

Draft Regulations laid before Parliament under sections 34(9), 35(6), 68(2) and 68(3) of the Children and Social Work Act 2017, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No. 0000

EDUCATION, ENGLAND

**The Relationships Education, Relationships and Sex Education
and Health Education (England) Regulations 2019**

Made - - - -

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 34 and 35 of the Children and Social Work Act 2017(a).

In accordance with sections 34(9), 35(6), 68(2) and 68(3) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with sections 34(5) and 35(3) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019.

(2) These Regulations come into force on 1st September 2020.

Amendments

2. The Schedule contains amendments.

Date

Name
Minister of State
Department for Education

(a) 2017 c.16. For the meaning of “regulations” see section 67(1).

SCHEDULE

Amendments

Regulation 2

Education Act 1996

1. The Education Act 1996(a) is amended as follows.
- 2.—(1) Section 403(b) (sex education: manner of provision) is amended as follows.
 - (2) In subsection (1), after “maintained school” insert “(whether or not as part of statutory relationships and sex education)”.
 - (3) After subsection (1A) insert—

“(1ZB) In subsection (1A) the reference to sex education does not include sex education given as part of statutory relationships and sex education.”.
 - (4) After subsection (2) insert—

“(2A) In this section “statutory relationships and sex education” means education required to be provided at a school in England under section 80(1)(d) of the Education Act 2002.”.
- 3.—(1) Section 404(c) (sex education: statements of policy) is amended as follows.
 - (2) After subsection (1A) insert—

“(1B) In subsection (1) the reference to sex education does not include sex education given as part of statutory relationships and sex education (and accordingly subsection (1) does not apply at all in relation to a school at which sex education is only given as part of statutory relationships and sex education).”.
 - (3) For subsection (2) substitute—

“(2) In this section—
“maintained school” includes, in relation to pupils who are provided with secondary education, a community or foundation special school established in a hospital;
“statutory relationships and sex education” means education required to be provided at a school in England under section 80(1)(d) of the Education Act 2002.”.
- 4.—(1) Section 405 (exemption from sex education) is amended as follows.
 - (2) The existing text becomes subsection (1).
 - (3) After that subsection insert—

“(2) In subsection (1) the reference to sex education does not include sex education provided at a maintained school in England as part of statutory relationships and sex education.

(3) If the parent of any pupil in attendance at a maintained school in England requests that the pupil may be wholly or partly excused from sex education provided as part of statutory relationships and sex education, the pupil must be so excused until the request is withdrawn, unless or to the extent that the head teacher considers that the pupil should not be so excused.
 - (4) In this section “statutory relationships and sex education” means education required to be provided at a school in England under section 80(1)(d) of the Education Act 2002.”.

(a) 1996 c.56.

(b) Section 403 was amended by the School Standards and Framework Act 1998 (c.31), Schedule 30, paragraph 102; the Learning and Skills Act 2000 (c.21) sections 141(1) and (3) to (5) and Schedule 11; and S.I. 2013/594.

(c) Section 404 was amended by the School Standards and Framework Act 1998 Schedule 30, paragraph 103(a) and (b) and Schedule 31; and the Learning and Skills Act 2000, section 148(1) and (6).

Education Act 2002

5. The Education Act 2002(a) is amended as follows.

6. In section 79 (duty to implement general requirements), for subsection (6) substitute—

“(6) In exercising any function which may affect the provision of sex education in maintained schools (whether or not as part of the education required to be provided under section 80(1)(d)), every local authority in England must have regard to relevant guidance issued by the Secretary of State under section 80A of this Act or section 403(1A) of the Education Act 1996.”.

7.—(1) Section 80 (basic curriculum for maintained schools) is amended as follows.

(2) In subsection (1), for paragraphs (c) and (d) substitute—

- “(c) provision for relationships education for all registered pupils at the school who are provided with primary education,
- (d) provision for relationships and sex education for all registered pupils at the school who are provided with secondary education, and
- (e) provision for health education for all registered pupils at the school.”.

(3) After subsection (2) insert—

“(2A) Subsection (1)(c) and (e) do not apply in relation to pupils who are under compulsory school age.”.

(4) In subsection (3)(a), for “or sex education” substitute “relationships education, relationships and sex education or health education”.

8. After section 80 insert—

“80A Guidance about relationships, sex and health education

(1) The Secretary of State must give guidance about the provision of education under section 80(1)(c), (d) and (e).

