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STATUTORY INSTRUMENTS

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**2005 No. 2039**

**EDUCATION, ENGLAND**

**The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005**

<i>Made</i>	- - - -	<i>21st July 2005</i>
<i>Laid before Parliament</i>		<i>2nd August 2005</i>
<i>Coming into force</i>	- -	<i>1st September 2005</i>

In exercise of the powers conferred upon the Secretary of State by sections 29(5) and 569(4) and (5) of, and paragraph 3 of Schedule 1 to, the Education Act 1996<sup>(1)</sup>, The Secretary of State for Education and Skills hereby makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 and shall come into force on 1<sup>st</sup> September 2005.

(2) These Regulations apply only in relation to England.

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

**Revocation**

2. The Education (Pupil Referral Units) (Application of Enactments) Regulations 1994<sup>(2)</sup> and the Education (Pupil Referral Units) (Application of Enactments) (Amendment) Regulations 1996<sup>(3)</sup> are hereby revoked in relation to England.

**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.

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(1) 1996 c. 56; by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) the powers conferred by these provisions are exercisable by the Secretary of State only in relation to England.  
(2) S.I. 1994/2103, amended by S.I. 1996/360, S.I. 1996/2087, S.I. 1997/1966 and S.I. 1997/2679.  
(3) S.I. 1996/2087.

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**Enactments disappplied**

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

21st July 2005

*Jacqui Smith*  
Minister of State  
Department for Education and Skills

## 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(4) 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(5) 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(6) applies in relation to units as it applies in relation to maintained schools 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), (c) and (ca) are omitted.

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

5. Section 61 of that Act(7) applies in relation to units as it applies in relation to maintained schools 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 a unit as they apply in relation to a maintained school as if—

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

(b) the reference in subsection (4) to the governing body was omitted.(8)

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(4) 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).

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

(6) 1998 c. 31; section 19 was amended by section 45 of the Education Act 2005 (c. 18).

(7) Section 61 was amended by paragraph 102 of Schedule 21 to the Education Act 2002.

(8) Paragraph 2 of Schedule 1 to the Education Act 1996 provides that references in any enactment to the head teacher of a school shall be read, in relation to a pupil referral unit, as references to the teacher in charge of the unit (whether known as the head teacher or not).

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## **Education Act 2002**

7. Section 29(3) of the Education Act 2002(9) applies in relation to units as it applies in relation to maintained schools.

8. Section 30(4) of that Act applies in relation to units as it applies in relation to maintained schools 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 community, voluntary controlled or community special schools or maintained nursery schools 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)

10. Section 80(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(11) applies in relation to units as if they were schools to which section 5 of that Act applies, and as if they were maintained schools, with the following modifications.

(2) In section 6(3) the “appropriate authority” in relation to a unit means the local education authority.

(3) In subsection 14(2) paragraphs (b) and (c) are omitted.

## **PART 2**

### **Subordinate legislation**

#### **Local Education Authority (Payment of School Expenses) Regulations 1999**

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

#### **Education (Pupil Information) (England) Regulations 2000**

13. Subject to paragraph 3 of Schedule 2 to these Regulations, the Education (Pupil Information) (England) Regulations 2000(13) apply in relation to units as they apply in relation to maintained schools with the following modifications—

- (a) in regulation 6, paragraph (4)(a) applies only in so far as it relates to the provision of the information described in paragraph 4 of Schedule 1 in relation to a pupil in the year in which he ceases to be of compulsory school age, and paragraphs (4)(b), (5) and (6) shall not apply,

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(9) 2002 c. 32.

(10) Paragraph 1 of Schedule 1 to the Education Act 1996 provides that references in any enactment to the proprietor or governing body of a school shall be read, in relation to a pupil referral unit, as reference to the local education authority.

(11) 2005 c. 18.

(12) S.I. 1999/1727.

(13) S.I. 2000/297; relevant amending instruments are S.I. 2001/1212, S.I. 2002/1680 and S.I. 2003/1006.

