

2003 No.1934

EDUCATION, ENGLAND

The Education (Provision of Information by Independent Schools) (England) Regulations 2003

Made - - - - *25th July 2003*

Laid before Parliament *5th August 2003*

Coming into force - - *1st September 2003*

In exercise of the powers conferred on the Secretary of State by sections 160(1), 168, 210(7) and 214(1) of the Education Act 2002(a), the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement and application

1. These Regulations may be cited as the Education (Provision of Information by Independent Schools) (England) Regulations 2003 and shall come into force on 1st September 2003.
2. These Regulations shall apply only in relation to England.
3. These Regulations shall apply to any independent school, except that—
 - (a) regulations 6 and 7, and paragraphs 3(5) to 3(10), 3(15) and 4 to 13 of the Schedule shall not apply to an Academy; and
 - (b) regulations 5 to 7 and the Schedule shall not apply to a city technology college or a city college for the technology of the arts.

Interpretation

- 4.—(1) In these Regulations—
- “the 2002 Act” means the Education Act 2002;
 - “application” means an application under section 160(1) of the 2002 Act to enter an independent school in the register;
 - “city technology college” or “city college for the technology of the arts” means a school established under section 482 of the Education Act 1996(b) before 26th July 2002 which is not an Academy;
 - “school” means an independent school; and
 - “services” includes professional and voluntary services.

(a) 2002 c.32; see section 212(1) for the definition of “regulations”, by virtue of which these regulations made by the Secretary of State apply only in relation to England. Section 212(1) also defines “prescribed”.
(b) 1996 c.56; section 482 was substituted by section 65 of the Education Act 2002.

(2) Any reference in these Regulations to a person employed at a school is a reference to a person carrying out work to which section 142 of the 2002 Act applies.

Application for registration of an independent school

5. Every application shall—

- (a) be made in writing;
- (b) state the first date on which the school intends to admit pupils;
- (c) contain the information specified in Part 2 of the Schedule; and
- (d) contain a certificate signed by the proprietor that, to the best of his knowledge and belief, the statements made in the application are accurate.

Return within the first three months of operation

6. The proprietor of a registered school shall deliver to the registration authority within three months of the admission of pupils, or one pupil if that pupil is within section 463(1)(b) of the Education Act 1996(a), a return in writing which shall contain—

- (a) the information specified in Part 3 of the Schedule; and
- (b) a certificate signed by the proprietor or by a person authorised by him to give the certificate on his behalf that, to the best of his knowledge and belief, the statements made in the return are accurate.

Annual return

7.—(1) In every school year, the proprietor of a registered school shall deliver to the registration authority an annual return for that school within one month of being requested to do so by the registration authority.

(2) Each annual return shall—

- (a) be provided in writing;
- (b) be made up to the date specified by the registration authority;
- (c) contain the information specified in Part 4 of the Schedule; and
- (d) contain a certificate signed by the proprietor or by a person authorised by him to give the certificate on his behalf that, to the best of his knowledge and belief, the statements made in the annual return are accurate.

Supply of information following dismissal, resignation etc.

8.—(1) Where the proprietor of a school—

- (a) has ceased to use a person's services on a ground—
 - (i) that the person is unsuitable to work with children;
 - (ii) relating to the person's misconduct; or
 - (iii) relating to the person's health where a relevant issue is raised, or
- (b) might have ceased to use a person's services on such a ground had the person not ceased to provide those services,

the proprietor shall report the facts of the case and provide all the information listed in Part 5 of the Schedule that is available to him in relation to such person to the Secretary of State.

(a) Section 463 was substituted by section 172 of the 2002 Act.

(2) The proprietor of a school shall provide the Secretary of State such further information as may be requested by the Secretary of State which he considers relevant to the exercise of his functions under section 142 of the 2002 Act.

(3) For the purposes of paragraph (1)(a)(iii), a relevant issue is one which arises where the circumstances of the case, including occasions of conduct other than that in question, are such as to raise an issue concerning the safety and welfare of children.

