

2016 No. 608

EDUCATION, ENGLAND

The Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2016

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| <i>Made</i> - - - - | <i>25th May 2016</i> |
| <i>Laid before Parliament</i> | <i>26th May 2016</i> |
| <i>Coming into force</i> - - | <i>27th June 2016</i> |

The Secretary of State for Education, in exercise of the powers conferred by section 569(4) of, and paragraph 3 of Schedule 1 to, the Education Act 1996(a) and section 1D(2) of the Academies Act 2010(b), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2016 and come into force on 27th June 2016.

Amendment of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007

2. Part 1 of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007(c) is amended as follows.

3. In paragraph 23C(d)—

(a) after sub-paragraph (1) insert—

“(1A) Subsection (A1) has effect as if the following were substituted for it—

“(A1) The Secretary of State must make an Academy order in respect of a unit in England if the circumstances in relation to maintained schools as set out in section 61 or section 62 of the Education and Inspections Act 2006(e) apply in relation to the unit.”; and

(b) for sub-paragraph (2) substitute—

“(2) Subsection (1) has effect as if the following were substituted for it—

“(1) The Secretary of State may make an Academy order in respect of a unit in England if an application in respect of the unit is made under section 3.”.

4. In paragraph 23D—

(a) 1996 c.56. See section 579(1) for the definitions of “regulations” and “prescribed”.
(b) 2010 c.32. Section 1D was inserted by section 53 of the Education Act 2011 (c.21).
(c) S.I. 2007/2979, as amended by S.I. 2012/1201. There are other amendments which are not relevant to these Regulations.
(d) Paragraphs 23B to F of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 were inserted by S.I. 2012/1201.
(e) 2006 c.40.

- (a) omit the word “and” from sub-paragraph (2)(a);
- (b) at the end of sub-paragraph (2)(b) omit the full stop and insert “, and”;
- (c) after sub-paragraph (2)(b) insert—
 - “(c) for “the school’s governing body” there were substituted “the unit’s management committee”.”;
- (d) for sub-paragraph (3) substitute—
 - “(3) Subsection (2) has effect as if—
 - (a) the words “or (1)(b)” were omitted, and
 - (b) for “the school” there were substituted “the unit”.”;
- (e) for sub-paragraph (4) substitute—
 - “(4) Subsection (3) has effect as if for “the school” there were substituted “the unit”.”;
- (f) for sub-paragraph (5) substitute—
 - “(5) Subsection 4 does not apply to units.”; and
- (g) omit sub-paragraph (6).

5. After paragraph 23D insert—

“**23DA.**—(1) Section 5B(a) of that Act (Duty to facilitate conversion) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

- (a) the words “or (1)(b)” were omitted,
- (b) for “school” in each place where the word occurs there were substituted “unit”,
- (c) for “the governing body” there were substituted “the management committee”,
- (d) for “the local authority” there were substituted “the local authority that maintains the unit”, and
- (e) for “into an Academy” there were substituted “into an alternative provision Academy”.

(3) Subsection (2) has effect as if for “the governing body” there were substituted “the management committee”.

23DB.—(1) Section 5C of that Act (Power to give directions to do with conversion) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

- (a) the words “or (1)(b)” were omitted,
- (b) for “school” in each place where the word occurs there were substituted “unit”,
- (c) for “the governing body” there were substituted “the management committee”,
- (d) for “the local authority” there were substituted “the local authority that maintains the unit”, and
- (e) for “into an Academy” there were substituted “into an alternative provision Academy”.

(3) Subsection (2) has effect as if for “the governing body” there were substituted “the management committee”.

23DC. Section 5D of that Act (Power to revoke Academy orders) applies in relation to units as it applies in relation to maintained schools with the modification that subsection (1) has effect as if the words “or (1)(b)” were omitted.

(a) Sections 5B to E of the Academies Act 2010 were inserted by the Education and Adoption Act 2016 (c.6).

23DD.—(1) Section 5E of that Act (Duty to communicate information about plans to improve school) applies in relation to units as it applies in relation to maintained schools with the following modifications.

(2) Subsection (1) has effect as if—

- (a) for “maintained school” there were substituted “unit”,
- (b) for “Academy” there were substituted “alternative provision Academy”, and
- (c) for “the school” there were substituted “the unit”.

(3) Subsection (2) has effect as if—

- (a) for “the Academy” there were substituted “the alternative provision Academy”, and

(b) for subsection (2)(b) there were substituted—

“(b) a unit is “causing concern” if the circumstances in relation to maintained schools as set out in section 61 or section 62 of the Education and Inspections Act 2006 apply in relation to the unit.””.

John Nash

Parliamentary Under Secretary of State
Department for Education

25th May 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 19 of the Education Act 1996 (“the 1996 Act”) requires local authorities to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.

Any school established and maintained by a local authority which is specially organised to provide education for such children is known as a pupil referral unit (“a unit”). Schedule 1 to the 1996 Act provides that enactments which apply to maintained schools can be applied, with or without modification, to units.

The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (“the 2007 Regulations”) modify the application of enactments to units. These Regulations amend the 2007 Regulations and are concerned with the application of the Academies Act 2010 (“the 2010 Act”), following its amendment by the Education and Adoption Act 2016 (“the 2016 Act”).

The 2016 Act inserted a new subsection (A1) into section 4 of the 2010 Act. This provides for a duty on the Secretary of State to make an Academy order in respect of a school which is eligible for intervention by virtue of section 61 or section 62 of the Education and Inspections Act 2006 (“the 2006 Act”) (Schools requiring significant improvement or schools requiring special measures).

These Regulations apply that duty to units with modifications where the circumstances in relation to maintained schools that are set out in section 61 or section 62 of the 2006 Act apply. They also provide that, in line with the amendments made to section 5 of the 2010 Act, there is no duty on the unit’s management committee to carry out a consultation before a unit is converted into an Academy where the Academy order was made pursuant to section 4(A1).

The 2016 Act also inserted new sections 5B – 5E into the 2010 Act. Section 5B provides that, where an Academy order made pursuant to section 4(A1) has effect in respect of a school, the governing body of the school and the local authority must take all reasonable steps to facilitate the conversion of the school into an Academy. Section 5C gives the Secretary of State the power to give directions in relation to Academy conversion. Section 5D provides the Secretary of State with

a power to revoke an Academy order and section 5E provides that before a maintained school which is causing concern is converted into an Academy, the proposed proprietor of the Academy must communicate information to parents of pupils about the proposed proprietor's plans to improve the school. The Regulations apply these provisions to units with modifications.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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