STATUTORY INSTRUMENTS

2015 No. 387

EDUCATION

The Education (Non-Maintained Special Schools) (England) (Amendment) Regulations 2015

Made - - - -	*24th February 2015*
Laid before Parliament	*27th February 2015*
Coming into force - -	*20th March 2015*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 342(2), (4) and (5) and 569(4) of the Education Act 1996(**1**).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Non-Maintained Special Schools) (England) (Amendment) Regulations 2015 and come into force on 20th March 2015.

(2) These Regulations apply in relation to England only.

Amendments

2. The Education (Non-Maintained Special Schools) (England) Regulations 2011(**2**) are amended in accordance with regulations 3 and 4.

3.—(1) In regulation 2(1) insert—

(a) after the definition of "the 2005 Act" —

> ""the 2006 Act" means the Safeguarding Vulnerable Groups Act 2006(**3**);";

(b) for the definition of "enhanced criminal record certificate", substitute—

> "enhanced criminal record certificate" means an enhanced criminal record certificate issued under section 113B(1)(**4**) of the 1997 Act which includes, in such cases as are from time to time prescribed under section 113BA(1) of that Act,

(**1**) 1996 c.56.
(**2**) S.I. 2011/1627.
(**3**) 2006 c.47.
(**4**) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15). Section 113B(1) was amended by articles 36 and 37(c) of the 2012 Order, sections 97(2), 112(2) and Part 8 of Schedule 8 of the 2009 Act and section 80(1) of the 2012 Act.

suitability information relating to children or vulnerable adults, and any relevant up-date information where such a certificate is subject to up-date arrangements;";

(c) after the definition of "enhanced criminal record certificate" insert—

""interim prohibition order" has the meaning given in section 141C(7) of the 2002 Act(**5**);";

(d) after the definition of "National Minimum Standards" insert—

""prohibition order" has the meaning given in section 141B(4)(**6**) of the 2002 Act;";

(e) after the definition of "proprietor" insert—

""relevant up-date information" means up-date information within the meaning given in section 116A(8)(b)(i)(**7**) or 116A(8)(c)(i) of the 1997 Act;

"suitability information relating to children" has the meaning given in section 113BA (2)(**8**) of the 1997 Act;

"suitability information relating to vulnerable adults" has the meaning given in section 113BB(2)(**9**)of the 1997 Act;

"up-date arrangements" has the meaning given in section 116A(3) of the 1997 Act;".

(2) For regulation 2(2) substitute—

"(2) For the purposes of these Regulations, an "enhanced criminal record check" is made if—

(a) an application for an enhanced criminal record certificate is made under section 113B(1) of the 1997 Act and the application is countersigned by a registered person (as defined in section 120(1) of that Act) or on behalf of that person; or

(b) where an enhanced criminal record certificate has been obtained under section 113B(1) of the 1997 Act and is subject to up-date arrangements, relevant up-date information is obtained.".

(3) At the end of regulation 2(4)(b) delete the word "and".

(4) For regulation 2(4)(c) substitute—

"(c) is not barred from regulated activity relating to children, to vulnerable adults or to both under section 3 of the 2006 Act, where that person is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and

(d) is not subject to a prohibition order or an interim prohibition order.".

(5) After regulation 2(4) insert—

"(5) For the purposes of paragraphs 4(3), 5(2)(a)(ii) and 7(3)(a) of Part 1 of the Schedule, an enhanced criminal record check is only relevant where a person or an individual is or will be engaging in—

(a) regulated activity within the meaning of Part 1 of Schedule 4 to the 2006 Act; or

(**5**) Section 141C was inserted by section 8(1) of the Education Act 2011 ("the 2011 Act") (c.21).
(**6**) Section 141B was inserted by section 8(1) of the 2011 Act.
(**7**) Section 116A was inserted by section 83 of the Protection of Freedoms Act 2012 ("the 2012 Act") (c.9) and amended by articles 36 and 37(g) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 ("the 2012 Order") (S.I. 2012/3006).
(**8**) Section 113BA was inserted by paragraph 14(4) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 ("the 2006 Act") and amended by section 170(2) of the Education and Inspections Act 2006 (c.40), paragraph 12 of Schedule 1 to the Education and Skills Act 2008 (c.25) and section 81 of the Policing and Crime Act 2009 ("the 2009 Act") (c.26).
(**9**) Section 113BB was inserted by section 63(1) of, and paragraph 14(1) and (4) of Schedule 9 to, the 2006 Act.