

2006 No. 51

EDUCATION

**Education (Prohibition from Teaching or Working with
Children) Regulations (Northern Ireland) 2006**

Made - - - - - *16th February 2006*

Coming into operation - *3rd April 2006*

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 70(1) and (2), 88A(1) and (2) and 134 of the Education and Libraries (Northern Ireland) Order 1986(a), as read with Article 15(4) to (7) of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(b).

Citation and Commencement

1. These Regulations may be cited as the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2006 and shall come into operation on 3rd April 2006.

Interpretation

2. In these Regulations—

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;

“the 2003 Order” means the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

“Care Tribunal” means the Care Tribunal established under Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;(c)

“child” has the same meaning as in the 2003 Order;

“disqualification order” means an order under Article 23 or 24 of the 2003 Order;

“employment” has the same meaning as in the 2003 Order.

Prohibition of Employment

3. These Regulations prohibit the employment or further employment of a teacher or a person to whom Article 88A of the 1986 Order applies on the grounds that he is included in the list mentioned in regulation 4 or he is automatically prohibited on any of the grounds mentioned in regulation 8.

(a) S.I.1986/594(N.I.3) Article 70 was substituted by and Article 88A inserted by S.I.1987/167 (N.I.2); Article 70 was amended by S.I.1989/2406 (N.I.20), S.I. 1993/2810 (N.I. 12), S.I. 1998/1759 (N.I.13) and S.I. 2003/417 (N.I.4). Article 88A was amended by S.I.1197/1772 (N.I.15), S.I. 1989/2406 (N.I. 20) and S.I. 2003/417 (N.I.4)

(b) 2003/417 (N.I.4)

(c) 2003/431 (N.I.9)

Duty to Keep a List

4.—(1) The Department shall keep a list of persons who are considered unsuitable to teach or to work with children.

(2) A person shall not be included in the list except in accordance with these Regulations.

(3) The Department may at any time remove a person from the list if it is satisfied that he should not have been included in it.

Decision to Include on List

5.—(1) Where it appears to the Department that a person has been dismissed from employment on the grounds of misconduct, or has resigned, retired or been made redundant in circumstances such that his employer would have dismissed him, or would have considered dismissing him, on such grounds if he had not resigned retired or been made redundant, the Department shall decide if he should be prohibited from teaching or working with children.

(2) Where the Department decides under paragraph (1) to prohibit a person from teaching or working with children, it shall include him on the list mentioned in regulation 4.

(3) The Department shall notify the person concerned of the outcome of the decision made under paragraph (1).

Representations, Evidence and Information

6.—(1) Where the Department is considering making a decision under regulation 5, it shall—

(a) afford the person concerned the opportunity to make representations or submit evidence to it within 21 days of the date on which notice of that opportunity is served on the person concerned; or

(b) where it is satisfied that the person had good reason not to make such representations or submit evidence within that period, allow such further period, as it considers reasonable.

(2) The Department may invite observations from the person's employer on the representations or evidence received under paragraph (1)(a).

7. Where the Department—

(a) has considered—

(i) the representations made or evidence submitted by the person concerned;

(ii) any observations from his employer; and

(iii) any other information that it considers relevant; and

(b) is of the opinion that the employer reasonably considered the person to be unsuitable to teach or work with children,

the Department shall include him in the list kept under regulation 4.

Automatic Prohibition

8.—(1) This regulation applies in the case a person who—

(a) (i) on or after the date specified in regulation 8(5) of the Education (Prohibition from Teaching or Working with Children) Regulations 2003^(a), has been convicted of an offence set out in Schedule 2 to those Regulations against or involving a person under the age of sixteen or who has been convicted of an attempt to commit any such offence, by a court in the United Kingdom;

(ii) was a teacher or a person to whom Article 88A of the 1986 Order applies before or at the time he committed or was convicted of the offence; and

(a) S.I.2003/1184 as amended by S.I.2004/1493

- (iii) was aged eighteen or over at the time the offence was committed;
- (b) on or after 1st April 2005—
 - (i) is made subject to a disqualification order; and
 - (ii) was a teacher or a person to whom Article 88A of the 1986 Order applies before or at the time he committed or was convicted of the offence to which the disqualification order relates; or
- (c) is included (other than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the 2003 Order.

