
STATUTORY INSTRUMENTS

2018 No. 901

**The Independent Educational Provision in England
(Provision of Information) and Non-Maintained
Special Schools (England) and Independent
School Standards (Amendment) Regulations 2018**

Citation and commencement

1. These Regulations may be cited as the Independent Educational Provision in England (Provision of Information) and Non-Maintained Special Schools (England) and Independent School Standards (Amendment) Regulations 2018 and come into force on 1st September 2018.

Application

- 2.—(1) Regulations 10 and 11 apply in relation to England only.
- (2) The remainder of these Regulations apply to—
- (a) independent schools in England; and
 - (b) alternative provision Academies in England that are not independent schools,
- except for a school mentioned in paragraph (3).
- (3) A school mentioned in this paragraph is one which—
- (a) was established as a city technology college or a city college for the technology of the arts before 26th July 2002 by an agreement under section 482 of the 1996 Act⁽¹⁾; and
 - (b) is not known as an Academy⁽²⁾.
- (4) Regulations 5, 6 and 7 and paragraph 3(6) to (14) and (17) and (18) of the Schedule do not apply to Academies.

Interpretation

3. In these Regulations—
- “the 1996 Act” means the Education Act 1996;
 - “the 2008 Act” means the Education and Skills Act 2008;
 - “Academy” has the meaning given by section 579(1) of the 1996 Act (general interpretation)⁽³⁾;

(1) Section 482 was repealed by paragraph 16 of Schedule 14 to the Education Act 2011 (c. 21).

(2) By virtue of section 15(8) of the Academies Act 2010 (c. 32) (“2010 Act”), if the proprietor of the school and the Secretary of State agree, an agreement under section 482 of the 1996 Act is treated as an Academy agreement under section 1 of the 2010 Act and the school is known as an Academy. By virtue of section 15(9), in any other case, the agreement continues in operation and is not affected by the repeal of section 482(1) to (5) of the 1996 Act by paragraphs 1 and 4 of Schedule 2 to the 2010 Act.

(3) Relevant amendments to section 579 were made by paragraphs 9(1) and (17)(a) of Schedule 13 to the Education Act 2011.

Status: This is the original version (as it was originally made).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

“accuracy statement” means a statement that, to the best of the knowledge and belief of the person making it, the information contained in the document to which the statement relates is accurate;

“alternative provision Academy” has the meaning given by section 1C of the Academies Act 2010 (alternative provision Academies)(4);

“application” means an application under section 98(1) of the 2008 Act (applications for registration);

“independent school” has the meaning given by section 463 of the 1996 Act (meaning of “independent school”)(5);

“register”—

- (a) means a register specified in regulation 7(1) of the Care Standards Act 2000 (Registration) (England) Regulations 2010(6), in paragraph 3(18) of the Schedule; and
- (b) has the meaning given by section 138 of the 2008 Act (interpretation of chapter), in the remainder of these Regulations;

“registered school” means a school that is registered within the meaning given by section 138(1) of the 2008 Act; and

“school” means—

- (a) an independent school; or
- (b) an alternative provision Academy that is not an independent educational institution(7).

Application for registration

4. An application to enter an institution in the register—

- (a) must—
 - (i) be in writing;
 - (ii) state the first date on which the school intends to admit students;
 - (iii) contain the information specified in Part 2 of the Schedule; and
 - (iv) contain an accuracy statement made by the proprietor; and
- (b) may be made by electronic communication(8).

Initial return

5.—(1) If requested to do so by the Secretary of State, the proprietor of a registered school must provide the Secretary of State with an initial return for the school.

- (2) An initial return is a written document which—
 - (a) is to be made up to—

(4) 2010. c. 32. Section 1C was inserted by s53(7) of the Education Act 2011.

(5) Section 463 was substituted by section 172 of the Education Act 2002 (c. 32) and amended by paragraphs 1 and 43(a) of Part 1 of Schedule 3 to the Children and Families Act 2014 (c. 6), regulations 153 and 154 of S.I. 2016/413, paragraph 7(1) and (2) of Part 1 of Schedule 2 to the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158) and paragraph 1 and 43(b) of Part 1 of Schedule 3 to the Children and Families Act 2014.

(6) S.I. 2010/2130. Regulation 7 was amended by regulation 38 and paragraphs 1, 3 and 8 of Schedule 9 to the Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), regulation 2(2) and (3) of the Care Standards Act 2000 (Registration) (England) (Amendment) Regulations 2013 (S.I. 2013/446) and regulation 25 of the Children’s Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013 (S.I. 2013/3239).

(7) See section 92 of the 2008 Act (independent educational institutions) for the definition of “independent educational institution”.

(8) For the definition of “electronic communication” see section 15(1) of the Electronic Communications Act 2000 (general interpretation) (c. 7.) Section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

- (i) the date specified in the request by the Secretary of State, or
 - (ii) where no such date is specified, the date the return is provided;
 - (b) must contain the information specified in Part 3 of the Schedule;
 - (c) must contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor's behalf; and
 - (d) may be made by electronic communication.
- (3) An initial return must be provided within the period of three months beginning with—
- (a) the admission date; or
 - (b) where the Secretary of State's request for the initial return is made after the admission date, the date of the request.
- (4) The "admission date" is the first date on which—
- (a) five or more students are admitted to the school, if the school is an independent school by virtue of section 463(1)(a) of the 1996 Act; or
 - (b) one student is admitted to the school, if the school is an independent school by virtue of section 463(1)(b) of that Act.

