
STATUTORY INSTRUMENTS

2003 No. 1184

EDUCATION, ENGLAND AND WALES

**Education (Prohibition from Teaching or
Working with Children) Regulations 2003**

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| <i>Made</i> | - - - - | <i>29th April 2003</i> |
| <i>Laid before Parliament</i> | | <i>6th May 2003</i> |
| <i>Coming into force</i> | - - | <i>1st June 2003</i> |

The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 142, 144, 210 and 214 of the Education Act 2002⁽¹⁾ and sections 15, 15A and 42 of the Teaching and Higher Education Act 1998⁽²⁾, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Prohibition from Teaching or Working with Children) Regulations 2003.

(2) These Regulations shall come into force on 1st June 2003.

(3) Subject to paragraph (4), these Regulations shall apply to England and Wales.

(4) Regulation 4 does not apply to Wales.

Interpretation

2. In these Regulations—

“the 1998 Act” means the Teaching and Higher Education Act 1998;

“the 2002 Act” means the Education Act 2002;

“the 2000 Regulations” means the Education (Restriction of Employment) Regulations 2000⁽³⁾;

“agent” has the meaning given by section 15A(1) of the 1998 Act;

“arrangements” means arrangements of the kind referred to in section 15A(1) of the 1998 Act for a worker to carry out work in England;

(1) [2002 c. 32](#).

(2) [1998 c. 30](#). Section 15 was substituted, and section 15A inserted, by paragraph 83 of Schedule 21 to the 2002 Act. Section 42 has been transferred to the National Assembly for Wales by virtue of S.I. [1999/672](#). See section 212 of the 2002 Act and section 43 of the 1998 Act for the definitions of “prescribed” and “regulations”.

(3) S.I. [2000/2419](#).

“certificate of conviction” has the meaning given by section 73(2) of the Police and Criminal Evidence Act 1984(4);

“child” has the meaning given by section 142(9) of the 2002 Act;

“disqualification order” means an order under section 28 or 29 of the Criminal Justice and Court Services Act 2000(5);

“relevant date” has the same meaning as in section 33(6) of the Criminal Justice and Court Services Act 2000;

“relevant employer” has the meaning given by section 142(9) of the 2002 Act;

“relevant issue” means an issue which arises where the circumstances of the case, including occasions of conduct other than that in question, are such as to raise an issue concerning the safety and welfare of children;

“relevant offence” has the same meaning as in Schedule 2 to the 1998 Act;

“services” means services provided to a relevant employer in England and includes professional and voluntary services;

“Tribunal” means the tribunal established under section 9 of the Protection of Children Act 1999(6); and

“worker” has the meaning given by section 15A(1) of the 1998 Act.

Revocations, transitional and modifying provisions

3.—(1) The 2000 Regulations and the Education (Restriction of Employment) (Amendment) Regulations 2001(7) are revoked.

(2) Any prohibition or restriction on a person’s employment in force immediately before 1st June 2003 which—

(a) is contained in a direction under regulation 5 of the 2000 Regulations; or

(b) has effect, by virtue of regulation 2 of the 2000 Regulations, as if so contained,

shall have effect as if it were contained in a direction under section 142 of the 2002 Act.

(3) Any such direction given on the grounds that the person concerned is not a fit and proper person to be employed as a teacher or worker with children or young persons shall have effect as if it were given on the grounds that the person is unsuitable to work with children.

(4) Subject to paragraph (5), any order disqualifying a person from being the proprietor of any independent school or (as the case may be) from being a teacher or other employee in any school made under section 470 or 471 of the Education Act 1996(8) shall have effect as if it was a direction under section 142 of the 2002 Act.

(5) Any order disqualifying a person from being the proprietor of any independent school or (as the case may be) from being a teacher or other employee in any school made under section 470 or 471 of the Education Act 1996 on the grounds that the person is unsuitable to work with children shall have effect as if it was a direction under section 142 of the 2002 Act given on the grounds that the person is unsuitable to work with children.

(4) 1984 c. 60; subsection (2) was amended by section 90(1) of, and paragraphs 125 and 128 of Schedule 13 to, the Access to Justice Act 1999 (c. 22).

(5) 2000 c. 43.

(6) 1999 c. 14; section 9 was amended by section 116 of, and paragraph 26 of Schedule 4 to, the Care Standards Act 2000(c. 14); section 74 of, and paragraphs 154 and 157 of Schedule 7 to, the Criminal Justice and Court Services Act 2000; and section 215 of, and paragraph 122 of Schedule 21 to, the 2002 Act.

