STATUTORY RULES OF NORTHERN IRELAND

# 2007 No. 288

# EDUCATION

## Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007

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| *Made - - - -* | *18th May 2007* |
| *Coming into operation* | *15th June 2007* |

The Department of Education makes the following Regulations in exercise of the powers conferred by Articles 70(1) and (2), 88A(1) and (2) and 134 of the Education and Libraries (Northern Ireland) Order 1986(**1**), as read with Article 15(4) to (7) of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(**2**).

### Citation and Commencement

**1.** These Regulations may be cited as the Education (Prohibition from Teaching and Working with Children) Regulations (Northern Ireland) 2007 and shall come into operation on 15th June 2007.

### Interpretation

**2.**—(1) In these Regulations—

"the 1986 Order" means the Education and Libraries (Northern Ireland) Order 1986;

"the 2003 Order" means the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

"Care Tribunal" means the Care Tribunal established under Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**3**);

"child" has the same meaning as in the 2003 Order;

"condition D" means any of the conditions D1 to D4 set out in paragraphs 4 to 7 of Part 1 of the Schedule;

"disqualification order" means an order under Article 23 or 24 of the 2003 Order.

(**1**) S.I. 1986/594 (N.I. 3) Article 70 was substituted by and Article 88A inserted by S.I. 1987/167 (N.I. 2); Article 70 was amended by S.I. 1989/2406 (N.I. 20), S.I. 1993/2810 (N.I. 12), S.I. 1998/1759 (N.I. 13) and S.I. 2003/417 (N.I. 4). Article 88A was amended by S.I. 1997/1772 (N.I. 15), S.I. 1989/2406 (N.I. 20) and S.I. 2003/417 (N.I. 4).
(**2**) S.I. 2003/417 (N.I. 4).
(**3**) S.I. 2003/431 (N.I. 9).

(2) Any reference in these Regulations to a person working with children must be construed as employment as a person to whom Article 88A of the 1986 Order applies.

(3) Any reference in these Regulations to condition A, B, C, D, E or F is to the condition (or conditions) set out in paragraphs 1 to 9 of Part 1 of the Schedule bearing the letter A, B, C, D, E or F, as appropriate.

### Revocation

**3.** The Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2006(**4**) are revoked.

### Decision to prohibit from employment

**4.**—(1) Where it appears to the Department that a person—

(a) has been dismissed from employment as a teacher, or from employment as a person to whom Article 88A of the 1986 Order applies, on the grounds of misconduct rendering him unsuitable to teach or work with children; or

(b) in relation to such employment, has resigned, retired or been made redundant in circumstances such that his employer would have dismissed him, or would have considered dismissing him, on such grounds if he had not resigned, retired or been made redundant;

the Department shall decide whether he should be prohibited from teaching or working with children.

(2) Where the Department decides under paragraph (1) to prohibit a person from teaching or working with children, it shall include him on the list kept under regulation 8.

(3) The Department shall notify the person concerned of the outcome of the decision made under paragraph (1).

### Representations, evidence and information

**5.**—(1) Subject to paragraph (4), where the Department is considering making a decision under regulation 4, it shall—

(a) afford the person concerned the opportunity to make representations or submit evidence to it within 2 months of the date on which notice of that opportunity is served on the person concerned; or

(b) where it is satisfied that the person had good reason not to make such representations or submit evidence within that period, allow such further period as it considers reasonable.

(2) The Department may invite observations from the person's employer on the representations or evidence received under paragraph (1)(a) and may take account of any other information it considers relevant.

(3) A notice is deemed to be served for the purposes of this regulation 48 hours after the date on which it is sent.

(4) Paragraph (1) shall not apply where service cannot be effected by reason of the inability of the Department to ascertain the whereabouts of the person concerned.

### Automatic prohibition

**6.**—(1) Subject to paragraph (3), this regulation applies if, in relation to a person—

(**4**) S.R. 2006 No. 51.

