
WELSH STATUTORY INSTRUMENTS

2024 No. 316 (W. 56)

EDUCATION, WALES

The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024

<i>Made</i>	- - - -	<i>6 March 2024</i>
<i>Laid before Senedd Cymru</i>		<i>8 March 2024</i>
<i>Coming into force</i>	- -	<i>8 April 2024</i>

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 52(3), (4)(b), (c) and (d) and (5)(b), 210(7) and 214(1) and (2) of the Education Act 2002⁽¹⁾ and now vested in them⁽²⁾, make the following Regulations:

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024.

(2) These Regulations come into force on 8 April 2024.

(3) In these Regulations “the 2003 PRU Regulations” means the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003⁽³⁾.

Exclusions to which these Regulations apply

2.—(1) These Regulations apply to exclusions which occur on or after 8 April 2024.

(2) The 2003 PRU Regulations, as unamended by these Regulations, continue to apply to exclusions which occur before 8 April 2024.

Amendments to regulation 3 of the 2003 PRU Regulations

3.—(1) Regulation 3 (responsible body) of the 2003 PRU Regulations is amended as follows.

(2) For “local authority which maintains” substitute “management committee of”.

(3) For “a fixed period exclusion” substitute “an exclusion”.

(1) [2002 c. 32](#). See section 212(1) for the meaning of “regulations” and “prescribed”. Section 210(7) was amended by section 21(1), (3)(c)(i) and (ii) of the Learner Travel (Wales) Measure [2008 \(nawm 2\)](#).
(2) The functions of the National Assembly for Wales under these sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act [2006 \(c. 32\)](#).
(3) [S.I. 2003/3246 \(W. 321\)](#), amended by [S.I. 2004/1805 \(W. 193\)](#) and [S.I. 2010/1142 \(W. 101\)](#).

Amendments to regulation 5 of the 2003 PRU Regulations

4.—(1) Regulation 5 (exclusion of pupils: duty to inform the relevant person and local authority) of the 2003 PRU Regulations is amended as follows.

- (2) In the heading, after “relevant person” insert “, management committee”.
- (3) In paragraph (1)—
 - (a) omit “for a fixed period”;
 - (b) in sub-paragraph (a), at the end insert “or, if the pupil is being permanently excluded, that the pupil is being permanently excluded”;
 - (c) in sub-paragraph (c)—
 - (i) for “he or she” substitute “the relevant person”, and
 - (ii) for “local authority”, in both places it occurs, substitute “management committee”.
- (4) After paragraph (1) insert—

“(1A) Where the teacher in charge of a pupil referral unit decides that any exclusion of a pupil for a fixed period should be made permanent, the teacher in charge must without delay take reasonable steps to inform the relevant person of—

 - (a) the decision, and
 - (b) the matters specified in sub-paragraphs (b) to (d) of paragraph (1).”
 - (5) For paragraphs (2) and (3) substitute—

“(2) Paragraph (3) applies where the teacher in charge of a pupil referral unit—

 - (a) excludes any pupil in circumstances where the pupil would, as a result of the exclusion—
 - (i) be excluded from the pupil referral unit for a total of more than five school days in any one term, or
 - (ii) lose an opportunity to take any public examination,
 - (b) excludes a pupil permanently, or
 - (c) decides that any exclusion of a pupil should be made permanent.

(3) Where this paragraph applies, the teacher in charge must without delay inform the management committee and the local authority of the following matters—

 - (a) the period of the exclusion or, if the pupil is being permanently excluded, that the pupil is being so excluded, or
 - (b) the teacher in charge’s decision that any exclusion of a pupil for a fixed period should be made permanent,

and (in either case) the reasons for it.”
 - (6) Omit paragraph (4).
 - (7) In paragraph (5)—
 - (a) after “inform” insert “the management committee and”;
 - (b) for “paragraphs (2) or (3)” substitute “paragraph (2)”.

Amendments to regulation 6 of the 2003 PRU Regulations

5.—(1) Regulation 6 (exclusion of pupils: provision of information to the local authority and the National Assembly for Wales) of the 2003 PRU Regulations is amended as follows.

- (2) In the heading, for “National Assembly for Wales” substitute “Welsh Ministers”.

- (3) In paragraph (1)—
- (a) for “teacher in charge” substitute “management committee”;
 - (b) after sub-paragraph (b) insert—
 - “(ba) where the excluded pupil has or may have additional learning needs, whether the governing body or the local authority is, or was at the time of the exclusion—
 - (i) determining whether the pupil has additional learning needs,
 - (ii) preparing an individual development plan for the pupil, or
 - (iii) maintaining an individual development plan for the pupil,in accordance with Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(4);”.
- (4) For paragraph (2) substitute—
- “(2) A local authority must provide to the Welsh Ministers at their request any information the local authority has received from a teacher in charge under regulation 5(3) or 5(5) or from a management committee under regulation 6(1).”

