
STATUTORY INSTRUMENTS

1994 No. 2103

EDUCATION, ENGLAND AND WALES

**The Education (Pupil Referral Units)
(Application of Enactments) Regulations 1994**

<i>Made</i>	- - - -	<i>5th August 1994</i>
<i>Laid before Parliament</i>		<i>9th August 1994</i>
<i>Coming into force</i>	- -	<i>1st September 1994</i>

In exercise of the powers conferred upon the Secretary of State by sections 8(5B) and (7) and 35(4) of the Education Act 1980(1), and section 298(8) and 301(6) of, and paragraph 3 of Schedule 18 to, the Education Act 1993(2), the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) Regulations 1994 and shall come into force on 1st September 1994.

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

Application and modification of enactments

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

Enactments disapplied

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

Amendments to the Education (School Information) (England) Regulations 1994

4. The Education (School Information) (England) Regulations 1994(3) are amended as provided in Schedule 3 to these Regulations.

(1) 1980 c. 20; section 8(5B) was substituted by paragraph 4 of Schedule 4 to the Education (Schools) Act 1992 (c. 38).
(2) 1993 c. 35.
(3) S.I.1994/1421.

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SCHEDULE 1

Regulation 2

ENACTMENTS APPLYING WITH MODIFICATIONS IN RELATION TO UNITS

PART I

—PRIMARY LEGISLATION

Education Act 1944 (c. 31)(4)

1. Section 59 of the Education Act 1944 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 county, voluntary or special school.

Education (No. 2) Act 1986 (c. 61)(5)

2.—(1) The functions which are required to be conferred or imposed by the provisions specified in the table below in relation to county, controlled and maintained special schools by articles of government have effect in relation to units as if conferred or imposed directly by those provisions, with the modification that references in those provisions to the head teacher in relation to a school are to be construed as references to the teacher in charge in relation to a unit, and with the further modifications specified in the table.

TABLE

Provisions of the Education (No. 2) Act 1986	Modifications
Section 18(1)	The substitution for the reference to the governing body of a reference to the teacher in charge of a unit.
Section 18(2)(6)	The application of this subsection only in relation to the curriculum for pupils other than those who are provided with secondary education at a unit, and the substitution for the reference to the governing body of a reference to the teacher in charge of a unit.
Section 18(3)(7)	The substitution for the reference to the governing body of a references to the teacher in charge of a unit, and the omission of the words “to do so in consultation with the head teacher and” in subsection (3)(a).
Section 18(5)	
Section 18(6)(b) and (c)(iii)	
Section 18(7)	The substitution for the reference to the governing body of a reference to the teacher in charge of a unit, and the omission of the words from “and for it to be their duty” to the end of the subsection.

(4) **1944 c. 31; section 59 was amended by sections 38(4) and 46 of the Criminal Justice Act 1982 (c. 48) and is prospectively repealed by Schedule 2 to the Employment of Children Act 1973 (c. 24).**

(5) **1986 c. 61.**

(6) Section 241(6) of the Education Act 1993 provides that section 18(2) does not have effect in relation to county or controlled schools or in relation to pupils who are provided with secondary education in maintained special schools.

(7) Section 18(3) and (6) was amended by Part II of Schedule 13 to the Education Reform Act 1988 (c. 40).

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Provisions of the Education (No. 2) Act 1986	Modifications
Section 21(1)(8)	
Section 21(2)	The substitution for the reference to the governing body of a reference to the local education authority, and the omission of the words from “and, where the governing body” to the end of the subsection.
Section 21(5)	The substitution for the reference to the governing body of a reference to the local education authority.
Section 22(a) to (e)(9)	The substitution for the references to the governing body of references to the local education authority.
Section 23	The omission of the words “the governing body and” in paragraph (a)(iii) and the omission of the words “and the governing body” after paragraph (b)(ii).
Section 24(a)(10)	The substitution for the references to the governing body of references to the teacher in charge of a unit.
Section 24(b)	The omission of the words “the governing body or”, and the omission of the words from “in the case of an exclusion for a fixed period” to the end of the paragraph.
Section 24(h)	The omission of the words “the governing body and” and “each other and”.
Section 32(1)(b)	The omission of references to the governing body.

(2) Section 28(1), (3) and (4) of the Education (No. 2) Act 1986 apply in relation to a unit with the modifications that the reference to the governing body in subsection (3)(b) shall be construed as a reference to the teacher in charge of a unit, and the substitution in subsection (4) of “teacher in charge of a unit” for “governing body or head teacher”.

Education Reform Act 1988 (c. 40)

3.—(1) Section 2(1)(ab) of the Education Reform Act 1988(11) applies in relation to a unit as it applies in relation to a special school.

(2) Section 17A of the Act(12) applies in relation to a unit with the modification that the words “, except so far as such education is comprised in the National Curriculum,” are omitted.

Education Act 1993 (c. 35)

4. The duty under section 241(5) of the Education Act 1993 applies in relation to a unit to the teacher in charge as it applies in relation to a maintained special school to the governing body, that is to say, only in relation to pupils who are provided with secondary education at the unit.