(2) Where paragraph (1) applies, the Department shall, on receipt of notification that a person has been convicted of an offence mentioned in paragraph (1)(a)(i), has been made subject to a disqualification order or has been included on the list kept by the Department of Health, Social Services and Public Safety, prohibit him from teaching or working with children and notify him and his employer accordingly.

Review by the Department

9.—(1) Save where regulation 8 applies, the Department may revoke its decision to prohibit the employment or further employment of a teacher or a person to whom Article 88A of the 1986 Order applies on either or both of the grounds mentioned in paragraph (2).

(2) The grounds upon which a decision of the Department may be revoked are that—

- (a) the Department is in possession of information relevant to the decision which it did not have at the time the decision was made; or
- (b) the Department is in possession of evidence of a material change in the circumstances of the person concerned occurring since the decision was made.

(3) A person who has been prohibited from teaching or working with children shall no longer be so prohibited—

- (a) where regulation 8(1)(a) applies and the conviction ceases to have effect; or
- (b) where regulation 8(1)(b) applies and the disqualification order ceases to have effect; or
- (c) where paragraph (1)(c) of regulation 8 applies and his name is removed from the list referred to in that paragraph.

Appeals to the Care Tribunal

10.—(1) Subject to paragraphs (2) and (3) and save where regulation 8 applies, a person included in the list kept under regulation 4 may appeal to the Care Tribunal against—

- (a) the decision to include him in the list; or
- (b) a decision not to revoke such a decision as is mentioned in sub-paragraph (a).

(2) No appeal may be brought on the ground of information or evidence referred to in regulation 9(2) unless that information or evidence has first been brought to the attention of the Department.

(3) Where a person has been convicted of any offence involving misconduct, no finding of fact on which the conviction must be taken to have been based shall be challenged on an appeal under these Regulations.

11.—(1) The Care Tribunal shall not consider—

- (a) information relevant to the decision which the Department did not have at the time the decision was made; or
- (b) evidence of a material change of circumstances of the person concerned occurring since the decision or the decision not to revoke the decision was made.

(2) Where on appeal under regulation 10, the Care Tribunal considers that the person should no longer be included on the list kept under regulation 4, it may direct his removal from it.

Sealed with the Official Seal of the Department of Education on 16th February 2006.

Dorothy Angus

A senior officer of the Department of Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for prohibiting the employment or further employment of teachers and non-teaching staff on the grounds that they are unsuitable to teach or to work with children.

The Department must keep a list of persons considered unsuitable to teach or to work with children. The Department can remove a person's name from that list if it is satisfied that he should not have been included on it (*regulation 4*).

The Department must decide whether a person, who has been dismissed from employment (or would have been dismissed but for his resignation retirement or redundancy) on the grounds of misconduct, should be prohibited from teaching or working with children. The Department shall afford a person under consideration the opportunity to make representations or submit evidence in support of his case and can invite observations from the person's employer (*regulations 5 to 7*).

A person who has been convicted of a specified offence, is made subject to a disqualification order or who is on the list of persons considered unsuitable to work with children kept by the DHSSPS is automatically prohibited from teaching or working with children (*regulation 8*).

Where information relevant to the decision or evidence of a material change in the circumstances of the person concerned has come to light the Department can review its decision to prohibit. The prohibition may also come to an end where a conviction of a specified offence or disqualification order ceases to have effect, or where the person's name has been removed from the DHSSPS list (*regulation 9*).

A person prohibited from teaching or working with children can appeal to the Care Tribunal unless they were automatically prohibited. A person cannot bring an appeal to the Care Tribunal on the ground of new information or evidence unless the Department has already considered that information or evidence in a review (*regulations 10 and 11*).

© Crown Copyright 2006

Published and printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly

Dd. N2507. C2. 2/06. Gp. 130. 14567.

£3.00