

1989 No. 351

EDUCATION, ENGLAND AND WALES

**The Education (Schools and Further and Higher
Education) Regulations 1989**

<i>Made - - - -</i>	<i>6th March 1989</i>
<i>Laid before Parliament</i>	<i>9th March 1989</i>
<i>Coming into force</i>	<i>1st April 1989</i>

In exercise of the powers conferred on the Secretary of State by sections 218(1)(e) and (f), (7) and (9) and 232(5) of the Education Reform Act 1988(a), the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:—

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Education (Schools and Further and Higher Education) Regulations 1989 and shall come into force on 1st April 1989.

Revocations

2. Regulations 2, 3(b), 6, 7 and 8, and Part IV of, and the Schedules to the Education (Schools and Further Education) Regulations 1981(b) (“the 1981 Regulations”) are hereby revoked to the extent that they continue to have effect on the repeal of section 27 of the Education Act 1980(c) and the coming into force of section 218 of the Education Reform Act 1988 on 1st April 1989.

Amendment

3. In regulation 13 of the 1981 Regulations (transfer of educational records) there shall be substituted for the words “further education establishment” in the first place where they appear the words “institution falling within section 218(10) of the Education Reform Act 1988” and in the second place where they appear the word “institution”.

Schools and institutions to which the Regulations apply

- 4.—(1) Except where the context otherwise requires, in these Regulations—
- (a) a reference to a school is a reference to a school maintained by a local education authority, a special school not so maintained or a grant-maintained school;

(a) 1988 c.40.

(b) S.I. 1981/1086, amended by S.I. 1983/262, 1987/879 and 1988/2154.

(c) 1980 c.20.

- (b) subject to paragraph (2) below, a reference to a further or higher education institution is a reference to an institution providing further education or higher education (or both) maintained by a local education authority or to one not so maintained which is designated by or under Schedule 1 as an institution substantially dependent for its maintenance on assistance from local education authorities or on grants under section 100(1)(b) of the Education Act 1944(a);
- (c) a reference to a PCFC institution is a reference to an institution treated as within the Polytechnics and Colleges Funding Council funding sector by virtue of section 132(6) of the Education Reform Act 1988;
- (d) a reference to an institution, without qualification, is a reference to a further or higher education institution or a PCFC institution.

(2) Part III of these Regulations does not apply to an institution in Wales.

Approvals

5. Except where the context otherwise requires, an approval for the purposes of these Regulations may apply generally (subject to such exceptions, if any, as are specified therein) or only in a particular case.

Interpretation

6.—(1) In these Regulations any reference to a hostel for pupils with special educational needs is a reference to a boarding hostel provided by a local educational authority for pupils with such needs attending a school or further or higher education institution; and for the purposes hereof the expression “special educational needs” has the same meaning as in the Education Act 1981(b).

(2) Except where the context otherwise requires, any reference in these Regulations to a regulation or Schedule is a reference to a regulation contained therein or to a Schedule thereto and any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule.

PART II

PROVISIONS APPLYING TO SCHOOLS AND FURTHER AND HIGHER EDUCATION INSTITUTIONS

Substances and apparatus involving health hazards

7.—(1) This regulation shall apply in relation to the use of—

- (a) any radioactive substance which has an activity in excess of 0.002 of a microcurie per gram, or
- (b) any apparatus in which electrons are accelerated by a potential difference of at least 5 kilovolts other than—
 - (i) a television receiving set, or
 - (ii) an apparatus designed primarily to produce visual images derived from video recordings, closed circuit television equipment or the output of a computer.

(2) No such substance or apparatus shall be used for the purposes of instruction at a school or further or higher education institution unless that use is for the time being approved by the Secretary of State; and an approval given for the purposes hereof shall be withdrawn if at any time the Secretary of State is of the opinion that the arrangements made for the health and safety of the pupils and staff at the school or institution are inadequate.

(a) 1944 c.31, amended by section 213(3) of the Education Reform Act 1988 (c.40).

(b) 1981 c.60, *see* section 1.

Approval of premises

8.—(1) In the case of—

- (a) subject to paragraph (3), a school,
- (b) a further or higher education institution, or
- (c) a hostel for pupils with special educational needs

no new premises shall be provided where the proposals involve building work (whether by way of alterations to premises to be acquired or the construction of new premises), and no alteration shall be made to existing premises, without the approval of the Secretary of State under this regulation.

(2) For the purposes hereof, where it is proposed—

- (a) to provide new premises and the proposals involve building work, or
- (b) to make alterations to existing premises,

the authority or persons making the proposals shall, at such time and in such form and manner as the Secretary of State may direct, submit to him such particulars with respect of the building work or alterations as he may require.

(3) This regulation shall not apply in the case of a school where particulars with respect to the premises or alterations have been submitted to the Secretary of State for his approval in pursuance of section 14 of the Education Act 1980 or section 90 of the Education Reform Act 1988.