(2) In relation to education provided under section 80(1)(c) and (d), the guidance must be given with a view to ensuring that—

- (a) the pupils learn about—
 - (i) the nature of marriage and civil partnership and their importance for family life and the bringing up of children,
 - (ii) safety in forming and maintaining relationships,
 - (iii) the characteristics of healthy relationships, and
 - (iv) how relationships may affect physical and mental health and wellbeing, and
- (b) the education is appropriate having regard to the age and the religious background of the pupils.

(3) The governing body of a maintained school must have regard to guidance under this section.

(4) The Secretary of State must review guidance under this section from time to time.

(5) In this section “maintained school” includes a community or foundation special school established in a hospital.

80B Relationships education and relationships and sex education: statements of policy

(1) The governing body of a maintained school must—

(a) 2002 c.32; section 79 was amended by the Childcare Act 2006 (c.21), Schedule 1, paragraph 6 and Schedule 3, Part 1, and S.I. 2010/1158. There are amendments to section 80 which are not relevant to these Regulations.

- (a) make, and keep up to date, a separate written statement of their policy with regard to the provision of education under each of paragraphs (1)(c) and (d) of section 80, and
 - (b) publish a copy of the statement on a website and provide a copy free of charge to anyone who asks for one.
- (2) A statement under subsection (1) must include a statement of the effect of section 405(3) of the Education Act 1996 (exemption from sex education: England).
- (3) The governing body must consult parents of registered pupils at the school before making or revising a statement under subsection (1).
- (4) In this section “maintained school” includes a community or foundation special school established in a hospital.”.

Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007

9. In Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007(**a**) (enactments applying, with or without modifications, in relation to units or management committees), for paragraph 19 substitute—

“**19.** Sections 80(1)(c) to (e) and (2A), 80A and 80B of that Act (curriculum to include relationships education, relationships and sex education and health education) apply in relation to units as they apply in relation to maintained schools but as if for “governing body of a maintained school”, wherever those words occur, there were substituted “management committee of the unit”.”.

Education (Independent School Standards) Regulations 2014

10. The Education (Independent School Standards) Regulations 2014(**b**) are amended as follows.

11. In regulation 3 (independent schools standards), in paragraph (2)(a), for “Part 1” substitute “paragraphs 2, 3 and 4”.

12. In the Schedule (independent schools standards), after paragraph 2 insert—

“**2A.**—(1) The standard in this paragraph is met if the proprietor—

- (a) ensures that every registered pupil who is provided with primary education at the school is provided with relationships education,
- (b) ensures that every registered pupil who is provided with secondary education at the school is provided with relationships and sex education, except in so far as the pupil is excused as mentioned in sub-paragraph (2),
- (c) in a case where the school is an Academy, ensures that every registered pupil is provided with health education,
- (d) in making arrangements for the purposes of paragraphs (a), (b) or (c), has regard to any guidance under section 80A of the Education Act 2002 that applies in relation to the provision of education by maintained schools,
- (e) makes and keeps up to date a separate written statement of its policy with regard to the provision of education as required by each of paragraphs (a) and (b),
- (f) consults parents of registered pupils at the school before making or revising a statement under sub-paragraph (e), and
- (g) publishes a copy of the statement on a website and provides a copy of the statement free of charge to anyone who asks for one.

(a) S.I. 2007/2979. There are amendments to the S.I. which are not relevant to these Regulations.

(b) S.I. 2014/3283. There are amendments to the S.I. which are not relevant to these Regulations.

(2) Arrangements made by the proprietor for the purposes of sub-paragraph (1)(b) must ensure that where a pupil’s parent requests that the pupil is wholly or partly excused from sex education provided as part of relationships and sex education, the pupil is so excused until the request is withdrawn, unless or to the extent that the head teacher considers that the pupil should not be so excused.

(3) Sub-paragraph (1)(a) and (c) do not apply to a pupil who is under compulsory school age.”.

Non-Maintained Special Schools (England) Regulations 2015

13. In the Schedule to the Non-Maintained Special Schools (England) Regulations 2015(a) (requirements to be complied with), for paragraph 25 substitute—

“Relationships, sex and health education

25.—(1) The proprietor must make arrangements to ensure that—

- (a) every registered pupil who is provided with primary education at the school is provided with relationships education,
- (b) every registered pupil who is provided with secondary education at the school is provided with relationships and sex education, except in so far as the pupil is excused as mentioned in paragraph 25A, and
- (c) every registered pupil is provided with health education.

