

2010 No. 2954(W. 246)

EDUCATION, WALES

**The Education (Parenting Contracts
and Parenting Orders) (Wales)
Regulations 2010**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to parenting orders and parenting contracts under Part 2 of the Anti-social Behaviour Act 2003 (“the Act”, as amended by Chapter 2 of Part 7 of the Education and Inspections Act 2006).

They prescribe conditions to be fulfilled before an application can be made for a parenting order under section 20 of the Act. Regulations 3 and 4 prescribe the condition in respect of both permanent and fixed term exclusions, namely that the application must be made within the relevant period. Regulations 5 and 6 prescribe the condition where it appears that the pupil has engaged in behaviour warranting exclusion. Again the application must also be made within the relevant period. Regulations 4 and 6 respectively define the relevant period.

Regulation 7 restricts a local authority, authority A, from entering into a parenting contract or applying for a parenting order, where the pupil concerned attends a school in the area of another authority, authority B, unless authority A has an agreement with authority B that authority A may do so, or the pupil lives in authority A’s area and has been excluded permanently. It also restricts authority A from entering into a parenting contract or applying for a parenting order where the pupil whom it concerns attends a school in authority A’s area and has been permanently excluded, but resides in authority B’s area, unless authority A has an agreement with authority B that authority A may do so.

Regulation 8 obliges bodies who may enter into a parenting contract or apply for parenting order to consult one another before doing so.

Regulation 9 obliges bodies to seek from one another information which they reasonably consider may be relevant to enable them to decide whether or not to enter into a parenting contract or apply for a parenting order, to avoid multiple contracts and orders in relation to the same child, and to determine the content of a contract or order.

Regulation 10 prescribes for the purpose of section 22A(2)(e) of the Act that local authorities and governing bodies are to fund the costs of parenting contracts and parenting orders, though they may recover these costs from one another by agreement.

In exercising their functions relating to parenting contracts and parenting orders, schools and local authorities must have regard to guidance issued by the Welsh Ministers pursuant to section 19(9) of the Act in relation to contracts and section 21(5) of the Act in relation to orders.

Regulations 11 and 12 revoke the Education (Parenting Orders) (Wales) Regulations 2006 which these Regulations replace and make transitional provisions. The 2006 Regulations continue to apply to parenting orders made or applied for before 5 January 2011.

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**The Education (Parenting Contracts
and Parenting Orders) (Wales)
Regulations 2010**

Made 13 December 2010

Laid before the National Assembly for Wales
15 December 2010

Coming into force 05 January 2011

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by sections 20(1) and (2A), 22A, 24 and 94 of the Anti-social Behaviour Act 2003⁽¹⁾ and now vested in them⁽²⁾ make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Parenting Contracts and Parenting Orders) (Wales) Regulations 2010 and they come into force on 05 January 2011.

(2) These Regulations apply in relation to—

- (a) local authorities and governing bodies of maintained schools in Wales; and
- (b) pupils who are, or were immediately before permanent exclusion, registered pupils at maintained schools in Wales.

Interpretation

2.—(1) In these Regulations—

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- (1) 2003 c.38. Section 20(2A) was inserted by section 98, and section 22A by section 99, of the Education and Inspections Act 2006 (c. 40).
 - (2) The powers conferred on the National Assembly for Wales in sections 20, 22A, 24 and 94 of the Anti-social Behaviour Act 2003 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

“the Act” (“*y Ddeddf*”) means the Anti-social Behaviour Act 2003;

“the 2006 Regulations” (“*Rheoliadau 2006*”) means the Education (Parenting Orders) (Wales) Regulations 2006⁽¹⁾;

“parenting contract” (“*contract rhianta*”) means a parenting contract under section 19 of the Act;

“parenting order” (“*gorchymyn rhianta*”) means a parenting order under section 20 of the Act;

“relevant behaviour” (“*ymddygiad perthnasol*”) means behaviour of the kind mentioned in section 20(2A)(a) of the Act (as read with section 20(2B) of the Act); and

“school day” (“*diwrnod ysgol*”) has the meaning given to it by section 579(1) of the Education Act 1996⁽²⁾.

(2) For the purposes of these Regulations—

- (a) an exclusion begins on the first day to which the exclusion relates (and, in relation to an exclusion, “beginning”, and similar expressions, are construed accordingly); and
- (b) where the pupil is excluded during the course of a school day but before the beginning of any afternoon session on that day, that day is to be treated for these purposes as the first day to which the exclusion relates.

Prescribed conditions for parenting orders where the pupil has been excluded

3. For the purposes of section 20(1)(b) of the Act, the prescribed condition is that the application must be made within the relevant period.

4.—(1) For the purposes of regulation 3, in the case of a pupil excluded for a fixed period, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after the day on which consideration of the exclusion was completed by the governing body (or in the case of an exclusion from a pupil referral unit, the local authority) or, if it was not so considered, the day on which it began;
- (b) the period of 6 months beginning with the day on which a parent of the pupil entered into a parenting contract.