Deletion of a school from the register

9. If the registration authority is satisfied that the proprietor of a school has failed to comply with any requirement specified in regulation 6, 7 or 8 it may remove that school from the register.

Offence

10. If the proprietor of a school fails to comply with any requirement specified in regulation 6, 7 or 8 he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Maximum number for existing schools

11. In relation to any school which was registered before 1st September 2003, “the maximum number of pupils” for the purposes of section 162 of the 2002 Act shall become, on the date to which the 2004 annual return is made up, the number of pupils registered at the school on that date.

Revocation

12. The Education (Particulars of Independent Schools) Regulations 1997(a) are hereby revoked.

25th July 2003

David Miliband
Minister of State
Department for Education and Skills

(a) S.I. 1997/2918

SCHEDULE

Regulations 5, 6, 7 and 8

PART 1

INTRODUCTORY

1. In this Schedule—

“charity” means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the court’s jurisdiction with respect to charities; and

“year group” means a group of pupils attending the school who attain the same age in years during the period of twelve months beginning with 1st September in the school year in which the application is made (or, as the case may be, during the period of twelve months beginning with the 1st September immediately preceding the date to which the annual return is made up).

PART 2

INFORMATION REQUIRED IN AN APPLICATION

2.—(1) The full name of the proprietor, and any previous names by which he has been known.

(2) Either—

(a) where the proprietor is an individual, his usual residential address, telephone number, date of birth and National Insurance number; or

(b) where the proprietor is a corporation, a Scottish firm or a body of persons, the address and telephone number of its registered or principal office.

(3) The name and address of the school, its telephone number and any e-mail address.

(4) Where the school has a governing body, the full name, usual residential address and telephone number of the Chair of that body.

3.—(1) The proposed age range of pupils.

(2) The proposed maximum number of pupils.

(3) Whether the school is for male pupils or female pupils or both.

(4) Whether the school provides accommodation for pupils.

(5) Whether the school admits pupils with special educational needs.

(6) Whether the school will cater wholly or mainly for pupils with special educational needs and the type of learning difficulty catered for.

(7) A plan showing the layout of the premises and accommodation.

(8) Detailed curriculum plans, schemes of work and pupil assessment procedures.

(9) The written policies required by paragraph 3(2) of the Schedule to the Education (Independent School Standards) (England) Regulations 2003(a).

(10) The complaints procedure required by paragraph 7 of that Schedule.

(11) Whether the proprietor intends to provide any child with accommodation at the school (or elsewhere pursuant to arrangements made by him) for more than 295 days in any year.

(12) The religious ethos of the school, if any.

(a) S.I. 2003/1910

(13) Whether the premises of the school, including any accommodation provided, are at two or more separate locations, and if so, the address of each such location.

(14) Where the school is, or is conducted by, a charity, the name of that charity and the number under which it is registered.

(15) A copy of the school's risk assessment under regulation 3 of the Management of Health and Safety at Work Regulations 1999^(a) insofar as it relates to obligations under Part II of the Fire Precautions (Workplace) Regulations 1997^(b).

PART 3

INFORMATION REQUIRED IN THE RETURN TO BE SUBMITTED WITHIN THREE MONTHS OF ADMISSION OF PUPILS

4.—(1) The number of pupils in each year group.

(2) In the case of a school providing accommodation the number of boarding pupils.

(3) In the case of a school also providing part-time education, the number required by sub-paragraph (1) shall be stated separately in respect of pupils receiving part-time education and those receiving full-time education.

(4) In the case of a co-educational school, all numbers required by this paragraph shall be stated separately for boys and for girls.

5.—(1) The number of pupils at the school in respect of whom a local education authority maintain a statement of special educational needs pursuant to section 324 of the Education Act 1996, and in respect of each such pupil—

(a) his full name;

(b) the date on which he became a pupil at the school; and

(c) the name of the local education authority maintaining the statement.

(2) The number of pupils at the school who do not fall within sub-paragraph (1) but who have been identified as having special educational needs.