Amendments to regulation 7 of the 2003 PRU Regulations

6.—(1) Regulation 7 (functions of local authority in relation to pupils excluded for a fixed period) of the 2003 PRU Regulations is amended as follows.

- (2) In the heading—
- (a) for “local authority” substitute “management committee”;
 - (b) for “pupils excluded for a fixed period” substitute “excluded pupils”.
- (3) For paragraph (1) substitute—
- “(1) Paragraphs (2) to (6) apply where the management committee is informed under regulation 5(3) of—
- (a) the permanent exclusion of a pupil,
 - (b) a decision that any exclusion of a pupil should be made permanent, or
 - (c) the exclusion of any pupil, and the circumstances are that the pupil would, as a result of the exclusion—
 - (i) be excluded from the pupil referral unit for a total of more than 15 school days in any one term, or
 - (ii) lose an opportunity to take a public examination.”
- (4) In paragraph (2)—
- (a) in the words before sub-paragraph (a), for “local authority” substitute “management committee”;
 - (b) in sub-paragraph (b)—
 - (i) in the words before sub-paragraph (b)(i), for “local authority” substitute “management committee”;
 - (ii) at the end of paragraph (ii) omit “and”;
 - (iii) at the end of paragraph (iii), for “,” substitute “, and”;
 - (iv) after paragraph (iii) insert—
 - “(iv) by the local authority;”;

- (c) in sub-paragraph (c)—
 - (i) at the beginning insert “convene a meeting and”;
 - (ii) at the end of paragraph (ii) omit “and”;
 - (iii) after paragraph (iii) insert—
 - “and
 - (iv) an officer of the local authority nominated by the authority,”;
 - (iv) for “a meeting with the local authority” substitute “that meeting”.
- (5) In paragraph (3)—
 - (a) for “local authority” substitute “management committee”;
 - (b) in the English language text, for “he or she” substitute “the pupil”.
- (6) In paragraph (4)—
 - (a) in the words before sub-paragraph (a) for “local authority” substitute “management committee”;
 - (b) in sub-paragraph (b), after “relevant person” insert “and the local authority”.
- (7) In paragraph (5), for “local authority” substitute “management committee”.
- (8) In paragraph (6)—
 - (a) for “local authority” substitute “management committee”;
 - (b) for the words from “without delay” to the end substitute—
 - “without delay—
 - (a) inform the relevant person, the teacher in charge and the local authority of their decision, and
 - (b) in addition, in the case of a pupil who is permanently excluded, give the relevant person notice in writing referring to that decision and stating the following matters—
 - (i) the reasons for the decision,
 - (ii) the relevant person’s right to appeal against the decision,
 - (iii) the person to whom the relevant person should give any notice of appeal,
 - (iv) that any notice of appeal must contain the grounds of appeal, and
 - (v) the last date on which an appeal may be made.”
- (9) In paragraph (7)(b), for “local authority” substitute “management committee”.
- (10) In paragraph (8)—
 - (a) for “local authority” substitute “management committee”;
 - (b) in sub-paragraph (b), after “in the case of” insert “a permanent exclusion or”;
 - (c) in the words after sub-paragraph (c), for “5(2)” substitute “5(3)”.
- (11) In paragraph (9)—
 - (a) omit “for a fixed period”;
 - (b) in the English language text, for “he or she” substitute “the pupil”;
 - (c) for “local authority” substitute “management committee”.
- (12) In paragraph (10), for “local authority” substitute “management committee”.
- (13) After paragraph (10) insert—
 - “(11) The notice in writing referred to in paragraph (6)(b) may be given either—

- (a) by delivering it by hand to the relevant person's last known address, or
- (b) by sending it by first class post in a properly addressed, pre-paid envelope to the relevant person's last known address."

Amendments to regulation 8 of the 2003 PRU Regulations

7.—(1) Regulation 8 (appeals against permanent exclusion of pupils) of the 2003 PRU Regulations is amended as follows.

(2) In paragraph (1), for "teacher in charge under section 52(2) of the 2002 Act to permanently exclude a pupil" substitute "management committee under regulation 7 not to reinstate a pupil who has been permanently excluded".

(3) In paragraph (3)—

- (a) for "section 52(2) of the 2002 Act" substitute "regulation 7";
- (b) in the Welsh language text, for "herbyn" substitute "erbyn";
- (c) at the end insert ", or the exclusion or decision by the teacher in charge to which that decision related".

(4) In paragraph (4), after "teacher in charge" insert ", the management committee".

(5) In paragraph (5)(c), for "his or her" substitute "the pupil's".

Amendments to regulation 9 of the 2003 PRU Regulations

8.—(1) Regulation 9 (exclusion of pupils: guidance) of the 2003 PRU Regulations is amended as follows.

