

---

## EXPLANATORY NOTE

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

These Regulations make amendments to various sets of regulations made under the Education Act 1996 (c. 56), the Teaching and Higher Education Act 1998 (c. 30), the School Standards and Framework Act 1998 (c. 38) and the Education Act 2002 (c. 32) to reflect changes that will arise as a result of the proposed commencement (on the 12th October 2009) of the barring provisions in the Safeguarding Vulnerable Groups Act 2006 (c. 47) (“the SVGA”) and the commencement of new provisions (inserted by the SVGA) in the Police Act 1997 (c. 50).

In some of the regulations being amended, the amendments made by these Regulations add a reference to whether a person is barred from working with children under the SVGA to the references to the barring provisions pre-dating the SVGA. The Regulations also align provisions in the regulations being amended with new provisions in the Police Act 1997 (inserted by the SVGA) which will apply from 12th October and which relate to the information that will be available when a check is made to ascertain if a person is barred from working with children. For example, amendments have been made to remove references to “children’s suitability statement” and to update the amended regulations, where necessary, with references to “suitability information relating to children” within the meaning of section 113BA(2) of the Police Act 1997.

The amendment at Regulation 6 to regulation 4 of the Education (Provision of Information by Independent Schools) (England) Regulations 2003 (S.I. 2003/1934) is necessary to replace the reference to work to which section 142 of the Education Act 2002 (c. 32) applies as the repeal of section 142 will be commenced on 12th October 2009.

From 12th October, information as to whether a person is barred from working with children will no longer be available with a standard criminal record certificate and will only be provided with an enhanced criminal record certificate in cases prescribed under section 113BA of the Police Act. Amendments to some of the regulations have been included to reflect this change and ensure that where information as to whether a person is barred is currently obtained, it will continue to be available from 12th October 2009.

From 12th October, a certificate which states that someone is barred from working with children will mean that the person is either on one of the current barred lists or is barred from working with children under the new SVGA scheme. A check in relation to both the current lists and the new children’s barred list under the SVGA will continue to be required from 12th October until the ISA has made a decision in all relevant cases about whether to transfer an individual to the children’s barred list. Relevant cases are where an individual is still on one of the existing lists or where a referral to the Secretary of State under the old regime is still being determined after 12th October (for limited purposes) under that regime.