

*Status: This version of this provision is prospective.*

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Non-Maintained Special Schools) (England) Regulations 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## STATUTORY INSTRUMENTS

# 2011 No. 1627

## The Education (Non-Maintained Special Schools) (England) Regulations 2011

PROSPECTIVE

### Interpretation

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996;

“the 1997 Act” means the Police Act 1997(1);

“the 2002 Act” means the Education Act 2002(2);

“the 2005 Act” means the Education Act 2005(3);

“the Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills(4);

“employment business” has the meaning given by section 13(3) of the Employment Agencies Act 1973(5) and includes a local authority and a person carrying on an employment business;

“enhanced criminal record certificate” means a certificate within the meaning of section 113B(3) of the 1997 Act(6), which includes suitability information relating to children within the meaning of section 113BA(2) of that Act;

“maintained special school” means a community or foundation special school(7);

“National Minimum Standards” means the national minimum standards relating to residential special schools(8) published under section 87C(1) of the Children Act 1989(9) and in a case where a non-maintained special school is also a children’s home, the national minimum standards relating to children’s homes(10) issued by the Secretary of State under section 23 of the Care Standards Act 2000;

“proprietor” in relation to a non-maintained special school means the governing body of the school;

(1) 1997 c.50.

(2) 2002 c.32.

(3) 2005 c.18.

(4) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills means the person holding the office of that title under section 113 of the Education and Inspections Act 2006 (c.40).

(5) 1973 c. 35.

(6) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15). Section 113BA was inserted by section 63(1) of, and paragraph 14(1) and (4) of Part 2 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 (c. 47) (“the 2006 Act”). Section 113BA(2) is amended by sections 169 and 170 of, and paragraph 12 of Part 1 of Schedule 1 to, the 2006 Act and section 81 of the Policing and Crime Act 2009 (c. 26).

(7) For the meaning of “community special school” and “foundation special school” see section 20 of the School Standards and Framework Act 1998 (c.31) (“the 1998 Act”).

(8) The National Minimum Standards relating to residential special schools are available at [www.education.gov.uk](http://www.education.gov.uk).

(9) 1989 c.41. Section 87C was inserted by section 107 of the Care Standards Act 2000 (c.14) (“the 2000 Act”).

(10) The National Minimum Standards relating to children’s homes are available at [www.education.gov.uk](http://www.education.gov.uk). A children’s home is defined in section 1 of the 2000 Act.

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“work” includes work of any kind, whether under a contract of service or apprenticeship, under a contract for services or otherwise than under a contract or as a volunteer.

(2) For the purposes of these Regulations an application for an enhanced criminal record certificate is made if—

(a) the application is—

(i) countersigned by the proprietor as a person registered under section 120(1) of the 1997 Act or countersigned on the proprietor’s behalf by such a person, and

(ii) submitted to the Secretary of State in accordance with section 113B of that Act; or

(b) in accordance with section 113B(2A)(11) of the 1997 Act, the application is transmitted electronically to the Secretary of State by the proprietor as a person registered under section 120(1) of that Act or is so transmitted on the proprietor’s behalf by such a person.

(3) For the purposes of these Regulations a person is appointed to a position if that person is—

(a) engaged to work at a school, other than a person supplied by an employment business, or

(b) appointed to the governing body of a school.

(4) A person (X) is to be treated as meeting any staff qualification requirements if X—

(a) fulfils any requirements with respect to qualifications or registration which apply to X by virtue of regulations made under sections 132 to 135 of the 2002 Act(12) and regulations made under section 19 of the Teaching and Higher Education Act 1998(13),

(b) meets any conditions with respect to health and physical capacity, which apply to X by virtue of regulations made under section 141 of the 2002 Act(14), and

(c) is not barred from regulated activity relating to children, to vulnerable adults or to both under section 3 of the Safeguarding Vulnerable Groups Act 2006.

#### Commencement Information

**II** Reg. 2 in force at 1.9.2011, see [reg. 1\(1\)](#)

(11) Subsection (2A) was inserted into section 113B by [S.I. 2009/203](#).

(12) At the time of making these Regulations, the relevant Regulations are the Education (School Teachers’ Qualifications) (England) Regulations 2003, [S.I. 2003/1662](#), amended by [S.I. 2007/2782](#) and [2009/3156](#); the Education (Specified Work and Registration) (England) Regulations 2003, [S.I. 2003/1663](#), amended by [S.I. 2007/2117](#) and [2008/1883](#); and the Education (Head Teachers’ Qualifications) (England) Regulations 2003, [S.I. 2003/3111](#), amended by [S.I. 2005/875](#), [2005/3322](#) and [2011/602](#).

(13) [1998 c. 30](#). Section 19 is amended by sections 139 and 153 of, and Schedule 11 to, the Learning and Skills Act 2000 ([c.21](#)), section 215 of, and Schedule 21, paragraph 85 to the Education Act (“the 2002 Act”) and [S.I. 2010/1158](#). At the time of making these Regulations, the relevant Regulations are the Education (Recognition of School Teachers Professional Qualifications) (Consequential Provisions) (England) Regulations 2007, [S.I. 2007/2782](#) and the Education (Induction Arrangements for School Teachers) (England) Regulations 2008, [S.I. 2008/657](#).

(14) Regulations made under this section are the Education (Health Standards) (England) Regulations 2003 [S.I. 2003/3139](#).

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**Changes and effects yet to be applied to :**

- Regulations revoked by [S.I. 2015/728 reg. 8](#)
- reg. 2 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- reg. 2(1) words inserted by [S.I. 2015/387 reg. 3\(1\)\(a\)](#)
- reg. 2(1) words inserted by [S.I. 2015/387 reg. 3\(1\)\(c\)](#)
- reg. 2(1) words inserted by [S.I. 2015/387 reg. 3\(1\)\(d\)](#)
- reg. 2(1) words inserted by [S.I. 2015/387 reg. 3\(1\)\(e\)](#)
- reg. 2(1) words substituted by [S.I. 2015/387 reg. 3\(1\)\(b\)](#)
- reg. 2(2) substituted by [S.I. 2015/387 reg. 3\(2\)](#)
- reg. 2(4)(b) word deleted by [S.I. 2015/387 reg. 3\(3\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. Pt. 1 para. 4(6)(c) words inserted by [S.I. 2012/979 Sch. para. 32\(2\)](#)
- Sch. Pt. 1 para. 5(4)(c) words inserted by [S.I. 2012/979 Sch. para. 32\(2\)](#)
- reg. 2(4)(c)(d) substituted for reg. 2(4)(c) by [S.I. 2015/387 reg. 3\(4\)](#)
- reg. 2(5) inserted by [S.I. 2015/387 reg. 3\(5\)](#)