WELSH STATUTORY INSTRUMENTS

2009 No. 2558 (W.208)

EDUCATION, WALES

The Education (Independent Schools) (Unsuitable Persons) (Wales) Regulations 2009

Made - - - -	*20 September 2009*
Laid before the National Assembly for Wales - -	*21 September 2009*
Coming into force - -	*12 October 2009*

The Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by sections 169 and 210(7) of the Education Act 2002(**1**), and now vested in them make the following Regulations:

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Education (Independent Schools) (Unsuitable Persons) (Wales) Regulations 2009 and they come into force on 12 October 2009.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations "the 2002 Act" ("*Deddf 2002*") means the Education Act 2002.

Unsuitable persons: prescribed kind of work

2.—(1) Work of the kind described in paragraph (2) is prescribed for the purposes of section 169 of the 2002 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 or who is a child or vulnerable adult within the meaning of the Safeguarding Vulnerable Groups Act 2006(**2**).

(**1**) 2002 c. 32. The functions of the National Assembly for Wales under these sections were transferred to the Welsh Minister by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) 2006 c. 47; *see* section 60(1) for the definitions of "child" and "vulnerable adult".

(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.

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 169 of the 2002 Act—

(a) an order under section 100(2)(e) of the Education (Scotland) Act 1980(**3**) (*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 2002 Act(**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 2002(**7**) Act (*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 (otherwise 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**);

(**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).
(**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 Safeguarding Vulnerable Groups Act 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 Government of Wales Act 2006.
(**7**) Section 167A is inserted by the Education and Inspections Act 2006, section 169 (c.4); sub-section (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**) 2006 c. 47; *see* section 60(1) for the definition of "barred list".
(**11**) 2007 asp 14.
(**12**) S.R. 2007 No 288.