(8) Section 21 was substituted by section 115 of the Education Reform Act 1988.

(9) Section 22 was amended by paragraphs 88 and 95 of Schedule 19 the Education Act 1993.

(10) Section 24(a)(i) and (b) was amended by paragraphs 88 and 97 of Schedule 19 the Education Act 1993.

(11) Section 2(1)(ab) was inserted by section 241(1) of the Education Act 1993.

(12) Section 17A was inserted by section 241(3) of the Education Act 1993.

PART II

—SUBORDINATE LEGISLATION

Scholarships and Other Benefits Regulations 1977(13)

5. Regulation 4(a) of the Scholarships and Other Benefits Regulations 1977 applies in relation to a pupil attending a unit as it applies in relation to a pupil attending a county, voluntary, grant-maintained or special school.

Education (Teachers) Regulations 1993(14)

6.—(1) In regulation 3 of the Education (Teachers) Regulations 1993 the “recommending body” in the case of a unit means the local education authority.

(2) Paragraph 3 of Schedule 2 to those Regulations applies in relation to a unit with the modifications that—

- (a) in the case of a unit the local education authority shall be satisfied as to the qualifications or, as the case may be, experience of the unqualified teacher, and
- (b) the words “licensed teacher” in sub-paragraphs (1)(b) and (2) are omitted.

The Education (School Inspection) (Wales) (No. 2) Regulations 1993(15)

7. Regulations 3, 7(3)(b), (4)(b), (5) and (7) and 8 of the Education (School Inspection) (Wales) (No. 2) Regulations 1993.

The Education (School Inspection) (No. 2) Regulations 1993(16)

8. Regulations 3, 7(3)(b), (4)(b), (5) and (7) and 8 of the Education (School Inspection) (No. 2) Regulations 1993.

Education (Individual Pupils' Achievements) (Information) Regulations 1993(17)

9. The provisions of the Education (Individual Pupils' Achievements) (Information) Regulation 1993 specified in the table below apply in relation to a pupil at a unit as they apply in relation to a pupil at a maintained school (within the meaning of regulation 3 of those Regulations) with the modifications that references to the head teacher shall be read as references to the teacher in charge of a unit and with the further modifications specified in the table.

TABLE

Provisions	Modification
Regulation 3	
Regulation 4	The application of paragraph (3)(a) only in so far as it relates to the provision of the information described in paragraph 3 of Schedule 1 in relation to a pupil in the year in which he ceases to be of compulsory school

(13) S.I. 1977/1443; regulation 4(a) was amended by S.I. 1979/260 and S.I. 1979/542.

(14) S.I. 1993/543, to which there are amendments not relevant to these Regulations.

(15) S.I. 1993/1982; regulation 7(4) and (5) was substituted by S.I. 1993/2968.

(16) S.I. 1993/1986; regulation 7(4) and (5) was substituted by S.I. 1993/2973.

(17) S.I. 1993/3182.

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Provisions	Modification
Regulation 6	age, and the omission of paragraphs (3)(b) and (4).
Regulation 7	The application of this regulation where a registered pupil at a unit becomes a registered pupil at another school, whether or not he ceases to be a registered pupil at the unit; and where a registered pupil at a maintained school other than a unit becomes a registered pupil at a unit, whether or not he ceases to be a registered pupil at the school; and the insertion in paragraph (3) after “at the school” of “; 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 head teacher of the first school shall within 15 days of learning of the second registration send the report to the head teacher of the second school”.
Regulation 8	
Regulation 9	
Paragraph 3 of Schedule 1	The application of this paragraph in relation to a pupil at a unit in the year in which he ceases to be of compulsory school age.
Parts 2 to 4 of Schedule 1	The omission in paragraph 4(2) of the word “foundation” and of the words from “together with” to the end of the sub-paragraph; the omission of paragraph 4(3); the omission in paragraph 7(1) of the words “not mentioned elsewhere in the Schedule”.

Schedule 3

Education (Individual Pupils' Achievements) (Information) (Wales) Regulations 1994(18)

10. The provisions of the Education (Individual Pupils' Achievements) (Information) (Wales) Regulations 1994 specified in the table below apply in relation to a pupil at a unit as they apply in relation to a pupil at a maintained school (within the meaning of regulation 2 of those Regulations) with the modification that references to the head teacher shall be read as references to the teacher in charge of a unit and with the further modifications specified in the table.

TABLE

Provisions	Modification
Regulation 2	
Regulation 3	The application of paragraph (3)(a) only in so far as it relates to the provision of the information described in paragraph 3 of Schedule 1 in relation to a pupil in the year in which he ceases to be of compulsory school age, and the omission of paragraphs (3)(b) and 4.
Regulation 5	
Regulation 6	The application of this regulation where a registered pupil at a unit becomes a registered pupil at another school, whether or not he ceases to be a registered pupil at the unit; and where a registered pupil at a maintained school other than a unit becomes a registered pupil at a unit, whether or not he ceases to be a registered pupil at the school; and the insertion in paragraph (3) after “at the school” of “; 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 head teacher of the first school shall within 15 days of learning of the second registration send the report to the head teacher of the second school”.
Regulation 7	
Regulation 8	
Paragraph 3 of Schedule 1	The application of this paragraph in relation to a pupil at a unit in the year in which he ceases to be of compulsory school age.
Parts 2 to 4 of Schedule 1	The omission in paragraph 4(2) of the word “foundation” and of the words from “together with” to the end of the sub-paragraph; the omission of paragraph 4(3); the omission in paragraph 7(1) of the words “not mentioned elsewhere in the Schedule”.
Schedule 3	

Education (School Information) (England) Regulations 1994

11. Regulation 4 of the Education (School Information) (England) Regulations 1994 applies in relation to a unit with the modification that the references to governing bodies are omitted.

