2001 No. 1269

EDUCATION, ENGLAND AND WALES

Education (Restriction of Employment) (Amendment) Regulations 2001

Made - - - - -	*28th March 2001*
Laid before Parliament	*30th March 2001*
Coming into force - -	*1st June 2001*

The Secretary of State for Education and Employment, in exercise of the powers conferred by sections 218(6), (6ZA), (6A) and 232(5) of the Education Reform Act 1988(**a**) and paragraph 1(5) of Schedule 2 to the Teaching and Higher Education Act 1998(**b**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Restriction of Employment) (Amendment) Regulations 2001.

(2) These Regulations shall come into force on 1st June 2001.

(3) In these Regulations a reference to the principal Regulations is a reference to the Education (Restriction of Employment) Regulations 2000(**c**).

New regulation 5A of the principal Regulations

2. After regulation 5 of the principal Regulations the following new regulation 5A shall be inserted—

"Allocation and reference of cases to the General Teaching Councils

5.A—(1) Where in the case of a registered teacher—

(a) it is alleged that he is guilty of unacceptable professional conduct or that he has been convicted (at any time) of a relevant offence or it appears to the Secretary of State that he may be so guilty or have been so convicted; and

(b) the Secretary of State is satisfied that no relevant issue arises,

the Secretary of State shall refer the allegation and all relevant documents or copies of those documents to an Investigating Committee for consideration.

(2) Where—

(a) the Council is in receipt of documents concerning a teacher in which a relevant issue arises the Council shall refer those documents to the Secretary of State for his consideration;

(**a**) 1988 c. 40; subsection (6) was amended by section 290(3) of the Education Act 1993 (c. 35) and section 5(1) of the Protection of Children Act 1999 (c. 14); subsection (6ZA) was inserted by section 5(2) of the Protection of Children Act 1999; subsections (6A) and (6B) were inserted by section 49(2) the Education Act 1997 (c. 44) and subsection (6A) was amended by section 5(3) of the Protection of Children Act 1999.

(**b**) 1998 c. 30; section 15 was amended by section 5(4) of the Protection of Children Act 1999.

(**c**) S.I. 2000/2419.

(b) a Committee is considering allegations of unacceptable professional conduct or serious professional incompetence against a registered teacher or that he has been convicted of a relevant offence and a relevant issue arises, the Committee shall refer those allegations, or if the relevant issue forms part of a wholly separate allegation, that allegation, and all relevant documents or copies of those documents to the Secretary of State for his consideration; or

(c) a prohibition order is made in relation to a person on grounds of unacceptable professional conduct or a conviction for a relevant offence the Council shall refer the case and copies of all relevant documents to the Secretary of State for him to consider the further exercise of his own powers.

(3) For the purposes of this regulation—

(a) "Committee" means an Investigating Committee, a Professional Conduct Committee or a Professional Competence Committee established by the Council under the General Teaching Council for England (Disciplinary Functions) Regulations 2001(**a**) or the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001(**b**);

(b) "Council" means the General Teaching Council for England or the General Teaching Council for Wales;

(c) "prohibition order" has the same meaning as in Schedule 2 to the Teaching and Higher Education Act 1998;

(d) "registered teacher" means a person for the time being registered under section 3 of the Teaching and Higher Education Act 1998, and includes a person who was so registered at the time of any alleged conduct or offence on his part, or a person who has made an application under that section to be registered;

(e) a "relevant issue" 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 persons under the age of 19;

(f) "relevant offence" has the same meaning as in Schedule 2 to the Teaching and Higher Education Act 1998; and

(g) "unacceptable professional conduct" has the same meaning as in Schedule 2 to the Teaching and Higher Education Act 1998.".

Jacqui Smith
Parliamentary Under-Secretary of State,
Department for Education and Employment

28th March 2001

(**a**) S.I. 2001/1268.
(**b**) S.I. 2001/1424.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Education (Restriction of Employment) Regulations 2000 (S.I. 2000/2418) to provide for the Secretary of State to refer certain cases to the General Teaching Councils for England or the General Teaching Council for Wales ("the Councils") and for the Councils to provide certain information to the Secretary of State.

A reference will be made by the Secretary of State where it is alleged that a registered teacher is, or it appears to the Secretary of State that he may be, guilty of unacceptable professional conduct or has been convicted of a relevant offence and the circumstances of the allegation does not raise any issue concerning the safety and welfare of persons under the age of 19 (new regulation 5A(1)).

The Councils are required to provide the relevant documentation to the Secretary of State for his consideration where those documents raise an issue concerning the safety and welfare of person under the age of 19, where such an issue arises during the consideration by a committee of the Councils established by the General Teaching Council for England (Disciplinary Functions) Regulations 2001 (S.I. 2001/1268) and the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001 (S.I. 2001/1424) and where a prohibition order is made by the Council on the grounds of unacceptable professional conduct or conviction of a relevant offence (new regulation 5A(2)).

STATUTORY INSTRUMENTS

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