
STATUTORY INSTRUMENTS

2010 No. 2919

EDUCATION, ENGLAND

The Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010

Made - - - - *7th December 2010*
Laid before Parliament *10th December 2010*
Coming into force - - *1st January 2011*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 98(2)(a) and (b) and (3), 123, 166(6) and 170(1) and (2)(b) of the Education and Skills Act 2008(1):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010 and come into force on 1st January 2011.

(2) They apply to independent educational institutions in England which are independent schools(2), except that—

(a) these Regulations do not apply to a school—

(i) established as a city technology college or a city college for the technology of the arts before 26th July 2002 by an agreement under section 482 of the Education Act 1996(3); and

(ii) which is not an Academy; and

(b) regulations 4 and 5 and paragraph 3(6) to (12) of Part 2 of the Schedule do not apply to Academies(4).

(1) 2008 c. 25. See section 168(1) for the definitions of “prescribed” and “regulations”.
(2) See section 92 of the Education and Skills Act 2008 (c. 25) for the meaning of “independent educational institution” and section 463 of the Education Act 1996 (c. 56) for the meaning of “independent school”.
(3) 1996 c. 56. Section 15(8) and (9) of the Academies Act 2010 (c. 32) apply if an agreement under section 482 of the Education Act 1996 has effect immediately before 29 July 2010 in relation to a school known as a city technology college or a city college for the technology of the arts. By virtue of section 15(8) of the 2010 Act, if the proprietor of the school and the Secretary of State agree, the agreement is treated as an Academy agreement under section 1 of the 2010 Act and the school is known as an Academy, in which case regulation 1(2)(b) applies to the school. By virtue of section 15(9), in any other case, the agreement continues in operation and is not affected by the repeal of section 482(1) to (5) of the 1996 Act by paragraphs 1 and 4 of Schedule 2 to the 2010 Act and regulation 1(2)(a) applies to the school.
(4) See section 579(1) of the Education Act 1996 for the meaning of “Academy”.

Interpretation

2. In these Regulations—

- “the 2008 Act” means the Education and Skills Act 2008;
- “accuracy statement” means a statement that, to the best of the knowledge and belief of the person making it, the information contained in the document to which the statement relates is accurate;
- “application” means an application under section 98(1) of the 2008 Act for an independent school to be entered on the register⁽⁵⁾;
- “school” means an independent school.

Application for registration of an independent school

3. An application must—

- (a) be made in writing;
- (b) state the first date on which the school intends to admit students;
- (c) contain the information specified in Part 2 of the Schedule; and
- (d) contain an accuracy statement made by the proprietor.

Initial return

4.—(1) If requested to do so by the Secretary of State, the proprietor of a registered⁽⁶⁾ school must provide the Secretary of State with an initial return for the school.

(2) An initial return must—

- (a) be made in writing;
- (b) contain the information specified in Part 3 of the Schedule; and
- (c) contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor’s behalf.

(3) An initial return must be provided within three months of—

- (a) the admission date; or
- (b) if the Secretary of State’s request for the initial return was made after the admission date, the date of the request.

(4) “The admission date” is the first date on which—

- (a) five or more students are admitted to the school, if the school is an independent school by virtue of section 463(1)(a) of the Education Act 1996; or
- (b) one student is admitted to the school, if the school is an independent school by virtue of section 463(1)(b) of that Act.

Annual return

5.—(1) If requested to do so by the Secretary of State, the proprietor of a registered school must provide the Secretary of State with an annual return for the school.

(2) An annual return must—

- (a) be made in writing;

(5) The meaning of “the register” in section 138(1) of the Education and Skills Act 2008 is modified in article 3(3) of the Education and Skills Act 2008 (Commencement No. 7 and Transitory Provisions) Order 2010 (S.I. 2010/2906 (C. 129)).

(6) See section 138(1) of the Education and Skills Act 2008 for the meaning of “registered”.

- (b) be made up to the date specified by the Secretary of State;
 - (c) contain the information specified in Part 4 of the Schedule; and
 - (d) contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor's behalf.
- (3) An annual return must be provided within one month of the date specified by the Secretary of State by virtue of paragraph (2)(b).

Removal of a school from the register

6.—(1) If the Secretary of State is satisfied that the proprietor of a school has failed to comply with a requirement of regulation 4 or 5, the Secretary of State may remove the school from the register.

(2) If the Secretary of State makes a decision under paragraph (1) to remove a school from the register, the Secretary of State must notify the proprietor of the school of the decision.

(3) A decision under paragraph (1) to remove a school from the register does not have effect during the period in which—

- (a) an appeal may be brought under section 124 of the 2008 Act against the decision; or
- (b) where such an appeal has been brought, the appeal has not been determined, withdrawn or otherwise disposed of.

