

**2018 No.**

**EDUCATION, ENGLAND**

**The Education (Independent Educational Provision in England)  
(Provision of Information) Regulations 2018**

*Made* - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - \*\*\*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 98(2)(a) and (b) and (3), 123, 166(6) and 170(1) and (2)(b) of the Education and Skills Act 2008(a).

**Citation and commencement**

1. These Regulations may be cited as the Education (Independent Educational Provision in England) (Provision of Information) Regulations 2018 and come into force on [enter date].

**Application**

- 2.—(1) These Regulations apply to—
- (a) independent schools; and
  - (b) alternative provision Academies that are not independent schools,
- except for a school mentioned in paragraph (2).
- (2) A school under this paragraph is one which—
- (a) is 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 (Academies)(b); and
  - (b) is not known as an Academy(c).
- (3) Regulations 5, 6 and 7 and paragraph 3(6) to (14) and (17) and (18) of Part 2 of the Schedule do not apply to Academies.

**Interpretation**

3. In these Regulations—

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(a) 2008 c. 25.  
(b) 1996 c. 56. Section 482 was repealed by paragraph 14 of Schedule 6 to the Education Act 2011 (c. 21).  
(c) 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.

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“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)(a);

“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)(b);

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

“independent educational institution” has the meaning given by section 92 of the 2008 Act (independent educational institutions);

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

“in writing” includes by electronic communication as defined in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(d);

“register” has the meaning—

- (a) given by regulation 7 of the Care Standards Act 2000 (Registration) (England) Regulations 2010(e), in paragraph 3 of the Schedule;
- (b) 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 an independent school or an alternative provision Academy that is not an independent educational institution.

### Application for registration

4. An application must—

- (a) be made in writing;
- (b) state the first date on which the school intends to admit students;
- (c) contain the information specified in Part 2 of the Schedule; and
- (d) contain an accuracy statement made by the proprietor.

### 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 must—

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- (a) Relevant amendments to section 579 were made by paragraph 9(17)(a) of Schedule 13 to the Education Act 2011.
  - (b) 2010. c. 32. Section 1C was inserted by s53(7) of the Education Act 2011.
  - (c) Section 463 was inserted by section 172 of the Education Act 2002 (c. 2) and amended by paragraph 43(a) of Schedule 3(1) to the Children and Families Act 2014 (c. 6), regulation 154 of the Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), paragraph 7(2) of Schedule 2(1) to the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158) and paragraph 43(b) of Schedule 3(1) to the Children and Families Act 2014.
  - (d) 2000. c. 7. Section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).
  - (e) S.I. 2010/2130. Regulation 7 was amended by paragraphs 1 and 8(a)(i) and (ii) and (b) 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).

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- (a) be made in writing;
  - (b) be made up to the date specified by the Secretary of State;
  - (c) contain the information specified in Part 3 of the Schedule; and
  - (d) contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor's behalf.
- (3) An initial return must be provided within three months of—
- (a) the admission date; or
  - (b) if the Secretary of State's request for the initial return was 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 must—
- (a) be made in writing;
  - (b) be made up to the date specified by the Secretary of State;
  - (c) contain the information specified in Part 4 of the Schedule; and
  - (d) contain an accuracy statement made by the proprietor or a person authorised by the proprietor to make the statement on the proprietor's behalf.

(3) An annual return must be provided within one month of the date specified by the Secretary of State in accordance with paragraph (2)(b).

### **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 during the period in which—

- (a) 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; or
- (b) where such an appeal has been brought, the appeal has not been determined, withdrawn or otherwise disposed of.

### **Revocation and saving**

**8.**—(1) Subject to paragraph (2) the Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010<sup>(a)</sup> (“the 2010 Regulations”) are revoked.

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

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<sup>(a)</sup> S.I. 2010/2919.

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- (a) initial return is requested by the Secretary of State under regulation 4 of the 2010 Regulations; or
- (b) 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 of 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, and
  - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before [enter date].
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(a) 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).

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department for Education

## SCHEDULE

Regulations 4, 5 and 6

### PART 1

#### Introductory

- 1.—(1) In this Schedule—
- “charity” means a body of persons or trust established for charitable purposes only;
- “the relevant date”—
- (a) in the case of the first annual return, means the date to which the information contained in the application for registration of the school was made up; and
  - (b) in any other case, means the date to which the last annual return was made up;

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(a) 2015 c. 26.

