

2020 No. 542

EDUCATION, ENGLAND

**The Education (Independent School Standards) (Coronavirus)
(Amendment) Regulations 2020**

<i>Made</i> - - - -	<i>27th May 2020</i>
<i>Laid before Parliament</i>	<i>28th May 2020</i>
<i>Coming into force</i> - -	<i>18th June 2020</i>

The Secretary of State, in exercise of the powers conferred by sections 94(1)(d) and (2)(a) and 166(6)(a) of the Education and Skills Act 2008(a), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Education (Independent School Standards) (Coronavirus) (Amendment) Regulations 2020 and come into force on 18th June 2020.

Amendments to the Education (Independent School Standards) Regulations 2014

2.—(1) The Education (Independent School Standards) Regulations 2014(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1), after the definition of “pupil” insert—

““registered person” has the meaning given in section 120(1) of the 1997 Act;”;

(b) for paragraph (2)(a) substitute—

“(a) an application for an enhanced criminal record certificate is made under section 113B(1) of the 1997 Act; or”; and

(c) in paragraph (5), for “20(3)(b)(i), 20(5)(b)(i)” substitute “20(3)(c), 20(5)(c)”.

(3) In paragraph 20 of Part 4 of the Schedule (suitability of staff, supply staff, and proprietors)—

(a) in sub-paragraph (3)—

(i) at the end of paragraph (a)(ii) omit “and”;

(ii) omit paragraph (b)(i);

(iii) at the end of paragraph (b)(iii) insert “and”;

(iv) omit the full out text which follows paragraph (b)(iii); and

(v) after paragraph (b) insert—

(a) 2008 c.25; there is an amendment to section 94 which is not relevant to these Regulations.

(b) S.I. 2014/3283; there are amendments to this instrument which are not relevant to these Regulations.

“(c) before the school is entered in the register or, in the case of a registered school, before or as soon as practicable after the individual takes over as proprietor, the Secretary of State receives confirmation that, where relevant to the individual, an enhanced criminal record check has been made relating to the individual—

- (i) which is countersigned by the Secretary of State or by or on behalf of another registered person who is asked to arrange countersignature of the application by the Secretary of State; or
- (ii) which is transmitted by or on behalf of a registered person who is asked to arrange transmission of the application by the Secretary of State;

and, where an enhanced criminal record check is made, the Secretary of State either obtains an enhanced criminal record certificate relating to the individual or confirms to the individual that no certificate is required to be provided to the Secretary of State.”;

(b) in sub-paragraph (5)—

- (i) at the end of paragraph (a)(ii) omit “and”;
- (ii) omit paragraph (b)(i);
- (iii) at the end of paragraph (b)(iii) insert “and”;
- (iv) omit the full out text which follows paragraph (b)(iii); and
- (v) after paragraph (b) insert—

“(c) subject to sub-paragraphs (7) to (8), the Secretary of State receives confirmation that, where relevant to the individual, an enhanced criminal record check has been made relating to the individual—

- (i) which is countersigned by the Secretary of State or by or on behalf of another registered person who is asked to arrange countersignature of the application by the Secretary of State; or
- (ii) which is transmitted by or on behalf of a registered person who is asked to arrange transmission of the application by the Secretary of State;

and, where an enhanced criminal record check is made, the Secretary of State either obtains an enhanced criminal record certificate relating to the individual or confirms to the individual that no certificate is required to be provided to the Secretary of State.”;

(c) in paragraph 20(6)(c) omit “countersigned by the Secretary of State”;

(d) in paragraph 20(7), after “sub-paragraph (5)(b)” in each place in which it appears insert “, (5)(c)”;

(e) for paragraph 20(8)(a) substitute—

“(a) sub-paragraphs (5)(b) and (c) are met where the checks referred to in those sub-paragraphs are completed before or as soon as practicable after the Chair of the school starts acting as such;”.

27th May 2020

Berridge
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Independent School Standards, as set out in the Schedule to the Education (Independent School Standards) Regulations 2014 (“the 2014 Regulations”). In light of the fact that, because of the coronavirus pandemic, the Department for

Education is currently unable to countersign applications for Disclosure and Barring Service checks which the Secretary of State requires to be carried out, the Regulations allow for alternative methods of requesting such checks. They also make associated amendments not directly arising from the coronavirus pandemic, to the 2014 Regulations.

Regulation 2(2) inserts a new definition of a “registered person” into the 2014 Regulations. It also amends the definition of “enhanced criminal record check” in order to ensure that it includes certificates obtained through the electronic transmission process and makes changes consequential on the changes made by regulation 2(3).

Regulation 2(3) makes amendments to paragraphs 20(3) and 20(5) of the Schedule to the 2014 Regulations. Paragraphs 20(3) and 20(5) include, respectively, checks which are required to be made of an individual proprietor of an independent school and the chair of a proprietor body. The amended provisions will permit the Secretary of State to request that an application for an enhanced criminal record check is countersigned or transmitted by or on behalf of another registered person rather than the Secretary of State countersigning the application.

Regulation 2(3) also simplifies paragraph 20(6)(c) of the Schedule to take account of the new definition “enhanced criminal record check” in regulation 2(2), and amends paragraphs 20(7) and 20(8) so that they include references to the new paragraph 20(5)(c).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside this instrument on www.legislation.gov.uk.

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