STATUTORY INSTRUMENTS

1990 No. 1524

EDUCATION, ENGLAND AND WALES

The Education (Special Educational Needs) (Amendment) Regulations 1990

Made - - - -	*25th July 1990*
Laid before Parliament	*26th July 1990*
Coming into force	*1st September 1990*

In exercise of the powers conferred by paragraphs 1, 3 and 4 of Schedule 1 to the Education Act 1981**(a)** and section 18 of the Education Reform Act 1988**(b)**, the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

1. These Regulations may be cited as the Education (Special Educational Needs) (Amendment) Regulations 1990 and shall come into force on 1st September 1990.

2. The Education (Special Educational Needs) Regulations 1983**(c)** are hereby amended as follows–

(1) in regulation 2(4) immediately after the definition of the expression "the Act of 1986" there shall be added the following–

""the Act of 1988" means the Education Reform Act 1988;

"the Act of 1989" means the Children Act 1989**(d)**;

"assessment arrangements" has the same meaning as in section 2 of the Act of 1988;

"attainment targets" has the same meaning as in section 2 of the Act of 1988;";

(2) in regulation 2(4) immediately after the definition of the expression "education authority" there shall be added the following–

""foundation subjects" has the same meaning as in section 3 of the Act of 1988;

"hearing impaired" means deaf or partially deaf;

"local authority", in relation to England and Wales, has the same meaning as in the Act of 1989;

"modifications" has the meaning assigned by section 235(1) of the Act of 1988;

"programmes of study" has the same meaning as in section 2 of the Act of 1988;";

(3) in regulation 2(4) at the end there shall be added the following –

(a) 1981 c.60. For matters to be prescribed, *see* section 21(2) of that Act and section 114(1) of the Education Act 1944 (c.31), and for the transfer of functions to the Secretary of State *see* S.I. 1964/490, 1970/1536 and 1978/274. **(b)** 1988 c.40. **(c)** S.I. 1983/29, amended by S.I. 1988/1067. **(d)** 1989 c.41.

""visually impaired" means blind or partially sighted.";

(4) for regulation 5(3) there shall be substituted the following–

"(3) Where it appears to the education authority, in consequence of medical advice or otherwise, that the child in question is–

(a) hearing impaired, or

(b) visually impaired, or

(c) both hearing impaired and visually impaired,

and the person from whom advice is sought as provided in paragraph (1)(a) or (b) is not qualified to teach pupils who are hearing impaired or visually impaired or who are both hearing impaired and visually impaired, as the case may be, then the advice sought shall be advice given after consultation with a person who is so qualified.";

(5) in regulation 5(4) in sub-paragraph (a) for the words "regulations relating to the employment of teachers from time to time in force under section 27 of the Education Act 1980" there shall be substituted "regulations**(a)** relating to the employment of teachers from time to time in force under section 218 of the Act of 1988";

(6) in regulation 5(4) in sub-paragraph (b) for the words "deaf or blind pupils" there shall be substituted "pupils who are hearing impaired, visually impaired or who are both hearing impaired and visually impaired" and for the words "deaf or, as the case may be, blind pupils" there shall be substituted "pupils who are, as the case may be, hearing impaired or visually impaired or both hearing impaired and visually impaired";

(7) in regulation 10(1) in sub-paragraph (a) immediately after the word "specify" there shall be inserted "–(i)" and at the end there shall be inserted the following–

"(ii) any modifications to the provisions of the National Curriculum (in terms of attainment targets, programmes of study and assessment arrangements) in their application to the child which the education authority consider necessary to meet those needs;

(iii) any exclusions from the application of the provisions of the National Curriculum (in terms of attainment targets, programmes of study, assessment arrangements and foundation subjects) which the education authority consider necessary in view of those needs; and

(iv) the provision which the education authority propose to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum, being a curriculum which meets the terms of paragraphs (a) and (b) of section 1(2) of the Act of 1988 for the child;";

(8) in regulation 10(1) in sub-paragraph (b) after the letter "(a)" there shall be inserted "(i)";

(9) in regulation 10(1) for sub-paragraph (c)(i) there shall be substituted the following –

"(c) specify any non-educational provision–

(i) which the education authority propose to make available or which they are satisfied will be made available by a district health authority, a social services authority or some other body, and";

(10) in regulation 11(1) in sub-paragraph (e) there shall be deleted the word "or";

(11) in regulation 11(1) in sub-paragraph (f) at the end there shall be added the word "or";

(12) in regulation 11(1) at the end there shall be added the following sub-paragraph–

"(g) for the purposes of a local authority in the performance of their duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Act of 1989 (which relate to safeguarding and promoting the welfare of children)";

(13) in the Schedule, in Part III (Special Educational Provision) of the form of statement of special educational needs, for the words in the parenthesis there shall be substituted the following –

(a) The relevant Regulations currently in force are the Education (Teachers) Regulations 1989 (S.I. 1989/1319), amended by S.I. 1989/1541.

"(*Here specify*–

(1) *in accordance with Regulation 10(1)(a)(i), the special educational provision which the education authority consider appropriate to meet the needs specified in Part II; and*

(2) *in accordance with Regulation 10(1)(a)(ii), (iii) and (iv)* –

(a) *any modifications to the provisions of the National Curriculum;*

(b) *any exclusions from the application of the provisions of the National Curriculum; and*

(c) *the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum.*)".

John MacGregor
Secretary of State for Education and Science

25th July 1990

David Hunt
Secretary of State for Wales

25th July 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Special Educational Needs) Regulations 1983 ("the principal Regulations"). In addition to minor and drafting amendments, they make the following changes of substance. They replace the terms "deaf" and "blind", used in regulation 5 of the principal Regulations, with the terms "hearing impaired" and "visually impaired", and make provision regarding the seeking of educational advice in respect of a child who is both hearing impaired and visually impaired (regulation 2(4) and (6)). They amend the definition of "qualified teacher" in regulation 5(4) of the principal Regulations in order to take account of the power in section 218 of the Education Reform Act 1988 to make regulations relating to the employment of teachers (regulation 2(5)). They amend regulation 10 of, and the Schedule to, the principal Regulations in order to take account of section 18 of that Act, so that a statement of a child's special educational needs is to specify any modifications to, and any exclusions from the application of, the provisions of the National Curriculum, and the provision substituted for any such exclusions in order to maintain a balanced and broadly based curriculum (regulation 2(7) and (13)). They also amend regulation 10 of the principal Regulations so as to ensure that such a statement specifies any non-educational provision proposed to be made by the local education authority as well as any such provision to be made available by certain other specified bodies (regulation 2(9)). They permit a child's statement of special educational needs to be disclosed to a local authority in their performance of certain duties, relating to safeguarding and promoting the welfare of children, imposed on them by the Children Act 1989 (regulation 2(12)).

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