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“year group”, in relation to a school, means—

- (a) in relation to an initial return, a group of students attending the school who attain the same age in years during the period of twelve months beginning with 1st September in the school year in relation to which the return is made; and
  - (b) in relation to an annual return, a group of students attending the school who attain the same age in years during the period of twelve months beginning with 1st September immediately before the date to which the annual return is made up.
- (2) Any reference in this Schedule to a person employed at school is a reference to a person—
- (a) providing education at the school;
  - (b) taking part in the management of the school; or
  - (c) carrying on work which—
    - (i) brings the person regularly into contact with children<sup>(a)</sup> who are students at the school; and
    - (ii) is carried out at the request of or with the consent of the proprietor of the school (whether or not under a contract).

## PART 2

### Information required in an application

- 2.—(1) If the proprietor<sup>(b)</sup> is an individual—
- (a) the individual’s full name and any previous names by which the individual has been known; and
  - (b) the individual’s usual residential address, telephone number, email address (if the individual has one), date of birth and national insurance number.
- (2) If the proprietor is a body of persons corporate or unincorporate—
- (a) the body of persons’ name;
  - (b) the address, telephone number and email address (if the office has one) of its registered or principal office; and
  - (c) in relation to each member of the body of persons, including the chair of the body—
    - (i) their full name and any previous names by which they have been known; and
    - (ii) their usual residential address, date of birth and national insurance number.
- (3) The name and address of the school, its telephone number and any e-mail address.
- (4) The name of the primary contact at the school and that person’s telephone number and email address.
- (5) In relation to the proprietor or, if the proprietor is a body of persons corporate or incorporate, the chair of the body—
- (a) a statement of the proprietor’s or, as the case may be, the chair’s, employment history for the period of five years prior to the date on which the initial return is made containing, for each post—
    - (i) the name of the institution at which the post was held; and
    - (ii) the title of the post held;

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(a) For the definition of “child” see section 579 of the 1996 Act.

(b) By virtue of section 138(2) of the Education and Skills Act 2008 (c. 25) the reference to the proprietor includes the proprietor of a school that it is proposed should become an independent school and accordingly the information required by paragraph 3 of the Schedule to these Regulations, in the case of such a proprietor, is information about the school as it is proposed to be.

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- (b) a photograph which is a current likeness of the proprietor or, as the case may be, the chair.

3.—(1) A statement that the school is an independent school or an institution within the meaning of section 92(1)(b) of the 2008 Act.

- (2) The age range of students.
- (3) The maximum number of students.
- (4) Whether the school is for male students or female students or both.
- (5) Whether the school provides accommodation for students or makes arrangements for the provision of such accommodation and, if so, the number of beds available for boarding students.
- (6) Whether the school is specially organised to make special educational provision for students with special needs.
- (7) If the school is within sub-paragraph (6), the type or types of special educational needs for which the school is specially organised to make special educational provision.
- (8) A plan showing the layout of the school premises and any accommodation provided.
- (9) Any curriculum plans, schemes of work and student assessment procedures required to be produced by or under any enactment.
- (10) Any written policy on the curriculum required to be produced by or under any enactment.
- (11) Any written policy on behaviour required to be produced by or under any enactment.
- (12) Particulars of arrangements required by or under any enactment to—
  - (a) safeguard and promote the welfare of pupils at the school;
  - (b) ensure that bullying at the school is prevented in so far as reasonably practicable[, by the drawing up and implementation of an effective anti-bullying strategy]; and
  - (c) ensure that the relevant health and safety laws are complied with by the drawing up and effective implementation of a written health and safety policy.
- (13) Any complaints procedure required to be produced by or under any enactment.
- (14) Whether the proprietor intends to provide any child with accommodation at the school (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in any year.
- (15) The religious ethos of the school, if any.
- (16) Whether the premises of the school, including any accommodation provided, are at two or more separate locations, and if so, the address of each of those locations.
- (17) If the school is a charity, or is conducted by a charity, the name of the charity and the number under which it is registered.
- (18) Whether the school is registered as a children's home under section 11 of the Care Standards Act 2000(a), and if so, the registration number required to be recorded in the register under paragraph 7 of Schedule 5 to the Care Standards Act 2000 (Registration) (England) Regulations 2010.

## PART 3

### Information required in an initial return

- 4.—(1) The number of students in each year group.
- (2) If the school provides accommodation, or makes arrangements for the provision of accommodation—
    - (a) the number of beds available for boarding students; and

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(a) 2000 c. 14.

