

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: School Workforce

Abolition of the General Teaching Council for England

Section 8: Functions of Secretary of State in relation to teachers

99. *Subsection (1)* inserts new sections 141A to 141E into EA 2002, providing for the Secretary of State to exercise regulatory functions for the teaching profession in England.
100. New section 141B allows the Secretary of State to consider allegations of unacceptable professional conduct, conduct that may bring the profession into disrepute or convictions of a relevant offence and to decide whether to prohibit the person from teaching by making a prohibition order. (Teachers covered by these arrangements are set out in the new section 141A.)
101. New section 141C provides that the Secretary of State must keep a list (available for the public to view) of teachers who are subject to a prohibition order (barred from teaching) or teachers who have failed the teacher induction period in circumstances that may be prescribed. The Secretary of State can include a person on the list who has been banned from teaching in Wales, Scotland or Northern Ireland.
102. New section 141D provides that where a teacher has been dismissed for serious misconduct (or where they would have been dismissed had they not resigned) the employer must consider whether to refer the case to the Secretary of State. Section 141E ensures that the same applies in respect of teachers employed through supply agencies or contractors.
103. *Subsection (2)* inserts new Schedule 11A into EA 2002 which makes provision about the regulations to be made by the Secretary of State under new section 141B. Paragraph 2 of the new schedule provides that the regulations must make provision about the procedures to be followed by the Secretary of State in making decisions about prohibiting a person from teaching. Paragraph 3 provides that regulations may allow the Secretary of State to make an interim prohibition order but only where he or she considers it necessary in the public interest to do so. Regulations must require the Secretary of State to review the order every six months if the teacher concerned applies for such a review. Paragraph 4 provides that the regulations may specify the effect of a prohibition order, including what teaching work the teacher may nevertheless carry out and may make provision about the publication of information relating to cases. Paragraph 5 provides that the regulations must allow for the right to appeal against a prohibition order, within 28 days, to the High Court, from where there will be no further right to appeal (this replicates current regulatory arrangements under the GTCE). They may also provide for a teacher who is subject to a prohibition order to apply to have the order set aside and the procedures for this. Paragraph 6 allows regulations to provide that notice of a prohibition order be served on the teacher's employer and to require

*These notes refer to the Education Act 2011 (c.21)
which received Royal Assent on 15 November 2011*

the employer to take action, such as dismissal. They may also make provisions about the effect in England of teachers being banned from teaching in Wales, Scotland or Northern Ireland.