
WELSH STATUTORY INSTRUMENTS

2000 No. 2906 (W. 186)

EDUCATION, WALES

**The Education (Restriction of
Employment) (Wales) Regulations 2000**

Made - - - - *26th October 2000*

Coming into force - - *1st November 2000*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 218(6A) and (6B) and 232(5) and (6) of the Education Reform Act 1988(1) and sections 15 and 42(6) and (7) of the Teaching and Higher Education Act 1998(2) and now vested in the National Assembly for Wales(3).

Citation, commencement, application and revocation

1.—(1) These Regulations may be cited as the Education (Restriction of Employment) (Wales) Regulations 2000 and shall come into force on 1st November 2000

(2) These Regulations apply to Wales.

(3) Regulation 10A of the Education (Teachers) Regulations 1993(4) and regulation 3(4) of the Education (Teachers) (Amendment) Regulations 1998 (5) are revoked.

Interpretation

2.—(1) Except where the context otherwise requires, in these Regulations—

(a) “further education” (“*addysg bellach*”) has the meaning given to it by section 2(3) and (5) of the Education Act 1996(6);

(b) “further education institution” (“*sefydliad addysg bellach*”) means an institution, not being a school, which provides further education (whether or not it also provides higher education) and either—

(i) is maintained by a local education authority; or

(1) 1988 c. 40. Subsections (6A) and (6B) were inserted by section 49(2) of the Education Act 1997 (c. 44) and subsection (6A) is amended by section 5(3) of the Protection of Children Act 1999 (c. 14).

(2) 1998 c. 30. Section 15 is amended by section 5(4) of the Protection of Children Act 1999.

(3) See the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672.

(4) S.I. 1993/543. All other provisions of these Regulations were revoked, subject to savings, by S.I. 2000/2419.

(5) S.I. 1998/1584. All other provisions of these Regulations were revoked, subject to savings, by S.I. 2000/2419.

(6) 1996 c. 56.

- (ii) is an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992⁽⁷⁾);
- (c) “higher education” (“*addysg uwch*”) means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988;
- (d) “school” (“*ysgol*”) means a school maintained by a local education authority, or a special school⁽⁸⁾ not so maintained; (e) “worker with children or young persons” (“*gweithiwr gyda phlant neu bersonau ifanc*”) means a person, employed –
- (i) by a local education authority, or
 - (ii) by the governing body of a school or institution falling within section 218(10) or (11) of the Education Reform Act 1988⁽⁹⁾,
- in work, otherwise than as a teacher, which brings that person regularly into contact with persons who have not attained the age of 19 years.
- (2) Any reference in these Regulations to relevant employment is a reference to employment—
- (a) by a local education authority, as a teacher (whether or not at a school or further education institution) or as a worker with children or young persons;
 - (b) by any other body, as a teacher at a school or further education institution;
 - (c) by the governing body of a school or further education institution as a worker with children or young persons;
 - (d) by the proprietor of an independent school, as a teacher or worker with children or young persons; and
 - (e) at an independent school, as a teacher or worker with children or young persons.
- (3) For the purposes of these Regulations, employment includes the engagement of a person to provide his or her services as a teacher otherwise than under a contract of employment and references to employment or relevant employment shall be construed accordingly.

Restriction on provision of services

3.—(1) Subject to paragraph (3), paragraph (2) applies in relation to a person whose employment or further employment is on any of the grounds mentioned in subsection (6ZA)(a) to (d) of section 218 of the Education Reform Act 1988 ⁽¹⁰⁾, prohibited or restricted under regulations made under subsection (6) of that section⁽¹¹⁾.

(2) The governing body of a school or further education institution, the local education authority so far as it relates to that school or institution and the proprietor of an independent school shall take such steps as are reasonably practicable to prevent a person to whom this paragraph applies who is not employed by them in relevant employment from providing services in relation to the school or institution or persons attending it which –

- (i) are provided by whatever means and whether under contract or otherwise; and
- (ii) would bring that person providing them regularly into contact with persons who have not attained the age of 19 years.

(7) 1992 c. 13.

(8) For the definition of “special school” see sections 6(2) and 337 of the Education Act 1996, as amended by, respectively, paragraphs 60 and 80 of Schedule 30 to the School Standards and Framework Act 1998.

(9) Section 218(10) and (11) is amended by section 93 of, and paragraph 49 of Schedule 8 and Schedule 9 to, the Further and Higher Education Act 1992.

(10) Section 218(6ZA) is inserted by section 5(2) of the Protection of Children Act 1999.

(11) At the time of making these Regulations, the regulations in force under section 218(6) of the Education Reform Act 1988 were the Education (Restriction of Employment) Regulations 2000 (S.I. 2000/2419) which apply to both England and Wales.

(3) Paragraph (2) only applies in relation to a person whose employment or further employment has been restricted (as distinct from prohibited) if it would be contrary to the terms of the restriction to allow him or her to provide such services as are mentioned in that paragraph if he or she were to be employed by such a governing body or by a local education authority or the proprietor of an independent school in relevant employment.

Misconduct reports

4.—(1) Where a person—

- (a) is dismissed from relevant employment on the grounds of misconduct (whether or not he or she is convicted of a criminal offence), or
- (b) has resigned in circumstances where the person’s employer would have dismissed or considered dismissing him or her on those grounds had he or she not resigned,

the employer shall report the facts of the case and provide such further information in the employer’s possession or control as relates to the circumstances giving rise to the dismissal or resignation to the National Assembly for Wales.

(2) In paragraph (1), the reference to “dismissed from relevant employment” includes the termination by the local education authority or the governing body of a school or further education institution of a person’s engagement to provide services as a teacher in relevant employment otherwise than under a contract of employment and references to “dismissed” or “dismissing” shall be construed accordingly and the reference to “resignation” includes the termination by a person of such an engagement.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(12).

26th October 2000

D. Elis Thomas
The Presiding Officer of the National Assembly
for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations make provision with regard to services provided by those whose employment as a teacher or worker with children or young persons is prohibited or restricted under Regulations made under section 218(6) of the Education Reform Act 1988. They also make provision requiring the employers of teachers to report misconduct to the National Assembly for Wales.

Regulation 1 revokes regulation 10A of the Education (Teachers) Regulations 1993 and regulation 3(4) of the Education (Teachers) (Amendment) Regulations 1998.

Regulation 3 requires the governing body of a school or further education institution, the local education authority for that school or institution and the proprietor of an independent school to take reasonably practicable steps to prevent a person whose employment is prohibited or restricted under Regulations made under section 218(6) of the Education Reform Act 1988, but who is not in relevant employment, from providing services in relation to that school or institution or to those attending it which would involve regular contact with children or young persons.

Regulation 4 requires the employer of a person who is dismissed from relevant employment on grounds of misconduct, or who resigns in circumstances in which that person would have been so dismissed, to report the facts of the case and provide such further information as relates to the circumstances of the dismissal or resignation to the National Assembly for Wales.