(7) S.I. 2001/1269.

(8) 1996 c. 56; section 470(2)(f) was substituted by section 100(2) of the Care Standards Act 2000.

(6) During the period beginning on 1st June 2003 and ending on the day on which section 468 of the Education Act 1996⁽⁹⁾ is repealed in accordance with section 216(4) of, and Part 3 of Schedule 22 to, the 2002 Act, section 468 shall have effect as though there were substituted for the words “regulations under section 218(6) of the Education Reform Act 1988 (employment prohibited or restricted on medical grounds or for misconduct etc)”, the words “a direction under section 142 of the Education Act 2002 (prohibition from teaching, etc.)”.

Supply of information following dismissal, resignation, etc

4.—(1) Where a relevant employer—

- (a) has ceased to use a person’s services on a ground—
 - (i) that the person is unsuitable to work with children;
 - (ii) relating to the person’s misconduct; or
 - (iii) relating to the person’s health where a relevant issue is raised, or
- (b) might have ceased to use a person’s services on such a ground had the person not ceased to provide those services,

the relevant employer shall report the facts of the case and provide all the information listed in Part 1 of Schedule 1 that is available to the relevant employer in relation to such person to the Secretary of State.

(2) Where an agent—

- (a) has terminated arrangements on a ground—
 - (i) that the person is unsuitable to work with children;
 - (ii) relating to the person’s misconduct; or
 - (iii) relating to the person’s health where a relevant issue is raised;
- (b) might have terminated the arrangements on such a ground if the worker had not terminated them; or
- (c) might have refrained from making new arrangements for a worker on such a ground if the worker had not ceased to make himself available for work,

the agent shall report the facts of the case and provide all the information listed in Part 2 of Schedule 1 that is available to the agent in relation to such person to the Secretary of State.

(3) A relevant employer or agent shall provide the Secretary of State such further information as may be requested by the Secretary of State which he considers relevant to the exercise of his functions under section 142 of the 2002 Act.

Consultation

5.—(1) Save where regulation 8 applies, where the Secretary of State is satisfied that a person is carrying out work to which section 142 of the 2002 Act applies, he shall not exercise his powers under that section in relation to that person without first consulting his relevant employer.

(2) Save where regulation 8 applies, where the Secretary of State is satisfied that a person is carrying out work to which section 142 of the 2002 Act applies pursuant to arrangements made by an agent, he shall not exercise his powers under that section in relation to that person without first consulting that agent.

(9) Section 468 was amended by section 74 of, and paragraphs 127 and 128 of Schedule 7 to, the Criminal Justice and Court Services Act 2000.

Representations, evidence and information

6.—(1) Subject to paragraph (3) and save where regulation 8 applies, where the Secretary of State is considering exercising his powers under section 142 of the 2002 Act he shall afford the person concerned the opportunity to make representations to him and, where appropriate, submit medical evidence or other evidence to him within 2 months of the date on which notice of that opportunity is served on the person concerned or, where he is satisfied that the person had good reason not to make such representations or submit such evidence within that period, such further period as the Secretary of State considers reasonable.

(2) A notice shall be deemed to be served for the purposes of this regulation 48 hours after the date on which it is sent.

(3) Paragraph (1) shall not apply where service cannot be effected by reason of the inability of the Secretary of State to ascertain the whereabouts of the person concerned.

Medical examination and evidence

7.—(1) Where the Secretary of State is considering exercising his powers under section 142 of the 2002 Act he may request the person concerned to submit himself for examination by a qualified medical practitioner appointed by the Secretary of State.

(2) At any time before such medical examination, the Secretary of State or the person concerned may submit to the qualified medical practitioner appointed by the Secretary of State a statement containing evidence or other matter relevant to the examination.

(3) The medical examination may be attended by a qualified medical practitioner appointed for the purpose by the person being examined.

Automatic prohibition

8.—(1) This regulation applies in the case of a person who—

(a) subject to paragraph (5), on or after 1st November 1995—

(i) has pleaded guilty to or been found guilty of an offence set out in Schedule 2 against or involving a child under the age of sixteen or who has pleaded guilty to or been found guilty of an attempt to commit any such offence, before or by a court in the United Kingdom;

(ii) was carrying out work to which section 142 of the 2002 Act applies before or at the time he committed or was convicted of the offence; and

(iii) was aged eighteen or over at the time the offence was committed;

(b) is included (otherwise than provisionally) in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999 (list of persons considered unsuitable to work with children); or

(c) on or after 1st June 2003—

(i) is made subject to a disqualification order; and

(ii) was carrying out work to which section 142 of the 2002 Act applies before or at the time he committed or was convicted of the offence to which the disqualification order relates.