Inspection of hostels

9. A hostel for pupils with special educational needs shall be open to inspection by a person being either one of Her Majesty's Inspectors appointed under section 77 of the Education Act 1944 or a person authorised for the purposes hereof by the Secretary of State.

PART III

PROVISIONS APPLYING TO INSTITUTIONS

10. This Part shall apply in the case of a course designated as a course of initial teacher training by or under Schedule 2 ("a designated course").

Provision of designated courses

11. A designated course shall not be provided at an institution without the approval of the Secretary of State or, where such approval is given subject to conditions, otherwise than in accordance with those conditions.

Discontinuance of designated courses

12. A designated course shall cease to be provided at an institution if the Secretary of State so directs, at such time as may be specified in his direction subject, however, to such transitional provisions, if any, as may be so specified.

Directions as to numbers and categories of students

13. Without prejudice to the powers of the Secretary of State under regulations 11 and 12, he may from time to time give directions as to the numbers and categories of students to be admitted to a designated course provided at an institution and any such directions shall be binding on the persons concerned with admissions at the institution in question.

SCHEDULE 1

Regulation 4

ASSISTED AND GRANT-AIDED FURTHER AND HIGHER EDUCATION INSTITUTIONS TO WHICH THE REGULATIONS APPLY

1.—(1) For the purposes of regulation 4(1)(b) the institutions mentioned in paragraph 2 are hereby designated as ones substantially dependent for their maintenance on assistance from local education authorities or on grants under section 100(1)(b) of the Education Act 1944.

(2) For the purposes aforesaid the Secretary of State may designate a further or higher education institution not so mentioned.

2. The institutions referred to in paragraph 1(1) are—

Institutions assisted by a local education authority

Cordwainers Technical College, London
Morley College

Institutions receiving grants under Section 100(1)(b) of the Education Act 1944

Cambridge Institute of Education
Coleg Harlech, Gwynedd
College of the Sea, London
Co-operative College, Loughborough
Fircroft College, Birmingham
Hillcroft College, Surbiton
National Sea Training Trust, London
Northern College, Oxford
Plater College, Oxford
Ruskin College, Oxford
Trinity College, Carmarthen

SCHEDULE 2

Regulation 10

1. For the purposes of Part III, any course designed to train persons to teach in schools and which leads to the degree of Bachelor of Education, the Certificate in Education, the Post-graduate Certificate in Education or a comparable academic award of, in each case, either a university in the United Kingdom or of the Council for National Academic Awards is hereby designated as a course of initial teacher training.

2. For the purposes aforesaid the Secretary of State may designate further courses as courses of initial teacher training.

3rd March 1989

Kenneth Baker
Secretary of State for Education and Science

6th March 1989

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 218 of the Education Reform Act 1988 ("the 1988 Act") which supersedes section 27 of the Education Act 1980 ("the 1980 Act"). They revoke regulations 2, 3(b), 6, 7 and 8 and Part IV of, and the Schedules to, the Education (Schools and Further Education) Regulations 1981 ("the 1981 Regulations") (which were made under section 27 of the 1980 Act) to the extent that they continue to have effect on the repeal of section 27 of the 1980 Act and the coming into force of section 218 of the 1988 Act (regulation 2). They also amend regulation 13 of those Regulations to substitute for the reference to a further education establishment a reference to an institution falling with section 218(10) of the 1988 Act (regulation 3).

The provisions of regulations 6, 7, 8 and 9 are substantially the same as the corresponding provisions in the 1981 Regulations except that they now also apply to grant-maintained schools (regulation 4(1)(a)). First they impose a requirement for the Secretary of State's approval for the use of certain hazardous substances and apparatus in schools and further or higher education institutions to which the Regulations apply (regulation 7). Secondly, they impose a requirement for the Secretary of State's approval for the provision of new premises at certain schools, at such further or higher education institutions, and at hostels for pupils with special educational needs (regulation 8). Thirdly, regulation 9 provides for a hostel for pupils with special educational needs to be open to inspection by one of Her Majesty's Inspectors of Schools or a person authorised by the Secretary of State.

Part III relates to the Secretary of State's powers in relation to courses of initial teacher training. The regulations impose a requirement for the Secretary of State's approval for the provision of courses designated as courses of initial teacher training by or under Schedule 2 at a further or higher education institution to which the Regulations apply or at an institution within the Polytechnics and Colleges Funding Council funding sector (regulation 11). They empower the Secretary of State to direct that such a course shall cease to be provided or to issue directions as to the numbers and categories of students to be admitted to such a course (regulations 12 and 13 respectively).

The further or higher education institutions to which the Regulations (except Part III) apply are those that are maintained by a local education authority or those not so maintained that are substantially dependent for their maintenance on assistance from local education authorities or on grants under Section 100(1)(b) of the Education Act 1944 and designated as such by or under Schedule 1. Part III does not apply to such institutions which are in Wales.