STATUTORY INSTRUMENTS

# 2010 No. 1074

# EDUCATION, ENGLAND

## The Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2010

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| *Made - - - -* | *29th March 2010* |
| *Laid before Parliament* | *6th April 2010* |
| *Coming into force* | |
| *regulations 1 to 3* | *30th April 2010* |
| *regulation 4* | *1st September 2010* |

The Secretary of State for Children, Schools and Families makes the following Regulations in the exercise of powers conferred by sections 19(7), 569 (4) and (5) of, and paragraph 3 of Schedule 1 to, the Education Act 1996(**a**).

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2010.

(2) Regulations 1 to 3 come into force on 30th April 2010.

(3) Regulation 4 comes into force on 1st September 2010.

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

**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(**b**) is amended as follows.

**3.** After paragraph 20 of Part 1 of Schedule 1 insert—

**"Children Act 2004**

**20A.**—(1) Section 10 of the Children Act 2004(**c**) applies in relation to units as it applies in relation to maintained schools(**d**) with the following modifications.

(**a**) 1996 c.56.
(**b**) SI 2007 / 2979
(**c**) The Children Act 2004 c 31. section 10 has been amended by sections 193 and 194 of the Apprenticeships, Skills, Children and Learning Act 2009.
(**d**) For the purposes of this paragraph "maintained school" has the meaning given by section 10(11) of the Children Act 2004 c.31.

(2) Subsection (4)(fa) has effect as if for "the governing body " there was substituted "the management committee ".

(3) Despite sub-paragraph (2) and section 12A(7)(b) of the Children Act 2004, the management committee is not to be treated as a relevant partner of the authority for the purposes of section 10(5A) or 12C of that Act.".

**4.** After paragraph 23 of Part 1 of Schedule 1 insert—

**"Apprenticeships, Skills, Children and Learning Act 2009**

**23A.**—(1) Section 248 of the Apprenticeships, Skills, Children and Learning Act 2009 applies in relation to units that provide secondary education as it applies in relation to maintained secondary schools(**a**) with the following modifications.

(2) Subsections (1)(a) and (6)(a) have effect as if for "governing body" there were substituted "the management committee". ".

*Vernon Coaker*
Minister of State
29th March 2010 Department for Children, Schools and Families

(**a**) For the purposes of this paragraph "maintained secondary schools" has the meaning given by section 248(7) of the Apprenticeships, Skills, Children and Learning Act 2009.

## EXPLANATORY NOTE

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

Section 19 of the Education Act 1996 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 (section 19(2B) of the Education Act 1996). Schedule 1 to the Act provides that enactments which apply to maintained schools can be applied, adapted and modified by regulation to pupil referral units.

Section 249(1) of the Apprenticeships, Skills, Children and Learning Act 2009 which will come into force on 1st September 2010 will change the name of any school falling within section 19(2B) of the Education Act 1996 from "pupil referral unit" to "short stay school".

These Regulations amend The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 by inserting new paragraphs 20A and 23A into Part 1 of Schedule 1 to those Regulations.

The new paragraphs apply section 10 of the Children Act 2004 (as amended by section 193 of the Apprenticeships, Skills, Children and Learning Act 2009), and section 248 of the Apprenticeships, Skills, Children and Learning Act 2009 to pupil referral units as they apply to maintained schools with modifications.

Section 10 of the Children Act 2004 makes the governing bodies of maintained schools "relevant partners" for the purposes of that section. Section 248 of the Apprenticeships, Skills, Children and Learning Act 2009 imposes a duty on the governing bodies of maintained secondary schools to make arrangements to cooperate in school behaviour and attendance partnerships.

New paragraph 20A (inserted by regulation 3) treats a management committee of a pupil referral unit which is maintained by a local authority as a relevant partner of the authority for the purposes of section 10 of the Children Act 2004. The effect of section 12A(7)(b) of that Act is that the management committee will also be treated as a relevant partner for the purposes of sections 12A and 12C of that Act. But new paragraph 20A(3) prevents a management committee being treated as a relevant partner for the purposes of the powers in sections 10(5A) and 12C of that Act. Section 10(5A) gives a power to a relevant person or body (which includes a relevant partner) to share resources and contribute to a pooled fund for the purposes of arrangements made under section 10. Section 12C provides a power to relevant partners represented on a Children's Trust Board to make payments or contribute to a fund for purposes connected with the Board.

A full regulatory impact assessment was carried out in relation to behaviour and attendance partnerships for the Apprenticeships, Skills, Children and Learning Act 2009. A relevant extract is annexed to the Explanatory Memorandum. The full impact assessment is available from Juliette Duah, Behaviour Policy Team, DCSF – Juliette.Duah@dcsf.gsi.gov.uk. An impact assessment was also produced for the statutory guidance on Children's Trust Boards and The Children's Trust Board (Children and Young People's Plan) (England) Regulations 2010 and the relevant extract is also annexed to the Explanatory Memorandum. The full impact assessment is available from Sandra Cullen, DCSF – Sandra.Cullen@dcsf.gsi.gov.uk.

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