(2) Where paragraph (1)(a) applies the Secretary of State shall, on receipt of a certificate of conviction in respect of an offence referred to in that paragraph committed by the person concerned, determine that the person concerned is unsuitable to work with children, and give a direction in accordance with section 142(1)(a) of the 2002 Act.

(3) Where paragraph (1)(b) applies, the Secretary of State shall, on receipt of notification that the person concerned has been included in the list referred to in that paragraph, give a direction in accordance with section 142(1)(a) of the 2002 Act.

(4) Where paragraph (1)(c) applies, the Secretary of State shall, on receipt of notification that the person concerned is subject to a disqualification order, determine that the person is unsuitable to work with children, and give a direction in accordance with section 142(1)(a) of the 2002 Act.

(5) In relation to the offences of murder (paragraphs 14, 31 and 44 of Schedule 2) and the offences contrary to section 1(1)(c) of the Protection of Children Act 1978⁽¹⁰⁾, section 52(1)(c) of the Civil Government (Scotland) Act 1982⁽¹¹⁾ and article 3(1)(c) of the Protection of Children (Northern Ireland) Order 1978⁽¹²⁾ (possession of indecent photographs of children in paragraphs 13, 27 and 42 of Schedule 2) this regulation only applies where a person has pleaded guilty or been found guilty on or after 1st June 2003.

Review by the Secretary of State

9.—(1) Save where—

- (a) regulation 8(1)(b) or (c) applies, or
- (b) a direction was given on the grounds that a person is unsuitable to work with children and the person claims that he is no longer unsuitable to work with children,

a direction given under section 142 of the 2002 Act (“the earlier direction”) may be revoked or varied by a subsequent direction on either or both of the grounds referred to in paragraph (2).

(2) The grounds upon which an earlier direction may be revoked or varied under paragraph (1) are that—

- (a) the Secretary of State is in possession of information relevant to the decision to give the earlier direction which he did not have at the time that the decision was made; and
- (b) the Secretary of State is in possession of evidence of a material change of circumstances of the person concerned occurring since the earlier direction was given.

(3) Where regulation 8(1)(b) applies an earlier direction shall be revoked if the name of the person concerned is removed from the list referred to in that paragraph.

(4) Where regulation 8(1)(c) applies an earlier direction shall be revoked if the disqualification order ceases to have effect.

Review by the Tribunal

10.—(1) Subject to regulation 11, a person subject to a direction given under section 142 of the 2002 Act on the grounds that he is unsuitable to work with children may make an application to the Tribunal under this regulation.

(2) On an application under this regulation the Tribunal shall determine whether or not the individual should continue to be subject to the direction.

(3) If the Tribunal is satisfied that the person is no longer unsuitable to work with children it shall revoke the direction; otherwise it shall dismiss the application.

11.—(1) A person may only make an application under regulation 10 with the leave of the Tribunal.

⁽¹⁰⁾ 1978 c. 36; section 1 was amended by sections 84 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33).

⁽¹¹⁾ 1982 c. 45; section 52(1) was amended by section 84 of the Criminal Justice and Public Order Act 1994.

⁽¹²⁾ S.I. 1978/1047 (N.I. 17).

(2) An application for leave under this regulation may not be made unless the appropriate conditions are satisfied in the person's case.

(3) In the case of a person who was a child when he was made subject to a direction given under section 142 of the 2002 Act, the appropriate conditions are satisfied if—

- (a) at least five years have elapsed since—
 - (i) where regulation 8(1)(b) applies, he was included in the list kept under section 1 of the Protection of Children Act 1999;
 - (ii) where regulation 8(1)(c) applies, the relevant date; or
 - (iii) otherwise, he was made subject to the direction, and
- (b) in the period of five years ending with the time when he makes the application under this regulation, he has made no such other application.

(4) In the case of any other person, the appropriate conditions are satisfied if—

- (a) at least ten years have elapsed since—
 - (i) where regulation 8(1)(b) applies, he was included in the list kept under section 1 of the Protection of Children Act 1999;
 - (ii) where regulation 8(1)(c) applies, the relevant date; or
 - (iii) otherwise, he was made subject to the direction, and
- (b) in the period of ten years ending with the time when he makes the application under this regulation, he has made no other such application.

