

2007 No. 1869

EDUCATION, ENGLAND

**The Education (Parenting Contracts and Parenting Orders)
(England) Regulations 2007**

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| <i>Made</i> | - - - - | <i>27th June 2007</i> |
| <i>Laid before Parliament</i> | | <i>6th July 2007</i> |
| <i>Coming into force</i> | - - | <i>1st September 2007</i> |

The Secretary of State, in exercise of the powers conferred upon him by sections 20(1) and (2A), 22A, 24(a) and 94 of the Anti-social Behaviour Act 2003(b), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Parenting Contracts and Parenting Orders) (England) Regulations 2007 and come into force on 1st September 2007.

(2) These Regulations apply only in relation to—

- (a) local authorities, and governing bodies of relevant schools, in England; and
- (b) pupils who are, or were immediately before permanent exclusion, registered pupils at schools in England.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Anti-social Behaviour Act 2003;

“the 2004 Regulations” means the Education (Parenting Orders) (England) Regulations 2004(c);

“local authority” means a local education authority;

“parenting contract” means a parenting contract under section 19 of the Act;

“parenting order” means a parenting order under section 20 of the Act;

“relevant behaviour” means behaviour of the kind mentioned in section 20(2A)(a) of the Act (as read with section 20(2B) of the Act); and

“school day” has the meaning given by section 579(1) of the Education Act 1996(d).

(2) For the purposes of these Regulations—

(a) Section 24 defines the “appropriate person” in relation to England as the Secretary of State.

(b) 2003 c. 38; section 20(2A) was inserted by section 98, and section 22A by section 99, of the Education and Inspections Act 2006 (c. 40).

(c) S.I. 2004/182.

(d) 1996 c. 56. There are amendments to section 579 not relevant to these Regulations.

- (a) an exclusion begins on the first day to which the exclusion relates (and, in relation to an exclusion, ‘beginning’, and cognate expressions, are construed accordingly); and
- (b) where the pupil is excluded during the course of a school day but before the beginning of any afternoon session on that day, that day is to be treated for these purposes as the first day to which the exclusion relates.

Prescribed conditions for parenting orders where the pupil has been excluded

3.—(1) For the purposes of section 20(1)(b) of the Act, the prescribed condition is that the application must be made within the relevant period.

4.—(1) For the purposes of regulation 3, in the case of a pupil excluded for a fixed period, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after the day on which consideration of the exclusion was completed^(a) by the governing body (or in the case of an exclusion from a pupil referral unit, the local authority) or, if it was not so considered, the day on which it began;
- (b) the period of six months beginning with the day on which a parent of the pupil entered into a parenting contract.

(2) For the purposes of regulation 3, in the case of a pupil excluded permanently, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after—
 - (i) the day on which an appeal panel constituted under regulations made under section 52 of the Education Act 2002^(b) decided to uphold the exclusion;
 - (ii) the day on which the parent stated in writing that the parent does not intend to bring an appeal under those regulations;
 - (iii) the day on which an appeal brought within the time for bringing an appeal has been abandoned; or
 - (iv) if there was no appeal (and paragraph (ii) of this sub-paragraph does not apply), the last day on which an appeal could have been brought; or
- (b) the period of six months beginning with the day on which a parent of the pupil entered into a parenting contract.

Prescribed conditions for parenting orders where the pupil has engaged in relevant behaviour

5. For the purposes of section 20(2A)(b) of the Act, the prescribed condition is that an application must be made within the relevant period.

6. For the purposes of regulation 5, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after the day on which the relevant behaviour occurred (or, if the behaviour occurred over a period of more than one day, the next school day after the last day on which it occurred);
- (b) the period of six months beginning with the day on which a parent of the pupil entered into a parenting contract.

(a) The governing body of a maintained school considers the exclusion under regulation 5 of S.I. 2002/3178, and the local education authority considers a fixed term exclusion from a pupil referral unit under regulation 6 of S.I. 2002/3179.
 (b) 2002 c 32.

Limit on the power of a local authority to enter into a parenting contract or apply for a parenting order

7.—(1) Except in a case mentioned in paragraph (3), a local authority may not enter into a parenting contract or apply for a parenting order where the school by reference to which the contract would otherwise be entered into or the application would otherwise be made (“the school in question”) is not in the area of the authority.

(2) Except in a case mentioned in paragraph (4), a local authority may not enter into a parenting contract or apply for a parenting order where the child by reference to whom the contract would otherwise be entered into or the application would otherwise be made (“the child in question”) does not reside in the area of the authority.

(3) A local authority may enter into a parenting contract, or apply for a parenting order, where the school in question is not in the area of the authority where—

- (a) the authority has an agreement with the local authority where the school in question is situated that the first authority may enter into a parenting contract or apply for a parenting order in the circumstances; or
- (b) the child in question resides in the area of the authority and he has been permanently excluded.

(4) A local authority may enter into a parenting contract or apply for a parenting order where the child in question does not reside in the area of the authority if—

- (a) the school in question is in the area of the authority; and
- (b) the child—
 - (i) is a registered pupil at the school; or
 - (ii) has been permanently excluded from the school,

where the authority has an agreement with the local authority where the child in question resides that the first authority may enter into a parenting contract or apply for a parenting order in those circumstances.