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- (b) the number of boarding students.
- (3) If the school also provides part-time education—
  - (a) the number of students in each year group who receive part-time education; and
  - (b) the number of students in each year group who receive full-time education.
- (4) If the school is co-educational, the numbers required by sub-paragraphs (1) to (3) are to be given separately for male and female students.
- 5.**—(1) The number of students at the school for whom a local authority maintain—
  - (a) a statement of special education needs pursuant to section 324 of the 1996 Act(a); or
  - (b) an education, health and care plan under section 37 of the Children and Families Act 2014(b).
- (2) The number of students at the school who—
  - (a) are not within sub-paragraph (1); but
  - (b) have been identified as having special educational needs.
- 6.** The number of students at the school who are looked after by a local authority (within the meaning given by section 22(1) of the Children Act 1989(c) or, as the case may be, section 74(1) of the Social Services and Well-being (Wales) Act 2014(d).
- 7.**—(1) In relation to teachers employed at the school—
  - (a) the number of full-time teachers;
  - (b) the number of part-time teachers; and
  - (c) the total number of hours a week normally worked by part-time teachers in term time.
- (2) The numbers required by sub-paragraph (1) are to be given separately for male and female teachers.
- 8.**—(1) In relation to every person employed at the school—
  - (a) the person’s full name and any previous names by which the person has been known; and
  - (b) the capacity in which the person is employed.
- (2) In relation to every teacher employed at the school, a statement as to whether the teacher is the head teacher, a full-time teacher or a part-time teacher.
- 9.**—(1) The amount of annual tuition and other fees (excluding fees for accommodation) payable in respect of a student at the school as a condition of the student’s attendance.
- (2) In the case of a school which provides accommodation for students, or makes arrangements for the provision of accommodation, the amount of annual fees payable in respect of a boarding student for accommodation.

## PART 4

### Information required in an annual return

**10.** All the information specified in Parts 2 and 3 of this Schedule with the exception of that in paragraphs 2(2)(c) and (5), 3(1) to (4) and (6) to (16) and 7.

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- (a) Relevant amendments to section 324 were made by section 9 of the Special Educational Needs and Disability Act 2001 (c. 10) and paragraph 7(2) of the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158).
  - (b) 2014 c. 6. Section 37 was amended by paragraph 97 of Schedule 1 to the Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914).
  - (c) 1989 c. 41. Relevant amendments to section 22(1) are those which were made by paragraph 19 of the Schedule 5 to the Local Government Act 2000 (c. 22), section 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35) and section 116(2) of the Adoption and Children Act 2002 (c. 38).
  - (d) 2014 anaw 4.

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**11.** If the proprietor is a body of persons corporate or unincorporated, the name and address of the chair of the body.

**12.** The name of the head teacher.

**13.—(1)** In relation to every person who has started or ceased to be employed at the school since the relevant date—

- (a) the person’s full name and any previous names by which the person has been known; and
- (b) the capacity in which the person is or was employed.

(2) In relation to every teacher who has started or ceased to be employed at the school since the relevant date, a statement as to whether the teacher is or was the head teacher, a full-time teacher or a part-time teacher.

**14.—(1)** The number of students attending the school for whom accommodation was provided there (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in any year.

(2) The information required by sub-paragraph (1) must relate to—

- (a) the year immediately before the date to which the return is made up, in the case of the first annual return; or
- (b) the two years immediately before that date, in any other case.

**15.—(1)** The number of students in each year group of students aged 15, 16, 17 and 18 years who are pursuing courses for examinations.

(2) The number of students in each year group of students aged 15, 16, 17 and 18 years who have completed courses for an examination in a qualification determined by the Office of Qualifications and Examinations Regulation<sup>(a)</sup> as a level 3 qualification but who remain at the school for a purpose other than for pursuing a further course of that nature.

(3) The number of students in each year group of students aged 15, 16, 17 and 18 years (except for those within sub-paragraph (2)) who attend the school for a purpose other than pursuing courses for an examination mentioned in sub-paragraph (2).

(4) The numbers required by sub-paragraphs (1) and (2) are to be given separately for male and female students.

**16.** If the school provides accommodation for students or makes arrangements for the provision of such accommodation, the number of boarding students.

**17.** If a change has occurred in the premises of, or accommodation provided at, the school since the relevant date, particulars of the change.

**18.** If a change has occurred since the relevant date in the membership of a body of persons named as the proprietor in the register or in an application to enter the school in the register, for any new member, the information required by paragraph 2(2)(c) of this Schedule.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations replace the Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010 (“the 2010 Regulations”). Regulation 8 of these regulations revokes those Regulations but saves them to apply in relation to initial and annual returns requested before the coming into force of these Regulations.

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(a) The Office of Qualifications and Examinations Regulation is established by section 127 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 27).



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These Regulations consolidate the 2010 Regulations and amends certain of the requirements regarding the type of information that must be provided and how that information must be provided as well as adding new requirements that must be met.

An impact assessment of the effect that this instrument will have on the costs of business and the public and voluntary sector is 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> Copies have also been placed in the Library of each House of Parliament.