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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke the Education (Restriction of Employment) Regulations 2000 and make provision for the supply of information to the Secretary of State, procedures for giving a direction under section 142 of the Education Act 2002, the grounds on which a person subject to such a direction may seek to have it varied or revoked and the procedure for appeals and reviews of such directions.

A relevant employer (a local education authority, a person exercising a function relating to the provision of education on behalf of a local education authority, the proprietor of a school (which includes a governing body of a maintained school) and the governing body of a further education institution) and an agent (a person who arranges for another person to carry out work at the request of or with the consent of a relevant employer) must provide the information set out in Schedule 1 to the Secretary of State where a person's work has ended or might have ended on the ground that he is unsuitable to work with children, relating to his misconduct or relating to his health where an issue relating to the safety and welfare of children is raised (*regulation 4*).

Where a person is carrying out work to which section 142 of the Education Act 2002 applies the Secretary of State must consult that person's relevant employer or agent before exercising his powers under that section (*regulation 5*).

A person other than one subject to an automatic direction under regulation 8 may make representations and submit evidence or information for the Secretary of State's consideration within 2 months of being notified or a longer period as decided by the Secretary of State (*regulation 6*).

The Secretary of State may request a person to undergo a medical examination by a doctor appointed by the Secretary of State. The person may submit their own evidence to the doctor prior to, and may have his own doctor present at, the examination (*regulation 7*).

A person is automatically prohibited from carrying out work to which section 142 of the Education Act 2002 applies if he is convicted of an offence set out in Schedule 2 involving a child under 16 if he was aged 18 or over when the offence was committed and he was carrying out such work when the offence was committed or he was convicted. A person is also automatically prohibited if he is included in the list kept under section 1 of the Protection of Children Act 1999 or if he is made subject to a disqualification order under sections 28 or 29 of the Criminal Justice and Court Services Act 2000 and was carrying out such work when the offence relating to the order was committed or he was convicted of that offence (*regulation 8*).

The Secretary of State may review a direction with a view to varying or revoking it where new information comes to light or there has been a material change in the circumstances of the person subject to a direction. This does not apply: (a) if a direction has been given on the ground that a person is unsuitable to work with children and that person claims that he is suitable; or (b) if an automatic direction is given under regulation 8 on the ground that he is included in Protection of Children Act list or subject to a disqualification order (*regulation 9*).

A person subject to a direction given on the grounds that he is unsuitable to work with children may apply to the tribunal established under section 9 of the Protection of Children Act 1999 ("the Care Standards Tribunal") to revoke the direction. Such an application may only be made with the leave of that tribunal. Leave will not be granted unless the person's circumstances have changed and the change is such that leave should be granted. Applications for leave cannot be made until certain periods have passed since a direction was given (*regulations 10 and 11*).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

A person subject to a direction may appeal to the Care Standards Tribunal against a decision to give a direction (though not where an automatic direction has been given pursuant to regulation 8) or a decision not to vary or revoke a direction (though not where an automatic direction has been given under regulation 8 on the ground that he is included in the Protection of Children Act list or subject to a disqualification order). If the person is relying on new information or evidence of a material change in his circumstances he must seek a review under regulation 9 before appealing to the Care Standards Tribunal. A person who has been convicted of an offence involving misconduct cannot challenge on appeal any finding of fact upon which his conviction is based (*regulation 12*). Where the Care Standards Tribunal considers the direction is not appropriate it may order the Secretary of State to revoke or vary the direction (*regulation 13*).