WELSH STATUTORY INSTRUMENTS

2009 No. 2544 (W.206)

EDUCATION, WALES

The Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009

Made - - - -	*17 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 Secretary of State by section 342(2), (4) and (5), section 569 of the Education Act 1996(**1**) and by section 21(5) and (6), section 138(7) and (8) and section 72 of the School Standards and Framework Act 1998(**2**), and in exercise of the powers conferred on the National Assembly for Wales by section 19(3), section 34(5), section 35(4) and (5), section 36(4) and (5), section 136(c), section 157(1), section 168(1) and (2), section 210(7) and section 214(1) and (2) of the Education Act 2002(**3**), and now vested in them make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009 and they come into force on 12 October 2009.

(2) These Regulations apply in relation to Wales.

(**1**) 1996 c. 56. Section 342 was substituted by the School Standards and Framework Act 1998 (c. 31), section 140(1), Schedule 30, paragraph 82.

(**2**) 1998 c. 31. Section 72 has been amended by the Education Act 2002 (c. 32) but the amendment is not relevant. Section 138 has been amended by the Education and Inspections Act 2006 (c. 40), section 175, Schedule 17, paragraph 3(1) and (4); other amendments have been made by that Act to section 138 but none are relevant. Amendments have also been made to section 138 by the Education Act 2002 (c. 32) and the Education Act 2005 (c. 18) but the amendments are not relevant to these Regulations. The functions of the Secretary of State were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**3**) 2002 c. 32. Section 157 has been amended by section 47(1) and (2) of the Childcare Act 2006 (c. 21) and the Education and Skills Act 2008 (c. 25), section 169, Schedule 1, Part 1, paragraphs 13 and 16 and Schedule 2. Section 210 is amended by section 21(1), (3)(a) and (c)(i) and (ii) of the Learner Travel (Wales) Measure 2008 (nawm 2). Further amendments are made by that Measure and by the Childcare Act 2006 (c. 21) to section 210 but none are relevant to these Regulations. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Amendments to the Education (Special Schools) Regulations 1994

2.—(1) The Education (Special Schools) Regulations 1994(**4**) are amended as follows.

(2) In regulation 7—

(a) in paragraph (1), after sub-paragraph (b), insert—

"(ba) a direction under section 142(8) of the Education Act 2002(**5**);"; and

(b) after paragraph (1), insert—

"(1A) The Welsh Ministers may withdraw their approval for a school on the ground that, in the case of that school, it has employed a person who is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(**6**).".

Amendments to the Education (Foundation Body) (Wales) Regulations 2001

3.—(1) The Education (Foundation Body) (Wales) Regulations 2001(**7**) are amended as follows.

(2) In paragraph 5 of Schedule 2—

(a) in sub-paragraph (1), after "restricted", insert ", or is subject to a direction under section 142 of the Education Act 2002(**8**), or is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(**9**).".

Amendments to the Independent School Standards (Wales) Regulations 2003

4.—(1) The Independent School Standards (Wales) Regulations 2003(**10**) are amended as follows.

(2) In regulation 2 in the definition of "appropriate criminal record certificate"—

(a) after "section 113B of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act";

(b) after "section 113A of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act"; and

(c) omit the words "provided that, in both cases, where the person holds a position mentioned in section 113C(5) of the Police Act 1997, the certificate also contains the information specified in section 113C(1) of that Act;".

(3) In the Schedule in sub-paragraph (e) of paragraph 4, after "any member of staff" insert "is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(**11**) or".

(**4**) S.I. 1994/652. These Regulations have been revoked so far as they apply to England but continue in force so far as they apply to Wales.
(**5**) 2002 c. 32; section 142 is repealed by section 63(2) and Schedule 10 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) and it is intended the repeal will come into force on 12 October 2009.
(**6**) 2006 c. 47.
(**7**) S.I. 2001/2709 (W.228).
(**8**) 2002 c. 32; section 142 is repealed by section 63(2) and Schedule 10 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) and it is intended the repeal will come into force on 12 October 2009.
(**9**) 2006 c. 47.
(**10**) S.I. 2003/3234 (W.314), as amended by S.I. 2007/947 (W.81), S.I. 2005/2929 (W.214).
(**11**) 2006 c. 47. S.I. 2009/1797 specifies that, for the purposes of section 3(2)(b), the list maintained under Article 6(1)(a) of the Safeguarding Vulnerable Groups Act Order 2007 (S.I. 2007/1351 (N.I. 11)) (i.e. the children's barred list for Northern Ireland) is a list that corresponds to the children's barred list established and maintained under section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006.

Amendments to the Independent Schools (Provision of Information) (Wales) Regulations 2003

5.—(1) The Independent Schools (Provision of Information) (Wales) Regulations 2003(**12**) are amended as follows.

(2) In regulation 2(1) in the definition of "appropriate criminal record certificate"—

(a) after "section 113B of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act";

(b) after "section 113A of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act"; and

(c) omit the words "provided that, in both cases, where the person holds a position mentioned in section 113C(5) of the Police Act 1997, the certificate also contains the information specified in section 113C(1) of that Act;".

(3) For paragraph (2) of regulation 2, substitute—

"(2) Any reference in these Regulations to a person employed at a school is a reference to a person—

(a) providing education—

(i) at a school;

(ii) at a further education institution;

(iii) under a contract of employment or for services where the other party to the contract is a local education authority or a person exercising a function relating to the provision of education on behalf of a local education authority;

(b) taking part in the management of an independent school; or

(c) carrying on work which—

(i) brings that person regularly into contact with children, and

(ii) is carried out at the request of or with the consent of a relevant employer (whether or not under a contract).

(3) For the purposes of paragraph (2) "relevant employer" ("*cyflogwr perthnasol*") means—

(a) a local education authority;

(b) a person exercising a function relating to the provision of education on behalf of a local education authority;

(c) the proprietor of a school; or

(d) the governing body of a further education institution.".

Amendments to the Government of Maintained Schools (Wales) Regulations 2005

6. In Schedule 5 to the Government of Maintained Schools (Wales) Regulations 2005(**13**)—

(a) after sub-paragraph (b) of paragraph 9, insert—

"(ba) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(**14**);

(**12**) S.I. 2003/3230 (W.310), as amended by S.I. 2007/947 (W.81).
(**13**) S.I. 2005/2914 (W.211), as amended by S.I. 2005/3200 (W.236), S.I. 2006/873 (W.81), and S.I. 2007/944 (W.80).
(**14**) 2006 c. 47.