WELSH STATUTORY INSTRUMENTS

2003 No. 3246 (W.321)

EDUCATION, WALES

The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003

Made - - - -	*9th December 2003*
Coming into force - -	*9th January 2004*

In exercise of the powers conferred on the National Assembly for Wales by sections 52(3), (4) and (5), 210(7) and 214 of the Education Act 2002(**1**), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(**2**), the National Assembly for Wales makes the following Regulations:

Name, commencement and application

1.—(1) These Regulations are called the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 and come into force on 9th January 2004.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002;

"the 2003 Regulations" ("*Rheoliadau 2003*") means the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003(**3**);

"the relevant person" ("*y person perthnasol*") means —

(a) in relation to a pupil who was aged 10 or below on the day before the beginning of the school year in which that pupil is excluded, a parent of his or hers;

(b) in relation to a pupil of compulsory school age who was aged 11 or above on the day before the beginning of the school year in which that pupil is excluded, both that pupil and a parent of his or hers;

(c) in relation to a pupil who is above compulsory school age, the pupil himself or herself.

(**1**) 2002 c. 32; *see* section 212(1) for the meaning of "regulations" and "prescribed".
(**2**) 1992 c. 53, amended by paragraph 22 of Schedule 21 to the Education Act 2002.
(**3**) S.I.2003/3227 (W.308).

(2) Any exclusion for a fixed period consisting of the period between the morning and afternoon school sessions is for the purposes of these Regulations to be taken as equivalent to a quarter of a school day.

Responsible Body

3. For the purposes of section 52(5) of the 2002 Act the local education authority which maintains a pupil referral unit(**4**) is prescribed as the responsible body in relation to a fixed period exclusion from that pupil referral unit.

Power of teacher in charge to exclude pupils

4. A teacher in charge of a pupil referral unit may not exercise the power under section 52(2) of the 2002 Act so as to exclude a pupil from the pupil referral unit for one or more fixed periods if, as a result, the pupil would be excluded for more than 45 school days in any one school year.

Exclusion of pupils: duty to inform the relevant person and local education authority

5.—(1) Where the teacher in charge of a pupil referral unit excludes any pupil for a fixed period, the teacher in charge must without delay take reasonable steps to inform the relevant person of the following matters —

(a) the period of exclusion;

(b) the reasons for exclusion;

(c) that he or she may make representations about the exclusion to the local education authority and that the excluded pupil may also make representations about the exclusion to the local education authority where the pupil is not the relevant person; and

(d) the means by which such representations may be made.

(2) Where the teacher in charge of a pupil referral unit excludes any pupil for a fixed period in circumstances where the pupil would, as a result of the exclusion —

(a) be excluded from the pupil referral unit for a total of more than five school days in any one term, or

(b) lose an opportunity to take any public examination,

the teacher in charge must without delay inform the local education authority of the period of the exclusion and the reasons for it.

(3) Where the teacher in charge of a pupil referral unit excludes any pupil permanently or decides that any exclusion of a pupil for a fixed period should be made permanent, the teacher in charge must without delay —

(a) take reasonable steps to inform the relevant person and the local education authority of the decision and the reasons for it; and

(b) in addition give the relevant person notice in writing of the decision stating the following matters —

(i) the reasons for the decision,

(ii) his or her right to appeal against the decision,

(iii) the person to whom he or she should give any notice of appeal,

(iv) that any notice of appeal must contain the grounds of appeal, and

(v) the last date on which an appeal may be made.

(**4**) Pupil referral units are established and maintained under section 19 of the Education Act 1996 (c. 56).

(4) The notice in writing referred to in paragraph (3)(b) may be given either —

(a) by delivering it by hand to the relevant person's last known address, or

(b) by sending it by first class post in a properly addressed, pre-paid envelope to the relevant person's last known address.

(5) The teacher in charge must in each term inform the local education authority of any exclusions which do not fall within paragraphs (2) or (3) and in respect of each such exclusion must provide details of the period of the exclusion and the reason for it.