Revocation

7. The Education (Provision of Information by Independent Schools) (England) Regulations 2003(7) and the Education (Provision of Information by Independent Schools) (England) (Amendment) Regulations 2004(8) are revoked.

7th December 2010

Nick Gibb
Minister of State
Department for Education

(7) [S.I. 2003/1934](#).
(8) [S.I. 2004/3373](#).

SCHEDULE

Regulations 3, 4 and 5

PART 1

INTRODUCTORY

- 1.—(1) In this Schedule—
- “charity” means a body of persons or trust established for charitable purposes only;
 - “the relevant date”—
 - (a) in the case of the first annual return, means the date to which the information contained in the application for registration of the school was made up; and
 - (b) in any other case, means the date to which the last annual return was made up;
 - “year group”, in relation to a school, means—
 - (a) in relation to an initial return, a group of students attending the school who attain the same age in years during the period of twelve months beginning with 1st September in the school year in relation to which the return is made; and
 - (b) in relation to an annual return, a group of students attending the school who attain the same age in years during the period of twelve months beginning with 1st September immediately before the date to which the annual return is made up.
- (2) Any reference in this Schedule to a person employed at a school is a reference to a person—
- (a) providing education at the school;
 - (b) taking part in the management of the school; or
 - (c) carrying on work which—
 - (i) brings the person regularly into contact with children who are students at the school; and
 - (ii) is carried out at the request of or with the consent of the proprietor of the school (whether or not under a contract).

PART 2

INFORMATION REQUIRED IN AN APPLICATION

- 2.—(1) If the proprietor⁽⁹⁾ is an individual—
- (a) the individual’s full name and any previous names by which the individual has been known; and
 - (b) the individual’s usual residential address, telephone number and date of birth.
- (2) If the proprietor is a body of persons corporate or unincorporate—
- (a) the body of persons’ name;
 - (b) the address and telephone number of its registered or principal office; and
 - (c) in relation to each member of the body of persons—
 - (i) their full name and any previous names by which they have been known; and

⁽⁹⁾ By virtue of section 138(2) of the Education and Skills Act 2008 (c. 25) the reference to the proprietor includes the proprietor of a school that it is proposed should become an independent school and accordingly the information required by paragraph 3 of the Schedule to these Regulations, in the case of such a proprietor, is information about the school as it is proposed to be.

- (ii) their usual residential address and date of birth.
- (3) The name and address of the school, its telephone number and any e-mail address.
- (4) If the school has a governing body, the full name, usual residential address and telephone number of the chair of that body.

3.—(1) A statement that the school is an independent school.

- (2) The age range of students.
- (3) The maximum number of students.
- (4) Whether the school is for male students or female students or both.
- (5) Whether the school provides accommodation for students or makes arrangements for the provision of such accommodation.
- (6) Whether the school is specially organised to make special educational provision for students with special educational needs.
- (7) If the school is within sub-paragraph (6), the type or types of special educational needs for which the school is specially organised to make special educational provision.
- (8) A plan showing the layout of the school premises and any accommodation provided.
- (9) Detailed curriculum plans, schemes of work and student assessment procedures.
- (10) The written policy required by paragraph 9 of Schedule 1 to the Education (Independent School Standards) (England) Regulations 2010⁽¹⁰⁾.
- (11) Particulars of the arrangements for meeting the standards contained in paragraphs 7, 10 and 12 of that Schedule.
- (12) The complaints procedure required by paragraph 25 of that Schedule.
- (13) Whether the proprietor intends to provide any child with accommodation at the school (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in any year.
- (14) The religious ethos of the school, if any.
- (15) Whether the premises of the school, including any accommodation provided, are at two or more separate locations, and if so, the address of each of those locations.
- (16) If the school is a charity, or is conducted by a charity, the name of the charity and the number under which it is registered.

PART 3

INFORMATION REQUIRED IN AN INITIAL RETURN

- 4.—**(1) The number of students in each year group.
- (2) If the school provides accommodation, or makes arrangements for the provision of accommodation, the number of boarding students.
- (3) If the school also provides part-time education—
 - (a) the number of students in each year group who receive part-time education; and
 - (b) the number of students in each year group who receive full-time education.
- (4) If the school is co-educational, the numbers required by sub-paragraphs (1) to (3) are to be given separately for male and female students.

⁽¹⁰⁾ S.I. 2010/1997.

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5.—(1) The number of students at the school in respect of whom a local authority maintain a statement of special educational needs pursuant to section 324 of the Education Act 1996**(11)**.

(2) The number of students at the school who—

- (a) are not within sub-paragraph (1); but
- (b) have been identified as having special educational needs.

6. The number of students at the school who are looked after by a local authority (within the meaning in section 22(1) of the Children Act 1989**(12)**).

7.—(1) In relation to teachers employed at the school—

- (a) the number of full-time teachers;
- (b) the number of part-time teachers; and
- (c) the total number of hours a week normally worked by part-time teachers in term time.