(2) Sub-paragraph (1)(a) and (c) do not apply to pupils who are under compulsory school age.

(3) In making arrangements under this paragraph the proprietor must have regard to any guidance under section 80A of the Education Act 2002 that applies in relation to the provision of education by maintained schools.

(4) The proprietor must—

- (a) make, and keep up to date, a separate written statement of its policy with regard to the provision of education under sub-paragraph (1)(a) or (b), and
- (b) publish a copy of the statement on a website and provide a copy of the statement free of charge to anyone who asks for one.

(5) The proprietor must consult parents of registered pupils at the school before making or revising a statement under sub-paragraph (4)(a).

25A. Arrangements under paragraph 25(1)(b) must ensure that where a pupil’s parent requests that the pupil is wholly or partly excused from sex education provided as part of relationships and sex education, the pupil is so excused until the request is withdrawn, unless or to the extent that the head teacher considers that the pupil should not be so excused.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations give effect to the duty on the Secretary of State in section 34 of the Children and Social Work Act 2017 to make provision by regulations requiring relationships education to be provided to pupils of compulsory school age receiving primary education and relationships and sex education to be provided to pupils receiving secondary education. The regulations also exercise the power, in section 35 of the 2017 Act, to require health education to be provided to all pupils of compulsory school age receiving primary education in state-funded schools and all pupils receiving secondary education in state-funded schools.

(a) S.I. 2015/728. There are amendments to the S.I. which are not relevant to these Regulations.

Paragraph 2 of the Schedule amends section 403 of the Education Act 1996 (“the 1996 Act”) so that the requirement in that section for the Secretary of State to issue guidance covering certain prescribed matters applies only to non-compulsory sex education (for example in a maintained primary school). It makes other, minor amendments to section 403 to preserve its effect in relation to other matters.

Paragraph 3 of the Schedule amends section 404 of the 1996 Act, which requires governing bodies of maintained schools to make statements of policy with regard to the provision of sex education so that it continues to apply to sex education given other than in accordance with the new requirement to provide relationships and sex education.

Paragraph 4 of the Schedule amends section 405 of the 1996 Act by introducing a new provision in relation to the right of a pupil to be excused from the sex education element of compulsory relationships and sex education, whilst maintaining the position for sex education which is given other than as part of compulsory relationships and sex education.

Paragraph 6 of the Schedule amends section 79(6) of the Education Act 2002 (“the 2002 Act”). Section 79(6) places a duty on local authorities to have regard to guidance issued by the Secretary of State under section 403(1A) of the 1996 Act in exercising functions which may affect the provision of sex education in maintained schools; the amendment extends that duty to guidance issued under section 80A of the 2002 Act.

Paragraph 7 of the Schedule amends section 80 of the 2002 Act, which sets out the constituent parts of the basic curriculum for maintained schools in England. The effect of the amendment is that relationships education will form part of the basic curriculum for all primary pupils at maintained schools, relationships and sex education will form part of the basic curriculum for all secondary pupils at maintained schools, and health education will form part of the basic curriculum for all pupils at maintained schools.

Paragraph 8 of the Schedule introduces new provisions requiring the Secretary of State to issue guidance about the provision of relationships education, relationships and sex education and health education to which maintained schools must have regard, and requiring maintained schools to issue statements of policy about the provision of relationships education and relationships and sex education.

Paragraph 9 of the Schedule amends Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 to apply the new provisions in the 2002 Act to pupil referral units.

Paragraphs 10 to 12 of the Schedule amend the Education (Independent School Standards) Regulations 2014 so that relationships education, relationships and sex education and health education are compulsory in academies and relationships education and relationships and sex education are compulsory in all other independent schools, and introduce requirements to have regard to guidance and to issue statements of policy.

Paragraph 13 of the Schedule amends the Non-Maintained Special Schools (England) Regulations 2015 so that relationships education, relationships and sex education and health education are compulsory in non-maintained special schools, and introduces requirements to have regard to guidance and to issue statements of policy.

An impact assessment of the effect that this instrument will have on the costs of business and the public and voluntary sector is available from the Life Skills Division, Department for Education, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT and accessible on the Department’s internet website at <http://www.education.gov.uk>. Copies have also been placed in the Library of each House of Parliament.