Draft Regulations laid before Parliament under section 45Q(2), (3) and (4) of the Public Health (Control of Disease) Act 1984, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 000

PUBLIC HEALTH, ENGLAND

The Health Protection (Local Authority Powers) Regulations 2010

Made - - - -	*000*
Coming into force - -	*6th April 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 45C(1), (2), (3)(b) and (c) and (4)(a) and (c), 45D(2), 45F(2)(a), (b), (f) and (g) and 45P(2) of the Public Health (Control of Disease) Act 1984(**1**).

A draft of this instrument has been approved by resolution of each House of Parliament pursuant to section 45Q(2), (3) and (4) of that Act.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Health Protection (Local Authority Powers) Regulations 2010 and shall come into force on 6th April 2010.

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

Requirement to keep a child away from school

2.—(1) This regulation applies where a local authority is satisfied in relation to a child (C) that—

(a) C is or may be infected or contaminated(**2**);

(b) the infection or contamination is one which presents or could present significant harm to human health;

(c) there is a risk that C might infect or contaminate others;

(d) it is necessary to keep C away from school in order to remove or reduce that risk; and

(e) keeping C away from school is a proportionate response to the risk to others presented by C.

(**1**) 1984 c.22. *See* section 45T(6) of that Act for the definition of "the appropriate Minister". Sections 45C, 45D, 45F, 45P, and 45T were inserted into that Act by section 129 of the Health and Social Care Act 2008 (c.14) ("the 2008 Act").

(**2**) *See* section 45A of the Public Health (Control of Disease) Act 1984 (c.22) ("the 1984 Act") for the interpretation of "infection" and "contamination" and related expressions.

(2) The local authority may by serving notice(**3**) on C's parent (PT) require that PT keep C away from school.

(3) The notice must include the following information—

(a) the date from which the requirement commences;

(b) the duration of the requirement (up to a maximum of 28 days);

(c) why the requirement is believed to be a necessary and proportionate measure;

(d) the penalty for failing to comply with the notice; and

(e) contact details for an officer of the local authority who is able to discuss the notice.

(4) The local authority must as soon as reasonably practicable after serving notice under paragraph (2) inform the headteacher of C's school—

(a) that it has served such a notice in relation to C; and

(b) of the contents of that notice.

(5) PT may request that the local authority review the notice at any time before the requirement lapses.

(6) The local authority—

(a) must review the notice within 5 working days beginning with the day on which the request is made where PT is requesting a review in respect of that notice for the first time; or

(b) may review the notice in the case of all other requests.

(7) The local authority must inform PT and the headteacher of C's school of the outcome of any review it conducts as soon as reasonably practicable after the review is concluded.

(8) A local authority may vary or revoke a notice.

(9) A local authority must as soon as reasonably practicable after varying or revoking a notice under paragraph (8) inform PT and the headteacher of C's school that the notice has been varied or revoked and, if varied, the nature of the variation.

(10) A local authority may serve consecutive notices under paragraph (2).

(11) A local authority must inform PT and the headteacher of C's school as soon as reasonably practicable where a notice has expired and no further notice is to be served.

(12) It is an offence for PT to fail without reasonable excuse to comply with a notice served under paragraph (2) or varied under paragraph (8).

(13) Any person who commits an offence under this regulation is liable on summary conviction to one or both of—

(a) a fine not exceeding level 2 on the standard scale;

(b) a further fine not exceeding an amount equal to 50% of level 1 on the standard scale for each day on which the default continues after conviction.

(14) In this regulation—

"child" means a person under 18 years of age;

"headteacher" means the headteacher or, if the headteacher is absent, the person deputising for the headteacher;

"parent" has the meaning given to it by section 576 of the Education Act 1996(**4**);

(**3**) *See* sections 58 and 60 of the 1984 Act for the form of a notice and the methods by which it can be served; sections 58 and 60 were amended by the 2008 Act, Schedule 11, paragraphs 13 and 15 respectively.

(**4**) 1996 c.56; section 576 was amended by the Schools Standard and Framework Act 1991 (c.31), Schedule 30, paragraph 180(a).

"school" has the meaning given to it by section 4 of the Education Act 1996(**5**); and

"working day" means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(**6**).