Limit on the power of a governing body of a relevant school to apply for a parenting order

8.—(1) Except in a case mentioned in paragraph (2), where a pupil has been admitted to a relevant school^(a) after being permanently excluded from another relevant school—

- (a) the school to which the pupil has been admitted may apply for a parenting order; and
- (b) the school from which the pupil has been permanently excluded may not apply for a parenting order.

(2) Where the school to which the pupil has been admitted and the school from which the pupil has been excluded have entered into an agreement concerning application for a parenting order in respect of the pupil or applications for parenting orders generally, an application for a parenting order may be made by the school from which the pupil has been permanently excluded instead of by the school to which the pupil has been admitted, if the agreement so provides.

Duty to consult

9. Where in any case more than one relevant body has power to enter into a parenting contract or to apply for a parenting order, a relevant body proposing to exercise the power must consult each other relevant body.

(a) The definition of “relevant school” is in section 24 of the Act; it was inserted by section 161 of, and paragraph 4 of Part 2 of Schedule 16 to, 2006 c. 40.

Provision of information

10.—(1) Where a relevant body (“A”) proposes to enter into a parenting contract or apply for a parenting order they must, in relation to that entry or application, request information from any other relevant body (“B”) in relation to the child by reference to whom the contract is proposed to be entered into or application for the order made as is reasonably necessary to enable them to—

- (a) decide whether or not to enter into such contract or make such application (as the case may be);
- (b) avoid the entry into a parenting contract or application for a parenting order (as the case may be) where a parenting contract or parenting order exists in relation to that child or the entry into a parenting contract or application for a parenting order is pending; and
- (c) make an informed decision about the terms of such a contract or the content of the application (as the case may be) with a view to the most appropriate contract being entered into or order being made in all the circumstances of the case.

(2) B must, on receipt of a request under paragraph (1), provide to A such information in its possession or control as may be reasonably necessary for the purposes set out in paragraph (1).

(3) Where A makes a request for information pursuant to paragraph (1), they may disclose to B such information as may be reasonably necessary to enable B to fulfil their duty under paragraph (2).

Costs of parenting order or parenting contract

11.—(1) The costs associated with the requirements of parenting orders or the costs associated with parenting contracts, including in each case the costs of providing counselling or guidance programmes, must be borne by the relevant body making the application or entering into the contract.

(2) A relevant body may recover the costs they incur under paragraph (1) from another relevant body by agreement.

Revocation

12. Subject to regulation 13, the 2004 Regulations are revoked.

Transitional provisions

13.—(1) The 2004 Regulations continue to apply to parenting orders under section 20 of the Act made, or applied for, before 1st September 2007.

(2) Regulation 7 of these Regulations does not apply to a parenting contract entered into or a parenting order made, or applied for before 1st September 2007.

(3) Regulation 11 of these Regulations, insofar as it applies to the costs associated with parenting contracts, does not apply to such a contract entered into before 1st September 2007.

27th June 2007

Jim Knight
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to parenting orders and parenting contracts under Part 2 of the Anti-social Behaviour Act 2003 (“the Act”, as amended by Chapter 2 of Part 7 of the Education and Inspections Act 2006).

They prescribe conditions to be fulfilled before an application can be made for a parenting order under section 20 of the Anti-Social Behaviour Act 2003. Regulations 3 and 4 prescribe the condition in respect of both permanent and fixed term exclusions, namely that the application must be made within the relevant period. Regulations 5 and 6 prescribe the condition where it appears that the pupil has engaged in behaviour warranting exclusion. Again the application must also be made within the relevant period. Regulations 4 and 6 respectively define the relevant period.

Regulation 7 restricts a local authority, authority A, from entering into a parenting contract or applying for a parenting order, where the pupil concerned attends a school in the area of another authority, authority B, unless authority A has an agreement with authority B that authority A may do so, or the pupil lives in authority A’s area and has been excluded permanently. It also restricts authority A from entering into a parenting contract or applying for a parenting order where the pupil whom it concerns attends a school in authority A’s area and has been permanently excluded, but resides in authority B’s area, unless authority A has an agreement with the authority B that authority A may do so.

Regulation 8 provides that where a permanently excluded pupil has moved between schools the default applicant school for a parenting order is the school to which the pupil has moved but this may be varied by agreement between the schools.

Regulation 9 obliges relevant bodies who may enter into parenting contracts or apply for parenting orders to consult one another before doing so.

Regulation 10 obliges relevant bodies to seek from one another information which they reasonably consider may be relevant to enable them to decide whether or not to enter into a parenting contract or apply for a parenting order, to avoid multiple contracts and orders in relation to the same child, and to determine the content of a contract or order.

Regulation 11 prescribes for the purpose of section 22A(2)(e) of the Act that relevant bodies are to fund the costs of parenting contracts and parenting orders, though they may recover these costs from one another by agreement.

In exercising their functions relating to parenting contracts and parenting orders, schools and local authorities must have regard to guidance issued by the Secretary of State pursuant to section 19(9) of the Act in relation to contracts and 21(5) of the Act in relation to orders.

Regulations 12 and 13 revoke the Education (Parenting Orders) (England) Regulations 2004 which these Regulations replace and make transitional provisions. The 2004 Regulations continue to apply to parenting orders made or applied for before 1st September 2007.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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