(1) S.I. 2006/1277 (W.122).

(2) 1996 c.56.

(2) For the purposes of regulation 3, in the case of a pupil excluded permanently, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after—
 - (i) the day on which an appeal panel constituted under regulations made under section 52 of the Education Act 2002 (1) decided to uphold the exclusion;
 - (ii) the day on which the parent stated in writing that the parent does not intend to bring an appeal under those regulations;
 - (iii) the day on which an appeal brought within the time for bringing an appeal has been abandoned; or
 - (iv) if there was no appeal (and paragraph (ii) of this sub-paragraph does not apply), the last day on which an appeal could have been brought; or
- (b) the period of six months beginning with the day on which a parent of the pupil entered into a parenting contract.

Prescribed conditions for parenting orders where the pupil has engaged in relevant behaviour

5. For the purposes of section 20(2A)(b) of the Act, the prescribed condition is that an application must be made within the relevant period.

6. For the purposes of regulation 5, the “relevant period” is whichever of the following is applicable, and if both are applicable whichever expires the later—

- (a) the period of 40 school days beginning with the next school day after the day on which the relevant behaviour occurred (or, if the behaviour occurred over a period of more than one day, the next school day after the last day on which it occurred);
- (b) the period of six months beginning with the day on which a parent of the pupil entered into a parenting contract.

Limit on the power of a local authority to enter into a parenting contract or apply for a parenting order

7.—(1) Except in a case mentioned in paragraph (3), a local authority may not enter into a parenting contract or apply for a parenting order where the school by reference to which the contract would

(1) 2002 c. 32

otherwise be entered into or the application would otherwise be made (“the school in question”) is not in the area of the authority.

(2) Except in a case mentioned in paragraph (4), a local authority may not enter into a parenting contract or apply for a parenting order where the child by reference to whom the contract would otherwise be entered into or the application would otherwise be made (“the child in question”) does not reside in the area of the authority.

(3) A local authority may enter into a parenting contract, or apply for a parenting order, where the school in question is not in the area of the authority where—

- (a) the authority has an agreement with the local authority where the school in question is situated that the first authority may enter into a parenting contract or apply for a parenting order in the circumstances; or
- (b) the child in question resides in the area of the authority and the child has been permanently excluded.

(4) A local authority may enter into a parenting contract or apply for a parenting order where the child in question does not reside in the area of the authority if—

- (a) the school in question is in the area of the authority; and
- (b) the child—
 - (i) is a registered pupil at the school; or
 - (ii) has been permanently excluded from the school,

where the authority has an agreement with the local authority where the child in question resides that the first authority may enter into a parenting contract or apply for a parenting order in those circumstances.

Duty to consult

8. Where in any case more than one local authority or governing body has the power to enter into a parenting contract or more than one local authority has the power to apply for a parenting order, the local authority or governing body proposing to exercise the power must consult each other relevant body.

Provision of information

9.—(1) Where a local authority or governing body (“A”) proposes to enter into a parenting contract or (in the case of the local authority) apply for a parenting order they must, in relation to that entry or application, request information from any other local authority or governing body (“B”) in relation to the child by

reference to whom the contract is proposed to be entered into or application for the order made as is reasonably necessary to enable them to—

- (a) decide whether or not to enter into such contract or make such application (as the case may be);
- (b) avoid the entry into a parenting contract or application for a parenting order (as the case may be) where a parenting contract or parenting order exists in relation to that child or the entry into a parenting contract or application for a parenting order is pending; and
- (c) make an informed decision about the terms of such a contract or the content of the application (as the case may be) with a view to the most appropriate contract being entered into or order being made in all the circumstances of the case.

(2) B must, on receipt of a request under paragraph (1), provide to A such information in its possession or control as may be reasonably necessary for the purposes set out in paragraph (1).

(3) Where A makes a request for information under paragraph (1), they may disclose to B such information as may be reasonably necessary to enable B to fulfil their duty under paragraph (2).

Costs of parenting order or parenting contract

10.—(1) The costs associated with the requirements of parenting orders or the costs associated with parenting contracts, including in each case the costs of providing counselling or guidance programmes, must be borne by the local authority making the application or the local authority or governing body entering into the contract.

(2) A local authority or governing body may recover the costs they incur under paragraph (1) from another local authority or governing body by agreement.

Revocation

11. Subject to regulation 12, the 2006 Regulations are revoked.

Transitional provisions

12.—(1) The 2006 Regulations continue to apply to parenting orders under section 20 of the Act, made, or applied for, before 5 January 2011.

(2) Regulation 7 of these Regulations does not apply to a parenting contract entered into or parenting order made, or applied for before 5 January 2011.

(3) Regulation 10 of these Regulations, insofar as it applies to the costs associated with parenting contracts, does not apply to such a contract entered into before 5 January 2011.

Leighton Andrews

Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers

13 December 2010