
WELSH STATUTORY INSTRUMENTS

2007 No. 947

The Independent Schools (Miscellaneous Amendments) (Wales) Regulations 2007

Amendment of the Independent School Standards (Wales) Regulations 2003

3.—(1) The Independent School Standards (Wales) Regulations 2003⁽¹⁾ are amended as follows.

(2) In regulation 2, at the appropriate alphabetical places, there are inserted the following —

““appropriate criminal record certificate”, in relation to a person employed at a school, means —

- (i) where the person holds at the school a position mentioned in regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997; or
- (ii) where the person does not hold such a position, a criminal record certificate issued under section 113A of the Police Act 1997;

provided that, in both cases, where the person holds a position mentioned in section 113C(5) of the Police Act 1997, the certificate also contains the information specified in section 113C(1) of that Act”; and

““responsible individual” means—

- (i) the individual with overall control of the day to day management of the school; or
- (ii) where that control is shared between two or more individuals, the one of them nominated by the proprietor to be the responsible individual.”

(3) In paragraph 3(6) of the Schedule, after “satisfactory” there is inserted “written”.

(4) For sub-paragraphs (a) and (b) of paragraph 4 of the Schedule, there is substituted —

“(a) in the case of a proprietor who is an individual, the proprietor has applied for an appropriate criminal record certificate and that application has been countersigned by the National Assembly for the purposes of Part V of the Police Act 1997;

(aa) in the case of a proprietor which is a corporation, Scottish firm or body of persons, the responsible individual has applied for an appropriate criminal record certificate and that application has been countersigned by the National Assembly for the purposes of Part V of the Police Act 1997;

(b) in the case of a proprietor which is a corporation, Scottish firm or body of persons, the proprietor ensures that there is available in respect of each member of the corporation, firm or body an appropriate criminal record certificate, if both the following conditions apply:

- (i) the member is treated as a member for the purposes of paragraph 2 of the Schedule to the Independent Schools (Provision of Information) (Wales) Regulations 2003 (members holding less than 5% of a company’s share capital to be disregarded); and

- (ii) the member is an individual in respect of whom the Secretary of State must issue a criminal record certificate under section 113A of the Police Act 1997 in response to a duly made application for such a certificate;
- (bb) prior to the appointment of any member of staff to work at the school, where the prospective member of staff is an individual in respect of whom the Secretary of State must issue a criminal record certificate under section 113A of the Police Act 1997, the proprietor ensures that —
 - (i) the individual has applied for an appropriate criminal record certificate; and
 - (ii) the individual makes the certificate available to the proprietor;”.
- (5) At the end of paragraph 4 of the Schedule, the following sub-paragraph is inserted —
 - “(f) any foreign national working at or for the purposes of the school is subject to the checks set out in National Assembly for Wales guidance “Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service” (circular 34/02)”.
- (6) In paragraph 6 of the Schedule —
 - (i) in sub-paragraph (3)(a), after “summary report”, there is inserted “prepared by that body”; and
 - (ii) at the end of sub-paragraph (5), there is inserted “except that no report need be sent to a parent who has agreed otherwise with the school”.