

2006 No. 2189

EDUCATION, ENGLAND

The Education (Pupil Exclusions and Appeals) (Miscellaneous Amendments) (England) Regulations 2006

<i>Made</i>	- - - -	<i>8th August 2006</i>
<i>Laid before Parliament</i>		<i>15th August 2006</i>
<i>Coming into force</i>	- -	<i>6th September 2006</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred by sections 52 and 210 of the Education Act 2002(a) and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(b), makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Education (Pupil Exclusions and Appeals) (Miscellaneous Amendments) (England) Regulations 2006 and come into force on 6th September 2006.

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

(3) In these Regulations—

- (a) the “2002 Regulations” means the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002(c);
- (b) the “2002 PRU Regulations” means the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002(d).

Information

2.—(1) For regulation 4(5) of the 2002 Regulations substitute—

“(5) The head teacher, in each relevant term—

- (a) shall inform the local education authority and the governing body of any exclusions which do not fall within paragraph (3) and in respect of each exclusion shall provide details of the period of the exclusion and the reason for it; and
- (b) unless he has already done so, shall inform the local education authority and the governing body of any such exclusions occurring during any previous terms and in respect of each of those exclusions shall provide details of the period of the exclusion and the reason for it.

(a) 2002 c.32, as last amended by the Education Act 2005 (c. 18).

(b) 1992 c.53; section 8 has been amended by S.I. 2001/3649.

(c) S.I. 2002/3178, as amended by regulation 2(2) of S.I. 2003/1377 and by 2004/402.

(d) S.I. 2002/3179, as amended by S.I. 2004/402.

- (6) In paragraph (5), “relevant term” means—
- (a) where in the school year of a school there are three terms or fewer, each term;
 - (b) where in the school year of a school there are more than three terms—
 - (i) any term during which a reference date falls; or
 - (ii) in circumstances where a reference date does not fall during a term, any term which last preceded a reference date.
- (7) In paragraph (6) “reference date” means 31st December, Easter Monday and 31st July.”.
- (2) For regulation 5(5) of the 2002 PRU Regulations substitute—
- “(5) The teacher in charge, in each relevant term—
- (a) shall inform the local education authority of any exclusions which do not fall within paragraphs (2) or (3) and in respect of each exclusion shall provide details of the period of the exclusion and the reason for it; and
 - (b) unless he has already done so, shall inform the local education authority of any such exclusions occurring during any previous terms and in respect of each of those exclusions shall provide details of the period of the exclusion and the reason for it.
- (6) In paragraph (5), “relevant term” means—
- (a) where in the school year of a pupil referral unit there are three terms or fewer, each term;
 - (b) where in the school year of a pupil referral unit there are more than three terms—
 - (i) any term during which a reference date falls; or
 - (ii) in circumstances where a reference date does not fall during a term, any term which last preceded a reference date.
- (7) In paragraph (6) “reference date” means 31st December, Easter Monday and 31st July.”.
- (3) Nothing in this regulation applies to an exclusion which commenced before 6th September 2006.

Appointment of clerks and mandatory training for members and clerks of appeal panels

- 3.—(1) After paragraph 2(7)(d) of the Schedule to the 2002 Regulations insert—
- “(e) any person who does not satisfy the training requirements of paragraph 2B.”.
- (2) Insert the following paragraphs in the 2002 Regulations after paragraph 2 of the Schedule—

“Clerks to appeal panels

- 2A.**—(1) A local education authority may appoint a clerk to assist the members of an appeal panel.
- (2) No person shall serve as a clerk to an appeal panel unless he satisfies the training requirements of paragraph 2B.

Training requirements for clerks and members

- 2B.**—(1) A person shall have satisfied the training requirements referred to in paragraph 2(7)(e) or 2A(2) if—
- (a) subject to sub-paragraph (2), within the year immediately preceding the coming into force of these Regulations he has served, as the case may be, as a member of or clerk to an appeal panel; or

- (b) he has within the last two years been given sufficient training and received such information and instruction as is suitable and sufficient for him to know—
 - (i) the requirements of these Regulations;
 - (ii) the role of the chair of an appeal panel;
 - (iii) the role of the clerk to an appeal panel;
 - (iv) the duties of the appeal panel under the Race Relations Act 1976(a);
 - (v) the duties of the appeal panel under the Disability Discrimination Act 1995(b);
 - (vi) the duties the appeal panel may have under Part 4 of the Equality Act 2006(c);
 - (vii) the effect of section 6 of the Human Rights Act 1998(d) (acts of public authorities unlawful if not compatible with certain human rights) and the need to act compatibly with human rights protected by that Act; and
 - (viii) the need for the appeal panel to observe procedural fairness and the rules of natural justice.

(2) Sub-paragraph (1)(a) shall cease to have effect from 6th September 2008.

(3) Any local education authority who are required to make arrangements under regulation 6(1) shall provide the training, information and instruction referred to in sub-paragraph (1)(b) as necessary and without cost to the persons trained.”

