

**1999 No. 495**

**EDUCATION, ENGLAND AND WALES**

**The Education (Amount to Follow Permanently Excluded Pupil) Regulations 1999**

*Made - - - - 25th February 1999*  
*Laid before Parliament 2nd March 1999*  
*Coming into force 1st April 1999*

In exercise of the powers conferred on the Secretary of State by sections 494 and 569(4) of the Education Act 1996(a), the Secretary of State for Education and Employment, 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 (Amount to Follow Permanently Excluded Pupil) Regulations 1999 and shall come into force on 1st April 1999.

(2) In these Regulations—

“the 1996 Act” means the Education Act 1996;

“the 1998 Act” means the School Standards and Framework Act 1998(b);

“individual schools budget” and “local schools budget” have the meanings attributed to them by section 46 of the 1998 Act;

“old authority”, “new authority”, “intermediate authority” and “last authority” are defined in regulation 2 below;

“relevant date” means—

(a) in the case of an old authority (and a permanently excluded pupil)—

(i) the date upon which permanent exclusion first takes effect in accordance with regulation 4 below; or

(ii) where the pupil is subsequently first provided with education by the old authority in a pupil referral unit or otherwise than at school, or was permanently excluded from a pupil referral unit, the date on which that pupil is subsequently provided with education by the new authority whether at a school maintained by that authority or otherwise than at school; or

(b) in the case of an intermediate authority (and a permanently excluded pupil who is subsequently first provided by that authority with education in a pupil referral unit or otherwise than at school) the date on which that pupil is subsequently provided with education by the last authority whether at a school maintained by that authority or otherwise than at school.

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(a) 1996 c. 56. Section 494 is substituted by the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraph 128. For the meaning of “regulations” see section 579(1) of the 1996 Act.

(b) 1998 c. 31.

(3) In these Regulations–

- (a) references to a school maintained by a local education authority include, in relation to the period commencing on 1st April 1999 and ending immediately before 1st September 1999, a grant-maintained or grant-maintained special school maintained by that authority pursuant to regulation 2 of the School Standards and Framework Act (Modification) Regulations 1998(a);
- (b) references to a person ceasing to be provided with education by an intermediate authority are references to him ceasing to be provided with education by the intermediate authority in a pupil referral unit or otherwise than at school.

#### **Determination of amount**

**2.** In accordance with section 494 of the 1996 Act(b), where a pupil is permanently excluded from any school maintained by a local education authority (“the old authority”) and in the financial year in which the exclusion first takes effect–

- (a) he is subsequently provided with education by another local education authority (“the new authority”), whether at a school maintained by that authority or otherwise than at school; or
- (b) the following events subsequently occur–
  - (i) he is first provided by another local education authority (“the intermediate authority”) with education in a pupil referral unit or otherwise than at school, and
  - (ii) at any time afterwards he is provided with education by a local education authority other than the intermediate authority (“the last authority”), whether at a school maintained by that authority or otherwise than at school,

the old authority shall pay to the new authority and the intermediate authority shall pay to the last authority, as the case may be, in connection with the provision of education for that pupil in that financial year an amount determined by the application of the following formula–

$$A + B \times \frac{C}{D}$$

where,

A is the amount determined by the old authority in accordance with regulations made under section 47 of the 1998 Act(c) to be attributable, in the financial year in which the relevant date falls, to a registered pupil of the same age and characteristics of the pupil in question at primary or secondary (but excluding special) schools maintained by the old authority;

B is the expenditure which would have been incurred from the old authority’s local schools budget (but not their individual schools budget) in respect of, and directly attributable to, the pupil in the financial year in which the relevant date falls had he not been permanently excluded from the school maintained by the old authority;

C is the number of complete weeks remaining in the financial year calculated from the relevant date:

EXCEPT that where the exclusion takes effect, or the intermediate authority cease to provide education, on or after 1st April in a school year at the end of which pupils of the same age or age group as the pupil in question normally leave that school, or in the case of an intermediate authority leave the school from which he was first excluded, prior to being admitted to a middle or secondary (including a special) school, C is the number of complete weeks remaining in that school year calculated from the relevant date; and

D is 52.

**3.** An amount payable in accordance with regulation 2 shall be paid within three months of the relevant date.

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(a) S.I. 1998/2670.

(b) As substituted by the 1998 Act, Schedule 30, paragraph 128.

(c) At the date that these Regulations are made the relevant Regulations are S.I. 1999/101.

4. The permanent exclusion of a pupil is to be regarded as taking effect for the purposes of section 494 of the Act<sup>(a)</sup>—

- (a) in relation to the period commencing on 1st April 1999 and ending immediately before 1st September 1999, on the date that the local education authority, in the case of a county, voluntary controlled or maintained special school, or the governing body, in the case of a voluntary aided, special agreement, grant-maintained or grant-maintained special school, decide by virtue of provisions made by or under the 1996 Act that the pupil should not be reinstated; and
- (b) in relation to the period on and after 1st September 1999, on the date that the governing body decide under section 66 of the 1998 Act that the pupil should not be reinstated.

5.—(1) Subject to paragraph (2) below, the Education (Amount to Follow Permanently Excluded Pupil) Regulations 1997<sup>(b)</sup> (“the 1997 Regulations”) are hereby revoked.

(2) The 1997 Regulations shall continue to apply in relation to financial years ending on or before 31st March 1999.

18th February 1999

*Estelle Morris*  
Minister of State,  
Department for Education and Employment

25th February 1999

*Peter Hain*  
Parliamentary Under Secretary of State,  
Welsh Office

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<sup>(a)</sup> As substituted by the 1998 Act, Schedule 30, paragraph 128.  
<sup>(b)</sup> S.I. 1997/680.

## EXPLANATORY NOTE

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

Section 494 of the Education Act 1996, as substituted on 1st April 1999 by paragraph 128 of Schedule 30 to the School Standards and Framework Act 1998, provides for amounts to be transferred where a pupil who has been permanently excluded from a school maintained by one local education authority receives education in a school maintained by another local education authority or pursuant to another local education authority's duty to provide education otherwise than at school. These Regulations prescribe for the purposes of section 494(2) and (3) of that Act, as substituted, the method of determining the amount of the payments that are to be made following such an exclusion.

Section 494 has been modified by S.I. 1998/2670 so that in relation to the period commencing on 1st April 1999 and ending immediately before 1st September 1999 it applies to grant-maintained and grant-maintained special schools and references in these Regulations to schools maintained by a local education authority include references to such schools during that period.

The Education (Amount to Follow Permanently Excluded Pupil) Regulations 1997 are revoked with savings in relation to financial years ending on or before 31st March 1999. Unlike those Regulations (and section 494 before it is substituted) these Regulations (and section 494 as substituted) do not deal with transfers of amounts between schools but only with transfers between local education authorities.

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