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STATUTORY INSTRUMENTS

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**2003 No. 1963**

**School Staffing (England) Regulations 2003**

**PART 1**

**General**

**Citation, commencement and application**

- 1.—(1) These Regulations may be cited as the School Staffing (England) Regulations 2003.
- (2) These Regulations come into force on 1st September 2003.
- (3) These Regulations apply only in relation to England.

**Revocation**

2. The following are revoked—
  - (a) the Education (School Meals Staff) (England) Regulations 1999<sup>(1)</sup>, and
  - (b) Part VI of the Education (New Schools) (England) Regulations 1999<sup>(2)</sup>.

**Interpretation**

- 3.—(1) In these Regulations—
  - “the 1998 Act” means the School Standards and Framework Act 1998;
  - “the 2002 Act” means the Education Act 2002;
  - “authority” means the local education authority by which a maintained school is, or a proposed school is to be, maintained;
  - “dismissal” is to be interpreted in accordance with sections 95 and 136 of the Employment Rights Act 1996<sup>(3)</sup>;
  - “support staff” means any member of a school’s staff other than a teacher;
  - “teacher” means a person who is a school teacher for the purposes of section 122 of the 2002 Act and includes a person who would be regarded as a teacher but for the fact the other party to the contract is not an authority or a governing body of a school falling within Part 3 of these Regulations.
- (2) References to a vacancy in any post include a prospective vacancy in the post.
- (3) A person is to be treated as meeting any staff qualification requirements if he—

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<sup>(1)</sup> S.I 1999/2258.  
<sup>(2)</sup> S.I 1999/2262.  
<sup>(3)</sup> 1996 c. 18.

- (a) fulfils any requirements with respect to qualifications or registration which apply to him as a result of regulations made under sections 132 to 135 of the 2002 Act<sup>(4)</sup> and regulations made under section 19 of the Teaching and Higher Education Act 1998<sup>(5)</sup>,
  - (b) meets any conditions with respect to health and physical capacity which apply to him as a result of Part 3 of the Education (Teachers' Qualifications and Health Standards) (England) Regulations 1999<sup>(6)</sup> or regulations made under section 141 of the 2002 Act, and
  - (c) is not subject to any direction made under section 142 of the 2002 Act, that he may not carry out work to which that section applies.
- (4) References to support staff include support staff employed, or engaged otherwise than under a contract of employment, to provide community facilities and services under section 27 of the 2002 Act.

### **Delegation of authority**

- 4.—(1) The governing body may delegate—
- (a) its functions under regulations 14, 15, 17, 23 and 24, and
  - (b) its power to appoint or dismiss any member of staff at a school to which Part 3 applies.
- (2) Subject to paragraph (4), any such delegation may be to—
- (a) the head teacher,
  - (b) one or more governors, or
  - (c) one or more governors and the head teacher.
- (3) Where the governing body has made any such delegation to one or more governors, the head teacher may attend and offer advice at all relevant proceedings. Such advice must be considered by the governor or governors to whom the delegation has been made.
- (4) The governing body may delegate any decision whether or not to make a determination that the head teacher should cease to work at the school, or to dismiss the head teacher, to one or more governors.

### **Performance of the head teacher**

5. Where the authority has any serious concerns about the performance of the head teacher of a school—
- (a) it must make a written report of its concerns to the chair of the governing body of the school, at the same time sending a copy to the head teacher; and
  - (b) the chair of the governing body must notify the authority in writing of the action he proposes to take in the light of the report.

### **Conduct and discipline of staff**

- 6.—(1) The governing body must establish procedures—
- (a) for the regulation of the conduct and discipline of staff at the school; and
  - (b) by which staff may seek redress for any grievance relating to their work at the school.

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(4) The Education (School Teachers' Qualifications) (England) Regulations 2003, S.I.2003/1662 and The Education (Specified Work and Registration) (England) Regulations 2003, S.I. 2003/1663 and any regulations made under section 135 of the 2002 Act.

(5) 1998 c. 30; the Education (Induction Arrangements for School Teachers) (Consolidation) (England) Regulations 2001, S.I. 2001/2897 as amended by S.I. 2001/3938, S.I. 2002/2063 and S.I. 2003/106.

(6) S.I 1999/2166. These Regulations are saved by the Education Act 2002 (Commencement No.6 and Transitional and Saving Provisions) Order 2003, S.I. 2003/1667 (C.69).

(2) Where the implementation of any determination made by the governing body in operation of the procedures requires any action which—

- (a) is not within the functions exercisable by the governing body by or under the 2002 Act, but
- (b) is within the power of the authority,

the authority must take that action at the request of the governing body.

### **Capability of staff**

7. The governing body must establish procedures for dealing with lack of capability on the part of staff at the school.

### **Amendment of the School Governance (Procedures) (England) Regulations 2003**

8. Regulation 16(1) of the School Governance (Procedures) (England) Regulations 2003(7) is replaced by—

“(1) Subject to regulation 17 of these Regulations, regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998(8), regulation 6 of the Education (School Government) (Terms of Reference) (England) Regulations 2000(9) and regulations 13, 22 and 29 of the School Staffing (England) Regulations 2003, the governing body may delegate any of its functions to—

- (a) a committee;
- (b) any governor; or
- (c) the head teacher (whether or not he is a governor).”.

### **Transitional provisions**

9. The Schedule to these Regulations has effect for the purpose of making transitional provisions.

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(7) S.I. [2003/1377](#). These Regulations were amended by the School Governance (Constitution and Procedures) (England) (Amendments) Regulations 2003 (S.I. [2003/1916](#)).

(8) S.I. [1998/2535](#).

(9) S.I. [2000/2122](#).