(a) any of conditions A to F is satisfied; and

(b) (i) if any of conditions C to E is satisfied, paragraph 10 of Part 1 of the Schedule is also satisfied; and

(ii) if condition C or D is satisfied, paragraph 11 of that Part is also satisfied.

(2) If the Department is satisfied that this regulation applies to a person it shall prohibit that person from teaching or working with children and—

(a) where the person is so prohibited because condition A applies, the prohibition must be on the grounds that the person is included (otherwise than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the 2003 Order; or

(b) where the person is so prohibited because any of conditions B to F apply, the prohibition must be on the grounds that the person is unsuitable to work with children.

(3) This regulation does not apply if, in relation to an offence, the Department is aware that the court, having considered whether to make a disqualification order, decided not to.

**Automatic prohibition: right to make representations**

**7.**—(1) This regulation applies if, on or after 15th June 2007 the Department has prohibited a person ("X") from teaching or working with children by virtue of regulation 6 because condition D, E or F is satisfied.

(2) Subject to paragraph (5), the Department shall afford X the opportunity to make representations or submit evidence to it within 2 months of the date on which notice of that opportunity is served on X or, where he is satisfied that X has good reason not to make such representations or submit such evidence within that period, allow such further period as it considers reasonable.

(3) If it appears to the Department that X is not unsuitable to work with children, the Department shall revoke the prohibition.

(4) A notice is deemed to be served for the purposes of this regulation 48 hours after the date on which it is sent.

(5) Paragraph (2) does not apply where service cannot be effected by reason of the inability of the Department to ascertain X's whereabouts.

**List of persons prohibited from employment**

**8.** The Department shall keep a list of persons who are prohibited from teaching or working with children under regulation 4 (decision to prohibit from employment) or regulation 6 (automatic prohibition).

**Revocation of prohibition**

**9.**—(1) Save where a person has been prohibited from teaching or working with children—

(a) because condition A or B is satisfied; or

(b) on the grounds that a person is unsuitable to work with children and the person claims that he is no longer unsuitable to work with children,

the Department may revoke the prohibition on either or both of the grounds mentioned in paragraph (2).

(2) The grounds upon which the prohibition may be revoked are that—

(a) the Department is in possession of relevant information which it did not have at the time the prohibition was made; or

(b) the Department is in possession of evidence of a material change in the circumstances of the person concerned occurring since the prohibition was made.

(3) Where a person was prohibited because condition A is satisfied the prohibition shall be revoked if the name of the person concerned is removed from the list kept under Article 3 of the 2003 Order.

(4) Where a person was prohibited because condition B is satisfied the prohibition shall be revoked if the disqualification order ceases to have effect.

(5) Where the Department revokes a prohibition, the person shall be removed from the list kept under regulation 8.

**Appeals to the Care Tribunal**

**10.**—(1) Subject to paragraphs (2) and (3) a person who has been prohibited from teaching or working with children under these Regulations may appeal to the Care Tribunal—

(a) save where regulation 6 applies, against a decision of the Department to prohibit him from teaching or working with children;

(b) where regulation 7 applies, against a decision not to revoke a prohibition following consideration of the representations or evidence referred to in that regulation; and

(c) against a decision not to revoke a prohibition following consideration of the information or evidence referred to in regulation 9(2).

(2) No appeal may be brought on the ground of information or evidence referred to in regulation 9(2) unless that information or evidence has first been brought to the attention of the Department under that regulation.

(3) Where a person has been convicted of any offence involving misconduct, no finding of fact on which the conviction must be taken to have been based shall be challenged on an appeal under these Regulations.

**11.**—(1) The Care Tribunal shall not consider—

(a) information relevant to the decision to prohibit or the decision not to revoke a prohibition which the Department did not have at the time the decision was made; or

(b) evidence of a material change of circumstances of the person concerned occurring since the decision to prohibit or the decision not to revoke a prohibition was made.

(2) Where on an appeal under regulation 10 the Care Tribunal considers that the person should not be prohibited from teaching or working with children it may order the Department to revoke the prohibition.

Sealed with the Official Seal of the Department of Education on 18th May 2007

L.S.

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