



# Education Act 2011

## 2011 CHAPTER 21

### PART 3

#### SCHOOL WORKFORCE

##### *Abolition of the General Teaching Council for England*

#### **8 Functions of Secretary of State in relation to teachers**

(1) In Part 8 of EA 2002 (teachers), after section 141 insert—

*“Teacher misconduct etc: England*

##### **141A Teachers to whom sections 141B to 141E apply**

(1) Sections 141B to 141E apply to a person who is employed or engaged to carry out teaching work at—

- (a) a school in England,
- (b) a sixth form college in England,
- (c) relevant youth accommodation in England, or
- (d) a children's home in England.

(2) In subsection (1)—

“children's home” has the same meaning as in the Care Standards Act 2000;

“teaching work” means work of a kind specified in regulations under this section (and such regulations may make provision by reference to specified activities or by reference to the circumstances in which activities are carried out).

*Status: Point in time view as at 01/04/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2011, Section 8. (See end of Document for details)*

### **141B Investigation of disciplinary cases by Secretary of State**

- (1) The Secretary of State may investigate a case where an allegation is referred to the Secretary of State that a person to whom this section applies—
  - (a) may be guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or
  - (b) has been convicted (at any time) of a relevant offence.
- (2) Where the Secretary of State finds on an investigation of a case under subsection (1) that there is a case to answer, the Secretary of State must decide whether to make a prohibition order in respect of the person.
- (3) Schedule 11A (regulations about decisions under subsection (2)) has effect.
- (4) In this section—
  - a “prohibition order” means an order prohibiting the person to whom it relates from carrying out teaching work;
  - “teaching work” has the same meaning as in section 141A(1);
  - “relevant offence”, in relation to a person, means—
    - (a) in the case of a conviction in England and Wales, a criminal offence other than one having no material relevance to the person's fitness to be a teacher, and
    - (b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would be within paragraph (a).

### **141C List of persons prohibited from teaching etc**

- (1) The Secretary of State must keep a list containing—
  - (a) the names of persons in relation to whom a prohibition order has effect, and
  - (b) the names of persons who have begun, but have failed satisfactorily to complete, an induction period under section 135A in such circumstances as may be prescribed.
- (2) The Secretary of State may include on the list the name of any person who has been prohibited from teaching in Wales, Scotland or Northern Ireland that the Secretary of State thinks appropriate to include on the list.
- (3) The Secretary of State must secure that, where the name of a person is included on the list because an interim prohibition order has effect in respect of the person, there is an indication on the list to that effect.
- (4) The Secretary of State must secure that, where the name of a person is included on the list because the person has failed satisfactorily to complete an induction period under section 135A, there is an indication on the list to that effect.
- (5) The list may contain such other information in relation to the persons whose names are included on it as the Secretary of State considers appropriate.
- (6) The list must be available for inspection by members of the public.
- (7) In this section—

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“prohibition order” has the same meaning as in section 141B;  
“interim prohibition order” means an order made by virtue of paragraph 3 of Schedule 11A.

#### **141D Supply of information following dismissal, resignation etc**

- (1) This section applies where a relevant employer has ceased to use the services of a teacher because the teacher has been guilty of serious misconduct.
- (2) This section also applies where a relevant employer might have ceased to use the services of a teacher as mentioned in subsection (1) had the teacher not ceased to provide those services.
- (3) The employer must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.
- (4) In this section—
  - “relevant employer” means—
    - (a) a local authority;
    - (b) a person exercising a function relating to the provision of education on behalf of a local authority;
    - (c) the proprietor of a school;
    - (d) a sixth form college corporation;
    - (e) a person who employs a person to teach in a children's home or in relevant youth accommodation;
  - “education” includes vocational, social, physical and recreational training;
  - “children's home” has the same meaning as in the Care Standards Act 2000;
  - “services” includes professional and voluntary services;
  - “teacher” means a person within section 141A(1).

