.

(5) Section 404 was amended by paragraph 103 of Schedule 30, and Schedule 31 to, the School Standards and Framework Act 1998 (c. 31), and section 148(1) and (6) of the Learning and Skills Act 2000 (c. 21).

(6) Section 559 was amended by paragraph 171 of Schedule 30 to the School Standards and Framework Act 1998.

(7) 1998 c. 31. Section 19 was amended by section 149 of, and paragraph s 1 and 79 of the Learning and Skills Act 2000 (c. 21) and by section 45 of the Education Act 2005.

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Education Act 2002

7. Section 29(3) of the Education Act 2002⁽⁸⁾ applies in relation to units as it applies in relation to maintained schools (within the meaning of Chapter 1 of Part 3 of that Act).

8. Section 30(4) of that Act applies in relation to units as it applies in relation to maintained schools (within the meaning of Chapter 1 of Part 3 of that Act) with the modification that the words “the governing body or (as the case may be)” and “the governing body or” are omitted.

9. Section 32 of that Act applies in relation to units as it applies in relation to schools mentioned in section 32(1) with the modification that in section 32(1)(b), in the case of a unit having a management committee, the local education authority together with the management committee shall determine the times of the school sessions.

10. Section 101(1)(d) of that Act applies in relation to units as it applies in relation to special schools.

Education Act 2005

11.—(1) Part 1 of the Education Act 2005⁽⁹⁾ applies in relation to units as if they were maintained schools to which section 28 of that Act applies with the following modifications.

(2) Chapters 1 and 2, sections 36(3)(c), 39(9), 40, 48, 49 and 50 and paragraph 3(5)(c) of Schedule 4 are omitted.

(3) For section 38(3)(c), there is substituted “the local education authority”.

(4) For section 39(3)(b), there is substituted the “teacher in charge of the unit”.

(5) In section 43 and in Schedule 4, in relation to a unit, “appropriate authority” means the local education authority.

PART 2

Subordinate Legislation

The Local Education Authority (Payment of School Expenses) Regulations 1999

12. Regulation 2 of the Local Education Authority (Payment of School Expenses) Regulations 1999⁽¹⁰⁾ 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.

The Education (School Inspection) (Wales) Regulations 2006

13.—(1) Parts 1 and 2 of the Education (School Inspection) (Wales) Regulations 2006⁽¹¹⁾ apply in relation to units as if they were maintained schools to which section 28 of the Education Act 2005 applies, with the following modifications.

(2) For the definition of “appropriate authority” in regulation 4(1), there is substituted “the local education authority”.

(3) In regulation 7(1), sub-paragraphs (a) to (d) are omitted.

(4) Regulation 7(1)(f) applies to units as it applies to secondary schools.

(8) 2002 c. 32.

(9) 2005 c. 18.

(10) S.I. 1999/1727.

(11) S.I. 2006/1714 (W. 176).

The Staffing of Maintained Schools (Wales) Regulations 2006

14.—(1) Part 1 of the Staffing of Maintained Schools (Wales) Regulations 2006⁽¹²⁾ applies in relation to units as it applies in relation to schools referred to in regulation 3 with the following modifications.

- (2) The duty under regulation 4(1) is a duty of the local education authority.
- (3) In regulation 5—
 - (a) in paragraph (1), “15, 26 and 27” are omitted;
 - (b) in paragraph (2), sub-paragraphs (b) and (c) are omitted; and
 - (c) paragraph (3) is omitted.
- (4) Regulation 6 is omitted.
- (5) In regulation 7, paragraphs (4)(a) and 5 are omitted.

15.—(1) Part 2 of those Regulations applies in relation to units as it applies in relation to schools referred to in regulation 9 with the following modifications.

- (2) For regulation 10, there is substituted—
 - “(a) The local education authority must ensure that whenever there is a vacancy in the post of teacher in charge of the unit a person is appointed as acting teacher in charge in order to carry out the functions of the teacher in charge under any enactment.
 - (b) In determining whether a person is suitable for appointment as a teacher in charge, or an acting teacher in charge, of a unit, the local education authority must have regard to any guidance given from time to time by the National Assembly.”.
- (3) Regulation 11 is omitted.
- (4) For regulation 12, there is substituted—
 - “(a) In appointing a person to a post, or engaging a person otherwise to work, at a unit, the local education authority must have regard to any guidance given from time to time by the National Assembly.
 - (b) This regulation applies in relation to support staff posts and the work of support staff as it applies in relation to teaching posts and the work of teachers”.
- (5) Regulation 13 is omitted.
- (6) For regulation 14, there is substituted—

“In so far as it is reasonably practicable to do so, the local education authority must seek the advice of the teacher in charge of the unit, and must consider any advice given, before making any appointment or entering into any engagement under regulation 12.”.
- (7) Regulations 15 and 17 to 19 are omitted.
- (8) For regulation 16, there is substituted—
 - “(1) Both the local education authority and the teacher in charge of a unit have power to suspend any person employed, or engaged otherwise than under a contract of employment, to work at the school where, in the opinion of the authority or (as the case may be) the teacher in charge, suspension is required.
 - (2) A person who exercises the power to suspend must immediately inform the other person with the power to suspend under paragraph (1).

(12) S.I. 2006/873 (W. 81).

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(3) A suspension under this regulation may be ended only by the local education authority and, when a suspension is ended, the authority must immediately inform the head teacher.

(4) In this regulation “suspend” means suspend without loss of emoluments.”.

SCHEDULE 2

Regulation 4

ENACTMENTS DISAPPLIED IN RELATION TO UNITS

Primary Legislation

School Standards and Framework Act 1998

1. Sections 86(13) and 94(14) of the School Standards and Framework Act 1998 do not apply in relation to units.

Subordinate Legislation

Education (School Day and School Year) (Wales) Regulations 2003

2. The Education (School Day and School Year) (Wales) Regulations 2003(15) do not apply in relation to units.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 19 of the Education Act 1996 (“the Act”) 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 regulations to apply enactments to pupil referral units.

These Regulations apply various education enactments to pupil referral units in Wales. They take account of education legislation enacted since regulations were last made applying enactments to pupil referral units in Wales. Those earlier regulations are revoked by regulation 2 of these Regulations.

(13) Section 86 was amended by section 47(1) of, paragraph 3 of Schedule 4, and Schedule 22 Part 3 to, the Education Act 2002.

(14) Section 94 was amended by section 50 of, and paragraph 8 of Schedule 4 to, the Education Act 2002.

(15) S.I. 2003/3231.

Document Generated: 2023-06-30

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