4.—(1) For paragraph 5 of the Schedule of the 2002 PRU Regulations substitute—

“5. For paragraph 2(7) there shall be substituted—

“(7) The following persons are disqualified for membership of an appeal panel—

- (a) any member of the authority or of the management committee (where one exists) of the pupil referral unit in question;
- (b) the teacher in charge of the pupil referral unit in question or any person who has held that position within the previous five years;
- (c) any person employed by the authority, other than a person employed as a head teacher or a teacher in charge of a pupil referral unit;
- (d) any person who has, or at any time has had, any connection with—
 - (i) the authority or the pupil referral unit, or with any person within paragraph (c), or
 - (ii) the pupil in question or the incident leading to his exclusion, of a kind which might reasonably be taken to raise doubts about his ability to act impartially;
- (e) any person who does not satisfy the training requirements of paragraph 2B.”

Rights of the parties

5.—(1) For paragraph 10(1) of the Schedule to the 2002 Regulations substitute—

“10.—(1) The appeal panel shall give each of the following persons an opportunity of making written representations and appearing and making oral representations, and shall allow him to be represented, or (except in the case of the governing body and local education authority) to be accompanied by a friend—

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- (a) 1976 c.74, as last amended by section 105(1) of, and paragraphs 61 and 175 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c.16; paragraph 61 is partly in force (article 4 of S.I. 2006/1173)).
 - (b) 1995 c.50, as last amended by the Equality Act 2006 (c. 3).
 - (c) 2006 c.3; Part 4 (except for section 86, which came into force on Royal Assent) is partly in force for the purposes of making certain orders, and the remainder comes into force, in accordance with S.I. 2006/1082.
 - (d) 1998 c.42.

- (a) the relevant person,
- (b) the head teacher,
- (c) the governing body, and
- (d) the local education authority.”.

(2) Omit paragraph 10(2) of the Schedule to the 2002 Regulations.

(3) For paragraph 6 of the Schedule to the 2002 PRU Regulations substitute—

“6. For paragraph 10(1) there shall be substituted—

“(1) The appeal panel shall give each of the following persons an opportunity of making written representations and appearing and making oral representations, and shall allow him to be represented, or (except in the case of the local education authority) to be accompanied by a friend—

- (a) the relevant person,
- (b) the teacher in charge, and
- (c) the local education authority.”.”.

Transitional provisions

6.—(1) Regulation 4 of the 2002 Regulations shall continue to apply, as it applied immediately before 6th September 2006, in relation to an exclusion commencing before that date.

(2) Regulation 5 of the 2002 PRU Regulations shall continue to apply, as it applied immediately before 6th September 2006, in relation to an exclusion commencing before that date.

8th August 2006

Jim Knight
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to England only.

Regulation 2 amends the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 (“the 2002 Regulations”) so that the head teacher of a school which has more than three terms per year must report exclusions which he is not already required to report under regulation 4(3) of those Regulations (exclusions which are permanent, will result in the pupil missing a public examination, or take the total exclusions for that pupil to over five days in a term) broadly as often as head teachers of schools with three terms per year, who must report these exclusions at least every term. The regulation makes a similar amendment to the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002 (“the 2002 PRU Regulations”).

Regulation 3 amends the 2002 Regulations so that a person is disqualified from being a member of an appeal panel if he does not satisfy training requirements. Regulation 4 makes a similar amendment to the 2002 PRU Regulations.

Regulation 3 also amends the 2002 Regulations so an appeal panel may appoint a clerk to the appeal panel who meets the training requirements. The training requirements to be met by clerks are the same as for members of appeal panels. The training requirements are met where a person has within the last two years been given training and information suitable and sufficient for him to know the requirements of those Regulations, the role of the chair of an appeal panel, the role of a clerk to an appeal panel, the duties of the appeal panel under the Race Relations Act 1976, the duties of the appeal panel under the Disability Discrimination Act 1995, the duties the appeal panel may have under Part 4 Equality Act 2006, the effect of section 6 of the Human Rights Act 1998 and the need to observe procedural fairness and the rules of natural justice. Where a clerk to or member of an appeal panel has acted in that capacity within the year preceding the date these Regulations come into force he may continue to act in that capacity but must meet the training requirements if he is to continue acting after two years after the date on which these Regulations come into force.

Regulation 5 amends the procedure on appeal so that the claimant and head teacher may make written representations, appear and make oral representations and be represented or accompanied by a friend. It allows the governing body and local education authority to make written representations, appear and make oral representations and be represented. It makes similar amendment to the 2002 PRU Regulations.

Regulation 6 ensures that exclusions which commenced before these Regulations came into force are dealt with as they would have been before these Regulations came into force.

A full regulatory impact assessment has not been made for this instrument as it has no impact on the costs of business.

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Amendments) (England) Regulations 2006**

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