

Draft Regulations laid before Parliament under section 569(2A) of the Education Act 1996, for approval by resolution of each House of Parliament.

This Draft Statutory Instrument has been printed to correct errors in the draft Statutory Instrument which was laid on 16th January 2012 and which was withdrawn on 19th January 2012, and is being issued free of charge to all known recipients of that Draft Statutory Instrument.

DRAFT STATUTORY INSTRUMENTS

2012 No. 000

EDUCATION, ENGLAND

The Schools (Specification and Disposal of Articles) Regulations 2012

Made - - - - 2012
Coming into force - - 2012

The Secretary of State for Education, in exercise of the powers conferred by sections 550ZA(3)(f) and 550ZC(7) of the Education Act 1996(1), makes the following Regulations:

In accordance with section 569(2A) of that Act(2), a draft of this instrument was laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Schools (Specification and Disposal of Articles) Regulations 2012 and come into force on 1st April 2012.

Interpretation

2. In these Regulations—

“the 1996 Act” means the Education Act 1996;

“firework” means a device within the meaning of section 1 (introduction) of the Fireworks Act 2003(3);

“image” means—

(a) a moving or still image (produced by any means), or

(1) 1996 c. 56. Sections 550ZA and 550ZC were inserted by section 242(1) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22). See section 579 of the 1996 Act for the definition of “regulations”.
(2) Subsection (2A) of section 569 of the 1996 Act was inserted by section 242(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).
(3) 2003 c. 22.

(b) data (stored by any means) which is capable of conversion into an image within sub-paragraph (a);

“pornographic image” means an article containing an image of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal;

“tobacco” includes the items listed in section 7(5) of the Children and Young Persons Act 1933(4).

Prohibited items

3. Each of the following articles is a prohibited item for the purposes of sections 550ZA and 550ZC of the 1996 Act—

- (a) tobacco and cigarette papers;
- (b) a firework;
- (c) a pornographic image.

Disposal of articles

4.—(1) Paragraphs (2) to (5) prescribe what must or may be done by a member of staff who, under section 550ZC(1) of the 1996 Act, seizes an article specified in regulation 3.

(2) In the case of tobacco and cigarette papers, the member of staff may retain or dispose of the tobacco or cigarette papers and its or their container.

(3) In the case of a firework, the member of staff may retain or dispose of the firework and its container.

(4) In the case of a pornographic image, the member of staff may dispose of the image unless the member of staff has reasonable grounds for suspecting that—

- (a) the image is an image to which section 62(2) (possession of prohibited images of children) of the Coroners and Justice Act 2009(5) applies; or
- (b) the image is an image to which section 63 (possession of extreme pornographic images) of the Criminal Justice and Immigration Act 2008(6) applies.

(5) In the case of a pornographic image to which either paragraph (4)(a) or (b) applies, the member of staff must deliver it to a police constable as soon as is reasonably practicable.

Date

Name
Minister of State
Department for Education

(4) 1933 c. 12. Section 7(5) was amended by section 1(1)(c) of the Protection of Children (Tobacco) Act 1986 c. 34.
(5) 2009 c. 25. Section 62 of the Coroners and Justice Act 2009 makes it an offence for a person to be in possession of a prohibited image of a child.
(6) 2008 c. 4. Section 63 of the Criminal Justice and Immigration Act 2008 makes it an offence for a person to be in possession of an extreme pornographic image.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify articles that members of staff in schools can search pupils for without their consent, and make provision for their disposal.

Regulation 3 lists the specified articles that are prohibited items. These are tobacco and cigarette papers and other tobacco based products, fireworks, and pornography.

Regulation 4 makes provision for the disposal of the specified articles.

Cigarettes and fireworks may be kept or disposed of.

Any pornography may be disposed of unless possession constitutes a specified offence. Where this is the case, it must be taken to the police as soon as possible.

No impact assessment has been produced for this instrument because no impact on the private, voluntary or public sector is foreseen.