STATUTORY INSTRUMENTS

2015 No. 887

EDUCATION, ENGLAND

The School Staffing (England) (Amendment) Regulations 2015

Made - - - -	*24th March 2015*
Laid before Parliament	*26th March 2015*
Coming into force - -	*29th June 2015*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by section 72(1) of the School Standards and Framework Act 1998(**1**) and sections 35(4) and (5) and 36(4) and (5) of the Education Act 2002(**2**):

Citation and commencement

1. These Regulations may be cited as the School Staffing (England) (Amendment) Regulations 2015 and come into force on 29th June 2015.

Amendment of the School Staffing (England) Regulations 2009

2. The School Staffing (England) Regulations 2009(**3**) are amended as follows.

Amendments to regulation 3

3.—(1) In regulation 3(1)—

(a) in the definition of "enhanced criminal record certificate"—

(i) for "within the meaning of", in the first place where the words occur, substitute "issued under"; and

(ii) after "includes" insert ", in such cases as are from time to time prescribed under section 113BA(1) of that Act(**4**),";

(b) after the definition of "interim prohibition order" insert—

""negative up-date information" means up-date information of a kind falling within section 116A(8)(b)(i) or (c)(i) of PA 1997(**5**);";

(**1**) 1998 c. 31.
(**2**) 2002 c. 32. Sections 35(5) and 36(5) were amended by S.I. 2010/1158.
(**3**) S.I. 2009/2680, amended by S.I. 2013/1940. Other amending instruments are not relevant.
(**4**) Section 113BA was inserted by section 63(1) of and paragraph 14(4) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47). It has been amended but the amendments are not relevant.
(**5**) Section 116A was inserted by section 83 of the Protection of Freedoms Act 2012 (c. 9) and amended by S.I. 2012/3006.

(c) after the definition of "prohibition order" insert—

""relevant activity" means any activity which is a regulated activity relating to children within the meaning of—

(a) Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(**6**); or

(b) Part 1 of Schedule 4 to that Act as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012(**7**);"; and

(d) after the definition of "teacher" insert—

""up-date information" has the meaning given by section 116A(8) of PA 1997.".

(2) In regulation 3(3)—

(a) at the end of sub-paragraph (b) omit "and"; and

(b) for sub-paragraph (c) substitute—

"(c) is not barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006 in any case where it is intended that the person will engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to that Act; and

(d) is not subject to a prohibition order or interim prohibition order or subject to any direction made under section 142 of EA 2002(**8**) or any prohibition, restriction or order having effect as such a direction.".

(3) In regulation 3(5)(b) omit "to the Secretary of State".

(4) After regulation 3(5) insert—

"(6) For the purposes of these Regulations an enhanced criminal record certificate is subject to up-date arrangements in the circumstances set out in section 116A(3) of PA 1997.

(7) References to the giving of negative up-date information are references to the giving of such information under section 116A(1) of PA 1997.".

Amendments to Parts 2 and 3

4.—(1) In regulation 12(3) and in regulation 24(3) for "The" where it first appears substitute "Where it is intended that the person will engage in relevant activity, the".

(2) After regulation 12(3) and after regulation 24(3) insert—

"(3A) Where a governing body obtains an enhanced criminal record certificate in respect of any such person and that certificate is subject to up-date arrangements, it must consider whether to request up-date information in relation to the certificate under section 116A(1) of PA 1997.".

5.—(1) In regulation 18(1)(a)(i) after "5(a)(i)" insert ", (iii) and (iv)".

(**6**) 2006 c. 47. Part 1 of Schedule 4 was amended by paragraph 41 of Schedule 1 to the Education and Skills Act 2008 (c. 25), section 64 of and paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9) and S.I. 2009/2610.

(**7**) 2012 c. 9. Section 64 amended the definition of "regulated activity relating to children" as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006; however, by virtue of regulations 5A and 5C(a) of S.I. 2002/233 (as amended by S.I. 2006/748, 2013/2669 and 2014/955) it is still possible to apply for and receive an enhanced criminal record certificate in order to check a person's suitability to engage in regulated activity relating to children as defined before section 64 came into force.

(**8**) Section 142 was repealed by paragraph 1 of Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47) but continues to have effect for the purposes specified by S.I. 2009/2611.