

2013 No.

EDUCATION, ENGLAND

The Inter-authority Recoupment (England) Regulations 2013

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - ***

The Secretary of State for Education, in exercise of the powers conferred by section 207(1) of the Education Act 2002(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Inter-authority Recoupment (England) Regulations 2013 and come into force on 1st April 2013.

(2) These Regulations apply in relation to education provided on or after 1st April 2013, save as provided in regulations 5, 9 and 10.

(3) These Regulations apply only in relation to provision for education which is made by a local authority in England or Wales (“the providing authority”(b)) in respect of a person who belongs to the area of another authority (“the home authority”(c)), where the home authority is in England.

Amendments to The Education (Inter-authority) Recoupment Regulations 1994

2.—(1) The Education (Inter-authority) Recoupment Regulations 1994(d) are amended as follows—

(2) After regulation 1 insert—

“1A.—(1) These Regulations do not apply to any provision for education which is made by a local authority in respect of a person who belongs to the area of another authority, where the authority to which the person belongs is in England.”

Interpretation

3. In these Regulations—

“the EA 1996” means the Education Act 1996(e);

“the EA 2002” means the Education Act 2002;

(a) 2002 c.32.
(b) “Providing authority” is defined in section 207(1) of the Education Act 2002 (c.32).
(c) “Home authority” is defined in section 207(1) of the Education Act 2002 (c.32)
(d) S.I. 1994/3251.
(e) 1996 c.56.

“looked after child” means a person who, for the purposes of the Children Act 1989^(a), is a child looked after by a local authority; and

“special school” has the meaning given in section 6(2) of the 1996 Act.

Cases in which recoupment is required: English home authority, Welsh providing authority

4.—(1) This regulation applies to education provided to—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of the 1996 Act;
- (b) a person attending a special school; and
- (c) a person who has not attained the age of nineteen years who—
 - (i) is a patient in a hospital; and
 - (ii) receives education in a special school established in a hospital, or under any arrangements made by a local authority under section 19 of the 1996 Act otherwise than at a school.

(2) Where provision for any education to which this regulation applies is made by a providing authority in Wales in respect of a person who belongs to the area of a home authority in England, the home authority must pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is required: English home authority, English providing authority

5.—(1) This regulation applies to education provided to a looked after child who is—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of the 1996 Act; or
- (b) a person attending a special school.

(2) Where provision for any education to which this regulation applies is made by a providing authority in England in respect of a person who belongs to the area of a home authority in England, the home authority must pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is required: transitional provision

6.—(1) This regulation applies to education provided before 1st April 2013 to—

- (a) a child for whom a statement of special educational needs is maintained under section 324 of the 1996 Act;
- (b) a person attending a special school; or
- (c) a person who has not attained the age of nineteen years who—
 - (i) is a patient in a hospital; and
 - (ii) receives education in a special school established in a hospital, or under any arrangements made by a local authority under section 19 of the 1996 Act otherwise than at a school.

(2) Where provision for any education to which this regulation applies is made by a providing authority in England or Wales in respect of a person who belongs to the area of the home authority in England, the home authority must pay to the providing authority such amount as the authorities may agree.

(a) 1989 c.41.

Cases in which recoupment is permitted: English home authority, Welsh providing authority

7.—(1) This regulation applies to primary and secondary education and part-time education for those who have not attained the age of five years, but it does not apply to education to which regulation 4 or 5 applies.

(2) Where provision for any education to which this regulation applies is made by a providing authority in Wales in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is permitted: English home authority, English providing authority

8.—(1) This regulation applies to the following types of education when provided to a looked after child, subject to paragraph (2)—

- (a) primary education;
- (b) secondary education; and
- (c) part-time education where the child has not attained the age of five years.

(2) This regulation does not apply to education to which regulation 4 or 5 applies.

(3) Where provision for any education to which this regulation applies is made by a providing authority in England in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amount as the authorities may agree.

Cases in which recoupment is permitted: transitional provision

9.—(1) This regulation applies to the following types of education provided before 1st April 2013, subject to paragraph (2)—

- (a) primary education;
- (b) secondary education; and
- (c) part-time education where the child has not attained the age of five years.

(2) This regulation does not apply to education to which regulation 6 applies.

(3) Where provision for any education to which this regulation applies is made by a providing authority in England or Wales in respect of a person who belongs to the area of a home authority in England, the home authority may pay to the providing authority such amounts as the authorities may agree.

Claims for recoupment

10.—(1) In this regulation a “claim for recoupment” means any claim for payment which a providing authority makes for payment from a home authority by virtue of these Regulations.

(2) Claims for recoupment must—

- (a) be made in writing, and specify the person in respect of whom payment is claimed and the amount claimed; and
- (b) be submitted to the appropriate home authority within 12 months from the end of the financial year in which the provision for education to which the claim relates was made.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations are made under section 207(1) of the Education Act 2002 and make provision for recoupment between local authorities where a person belonging to the area of one authority in England (the “home authority”) is educated by another authority in England or Wales (the “providing authority”).

Regulation 2 of the Regulations amends The Education (Inter-authority Recoupment) Regulations 1994 so that those Regulations only apply to recoupment where the home authority is in Wales.

Regulation 4 provides for circumstances where recoupment is mandatory between a home authority in England and a providing authority in Wales, namely in relation to those types of education listed in regulation 4(1)(a) to (c).

Regulation 5 provides for circumstances where recoupment is mandatory between a home authority in England and a providing authority in England, namely in relation to looked after children being provided with those types of education listed in regulation 5(1)(a) and (b).

Regulation 7 provides for circumstances where recoupment is optional between a home authority in England and a providing authority in Wales, namely in relation to the circumstances described in regulation 7(1).

Regulation 8 provides for circumstances where recoupment is optional between a home authority in England and a providing authority in England, namely in relation to looked after children in the circumstances described in regulation 8(1) and (2).

Regulations 6 and 9 provide for transitional arrangements in relation to education provided before 1st April 2013.

Regulation 10 makes provision for how providing authorities should make their claims for recoupment.