
STATUTORY INSTRUMENTS

2009 No. 1633

EDUCATION, ENGLAND

**The Education (Independent Educational Provision
in England) (Unsuitable Persons) Regulations 2009**

<i>Made</i>	- - - -	<i>1st July 2009</i>
<i>Laid before Parliament</i>		<i>3rd July 2009</i>
<i>Coming into force</i>	- -	<i>12th October 2009</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 119(1)(a) and (2) and 166(6) of the Education and Skills Act 2008(1):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Independent Educational Provision in England) (Unsuitable Persons) Regulations 2009 and come into force on 12th October 2009.

(2) In these Regulations “the 2008 Act” means the Education and Skills Act 2008.

Unsuitable persons: prescribed kind of work

2.—(1) Work of the kind described in paragraph (2) is prescribed for the purposes of section 119(1)(a) of the 2008 Act.

(2) The kind of work referred to in paragraph (1) is any form of work (whether or not for gain) which—

- (a) the person (“W”) carries out regularly, and
- (b) gives W the opportunity, in consequence of anything W is permitted or required to do in connection with the work, to have contact with a student at the institution who is a child or vulnerable adult within the meanings in the Safeguarding Vulnerable Groups Act 2006(2).

(3) For the purposes of paragraph (2), in any period of 30 days W carries out work regularly if W carries out the work on more than two days in that period.

(1) 2008 c.25; see section 168(1) for the definitions of “prescribed” and “regulations”.
(2) 2006 c.47; see section 60(1) for the definitions of “child” and “vulnerable adult”.

Unsuitable persons: prescribed descriptions of directions, orders and decisions

3. The following descriptions of directions, orders and decisions, made under the enactments prescribed, are prescribed for the purposes of section 119(2) of the 2008 Act—

- (a) an order under section 100(2)(e)(3) of the Education (Scotland) Act 1980 (determination of complaints);
- (b) a decision to include a person (otherwise than provisionally) in the list kept under section 1 of the Protection of Children Act 1999(4) (list of individuals unsuitable to work with children);
- (c) an order of the court under section 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(5) (disqualification from working with children);
- (d) a direction under section 142 of the Education Act 2002(6) given on the grounds that the person is unsuitable to work with children or otherwise having the effect of prohibiting a person from taking part in the management of an independent school (prohibition from teaching, etc.);
- (e) a direction under section 167A of the Education Act 2002(7) (prohibition on participation in management of independent schools);
- (f) a decision to include a person (otherwise than provisionally) in the list kept under section 1 of the Protection of Children (Scotland) Act 2003(8) (list of individuals unsuitable to work with children);
- (g) a decision to include a person (other than provisionally) in the list kept under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(9) (duty of Department to keep list);
- (h) an order of the court under Article 23 or 24 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (disqualification of adults and juveniles from working with children);
- (i) a decision to include a person in a barred list within the meaning in the Safeguarding Vulnerable Groups Act 2006(10);
- (j) a decision to include a person on a list kept under section 1(1) of the Protection of Vulnerable Groups (Scotland) Act 2007(11) (duty of Scottish Ministers to keep lists);
- (k) a decision to prohibit a person from teaching or working with children under regulation 4 of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007(12);
- (l) a decision to include the person on a barred list within the meaning in Article 2(1) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(13);
- (m) a direction under section 128 of the 2008 Act (prohibition on participation in management).

(3) 1980 c.44.

(4) 1999 c.14; section 1 was amended by the Care Standards Act 2000 (c.14), sections 95(2), 96(2), 97(2) and 98(4) and is repealed by the Safeguarding Vulnerable Groups Act 2006 (c.47), Schedule 9, paragraph 8(2) (“the 2006 Act”).

(5) 2000 c.43; sections 28, 29 and 29A are amended by the Constitutional Reform Act 2005 (c.4), Schedule 11, paragraph 35(a) and repealed by the 2006 Act, Schedule 10. Section 29A was inserted by the Criminal Justice Act 2003 (c.44), Schedule 30, paragraph 2.

(6) 2002 c.32; section 142 is repealed by Schedule 10 to the 2006 Act.

(7) Section 167A is inserted by the Education and Inspections Act 2006, section 169 (c.4); subsection (6) is amended by paragraph 22 of Schedule 1 to that Act.

(8) 2003 asp 5; repealed by the Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 4, paragraph 42 (asp 14).

(9) S.I. 2003/417 (N.I. 4); the Order is repealed by the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, Schedule 8.

(10) See section 60(1) for the definition of “barred list”.

(11) 2007 asp 14.

(12) S.R. 2007 No. 288.

(13) S.I. 2007/1351 (N.I. 11).

1st July 2009

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Parliamentary Under Secretary of State
Department for Children, Schools and Families

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 is not part of the Regulations)

These Regulations are made under section 119 of the Education and Skills Act 2008 (“the 2008 Act”). Section 119 confers power on the Secretary of State to remove an independent educational institution from the register of independent educational institutions. “Independent educational institution” (“institution”) is defined in section 92 of the 2008 Act. The institution can be removed from the register if the Secretary of State is satisfied that a person who is subject to a direction, order or decision prescribed in regulation 3 has been carrying out work falling within regulation 2. The power to remove an institution from the register also arises if its proprietor is subject to a direction, order or decision listed in regulation 3 (see section 119(1)(b) of the 2008 Act).

The directions, orders and decisions listed in regulation 3 have the effect of prohibiting the individual who is the subject of the direction, order or decision from some type of work that may be carried out at an independent educational institution.

An impact assessment has not been produced for this instrument as there is no financial burden on institutions.