

# STATUTORY INSTRUMENTS

## 1994 No. 3251

### EDUCATION, ENGLAND AND WALES

## The Education (Inter-authority Recoupment) Regulations 1994

- *Made*

1. 15th December 1994

- *Coming into force*

2. 1st April 1995

In exercise of the powers conferred upon the Secretary of State by sections 51 and 63(3) of the Education (No.2) Act 1986<sup>(1)</sup>, the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations, a draft of which has been laid before Parliament pursuant to section 63(2A)<sup>(2)</sup> of that Act and has been approved by resolution of each House of Parliament:—

#### **Citation and commencement**

1. These Regulations may be cited as the Education (Inter-authority Recoupment) Regulations 1994 and shall come into force on 1st April 1995.

#### **Interpretation**

2.—(1) In these Regulations—

“authority” means a local education authority;

“child” has the meaning assigned to it in section 156(5) of the Education Act 1993; and

“special school” has the meaning assigned to it in section 182(1) of the Education Act 1993.

(2) In these Regulations a reference to a regulation is a reference to a regulation contained therein.

#### **Cases in which recoupment is required**

3.—(1) This regulation applies to the education of—

1. (a) a child for whom a statement of special educational needs is maintained under Part III of the Education Act 1993;
2. (b) a person attending a special school; and
3. (c) a person who has not attained the age of nineteen years who—
4. (i) is a patient in hospital, and

5. (ii) receives education in a special school established in a hospital, or education referred to in section 298(1) of the Education Act 1993 otherwise than at school.

(2) Where provision for any education to which this regulation applies is made by an authority in respect of a person who belongs to the area of another authority, that authority shall pay to the providing authority—

6. (a) such amount as the authorities may agree; or

7. (b) failing agreement, such amount as may be determined by the Secretary of State.

#### **Cases in which recoupment is permitted**

4.—(1) This regulation applies to primary, secondary and further 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 3 applies.

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

#### **Claims for recoupment**

5. Claims for recoupment shall—

8. (a) be made in writing, and specify the person in respect of whom payment is claimed and the amount claimed, and

9. (b) be submitted to the appropriate authority within 12 months from the end of the financial year in which the provision for education to which the claim relates was made.

*Gillian Shephard*

Secretary of State for Education

5th December 1994

*John Redwood*

Secretary of State for Wales

15th December 1994

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under section 51 of the Education (No. 2) Act 1986 as amended by section 279 of the Education Act 1993. They introduce a number of changes to the recoupment system.

Recoupment between local education authorities in England and Wales is only compulsory in respect of the costs of providing education for children with statements of special educational needs, persons attending special schools and persons under the age of 19 receiving education in hospital. In all other cases, recoupment is voluntary.

The Regulations also provide that the amount recoupable is to be agreed between authorities. Where there is no agreement in cases where recoupment is compulsory, there is provision for the amount recoupable to be determined by the Secretary of State.

Claims for recoupment are to be in writing and to be submitted within 12 months of the end of the financial year in which the relevant educational provision was made.

**(1)**

1986 c. 61; section 51 was amended by paragraph 24 of Schedule 8 to the Further and Higher Education Act 1992 (c. 13) and by section 279(1) of, and paragraph 103 of Schedule 19 to, the Education Act 1993 (c. 35), and section 63(3) was amended by paragraph 107(a) of Schedule 19 to the Education Act 1993.

**(2)**

Section 63(2A) was inserted by section 279(2) of the Education Act 1993.