Exclusion of pupils: provision of information to the local education authority and the National Assembly for Wales

6.—(1) The teacher in charge must in each term provide the following information on each exclusion to the local education authority —

(a) the excluded pupil's name, age, gender and ethnic group;

(b) whether the excluded pupil has a statement of special educational needs maintained by a local education authority under section 324 of the Education Act 1996(**5**), is being assessed for such a statement or is receiving support through School Action or School Action Plus pursuant to "The Special Educational Needs Code of Practice for Wales(**6**)" which was issued under section 313 of the Education Act 1996 and came into force on 1st April 2002;

(c) whether the excluded pupil is looked after by a local authority;

(d) the period of the exclusion; and

(e) the reason for the exclusion.

(2) A local education authority must provide to the National Assembly for Wales at its request any information they have received from a teacher in charge under regulation 5(5) and 6(1).

Functions of local education authority in relation to pupils excluded for a fixed period

7.—(1) Paragraphs (2) to (6) apply where the local education authority are informed under regulation 5(2) of the exclusion of any pupil for a fixed period, and the circumstances are that the pupil would, as a result of the exclusion —

(a) be excluded from the pupil referral unit for a total of more than fifteen school days in any one term, or

(b) lose an opportunity to take a public examination.

(2) The local education authority must in any such case —

(a) consider the circumstances in which the pupil was excluded;

(b) consider any representations about the exclusion made to the local education authority —

(i) by the relevant person in pursuance of regulation 5(1)(c),

(ii) by the excluded pupil where the pupil is not the relevant person in pursuance of regulation 5(1)(c), and

(iii) by the teacher in charge of the pupil referral unit;

(c) allow each of the following, namely —

(i) the relevant person,

(ii) the excluded pupil where the pupil is not the relevant person, and

(**5**) 1996 c. 56.
(**6**) ISBN 0 7504 27574.

(iii) the teacher in charge of the pupil referral unit,

to attend a meeting with the local education authority and to make oral representations about the exclusion; and

(d) consider any oral representations so made.

(3) The local education authority must consider whether or not the pupil should be reinstated and where they consider that the pupil should be reinstated, they must in addition consider whether he or she should be reinstated immediately, or reinstated by a particular date.

(4) If the local education authority decide that the pupil should be reinstated, they must without delay —

(a) give the appropriate direction to the teacher in charge, and

(b) inform the relevant person of their decision.

(5) The teacher in charge must comply with any direction of the local education authority for the reinstatement of a pupil who has been excluded from the pupil referral unit.

(6) If the local education authority decide that the pupil should not be reinstated, they must without delay inform the relevant person and the teacher in charge of their decision and the reasons for it.

(7) Where —

(a) the teacher in charge of a pupil referral unit excludes a pupil for a fixed period in a case where paragraphs (2) to (6) do not apply; and

(b) the local education authority receive any representations made in pursuance of regulation 5(1)(c) by the relevant person about the exclusion,

they must consider those representations.

(8) Subject to paragraph (9), the local education authority must take each of the steps referred to in paragraph (2) —

(a) not earlier than six school days; and

(b) not later than 15 school days, in the case of an exclusion for a fixed period of more than 15 school days; or

(c) not later than 50 school days, in the case of an exclusion for a fixed period of 15 school days or fewer,

after the date on which they were informed of the matters referred to in regulation 5(2).

(9) Where a pupil has been excluded for a fixed period in circumstances in which he or she would, as a result of the exclusion, lose an opportunity to take a public examination, the local education authority must (so far as it is practical for them to do so) take each of the steps referred to in paragraph (2) before the date on which the pupil is due to take the examination and in any event no later than is required by paragraph (8).

(10) The local education authority is not relieved of the duty to take any step referred to in paragraph (2) because it has not been taken within the periods specified in paragraphs (8) and (9).

Appeals against permanent exclusion of pupils

8.—(1) A local education authority must make arrangements for enabling the relevant person to appeal against any decision of the teacher in charge under section 52(2) of the 2002 Act to permanently exclude a pupil from a pupil referral unit maintained by the authority.

(2) The Schedule to the 2003 Regulations has effect, with the modifications prescribed in the Schedule to these Regulations, in relation to the making and hearing of appeals pursuant to arrangements made under paragraph (1); and in paragraphs (3) to (5) "appeal panel" means an