

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Education (Independent School Standards) (England) Regulations 2003 (“the 2003 Regulations”) to make provision for the standards for independent schools, for the purposes of Part 10 of the Education Act 2002 (“the 2002 Act”).

Regulation 2 is an interpretation provision. The definitions are largely unchanged from the 2003 Regulations although in the definition of staff, volunteers are now excluded. Instead any arrangements for recruiting volunteers will be carried out with regard to the Safeguarding Children and Safer Recruitment in Education guidance issued by this Department (which can be found at <http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/saferrecruitment/guidance/>). This is in line with arrangements for maintained sector schools.

Regulation 3 introduces Schedule 1 which contains the new standards for independent schools. Part 1 of Schedule 1 sets out the requirements about the quality of education provided at independent schools. Part 2 sets out standards for the spiritual, moral, social and cultural development of pupils at such schools. Part 3 deals with the welfare, health and safety of pupils at such schools and Part 4 with the suitability of proprietors of and staff at those schools. Part 5 deals with school premises and accommodation. Part 6 deals with the provision of information by schools and Part 7 with handling complaints. The main changes to the 2003 Regulations are as follows:

Paragraph 7 of Schedule 1 makes it clear that it is the responsibility of the proprietor to ensure the welfare of all pupils and set out the arrangements that a proprietor must have regard to in order to safeguard pupils at the school.

Paragraph 8 of that Schedule makes it clear that it is the responsibility of the proprietor to safeguard the welfare of boarders, whether or not they are pupils of the school, and requires the proprietor to have regard to the National Minimum Standards for Boarding Schools or, where relevant, those for Residential Special Schools.

The requirements previously in the 2003 Regulations for checks to be made on staff with regard to their previous employment history, character references and professional references have been removed. Instead, these will be carried out with regard to Safeguarding Children and Safer Recruitment in Education guidance. This is in line with arrangements for maintained sector schools.

Paragraph 21 of Schedule 1 makes provision for identity checks, checks with equivalent overseas bodies on those who have lived in other countries, right to work checks and CRB checks to be carried out on proprietors of registered schools before, or as soon as practicable after, the proprietor takes over in order to reduce delays in approving proprietors.

Paragraph 21(6)(c) of Schedule 1 makes provision for the Secretary of State to request a CRB disclosure in relation to a member of a proprietorial body for the purpose of determining the person’s suitability to be a school proprietor. Paragraph 21(7) of that Schedule makes provision for a CRB check countersigned by a local authority to be accepted in place of one countersigned by the Secretary of State for the Chair of a maintained school that is applying to be registered as an academy.

Paragraph 24(1)(e) of Schedule 1 requires boarding and residential special schools to send to parents of boarding pupils a copy of the 3 yearly boarding inspection reports. This will put these reports on the same basis as reports on the education provision in independent schools. The associated costs are covered in the impact assessment referred to below.

The National Minimum Standards for Boarding Schools can be found at <http://www.teachernet.gov.uk/wholeschool/boarding/> and the National Minimum Standards for

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

Residential Special Schools can be found at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4069189.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4069189.pdf)

The Safe to Learn: Embedding anti-bullying work in schools Guidance can be found at <http://www.teachernet.gov.uk/wholeschool/behaviour/tacklingbullying/safetolearn/>

The Health and Safety: Responsibilities and Powers Guidance can be found at <http://www.teachernet.gov.uk/wholeschool/healthandsafety/responsibilities/>

Information on the Health and Safety of Pupils on Educational Visits Guidance can be found at <http://www.teachernet.gov.uk/wholeschool/healthandsafety/visits/>

An impact assessment of the effect that this instrument will have on the costs of business and the public and voluntary sector is available from the Independent Education and Boarding Team, Department for Education, LG11, Mowden Hall, Staindrop Road, Darlington DL3 9BG and accessible on the Department's internet website at <http://www.education.gov.uk>. Copies have also been placed in the Library of each House of Parliament.