#### **141E Supply of information by contractor, agency etc**

- (1) This section applies where arrangements have been made by a person (the “agent”) for a teacher to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract) and the agent has terminated the arrangements because the teacher has been guilty of serious misconduct.
- (2) This section also applies where the agent—
  - (a) might have terminated the arrangements as mentioned in subsection (1) had the teacher not terminated them, or
  - (b) might have refrained from making new arrangements because of the teacher's serious misconduct had the teacher not ceased to be available for work.
- (3) The agent must consider whether it would be appropriate to provide prescribed information about the teacher to the Secretary of State.
- (4) In this section “relevant employer” and “teacher” have the same meanings as in section 141D.”

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(2) In EA 2002, after Schedule 11, insert—

“SCHEDULE  
11A

Section 141B

REGULATIONS ABOUT DECISIONS UNDER SECTION 141B

*Regulations: general*

- 1 The Secretary of State must make regulations in accordance with the following provisions of this Schedule.

*Procedure for decisions under section 141B(2)*

- 2 (1) Regulations under paragraph 1 must make provision about the procedure to be followed by the Secretary of State in reaching a decision under section 141B(2).
- (2) The regulations must not require a person to give evidence or produce any document or other material evidence which the person could not be compelled to give or produce in civil proceedings in any court in England and Wales.
- (3) The regulations may make provision for any functions of the Secretary of State under section 141B to be excluded or restricted in such circumstances as may be specified in or determined under the regulations.
- (4) The circumstances include, in particular, where the Secretary of State considers this to be appropriate taking into account the powers of the Independent Safeguarding Authority under the Safeguarding Vulnerable Groups Act 2006.

*Interim prohibition orders*

- 3 (1) Regulations under paragraph 1 may make provision for the Secretary of State to make an interim prohibition order, pending the Secretary of State's final decision under section 141B (2).
- (2) Regulations about interim prohibition orders must provide that an interim prohibition order may be made only if the Secretary of State considers that it is necessary in the public interest to do so.
- (3) Regulations about interim prohibition orders must provide that the Secretary of State must review an interim prohibition order—
- (a) within six months of the order being made, and
  - (b) within each subsequent six month period,
- if the person to whom the order relates makes an application to the Secretary of State for such a review.

*Prohibition orders*

- 4 (1) Regulations under paragraph 1 may make provision—

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- (a) about the service on a person to whom a prohibition order relates of notice of the order and of the right to appeal against the order under paragraph 5;
  - (b) about the publication of information relating to the case of a person to whom a prohibition order relates;
  - (c) prescribing circumstances in which a person to whom a prohibition order relates may nevertheless carry out teaching work (within the meaning of section 141A).
- (2) Regulations under paragraph 1 may also make provision—
- (a) as to the time when a prohibition order takes effect;
  - (b) allowing a person to whom a prohibition order relates to apply to the Secretary of State for the order to be set aside;
  - (c) as to the minimum period for which a prohibition order must be in effect before such an application may be made;
  - (d) as to the procedure relating to such an application.

#### *Appeals against prohibition orders*

- 5
- (1) Regulations under paragraph 1 must make provision conferring on a person to whom a prohibition order relates a right to appeal against the order to the High Court.
  - (2) The regulations must provide that an appeal must be brought within 28 days of the person being served with notice of the prohibition order.
  - (3) No appeal is to lie from any decision of the Court on such an appeal.
  - (4) In this paragraph, “prohibition order” does not include an interim prohibition order made by virtue of paragraph 3.

#### *Supplementary provisions*

- 6
- (1) Regulations under paragraph 1 may make incidental and supplementary provision, including provision—
    - (a) where a prohibition order has effect in relation to a person, for the Secretary of State to serve notice of the order on the person's employer;
    - (b) requiring the employer of such a person to take such steps in consequence of the order (which may include dismissing the person) as may be prescribed;
    - (c) authorising the delegation of functions conferred by virtue of this Schedule and the determination of matters by any person or persons specified in the regulations.
  - (2) Regulations under paragraph 1 may also make provision—
    - (a) for the Secretary of State to make a decision in a particular case about the effect in England of an order prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland;
    - (b) about the effect in general in England of orders prohibiting a person from teaching in schools in Wales, Scotland or Northern Ireland.”

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**Commencement Information**

**II** S. 8 in force at 1.4.2012 by [S.I. 2012/924](#), **art. 2**

**Status:**

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