

2002 No. 2316

EDUCATION, ENGLAND

**The Education Act 2002 (Modification of Provisions)
(England) Regulations 2002**

Made - - - - - *9th September 2002*
Laid before Parliament *9th September 2002*
Coming into force - - *1st October 2002*

In exercise of the powers conferred on the Secretary of State by section 214 of the Education Act 2002(a) the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education Act 2002 (Modification of Provisions) (England) Regulations 2002 and shall come into force on 1st October 2002.

(2) In these Regulations—

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

“the 2002 Act” means the Education Act 2002.

Amendment of section 45 of the 1998 Act

2.—(1) In section 45 of the 1998 Act, in subsection (2) for “46” there is substituted “45A”.

(2) The amendment made by paragraph (1) shall not apply in relation to a school’s budget share for any financial year before the financial year starting on 1st April 2003.

Temporary modification of sections 27, 30 and 37 of, and Schedule 1 to, the 2002 Act

3.—(1) Prior to the definition of “maintained school” in section 39(1) of the 2002 Act coming into force in relation to England, “maintained school” in sections 27, 30, and 37 of, and Schedule 1 to, the 2002 Act means a maintained school as defined by section 20(7) of the 1998 Act.

(2) Prior to section 19 of the 2002 Act coming fully into force in relation to England, references in Schedule 1 to that Act to the governing body are to the governing body of a maintained school incorporated under section 36(1) of the 1998 Act.

(a) 2002 c. 32; *see* section 212 for the definition of “regulations”; by virtue of that definition these regulations made by the Secretary of State only apply in relation to England.

(b) 1998 c. 31.

Temporary modification of Part 6 of the 2002 Act

4. Prior to the definition of “maintained school” in section 39(1) of the 2002 Act coming into force in relation to England, Part 6 of the 2002 Act shall have effect as if—

- (a) in section 79(3), for the words “or maintained nursery school” there were substituted the words “and the head teacher of every maintained nursery school”;
- (b) in section 89(1)(a) the words “and the governing body” were omitted;
- (c) in section 90(1) the words “or maintained nursery school” were omitted;
- (d) in section 90(3) the words “or a maintained nursery school” were omitted;
- (e) in section 94(1), for paragraphs (a) and (b) there were substituted—
 - “(a) in the case of a maintained school, to the governing body, and
 - (b) in all cases, to the local education authority by whom the school is maintained,”;
- (f) in section 95, for the words “governing body”, in each place where they occur, there were substituted the words “relevant body”, and
- (g) after subsection (4) of section 95 there were substituted the following subsection—
 - “(5) In this section “the relevant body” means in the case of a maintained school its governing body, and in the case of a maintained nursery school the local education authority by whom the school is maintained.”

Revocation

5. Regulation 3(1) of the Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002(a) is revoked.

9th September 2002

David Miliband
Minister of State,
Department for Education and Skills

(a) S.I. 2002/2113.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make modifications in connection with the bringing into force of section 27 of the Education Act 2002 on 2nd September 2002, and in connection with the proposed bringing into force of sections 30, 37, and Part 6 of, and Schedule 1 to, the Education Act 2002 on 1st October 2002, relating to community facilities, governors' reports, payments in respect of dismissal etc., and the curriculum in England.

Regulation 2 makes a consequential amendment to the School Standards and Framework Act 1998 in place of a mistake in section 41(2) of the Education Act 2002.

Regulation 3 provides that until the definition of maintained school in section 39 of the Education Act 2002 (to include maintained nursery schools) comes into force, references in sections 27, 30, and 37 of, and Schedule 1 to, the Education Act 2002 shall have effect as if they were references to the relevant provision in the School Standards and Framework Act 1998. Regulation 5 revokes the previous regulation to that effect in respect of section 27 (regulation 3(3) of those regulations falling away as Schedule 1 is also proposed to be commenced on 1st October 2002).

Regulation 4 makes modifications of Part 6 of the Education Act 2002 in respect of the curriculum in England, until the requirement for nursery schools to have governing bodies is brought into force.

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