Annual return

6.—(1) If requested to do so by the Secretary of State, the proprietor of a registered school must provide the Secretary of State with an annual return for the school.

- (2) An annual return is a written document which—
- (a) is to be made up to—
 - (i) the date specified in the request by the Secretary of State, or
 - (ii) where no such date is specified, the date the return is provided;
 - (b) must contain the information specified in Part 4 of the Schedule;
 - (c) must contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor's behalf; and
 - (d) may be made by electronic communication.
- (3) An annual return must be provided within one month of the date specified by the Secretary of State.

Removal of a school from the register

7.—(1) If the Secretary of State is satisfied that the proprietor of a school has failed to comply with a requirement of regulation 5 or 6, the Secretary of State may remove the school from the register.

(2) If the Secretary of State makes a decision under paragraph (1) to remove a school from the register, the Secretary of State must notify the proprietor of the school of the decision.

- (3) A decision under paragraph (1) to remove a school from the register does not have effect—
- (a) during the period in which an appeal may be brought under section 124 of the 2008 Act (appeal by proprietor against decision of Secretary of State to deregister) against the decision; and
 - (b) where such an appeal has been brought, until the appeal has been determined, withdrawn or otherwise disposed of.

Revocation and saving

8.—(1) The Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010⁽⁹⁾ (“the 2010 Regulations”) are revoked.

(2) Where, before the coming into force of these Regulations—

- (a) an initial return is requested by the Secretary of State under regulation 4 of the 2010 Regulations; or
- (b) an annual return is requested by the Secretary of State under regulation 5 of the 2010 Regulations,

the 2010 Regulations continue to have effect in relation to that return, any decision of the Secretary of the State to remove from the register the school in relation to which the return is requested and any appeal against that decision.

Review

9.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations except for that contained in regulation 10 and 11, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st September 2023.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015⁽¹⁰⁾ requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Amendments to the Non-Maintained Special Schools (England) Regulations 2015

10.—(1) The Non-Maintained Special Schools (England) Regulations 2015⁽¹¹⁾ are amended as follows.

(2) In regulation 2—

(a) in the definition of “National Minimum Standards”⁽¹²⁾—

- (i) for “November 2012” substitute “April 2015”; and
- (ii) omit “and in a case where a non-maintained special school” to the end; and

(b) in the appropriate places insert—

⁽⁹⁾ [S.I. 2010/2919](#). Amendments were made to this S.I. but none are relevant.

⁽¹⁰⁾ [2015 c. 26](#).

⁽¹¹⁾ [S.I. 2015/728](#).

⁽¹²⁾ The National Minimum Standards are available from the Independent Education and Boarding Team, Department for Education, Bishopsgate House, Feethams, Darlington, DL1 5QE and accessible on the Department’s internet website at <http://www.education.gov.uk>.

““children’s home” has the meaning given in section 1 of the Care Standards Act 2000(13)

““Quality Standards” means the statement published in April 2015 by the Secretary of State under section 23 of the Care Standards Act 2000 relating to children’s homes(14)

(3) In the Schedule—

(a) in paragraph 3(a)—

(i) from “where appropriate” to the end becomes paragraph (i);

(ii) after paragraph (i) insert—

“(ii) where the school is also a children’s home, the Quality Standards, and”;

(b) in paragraph 4(6) and 5(6), after “National Minimum Standards” insert “and, where the school is also a children’s home, the Quality Standards,”; and

(c) in paragraph 14(2) for “with National Minimum Standards” to the end substitute—

“with—

(a) National Minimum Standards in relation to—

(i) safeguarding and promoting the health, safety and welfare of such pupils;
and

(ii) adequate and suitable deployment of staff; and

(b) where the school is also a children’s home the Quality Standards.”.

Amendment to the Education (Independent School Standards) Regulations 2014

11. In the Education (Independent School Standards) Regulations 2014(15), in the Schedule, in paragraph 19(2)(a)(i)—

(a) at the end of paragraph (bb) omit “and”;

(b) after paragraph (cc) insert—

“(dd) that, where that person is one for whom, by reason of that person living or having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish the person’s suitability to work in a school, it or another employment business has obtained such further checks as appropriate, having regard to any guidance issued by the Secretary of State; and”.

24th July 2018

Agnew
Parliamentary Under Secretary of State
Department for Education

(13) 2000 c. 14. Section 1 was amended by paragraph 2 of schedule 5 to the Health and Social Care Act 2008 and paragraph 2 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 *anaw. 2.*

(14) The statement is entitled “Guide to the Children’s Homes Regulations including the quality standards” and is accessible at <https://www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide>. Hard copies may be obtained from Markets and Commissioning, Children in Care and Permanence, Department for Education, 3rd Floor, 2 St Paul’s Place, Sheffield, S1 2FJ.

(15) S.I. 2014/3283.