(5) The Tribunal shall not grant an application under this regulation unless it considers—

- (a) that the person's circumstances have changed since he was made subject to the direction, or, as the case may be, since he last made an application under this regulation; and
- (b) that the change is such that leave should be granted.

Appeals

12.—(1) Subject to paragraphs (2) and (3) an appeal to the Tribunal may be brought by a person in respect of whom a direction has been given under section 142 of the 2002 Act—

- (a) save where regulation 8 applies, against a direction given to him by the Secretary of State under section 142 of the 2002 Act; and
- (b) save where regulation 8(1)(b) or (c) applies, against a refusal by the Secretary of State to revoke or vary a direction given to him under section 142 of the 2002 Act following consideration of the information or evidence referred to in regulation 9.

(2) No appeal may be brought on the ground of information or evidence referred to in regulation 9(2) unless that information or evidence has first been brought to the attention of the Secretary of State under regulation 9.

(3) Where a person has been convicted of any offence involving misconduct, no finding of fact on which the conviction must be taken to have been based shall be challenged on an appeal under these Regulations.

The Tribunal's powers

13.—(1) Where on an appeal under regulation 12 the Tribunal considers that the direction is not appropriate it may order the Secretary of State to revoke or vary the direction.

(2) The Tribunal shall not, in exercising its powers under this regulation, consider—

- (a) any information relevant to the decision to give a direction or not to revoke or vary a direction which the Secretary of State did not have at the time the decision was made; or
- (b) any evidence of a material change of circumstances of the person concerned occurring since the decision to give a direction or not to revoke or vary a direction was given.

29th April 2003

David Miliband
Minister of State,
Department for Education and Skills

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SCHEDULE 1

Regulation 4

INFORMATION

PART 1

INFORMATION TO BE SUPPLIED BY A RELEVANT EMPLOYER

1. A statement of reasons for ceasing to use the person's services.
2. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.
3. Employer's records relating to conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.
4. Employer's letters, warnings or notices issued to a person in relation to the cessation of the use of his services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services and the person's replies or representations in relation thereto.
5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of his services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services.
6. Letter advising a person's intention to cease to provide services.
7. Any other document or information which the employer considers is relevant to the exercise of the Secretary of State's functions under section 142 of the 2002 Act.

PART 2

INFORMATION TO BE SUPPLIED BY AN AGENT

1. A statement of reasons for terminating the arrangements.
2. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
3. Any records relating to conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.
4. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led the agent to refrain from making new arrangements, and the worker's replies or representations in relation thereto.

5. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the worker having terminated arrangements, have led the agent to terminate them, or might, but for the worker having ceased to make himself available for work, have led the agent to refrain from making new arrangements.

6. Worker's letter terminating arrangements or ceasing to make himself available for work.

7. Any other document or information which the agent considers is relevant to the exercise of the Secretary of State's functions under section 142 of the 2002 Act.

SCHEDULE 2

Regulation 8

LIST OF CRIMINAL OFFENCES

Offences in England and Wales

1. An offence contrary to section 1(1) of the Sexual Offences Act 1956 (rape)(13).
2. An offence contrary to section 5 of the Sexual Offences Act 1956 (sexual intercourse with a girl under the age of thirteen).
3. An offence contrary to section 6(1) of the Sexual Offences Act 1956 (sexual intercourse with a girl under the age of sixteen)(14).
4. An offence contrary to section 10(1) of the Sexual Offences Act 1956 (incest by a man).
5. An offence contrary to section 11(1) of the Sexual Offences Act 1956 (incest by a woman).
6. An offence contrary to section 12(1) of the Sexual Offences Act 1956 (buggery)(15).
7. An offence contrary to section 13 of the Sexual Offences Act 1956 (an act of gross indecency between men)(16).
8. An offence contrary to section 14(1) of the Sexual Offences Act 1956 (indecent assault on a woman).
9. An offence contrary to section 15(1) of the Sexual Offences Act 1956 (indecent assault on a man)(17).
10. An offence contrary to section 16(1) of the Sexual Offences Act 1956 (assault with intent to commit buggery)(18).
11. An offence contrary to section 1(1) of the Indecency with Children Act 1960 (indecent with children under the age of sixteen)(19).
12. An offence contrary to section 54(1) of the Criminal Law Act 1977 (inciting a girl under the age of sixteen to have incestuous sexual intercourse)(20).

