
STATUTORY INSTRUMENTS

1989 No. 1319

The Education (Teachers) Regulations 1989

PART III

PROVISIONS OF GENERAL APPLICATION

Employment to which Part III applies

7. This Part shall apply in relation to the employment of persons—

- (a) by a local education authority, as teachers (whether or not at a school or institution) or as workers with children or young persons;
- (b) by any other body, as teachers at a school or institution;

and any reference in this Part to relevant employment is a reference to such employment.

Health standards – appointments

8.—(1) A person shall not be appointed to relevant employment unless his employers are satisfied as to his health and physical capacity therefor.

(2) For the purposes of this regulation, where it appears to his employers reasonable so to do—

- (a) in the case of the first appointment as a teacher of a person in respect of whom the Secretary of State has been satisfied that he has the health and physical capacity for teaching, they may accept the Secretary of State's conclusion in the matter;
- (b) in the case of any appointment to relevant employment of a person previously in such employment, they may rely upon the person's medical record while in that employment.

Health standards – continued employment

9.—(1) A person in relevant employment shall not continue in that employment if his employers are satisfied that he has not the health or physical capacity therefor.

(2) For the purposes of this Regulation, where it appears to his employers that a person may no longer have the health or physical capacity for his employment—

- (a) they shall afford him an opportunity to submit medical evidence and make representations to them;
- (b) they shall consider such evidence and representations and any other medical evidence available to them, including such evidence which has been furnished in confidence on the ground that it would not be in the best interests of the person concerned to see it;
- (c) they may require him, or at his request shall arrange for him, to submit himself for examination by a duly qualified medical practitioner appointed by them and, if without good cause he fails to submit himself for such examination or refuses to make available medical evidence or information sought by the medical practitioner, they may reach

a conclusion in the matter on such evidence and information as is available to them, notwithstanding that further medical evidence may be desirable.

(3) At any time before such medical examination as is referred to in paragraph (2)(c) the employers, or the person himself, may submit to the appointed medical practitioner a statement containing evidence or other matter relevant to the examination; and the examination may be attended by any duly qualified medical practitioner appointed for the purpose by the person being examined.

Barring by the Secretary of State

10.—(1) The powers conferred on the Secretary of State by paragraph (2) shall only be exercisable—

- (a) on medical grounds;
- (b) on grounds of a person's misconduct (whether or not evidenced by his conviction of a criminal offence), or
- (c) in relation only to employment as a teacher, on educational grounds.

(2) On such grounds as aforesaid the Secretary of State may, subject to such qualifications (if any) as he may specify—

- (a) in the case of a person in relevant employment, direct his employers—
 - (i) to suspend or terminate his employment, or
 - (ii) to make his continued employment subject to specified conditions;
- (b) in the case of such a person in respect of whom a direction is given under sub-paragraph (a) or of a person not in relevant employment, direct that—
 - (i) he be not subsequently appointed to or employed in relevant employment, or
 - (ii) he be only subsequently so appointed or employed in relevant employment subject to specified conditions, including conditions relating to the employment in question.

(3) In the case of a person in relevant employment, the Secretary of State shall not exercise his powers under paragraph (2) without first consulting his employers.

(4) Where the Secretary of State is considering exercising his powers under paragraph (2) on medical grounds, sub-paragraphs (a), (b) and (c) of paragraph (2) and paragraph (3) of regulation 9 shall apply for the purposes of this regulation as if any reference therein to the employers were a reference to the Secretary of State.

(5) Where the Secretary of State is considering exercising his powers under paragraph (2) on grounds of a person's misconduct or on educational grounds—

- (a) he shall afford the person concerned an opportunity to make representations to him, and
- (b) he shall consider such representations and all other relevant information available to him.

(6) A direction given under this regulation may be withdrawn or varied by a subsequent direction but, subject as aforesaid, the employers of persons in relevant employment shall comply with such a direction prohibiting or restricting a person's employment or further employment.

Misconduct reports

11. Where a person is dismissed from relevant employment on grounds of his misconduct (whether or not he is convicted of a criminal offence) or his employers would have so dismissed him, or considered so dismissing him, but for his resignation, his employers shall report the facts of the case to the Secretary of State.