

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL TEACHERS' QUALIFICATIONS)
(ENGLAND) (AMENDMENT) REGULATIONS 2009

No. 3156

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Regulations make several minor changes to Schedule 2 – Part 1 to the Education (School Teachers' Qualifications) (England) Regulations 2003 which make provision for who can gain qualified teacher status (QTS). The intention is that these Regulations should come into force on 1 January 2010.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None

4. **Legislative Context**

4.1 The Secretary of State for Children, Schools and Families makes these Regulations in exercise of the powers conferred by sections 132, 145 and 210 of the Education Act 2002 (a). In accordance with section 132(3) of that Act the Secretary of State has consulted the General Teaching Council for England (GTCE).

5. **Territorial Extent and Application**

5.1 This instrument applies to England.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- What is being done and why

7.1 The first purpose is to prevent Overseas Trained Teachers (OTTs) from being awarded QTS in England as a result of their recognition as a teacher in Scotland or Northern Ireland (NI) without having taught in these countries. In

relation to Scotland, paragraph 5 is amended to add the requirement that OTTs must have gained *full* registration with the GTC Scotland. Full registration normally requires satisfactory completion of a probationary service period of 60 days teaching in a school in Scotland. In relation to NI, paragraph 6 is amended to add a similar teaching requirement. Because there is no comparable probationary period in that jurisdiction, we propose that OTTs must have similarly worked 60 days in an educational institution there. This will then enable OTTs who have been awarded recognition as a qualified teacher in these countries to be recognised as qualified teachers in England only if they have first taught in Scotland and Northern Ireland.

As from 2008, the General Teaching Council for Northern Ireland (GTCNI) will award QTS instead of the Department of Education Northern Ireland (DENI). Paragraph 6 reflects this change, while retaining the reference to DENI to acknowledge those already recognised as teachers by DENI.

The second purpose is to allow trainee teachers working in British service schools abroad to be awarded QTS on the strength of their teaching experience in those schools overseas. Practical teaching experience in schools overseas administered by Service Children's Education (SCE) will account for the purpose of satisfying the requirement in Paragraph 7 (c).

The current regulations do not provide a legal route to QTS which does not include at least some training. To reach QTS you can either use the 'mainstream' route or the 'employment based' route, but both require a period of training. There are a range of circumstances when teachers are experienced but do not have QTS, for example those who have taught in independent schools, or in further education, and decide they wish to acquire QTS. Others may already be working in maintained schools as instructors, undertaking specified activity. The third policy intention is to allow experienced graduate teachers without QTS to be assessed by an accredited institution as meeting the standards for a qualified teacher without a period of training. They would still need to meet conditions which mirror those for Initial Teacher Training (ITT) trainees. This would potentially be quicker and more flexible. A new Paragraph 7A is inserted. This adds to the category of people who are qualified teachers under regulation 5.

The reference to the States of Guernsey Education Council in Paragraph 11 has ceased to exist. We would therefore like to take the opportunity to make amendments to reflect the current title of the relevant authority, the States of Guernsey Education Department.

In order to comply with the Employment Equality (Age) Regulations 2006 which came into force on 1 October 2006, regulation 8 (b) removes the requirement to have attained the age of 24 before the commencement date of the licence on teachers training in Guernsey.

- Consolidation

7.2 Consolidation is not relevant.

8. Consultation outcome

8.1 A public consultation was conducted between 9 July and 1 October 2009 on the main proposals. There were 40 responses to the consultation and the balance of response was in favour of proceeding with each proposal.

8.2 On the requirement that overseas trained teachers (OTTs) who are recognised by the General Teaching Council Scotland (GTCS) and General Teaching Council Northern Ireland (GTCNI) must have carried out a period of teaching in those countries before being awarded QTS in England, there were 37 responses– 29 respondents supported the change; 5 saw potential problems; and 3 respondents were not sure. The majority viewed the change as sensible and consider that it will resolve an ongoing issue that periodically surfaces as teachers trained abroad seek to gain QTS in England without completing the OTT programme of Initial Teacher Training (ITT).

8.3. The main points of concern from those opposing the proposal (mainly local authorities and training providers) were that 60 days is insufficient for an OTT to demonstrate proficiency for teaching purposes in schools in England. Concerns were also expressed about how the period will be applied and how satisfactory completion of the period will be verified.

8.4. The purpose of the change is to prevent OTTs from gaining QTS with no teaching experience in Britain by registering in Scotland/Northern Ireland because if they are registered or recognised by those authorities they then can currently get automatic QTS here. By requiring an OTT registered in Scotland to be fully registered, or if registered in Northern Ireland to have taught for 60 days (to be equivalent with the period for Scotland), it closes the loophole of automatic registration which has been exploited by a small number of OTTs. The operation and verification of the 60 day requirement will be performed by the GTCE where guidance will be placed on their website.

8.5 The balance of response on the proposal to allow access to Qualified Teacher Status by assessment only without training, was marginally in favour for teachers with experience and who meet conditions which mirror those for ITT trainees. There were 34 responses to the consultation – 15 supporting; 14 against and 5 unsure. Supportive comments included the fact that the proposal will extend similar provision already being offered by the University of Gloucester (which includes a small element of teacher training) which is over-subscribed. However, respondents stressed that in implementing the proposal it is necessary to ensure that there is a robust process for the accreditation of prior learning, assessment against the prescribed standards and including a portfolio of evidence. When the regulations are amended, TDA will recommend a set of ITT requirements which will cover these matters making clear that standards will not slip.

8.6. The main concern respondents opposing the proposal had was the view that the introduction of this arrangement will devalue the status of teachers and possibly lead to a reduction in teacher quality because of the absence of any teacher training. This is not the intended effect of the proposal which is intended only for very experienced teachers. People coming through the

assessment-only route will only gain QTS if they can demonstrate that they meet all the QTS Standards currently applying to all ITT routes. Those are a common set of standards which apply irrespective of the route taken to QTS.

8.7. There were 35 responses to the proposal to enable training in British Service Schools; 23 in support, 7 against and 5 not sure. The majority of respondents therefore agreed with this proposal viewing it as a sensible and an appropriate amendment which recognises the actual position of these schools and a long overdue change to the regulations. The comments emphasised the need for the same inspection criteria to be applied as for mainland schools and the National Curriculum must be followed. These are matters which will be addressed by the TDA in developing the provision.

8.8 . Those who do not agree with the proposals gave reasons including that the context is too different and experience in such schools is of less direct relevance than experience in mainstream schools in England. The proposal is that trainees in these schools will follow a Graduate Teacher Programme in conjunction with a training provider in England where trainees will have to demonstrate they meet the QTS Standards before they can be recommended for the award of QTS. The proposals will require amendment to the ITT requirements and a suitable set will be recommended to Ministers once the regulations are agreed.

9. Guidance

9.1 Guidance on the application of the changes and the procedures which will apply will be placed on the websites of the Training and Development Agency for Schools (TDA) and the GTCE as appropriate.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not relevant as there should be none.

10.2 The impact on the public sector such as trainee teachers and therefore schools is expected to be very small.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Monitoring and review arrangements will be agreed with the GTCE and the TDA.

13. Contact

13.1 Indira Sharma at the Department for Children, Schools and Families can be contacted on: teacherqualsregs.consultation@dcsf.gsi.gov.uk regarding queries on this instrument.