(13) 1956 c. 69; section 1 was substituted by section 142 of the Criminal Justice and Public Order Act 1994.

(14) Section 6 was amended by section 10 of, and Schedule 2 to, the Criminal Law Act 1967 (c. 58).

(15) Section 12 was amended by section 142 of the Criminal Justice and Public Order Act 1994 and sections 1 and 2 of the Sexual Offences (Amendment) Act 2000 (c. 44).

(16) Section 13 was amended by section 2 of the Sexual Offences (Amendment) Act 2000.

(17) Section 15 was amended by section 119 of, and Part V of Schedule 7 to, the Police and Criminal Evidence Act 1984.

(18) Section 16 was amended by section 119 of, and Part V of Schedule 7 to, the Police and Criminal Evidence Act 1984.

(19) 1960 c. 33; section 1 was amended by section 39 of the Criminal Justice and Court Services Act 2000, section 52 of the Crime (Sentences) Act 1997 (c. 43) and section 119 of, and Part V of Schedule 7 to, the Police and Criminal Evidence Act 1984.

(20) 1977 c. 45.

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13. An offence contrary to section 1(1) of the Protection of Children Act 1978 (indecent photographs with children).

14. An offence of murder, contrary to the common law.

Offences in Scotland

15. An offence contrary to section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest)(21).

16. An offence contrary to section 2 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with step-child).

17. An offence contrary to section 3 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse of person in position of trust with child under 16).

18. An offence contrary to section 5 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with girl under 16)(22).

19. An offence contrary to section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995 (indecent behaviour towards girl between 12 and 16)(23).

20. An offence contrary to section 13 of the Criminal Law (Consolidation) (Scotland) Act 1995 (homosexual offences)(24).

21. An offence contrary to section 3(1) of the Sexual Offences (Scotland) Act 1976 (sexual intercourse with a girl under the age of thirteen)(25).

22. An offence contrary to section 4(1) of the Sexual Offences (Scotland) Act 1976 (having or attempting to have, sexual intercourse with a girl of or above the age of thirteen and under the age of sixteen).

23. An offence contrary to section 2A of the Sexual Offences (Scotland) Act 1976 (incest by a man or by a woman).

24. An offence contrary to section 2B of the Sexual Offences (Scotland) Act 1976 (sexual intercourse with a step-child or former step-child).

25. An offence contrary to section 2C of the Sexual Offences (Scotland) Act 1976 (sexual intercourse with a child by a person in a position of trust or authority).

26. An offence contrary to section 80(7) of the Criminal Justice (Scotland) Act 1980 (committing or procuring or attempting to procure a homosexual act).

27. An offence contrary to section 52(1) of the Civil Government (Scotland) Act 1982 (indecent photographs of children).

28. An offence of sodomy, contrary to the common law.

29. An offence of indecent assault, contrary to the common law.

30. An offence of rape, contrary to the common law.

31. An offence of murder, contrary to the common law.

(21) 1995 c. 39.

(22) Section 5 was amended by sections 14 and 62 of, and Schedule 1 to, the Crime and Punishment (Scotland) Act 1997 (c. 48).

(23) Section 6 was amended by section 14(2) of the Crime and Punishment (Scotland) Act 1997.

(24) Section 13 was amended by sections 1(3) and 2(4) of the Sexual Offences (Amendment) Act 2000 and section 10 of the [Convention Rights \(Compliance\) \(Scotland\) Act 2001 \(asp 7\)](#).

(25) 1976 c. 67; the Sexual Offences (Scotland) Act 1976 was repealed with effect from 1st April 1996 by section 62 of, and Schedules 1 and 3 to, the Crime and Punishment (Scotland) Act 1997.

