WELSH STATUTORY INSTRUMENTS

2007 No. 944 (W.80)

EDUCATION, WALES

The Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007

Made - - - -	*20 March 2007*
Coming into force - -	*29 March 2007*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 72 and 138(7) of the School Standards and Framework Act 1998(**1**) and now vested in the National Assembly for Wales and the powers conferred on the National Assembly for Wales by sections 19(3), 34(5), 35(4) and (5), 36(4) and (5), 210(7) and 214 of the Education Act 2002(**2**):

Title, commencement and application

1.—(1) The title of these Regulations is the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007 and they come into force on 29th March 2007.

(2) These Regulations apply in relation to Wales.

Amendment to the School Teacher Appraisal (Wales) Regulations 2002

2. In regulation 17(2) of the School Teacher Appraisal (Wales) Regulations 2002(**3**), for "paragraph 23 of Schedule 16 and paragraph 22 of Schedule 17 to the School Standards and Framework Act 1998" there is substituted "regulation 6 of the Staffing of Maintained Schools (Wales) Regulations 2006.".

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

3.—(1) In regulation 50(1) of the Government of Maintained Schools (Wales) Regulations 2005 (**4**), omit the words "and regulations 12 and 21 of the School Staffing (Wales) Regulations 2005".

(2) In regulation 51(1) for "10 and 24" there is to be substituted "10(9) to (20), 24(8) to (19) and 34".

(**1**) 1998 c. 31. *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(**2**) 2002 c. 32. *See* section 212 for the definition of "regulations". By virtue of that definition these regulations made by the National Assembly for Wales apply only to Wales.
(**3**) S.I. 2002/1394 (W.137).
(**4**) S.I 2005/2914 (W.211).

Amendments to the Staffing of Maintained Schools (Wales) Regulations 2006

4.—(1) The Staffing of Maintained Schools (Wales) Regulations 2006(**5**) are amended in accordance with this regulation.

(2) In regulation 3(1) insert the following definition at the appropriate place in alphabetical order —

""governing body" ("*corff llywodraethu*") means the governing body of a maintained school to which the regulation including that expression applies;

"children's suitability statement" ("*datganiad o addasrwydd plant*") has the meaning given by section 113C(2) of the Police Act 1997;

"employment business" ("*busnes cyflogaeth*") has the meaning given by section 13(3) of the Employment Agencies Act 1973 and includes a local authority and a person carrying on an employment business.".

(3) After paragraph (4) in regulation 3 there is inserted —

"(5) Any reference in these Regulations to —

(a) a numbered regulation is a reference to the regulation bearing that number in these Regulations;

(b) a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference appears.

(6) Regulations 4 to 7 apply to —

(a) community schools;

(b) voluntary controlled schools;

(c) voluntary aided schools;

(d) foundation schools;

(e) community special schools;

(f) foundation special schools; and

(g) maintained nursery schools.

(7) For the purposes of these regulations a person applies for an enhanced criminal record certificate if he or she countersigns an application for the certificate as a registered person (within the meaning of section 120 of the Police Act 1997) or if an application is countersigned on his or her behalf, and the application is submitted to the Secretary of State in accordance with Part V of that Act.".

(4) In regulation 4(1), for "At any school there must be" there is substituted "A governing body and a local education authority must exercise their respective functions under these Regulations and any other enactment with a view to ensuring that there is".

(5) After regulation 9 insert the following —

"**Criminal record check for members of staff**

9A.—(1) The identity of any person appointed under regulations 10, 12 or 15 must be checked by the authority and a check must be made by the authority of his or her right to work in the United Kingdom.

(2) An enhanced criminal record certificate issued pursuant to Part V of the Police Act 1997 must be obtained by the authority in respect of any such person before or as soon as practicable

(**5**) S.I. 2006/873 (W. 81).

after his or her appointment, and the application for such a certificate must be accompanied by a children's suitability statement.

(3) In the case of any such person for whom, by reason of his or her having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish his or her suitability to work in a school, such further checks as the authority considers appropriate, having regard to any guidance issued by the National Assembly for Wales, must be made by the authority.