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Education (School Teachers' Pay and Conditions) (No. 2) Order 1994(19)

12. The Education (School Teachers' Pay and Conditions) (No. 2) Order 1994 has effect in relation to a teacher at a unit with the following modifications—

- (a) in Parts II to VII of the School Teachers' Pay and Conditions Document 1994(20), a teacher at a unit (including a teacher in charge of a unit) shall be treated as an unattached teacher, and
- (b) in paragraph 1.2 of the Document, the “relevant body” in the case of a teacher at a unit means the local education authority.

SCHEDULE 2

Regulation 3

ENACTMENTS NOT APPLYING IN RELATION TO UNITS

PART I

—PRIMARY LEGISLATION

The Education Act 1980(21)

- 1. A unit is not a school for the purposes of sections 6 and 7(1) of the Education Act 1980.

PART II

—SUBORDINATE LEGISLATION

Education (School Premises) Regulations 1981(22)

- 2. Regulations 4, 5, 6, 8, 9 and 13 of, and Schedules 2, 3 and 4 to, the Education (School Premises) Regulations 1981.

Education (Schools and Further Education) Regulations 1981(23)

- 3. Regulation 10 of the Education (Schools and Further Education) Regulations 1981.

Education (Teachers) Regulations 1993

- 4. Paragraphs 2 and 4 to 11 of Schedule 2 to the Education (Teachers) Regulations 1993.

Education (School Information) (England) Regulations 1994

- 5. Regulations 5, and 8 to 11 of, and Schedule 2 to, the Education (School Information) (England) Regulations 1994.

(19) S.I. 1994/1673.

(20) ISBN 0 11 270881 1; the Document was given effect by S.I. 1994/1673.

(21) 1980 c. 20; section 6 was amended by section 30 of the Education Reform Act 1988 and by section 270 of the Education Act 1993, and section 7(1) was amended by Part I of Schedule 4 to the Tribunals and Inquiries Act 1992 (c. 53) and by paragraph 73 of Schedule 19 to the Education Act 1993.

(22) S.I. 1981/909.

(23) S.I. 1981/1086; regulation 10 was amended by S.I. 1987/879 and S.I. 1990/2259.

SCHEDULE 3

Regulation 4

The Education (School Information) (England) Regulations 1994 are amended by—

- (a) the insertion in regulation 7(2) after “special educational provision” of “or provision to which section 298 of the Education Act 1993 applies (education provided in a pupil referral unit or otherwise than at school)”,
- (b) the insertion in regulation 7(3)(a)(ii) after “special school” of “or a pupil referral unit”,
- (c) the insertion in regulation 7(3)(b) after “special schools” of “or pupil referral units”,
- (d) the insertion in paragraph 3 of Schedule 1 after “special school” of “and a pupil referral unit”,
- (e) the insertion in paragraph 6 after “special schools” of “or pupil referral units”, and
- (f) the insertion after paragraph 19 of Schedule 1 of—

“PART III

EXCEPTIONAL PROVISION OF EDUCATION IN SCHOOL OR ELSEWHERE

20. The authority’s general arrangements and policies in respect of the provision of education to which section 298 of the Education Act 1993 applies (education provided in a pupil referral unit or otherwise than at school).”.

4th August 1994

Eric Forth
Minister of State,
Department of Education

5th August 1994

John Redwood
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 298(2) of the Education Act 1993 defines a pupil referral unit as a maintained school other than a county or special school organised to provide education for children who by reason of exclusion from school or otherwise may not receive suitable education unless exceptional arrangements are made for them. Schedule 18 to the 1993 Act modifies the application of various enactments to units. These Regulations, made under paragraph 3 of Schedule 18, further modify the application of enactments to units.

Regulation 2 makes provision for enactments relating to schools (or to certain categories of schools) mentioned in Schedule 1 to apply in relation to units with the modifications specified. These include provisions relating to the employment of children; information about the school curriculum and

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terms, holidays and sessions; school discipline and exclusions; sex education; hardship payments; school inspections; information about pupils' achievements; and teachers' pay and conditions.

Regulation 3 provides that the enactments set out in Schedule 2 do not apply in relation to units. These include provisions relating to school admissions; school premises; the duration of the school year and day; teachers; and information to be published about schools.

Regulation 4 gives effect to Schedule 3, making amendments to the Education (School Information) (England) Regulations 1993 consequential on section 298 of the 1993 Act.