Requirement to provide details of children attending school

3.—(1) A local authority may by serving notice on a headteacher of a school in its area require that headteacher to provide it with a list of the names, addresses and contact telephone numbers for all the pupils of that school, or such group of pupils attending that school as it may specify, where the condition in paragraph (2) is met.

(2) The condition is that the local authority is satisfied that—

(a) a person (P) who is or has recently been on the school's premises is or may be infected or contaminated;

(b) the infection or contamination is one which presents or could present significant harm to human health;

(c) there is a risk that P may have infected or contaminated pupils at the school;

(d) it is necessary for the local authority to have the list in order to contact those pupils with a view to ascertaining whether they are or may be infected or contaminated; and

(e) requiring the list (and contacting those pupils which may be infected or contaminated) is a proportionate response to the risk presented by P.

(3) The notice must—

(a) specify a time limit for meeting the requirement;

(b) specify an address where the list is to be sent;

(c) provide contact details for an officer of the local authority who is able to discuss the notice.

(4) It is an offence for a headteacher to fail without reasonable excuse to comply with a notice served under paragraph (1).

(5) Any person who commits an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(6) In this regulation, "headteacher" and "school" have the same meaning as they are given in regulation 2.

Disinfection or decontamination of things on request of the owner

4.—(1) A local authority may disinfect or decontaminate, or cause to be disinfected or decontaminated, a thing(**7**) where requested to do so by the owner of the thing.

(2) The local authority may charge the owner for the disinfection or decontamination of the thing if the owner is made aware of the charge prior to disinfection or decontamination being carried out and agrees to pay it.

(3) The local authority's charge must not exceed the cost incurred by the local authority in carrying out the disinfection or decontamination.

(**5**) Section 4 of the Education Act 1996 (c.56) was amended by the Education Act 1997 (c.44), section 51, Schedule 7, paragraph (1) and Schedule 8, the Education Act 2002 (c.32), section 95(1) and (3) and the Childcare Act 2006 (c.21), Schedule 22, Part 3.

(**6**) 1971 c.80.

(**7**) *See* section 45T(5) of the 1984 Act for the definition of "thing".

Disinfection or decontamination of things on request of person with custody or control

5.—(1) A local authority may disinfect or decontaminate, or cause to be disinfected or decontaminated, a thing where requested to do so by a person (A) with custody or control of the thing if the local authority is reasonably satisfied that the financial value of the thing will not be reduced as a consequence of the disinfection or decontamination.

(2) The local authority may charge A for the disinfection or decontamination of the thing if A is made aware of the charge prior to disinfection or decontamination being carried out and agrees to pay it.

(3) The local authority's charge must not exceed the cost incurred by the local authority in carrying out the disinfection or decontamination.

Disinfection or decontamination of premises on request of the owner

6.—(1) A local authority may disinfect or decontaminate, or cause to be disinfected or decontaminated, premises(**8**) where requested to do so by the owner of the premises.

(2) The local authority may charge the owner for the disinfection or decontamination of the premises if the owner is made aware of the charge prior to disinfection or decontamination being carried out and agrees to pay it.

(3) The local authority's charge must not exceed the cost incurred by the local authority in carrying out the disinfection or decontamination.

Disinfection or decontamination of premises on request of tenant

7.—(1) A local authority may disinfect or decontaminate, or cause to be disinfected or decontaminated, premises where requested to do so by the tenant of the premises if the local authority is reasonably satisfied that the financial value of the premises will not be reduced as a consequence of the disinfection or decontamination.

(2) The local authority may charge the tenant for the disinfection or decontamination of the premises if the tenant is made aware of the charge prior to disinfection or decontamination being carried out and agrees to pay it.

(3) The local authority's charge must not exceed the cost incurred by the local authority in carrying out the disinfection or decontamination.

Requests for co-operation for health protection purposes

8.—(1) A local authority may by serving notice on any person or group of persons request that the person or group of persons do, or refrain from doing, anything for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health.

(2) The notice must provide contact details for an officer of the local authority who is able to discuss the notice.

(3) The local authority may offer compensation or expenses in connection with its request.

Restriction of contact with dead bodies

9.—(1) This regulation applies where a local authority is satisfied that—

(a) a dead body is or may be infected or contaminated;

(**8**) *See* section 74 of the 1984 Act for the definition of "premises" as substituted by Schedule 11, paragraph 29(4) of the 2008 Act.