

2013 No. 1940

EDUCATION, ENGLAND

The School Staffing (England) (Amendment) Regulations 2013

Made - - - - *2nd August 2013*

Laid before Parliament *8th August 2013*

Coming into force - - *1st September 2013*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 35(4) and (5), 36(4) and (5) and 210(7) of the Education Act 2002(a).

Citation and commencement

1. These Regulations may be cited as the School Staffing (England) (Amendment) Regulations 2013 and come into force on 1st September 2013.

Amendment of the School Staffing (England) Regulations 2009

2.—(1) The School Staffing (England) Regulations 2009(b) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 3(1) after the definition of “enhanced criminal record certificate” insert—

““interim prohibition order” means an order made by virtue of paragraph 3 of Schedule 11A to EA 2002(c);

“prohibition order” has the meaning given by section 141B of EA 2002(d);”.

(3) In regulation 3(3), in paragraph (c) after “2006” insert “, subject to a prohibition order or interim prohibition order”.

(4) In regulation 13 for “4” substitute “4A”.

(5) In regulation 18(1)(a)(i) for “paragraph 5(a)(i)” substitute “paragraphs 5(a)(i) and 5A”.

(6) In regulation 25 for “4” substitute “4A”.

(7) In Schedule 2—

(a) after paragraph 4 insert—

“**4A.** In relation to each member of staff appointed on or after 2nd September 2013, whether a check was made to establish that the person is not subject to a prohibition order or interim prohibition order.”;

(b) after paragraph 5 insert—

(a) 2002 c.32.

(b) S.I. 2009/2680, amended by S.I. 2012/1740.

(c) Schedule 11A was inserted by section 8 of the Education Act 2011 (c.21). S.I. 2012/560 is made under paragraph 3 of Schedule 11A to EA 2002 and makes provision in relation to interim prohibition orders.

(d) Section 141B was inserted by section 8 of the Education Act 2011.

“5A. In relation to any person supplied by an employment business on or after 2nd September 2013, whether a check was made to establish that the person is not subject to a prohibition order or interim prohibition order.”.

2nd August 2013

David Laws
Minister of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 141B of the Education Act 2002 (“EA 2002”) provides the Secretary of State with a power to investigate where an allegation is referred to the Secretary of State that a person may be guilty of unacceptable professional conduct or conduct which brings the profession into disrepute or has been convicted of a relevant criminal offence. Section 141B(2) EA 2002 provides that where the Secretary of State finds on investigation that there is a case to answer, the Secretary of State must decide whether to make a prohibition order in respect of that person.

Regulations 12 and 24 of the School Staffing (England) Regulations 2009 (“the principal regulations”) provide that where a governing body is to appoint a person, they must check whether that person meets relevant staff qualifications. Regulation 3 sets out various staff qualifications. These Regulations amend the principal regulations so that when determining whether an appointed person is to be treated as meeting the staff qualification requirements, the governing body must check that the person to be appointed is not a person who is subject to a prohibition order or interim prohibition order. These Regulations also amend Schedule 2 to the principal regulations to provide that for members of staff appointed on or after 2nd September 2013, governing bodies are required to record in a register whether a check has been made that the person is not subject to a prohibition order or interim prohibition order. Further amendments to Schedule 2 to the principal regulations require the governing body to ensure that they have had written notification from an employment business that a check that a person is not subject to a prohibition order or interim prohibition order has been made and that for members of staff supplied on or after 2nd September 2013, the checks are recorded in the register.

An impact assessment has not been produced for this instrument as it has minimal impact on businesses, the public sector, or civil society organisations.

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