- (b) regulation 10 applies where a registered pupil at a unit becomes a registered pupil at a maintained school, whether or not he ceases to be a registered pupil at the unit, and where a registered pupil at a maintained school becomes a registered pupil at a unit, whether or not he ceases to be a registered pupil at the maintained school,
- (c) in regulation 10(3) after “at the old school” there is inserted “; but where a pupil becomes registered at a school (including a pupil referral unit) (“the second school”) and remains registered at another school (including a pupil referral unit) (“the first school”), the pupil’s common transfer information shall be transferred to the head teacher of the second school no later than fifteen school days after the day on which the head teacher of the first school learned of the second registration”,
- (d) in regulation 10(4) after “old school” there is inserted “or the first school”,
- (e) in regulation 10(5) after “old school” there is inserted “or the first school”, and after “new school” there is inserted “or the second school”,
- (f) in regulation 10(10) after “old school” where ever it appears there is inserted “or the first school”, and after “old school's” there is inserted “or the first school's”,
- (g) paragraph 4 of Schedule 1 applies in relation to a pupil at a unit in the year in which he ceases to be of compulsory school age,
- (h) in paragraph 5 of Schedule 1, the following are omitted —
  - (i) in sub-paragraph (2) the word “foundation” and the words from “together with” to the end, and
  - (ii) sub-paragraph (3),
- (i) in paragraph 8(1) of Schedule 1 the words “not mentioned elsewhere in this Schedule” are omitted.

## **Education (School Information) (England) Regulations 2002**

**14.** Parts 1 and 3, and regulation 15 of, and Schedule 1 to, the Education (School Information) (England) Regulations 2002(**14**) apply in relation to units with the following modifications—

- (a) in regulation 4 the words “a governing body and” and “the governing body or” are omitted,
- (b) in regulation 7(2) after “special educational provision” there is inserted “or provision to which section 19 of the Education Act 1996 applies (exceptional provision of education in pupil referral units or elsewhere)”,
- (c) in regulation 7(3)(a)(ii) for “or a special school” there is substituted “, a special school or a pupil referral unit”,
- (d) in regulation 7(3)(b) for “or special schools” there is substituted “, special schools or pupil referral units”,
- (e) in paragraph 3 of Schedule 1 after “special school” there is inserted “or a pupil referral unit”,
- (f) after paragraph 17 of Schedule 1 there is inserted—

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(14) S.I. [2002/2897](#), to which there are amendments not relevant to these Regulations.

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## “Part 3

### Exceptional Provision of Education in Pupil Referral Units or Elsewhere

**18.** The authority’s general arrangements and policies in respect of the provision of education to which section 19 of the Education Act 1996 applies (exceptional provision of education in pupil referral units or elsewhere).”

### **Education (School Inspection) (England) Regulations 2005**

**15.** Parts 1 and 2 of the Education (School Inspection) (England) Regulations 2005(**15**) apply in relation to units as they apply in relation to schools to which section 5 of the Education Act 2005 applies, with the following modifications—

- (a) in regulation 4(1) paragraphs (a) to (d) are omitted; and
- (b) regulation 4(1)(f) applies to units as it applies to secondary schools.

## SCHEDULE 2

Regulation 4

### ENACTMENTS NOT APPLYING IN RELATION TO UNITS

## PART 1

### Primary Legislation

#### **School Standards and Framework Act 1998**

**1.** Sections 86(**16**) and 94(**17**) of the School Standards and Framework Act 1998 do not apply in relation to units.

## PART 2

### Subordinate Legislation

#### **Education (School Day and School Year) (England) Regulations 1999**

**2.** The Education (School Day and School Year) (England) Regulations 1999(**18**) do not apply in relation to units.

#### **Education (Pupil Information) (England) Regulations 2000**

**3.** Regulation 8 of the Education (Pupil Information) (England) Regulations 2000 does not apply in relation to units.

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(15) S.I. [2005/2038](#).

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

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

(18) S.I. [1999/3181](#), amended by S.I. [2001/1429](#).

21st July 2005

Jacqui Smith  
Minister of State  
Department for Education and Skills

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## EXPLANATORY NOTE

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

The Education Act 1996 (section 19) 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 adaptations and modifications of the application of enactments to pupil referral units.

These Regulations, which come into force on 1<sup>st</sup> September 2005, revoke and replace the Education (Pupil Referral Units) (Application of Enactments) Regulations 1994 and the Education (Pupil Referral Units) (Application of Enactments) (Amendment) Regulations 1996 in relation to England, and further modify, in relation to England, the application of enactments to pupil referral units.

The Department considers that these Regulations will have no effect on the costs of businesses and accordingly a Regulatory Impact Assessment has not been prepared.