
EXPLANATORY NOTE

(This note is not part of the Regulations.)

This instrument amends paragraph 14A of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005. Regulations 11, 15A and 18A of the School Staffing (England) Regulations 2003 (“the School Staffing Regulations”) are, with modifications, applied to pupil referral units in England with effect from 1st January 2007.

There is currently a requirement, subject to exceptions, to obtain enhanced criminal record certificates in respect of members of staff of pupil referral units. The effect of the application of regulation 11 of the School Staffing Regulations (as modified) to pupil referral units is to impose new requirements on local education authorities to check, before appointment, the identity and right to work in the United Kingdom of members of staff. The instrument removes the exception from the requirement to obtain an enhanced criminal record certificate in the case of foreign nationals in respect of whom the obtaining of the certificate was inappropriate. It also extends the requirement to carry out such further checks as the local education authority considers appropriate, having regard to any guidance issued by the Secretary of State, on those who have lived outside the United Kingdom if obtaining an enhanced criminal record certificate is not sufficient to establish suitability to work with children. (The current requirement relates only to foreign nationals.) A register must be kept recording the checks made on members of staff of pupil referral units and the information provided by supply agencies in respect of checks made on personnel supplied by them.

The application of regulation 15A of the School Staffing Regulations (as modified) to pupil referral units means that a person supplied to a unit by a supply agency to work as a teacher or other member of staff may not begin work until the local education authority has received written notification from the supply agency that certain specified checks have been made, that an application for an enhanced criminal record certificate has been made (or such a certificate obtained), and, where such a certificate is obtained before work commences, of certain information as to its contents. In certain cases the supply agency must provide a copy of the certificate. The local education authority is required in any contract or other arrangements it makes to ensure that supply agencies are under an obligation to provide this information and any certificates required. Irrespective of any identity checks carried out by a supply agency, there must be a separate identity check before a person supplied by an agency may begin work at the unit.

The application of regulation 18A of the School Staffing Regulations to pupil referral units means that an enhanced criminal record certificate must be obtained in respect of a member of staff of a unit appointed before 12th May 2006 to a post which did not bring him regularly into contact with children who moves to a post in the unit which does.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from Colin Green, Department for Education and Skills, Caxton House, Tothill Street, London SW1H 9NA, and on the Department’s website (www.dfes.gov.uk/ria).