Offences in Northern Ireland

32. An offence contrary to section 48 of the Offences against the Person Act 1861 (rape)(26).
33. An offence contrary to section 52 of the Offences against the Person Act 1861 (indecent assault on a woman).
34. An offence contrary to section 61 of the Offences against the Person Act 1861 (buggery).
35. An offence contrary to section 62 of the Offences against the Person Act 1861 (indecent assault on a man or assault with intent to commit buggery).
36. An offence contrary to section 4 of the Criminal Law (Amendment) Act 1885 (unlawful carnal knowledge of any girl under the age of fourteen)(27).
37. An offence contrary to section 5 of the Criminal Law (Amendment) Act 1885 (unlawful carnal knowledge of any girl under the age of seventeen).
38. An offence contrary to section 11 of the Criminal Law (Amendment) Act 1885 (an act of gross indecency between men).
39. An offence contrary to section 1 of the Punishment of Incest Act 1908 (incest by a man)(28).
40. An offence contrary to section 2 of the Punishment of Incest Act 1908 (incest by a woman).
41. An offence contrary to section 22 of the Children and Young Persons Act (Northern Ireland) 1968 (indecency with or towards a child)(29).
42. An offence contrary to article 3(1) of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children).
43. An offence contrary to article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting a girl under the age of sixteen to have incestuous sexual intercourse)(30).
44. An offence of murder, contrary to the common law.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Education (Restriction of Employment) Regulations 2000 and make provision for the supply of information to the Secretary of State, procedures for giving a direction under section 142 of the Education Act 2002, the grounds on which a person subject to such a direction may seek to have it varied or revoked and the procedure for appeals and reviews of such directions.

A relevant employer (a local education authority, a person exercising a function relating to the provision of education on behalf of a local education authority, the proprietor of a school (which includes a governing body of a maintained school) and the governing body of a further education

(26) 1861 c. 100.

(27) 1885 c. 69.

(28) 1908 c. 45.

(29) 1968 c. 34 (N.I.)

(30) S.I. 1980/704 (N.I. 6).

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institution) and an agent (a person who arranges for another person to carry out work at the request of or with the consent of a relevant employer) must provide the information set out in Schedule 1 to the Secretary of State where a person's work has ended or might have ended on the ground that he is unsuitable to work with children, relating to his misconduct or relating to his health where an issue relating to the safety and welfare of children is raised (*regulation 4*).

Where a person is carrying out work to which section 142 of the Education Act 2002 applies the Secretary of State must consult that person's relevant employer or agent before exercising his powers under that section (*regulation 5*).

A person other than one subject to an automatic direction under regulation 8 may make representations and submit evidence or information for the Secretary of State's consideration within 2 months of being notified or a longer period as decided by the Secretary of State (*regulation 6*).

The Secretary of State may request a person to undergo a medical examination by a doctor appointed by the Secretary of State. The person may submit their own evidence to the doctor prior to, and may have his own doctor present at, the examination (*regulation 7*).

A person is automatically prohibited from carrying out work to which section 142 of the Education Act 2002 applies if he is convicted of an offence set out in Schedule 2 involving a child under 16 if he was aged 18 or over when the offence was committed and he was carrying out such work when the offence was committed or he was convicted. A person is also automatically prohibited if he is included in the list kept under section 1 of the Protection of Children Act 1999 or if he is made subject to a disqualification order under sections 28 or 29 of the Criminal Justice and Court Services Act 2000 and was carrying out such work when the offence relating to the order was committed or he was convicted of that offence (*regulation 8*).

The Secretary of State may review a direction with a view to varying or revoking it where new information comes to light or there has been a material change in the circumstances of the person subject to a direction. This does not apply: (a) if a direction has been given on the ground that a person is unsuitable to work with children and that person claims that he is suitable; or (b) if an automatic direction is given under regulation 8 on the ground that he is included in Protection of Children Act list or subject to a disqualification order (*regulation 9*).

A person subject to a direction given on the grounds that he is unsuitable to work with children may apply to the tribunal established under section 9 of the Protection of Children Act 1999 ("the Care Standards Tribunal") to revoke the direction. Such an application may only be made with the leave of that tribunal. Leave will not be granted unless the person's circumstances have changed and the change is such that leave should be granted. Applications for leave cannot be made until certain periods have passed since a direction was given (*regulations 10 and 11*).

A person subject to a direction may appeal to the Care Standards Tribunal against a decision to give a direction (though not where an automatic direction has been given pursuant to regulation 8) or a decision not to vary or revoke a direction (though not where an automatic direction has been given under regulation 8 on the ground that he is included in the Protection of Children Act list or subject to a disqualification order). If the person is relying on new information or evidence of a material change in his circumstances he must seek a review under regulation 9 before appealing to the Care Standards Tribunal. A person who has been convicted of an offence involving misconduct cannot challenge on appeal any finding of fact upon which his conviction is based (*regulation 12*). Where the Care Standards Tribunal considers the direction is not appropriate it may order the Secretary of State to revoke or vary the direction (*regulation 13*).