6. In relation to teachers employed at the school (with numbers given separately for men and for women teachers)—

(a) the number of full-time teachers;

(b) the number of part-time teachers; and

(c) the aggregate number of hours a week normally worked by part-time teachers in term time.

7. In relation to every person employed at the school—

(a) his full name and any previous names by which he has been known;

(b) his sex, date of birth, National Insurance number and the capacity in which he is employed; and

(c) in the case of a teacher, his qualifications and a statement as to whether he is the head teacher, a full-time teacher or a part-time teacher.

8.—(1) The amount of annual tuition and other fees (excluding fees for accommodation) payable in respect of a pupil at the school as a condition of his attendance.

(2) In the case of a school providing accommodation for pupils, the amount of annual fees payable in respect of a boarding pupil for his accommodation.

^(a) S.I. 1999/3242

^(b) S.I. 1997/1840; amended by S.I. 1999/1877

PART 4

INFORMATION REQUIRED IN AN ANNUAL RETURN

9. All the information specified in Parts 2 and 3 of this Schedule with the exception of that set out in paragraphs 3(1) to 3(11), 3(15) and 7.

10. In relation to every person who has commenced employment or ceased employment at the school since the date of the last return to the registration authority—

- (a) his full name and any previous names by which he has been known;
- (b) his sex, date of birth, National Insurance number and the capacity in which he is employed; and
- (c) in the case of a teacher, his qualifications and a statement as to whether he is the head teacher, a full-time teacher or a part-time teacher.

11. In the two years preceding the date to which the return is made up (except in the case of a first annual return) the number of children attending the school for whom accommodation was provided there (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in any year.

12.—(1) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years who are pursuing courses for examinations.

(2) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years who have completed courses for an examination in the General Certificate of Education (Advanced or Advanced Subsidiary level), or the Advanced Vocational Certificate of Education (AVCE), but remain at the school for a purpose other than for pursuing any further course of that nature.

(3) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years (except for those who fall into the category of pupils referred to in sub-paragraph (2)) who attend the school for a purpose other than for pursuing courses for a relevant examination.

(4) The numbers specified in the annual return under sub-paragraphs (1) and (2) shall be stated separately for—

- (a) courses exclusively in mathematical or scientific subjects;
- (b) courses exclusively in other subjects;
- (c) courses partly in mathematical or scientific subjects and partly in other subjects; and
- (d) boys and girls.

13. Where a change has occurred in the premises of or accommodation at the school since the date to which the immediately preceding annual return was made up (or, in the case of the first annual return, since the date to which the information contained in the application for the registration of the school was made up), particulars of such change.

PART 5

INFORMATION TO BE SUPPLIED BY A PROPRIETOR FOLLOWING DISMISSAL, RESIGNATION, ETC.

14. A statement of reasons for ceasing to use the person's services.

15. Records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the proprietor.

16. Records relating to conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the proprietor to cease to use his services, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the proprietor.

17. Letters, warnings or notices issued to a person in relation to the cessation of the use of his services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the proprietor to cease to use his services and the person's replies or representations in relation thereto.

18. Any other statements, representations and evidence submitted by a person to the proprietor in relation to the cessation of his services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the proprietor to cease to use his services.

19. Any letter advising of a person's intention to cease to provide services.

20. Any other document or information which the proprietor considers is relevant to the exercise of the Secretary of State's functions under section 142 of the 2002 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (Particulars of Independent Schools) Regulations 1997. They relate to applications for registration of independent schools under section 160(1) of the Education Act 2002 and information to be provided periodically by the proprietors of independent schools under section 168 of that Act.

Sections 160(2) and 162 of the Education Act 2002 combine to provide that a school may be removed from the register if there is a change in “the maximum number of pupils”, which new schools are required to state in their applications. Regulation 11 provides for a baseline figure in relation to existing schools.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Independent Schools Registration Team, Department for Education and Skills, Ground Floor, Mowden Hall, Staindrop Road, Darlington DL3 9BG and accessible on the Department’s internet website at www.dfes.gov.uk/ria/ . Copies have also been placed in the Library of each House of Parliament.

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