(2) In paragraph (1), after sub-paragraph (a) insert—

"(aa) the management committee,".

(3) In paragraph (2), for "National Assembly for Wales", substitute "Welsh Ministers".

Amendment to regulation 9A of the 2003 PRU Regulations

9. In sub-paragraph (b) of regulation 9A (exclusions—standard of proof) of the 2003 PRU Regulations for "local authority" substitute "management committee".

Amendments to the Schedule to the 2003 PRU Regulations

10.—(1) The Schedule (modifications of the Schedule to the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003) to the 2003 PRU Regulations is amended as follows.

(2) Omit paragraph 1.

(3) At the beginning, insert paragraph 1A—

"1A. In paragraph 1(1)—

- (a) for "7(1)" there is substituted "8(1)";
- (b) for "6(6)(b)" there is substituted "7(6)(b)"."

(4) Omit paragraph 2.

(5) In paragraph 4—

- (a) in paragraph (a) of the modification to paragraph 2(7), omit "(where one exists)";
- (b) in paragraph (d)(ii) of the modification to paragraph 2(7), for "his or her" substitute "the pupil's";

- (c) in the words after paragraph (d)(ii) of the modification to paragraph 2(7), for “his or her” substitute “the person’s”.
- (6) In paragraph 5—
 - (a) at the end of the modification to paragraph 10(2)(a) omit “and”;
 - (b) after the modification to paragraph 10(2)(a) insert—
 - “(aa) the management committee to make written representations, to be represented and to appear and make oral representations, and”;
 - (c) in paragraph (b) of the modification to paragraph 10(2), omit “in addition to the statement the authority is required to submit to the panel under sub-paragraph (1)”.
- (7) For paragraph 6 substitute—

“6. In paragraph 14(a), for “the governing body and the head teacher” there is substituted “the management committee and the teacher in charge”.”

6 March 2024

Jeremy Miles
Minister for Education and Welsh Language, one
of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 (“the 2003 PRU Regulations”).

Regulation 2 provides that these Regulations apply to exclusions which occur on or after 8 April 2024.

Regulation 3 of the 2003 PRU Regulations prescribes the local authority as the responsible body under section 52(5) of the Education Act 2002 for considering whether a pupil should be reinstated in relation to a fixed period exclusion from a pupil referral unit (“PRU”). Regulation 3 of these Regulations amends regulation 3 of the 2003 PRU Regulations to instead prescribe the management committee of a PRU as the responsible body, and in relation to both fixed period and permanent exclusions.

Regulation 4 amends regulation 5 of the 2003 PRU Regulations. It provides that the teacher in charge is also now under a duty to inform the relevant person that the relevant person, (and the excluded pupil where the excluded pupil is not the relevant person), may make representations to the management committee where a pupil has been excluded permanently. It omits the requirement for the teacher in charge to notify the relevant person of their right to appeal against a decision to exclude a pupil permanently, as these Regulations now provide that the right to appeal is against the management committee’s decision not to reinstate a pupil under regulation 7 of the 2003 PRU Regulations. Regulation 4 further provides that the teacher in charge must inform the management committee as well as the local authority if the exclusion is permanent, will result in the pupil missing a public examination or takes the total exclusions for that pupil to over five days in a term.

Regulation 5 amends regulation 6 of the 2003 PRU Regulations to make it the duty of the management committee to provide a range of information relating to exclusions to the local authority each term.

Regulation 6 amends regulation 7 of the 2003 PRU Regulations to reflect that it is the role of the management committee rather than the local authority to consider whether a pupil should be reinstated. It also extends the cases where the management committee is required to consider whether a pupil should be reinstated to include cases where a pupil has been excluded permanently. If it decides that the pupil should not be reinstated or decides not to give a direction to the teacher in charge requiring the reinstatement of the pupil, the management committee must give the relevant person a notice detailing their right to appeal against the decision.

Regulation 8 of the 2003 PRU Regulations requires the local authority to make arrangements for the relevant person to appeal against a decision of the teacher in charge to permanently exclude a pupil. Regulation 7 of these Regulations amends regulation 8 of the 2003 PRU Regulations so that the local authority is instead under a duty to make arrangements for the relevant person to appeal against a decision of the management committee not to reinstate a pupil who has been permanently excluded.

Regulation 8 adds management committees to the list of those required to have regard to guidance given by the Welsh Ministers in discharging their functions.

Regulation 9 provides that the management committee must establish facts on a balance of probabilities.

Regulation 10 amends the Schedule to the 2003 PRU Regulations to reflect that the appeal is against the decision of the management committee not to reinstate a pupil who has been permanently

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excluded, rather than against the teacher in charge's decision to permanently exclude the pupil. The Schedule is also amended to provide that the management committee has a right to make written representations, to be represented and to appear and make oral representations before the appeal panel and a right to be informed of the panel's decision.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.