(4) The checks referred to in paragraphs (1) and (3) must be completed before a person's appointment.

(5) Paragraphs (2) and (3) do not apply to a person who has worked in —

(a) a school in Wales in a post which brought him or her regularly into contact with children or young persons, or

(b) an institution within the further education sector in Wales in which his or her post involved the provision of education which brought him or her regularly into contact with children or young persons,

during a period which ended not more than three months before his or her appointment.".

(6) After regulation 9A insert the following —

"**Criminal record check for members of staff appointed by the authority —**

9B. Regulation 9A also applies in relation to any person appointed by the authority for the purpose of working at a school to which this Part or Part 3 applies.".

(7) In regulations 12(1) and 12(2) for "(3) to (7)" there is substituted "(6) to (14)".

(8) In regulation 12(6) for "paragraphs (7) to (16)" there is substituted "paragraphs (7) to (14)".

(9) After regulation 14 insert the following —

"**Supply staff**

15A.—(1) No person supplied by an employment business to a school may begin work as a teacher or member of support staff at the school unless the authority or (as the case may be) the governing body have received —

(a) written notification from the employment business in relation to that person —

(i) that the checks referred to in paragraph (6) have been made;

(ii) that an application for an enhanced criminal record certificate accompanied by a children's suitability statement has been made, or such a certificate has been obtained in response to an application made by that or another employment business; and

(iii) whether, if the employment business has obtained such a certificate before the person is due to begin work at the school, it disclosed any matter or information, or any information was supplied to the employment business in accordance with section 113B(6) of the Police Act 1997; and

(b) where the employment business has obtained an enhanced criminal record certificate before the person is due to begin work at the school, and it discloses any matter or information, or any information was provided to the employment business in accordance with section 113B(6) of the Police Act 1997, a copy of the certificate.

(2) Except in the case of a person to whom paragraph (3) applies the certificate referred to in paragraph (1)(a)(ii) must have been obtained not less than three months before the date on which the person is due to begin work at the school.

(3) This paragraph applies to a person who has worked in —

(a) a school in Wales in a post which brought him or her regularly into contact with children or young persons, or

(b) an institution within the further education sector in Wales in which his or her post involved the provision of education which brought him or her regularly into contact with children or young persons,

during a period which ended not more than three months before the date on which he or she is due to begin work at the school.

(4) Before a person offered for supply by an employment business may begin work at the school his or her identity must be checked by the governing body at the school (irrespective of any such check carried out by the employment business before the person was offered for supply).

(5) The authority or (as the case may be) the governing body must in the contract or other arrangements which they make with any employment business require it, in respect of any person whom the employment business supplies to the school —

(a) to provide the notification referred to in paragraph (1), and

(b) if any enhanced criminal record certificate which the employment business obtains contains any matter or information, or if any information was supplied to the employment business in accordance with section 113B(6) of the Police Act 1997, to provide a copy of the certificate.

(6) For the purposes of paragraph (1)(a)(i) "checks" means —

(a) a check of his or her identity;

(b) a check to establish whether he or she is subject to any direction made under section 142 of the Education Act 2002 or any prohibition, restriction or order having effect as such a direction;

(c) a check to establish whether he or she meets the requirements with respect to any staff qualification requirements;

(d) a check pursuant to regulation 9A(3);

(e) an enhanced criminal record certificate was obtained in respect of him or her; and

(f) a check of his or her right to work in the United Kingdom.".

(10) After regulation 18 insert the following —

"**Checks on change of post**

18A. Where a member of the school staff moves from a post which did not bring him or her regularly into contact with children or young persons to a post which does, an enhanced criminal record certificate must be obtained by the authority in respect of him or her before or as soon as practicable after he or she moves to his or her new post, and the application for such a certificate must be accompanied by a children's suitability certificate.".

(11) After regulation 20 insert the following —

"**Criminal record checks for members of staff**

20A.—(1) The identity of any person appointed under regulations 24, 26 and 27 must be checked by the governing body and a check must be made by the governing body of his or her right to work in the United Kingdom.