(2) The numbers required by sub-paragraph (1) are to be given separately for male and female teachers.

8.—(1) In relation to every person employed at the school—

- (a) the person's full name and any previous names by which the person has been known; and
- (b) the capacity in which the person is employed.

(2) In relation to every teacher employed at the school, a statement as to whether the teacher is the head teacher, a full-time teacher or a part-time teacher.

9.—(1) The amount of annual tuition and other fees (excluding fees for accommodation) payable in respect of a student at the school as a condition of the student's attendance.

(2) In the case of a school which provides accommodation for students, or makes arrangements for the provision of accommodation, the amount of annual fees payable in respect of a boarding student for accommodation.

PART 4

INFORMATION REQUIRED IN AN ANNUAL RETURN

10. All the information specified in Parts 2 and 3 of this Schedule with the exception of that in paragraphs 2(2)(c), 3(1) to (15) and 8.

11.—(1) In relation to every person who has started or ceased to be employed at the school since the relevant date—

- (a) the person's full name and any previous names by which the person has been known; and
- (b) the capacity in which the person is or was employed.

(2) In relation to every teacher who has started or ceased to be employed at the school since the relevant date, a statement as to whether the teacher is or was the head teacher, a full-time teacher or a part-time teacher.

(11) 1996 c. 56.

(12) 1989 c. 41. Section 22(1) is amended by paragraph 19 of Schedule 5 to the Local Government Act 2000 (c. 22), section 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35) and section 116(2) of the Adoption and Children Act 2002 (c. 38).

12.—(1) The number of students attending the school for whom accommodation was provided there (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in any year.

(2) The information required by sub-paragraph (1) must relate to—

- (a) the year immediately before the date to which the return is made up, in the case of the first annual return; or
- (b) the two years immediately before that date, in any other case.

13.—(1) The number of students in each year group of students aged 15, 16, 17 and 18 years who are pursuing courses for examinations.

(2) The number of students in each year group of students aged 15, 16, 17 and 18 years who have completed courses for an examination in a qualification determined by the Office of Qualifications and Examinations Regulation⁽¹³⁾ as a level 3 qualification but who remain at the school for a purpose other than for pursuing a further course of that nature.

(3) The number of students in each year group of students aged 15, 16, 17 and 18 years (except for those within sub-paragraph (2)) who attend the school for a purpose other than for pursuing courses for an examination mentioned in sub-paragraph (2).

(4) The numbers required by sub-paragraphs (1) and (2) are to be given separately for male and female students.

14. If a change has occurred in the premises of, or accommodation provided at, the school since the relevant date, particulars of the change.

15. If a change has occurred since the relevant date in the membership of a body of persons named as the proprietor in the register or in an application to enter the school in the register, for any new member, the information required by paragraph 2(2)(c) of this Schedule.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (Provision of Information by Independent Schools) Regulations 2003 (“the 2003 Regulations”). The Regulations apply to independent educational institutions which are independent schools but they do not apply to a school established as a city technology college or a city college for the technology of the arts before 26th July 2002 by an agreement under section 482 of the Education Act 1996 and which is not an Academy. Regulations 4 and 5 and paragraph 3(6) to (12) of Part 2 of the Schedule do not apply to Academies.

Regulation 3, and Part 2 of the Schedule, set out the information which must be contained in an application for the registration of an independent school under section 98(1) of the Education and Skills Act 2008 (“the 2008 Act”), and the manner in which such an application must be made.

Regulations 4 and 5, and Parts 3 and 4 of the Schedule, set out the information to be provided periodically by the proprietors of independent schools under section 123 of that Act.

⁽¹³⁾ The Office of Qualifications and Examinations Regulation is established by section 127 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 27).

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Regulation 6 makes provision for the Secretary of State to remove a school from the register if the proprietor of the school fails to comply with a requirement in regulation 4 or 5 but a decision to remove a school from the register does not have effect during the period in which an appeal under section 124 of the 2008 Act may be brought or during any period when such an appeal has not been determined, withdrawn or otherwise disposed of.

The main changes to the 2003 Regulations are that applications and reports no longer require a signature and so can more easily be submitted electronically. Some requirements for information have been removed and paragraph 3(6) of the Schedule is a new provision requiring an application to enter an independent school on the register to state whether the school is specially organised to make special educational provision for students with special educational needs and, if so, the type or types of needs for which the school is specially organised to make such provision. Regulation 6, which enables the Secretary of State to remove a school from the register, now requires the Secretary of State to notify the proprietor of such a decision and sets out when the decision has effect. Lastly, under the 2003 Regulations it was an offence for a proprietor of an independent school to fail to provide information and this offence has been removed.

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 Independent Education and Boarding Team, Department for Education, LG11, Mowden Hall, Staindrop Road, Darlington DL3 9BG 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.