

EXPLANATORY MEMORANDUM TO
THE EDUCATION (CORONAVIRUS) (SCHOOL TEACHERS' QUALIFICATIONS,
INDUCTION, INSPECTION ARRANGEMENTS, ETC) (AMENDMENT)
REGULATIONS 2021

2021 No. 385

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends four sets of existing Regulations relating to teachers' qualifications, inspection of education and training, school workforce data collection, and statutory induction for teachers.
- 2.2 The changes:
- address the impact of the coronavirus (COVID-19) outbreak on those undergoing initial teacher training so as to relax some of the requirements for the successful completion of such training;
 - amend the criteria for the recognition of qualifications of teachers from Australia, Canada, New Zealand and USA, and add a provision enabling the recognition of qualifications of teachers from Gibraltar;
 - alter the remit of the Chief Inspector of the Office for Standards in Education, Children's Services and Skills (Ofsted) in relation to the inspection of training for teachers and others engaged in the provision of education or training in England;
 - enable data about teachers undergoing induction to be collected from schools; and
 - implement reforms to statutory induction for early career teachers.
- 2.3 The procedure for free issue of these Regulations has been applied and these Regulations are being issued free of charge to all known recipients of SI 2020/476.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument amends the Education (Induction Arrangements for School Teachers) Regulations 2020 which were amended by the Teachers' Skills Test (England) (Miscellaneous Amendments) Regulations 2020 which were reported by the Committee for defective drafting in its report no.14 of Session 2019-21 dated 12 June 2020.¹ The Department is taking this first opportunity to correct the instrument.

¹ <https://committees.parliament.uk/publications/1437/documents/13138/default/>

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 These Regulations amend four existing sets of Regulations:

- The Education (School Teachers' Qualifications) (England) Regulations 2003;
- The Education and Inspections Act 2006 (Prescribed Education and Training etc) Regulations 2007;
- The Education (Supply of Information about the School Workforce) (No.2) (England) Regulations 2007; and
- The Education (Induction Arrangements for School Teachers) (England) Regulations 2012.

6.2 The Education (School Teachers' Qualifications) (England) Regulations 2003 set out various routes to achieve Qualified Teacher Status (QTS) in England. One of these routes is a training route for students at an accredited provider, another is an employment-based training route. The regulations require, in both cases, an assessment by an accredited provider and a requirement to undertake a period of practical teaching experience in an institution in England. Those regulations also set out the criteria for teachers wishing to obtain QTS in England who have qualified as teachers in Australia, Canada, New Zealand, USA. This instrument amends those aspects of the regulations.

6.3 Section 123(1)(a) to (g) of the Education and Inspections Act 2006 sets out the education and training which falls within the remit of the Chief Inspector of Ofsted. Under section 123(1)(h) of the Education and Inspections Act 2006 the Secretary of State may prescribe by regulations such other education and training which falls within the remit of the Chief Inspector. The Education and Inspections Act 2006 (Prescribed Education and Training etc) Regulations 2007 are made under the power in section 123(1)(h), and this instrument amends those Regulations.

6.4 The Education (Supply of Information about the School Workforce) (No.2) (England)(Regulations) 2007 impose a duty on schools and local authorities to supply information about each member of the school workforce to the Department for Education when requested to do so and specify which items of information should be provided, how they will be used and with whom they may be shared. This instrument amends those Regulations.

- 6.5 Part 8 of the Education Act 2002 makes provision about the teaching profession. Sections 135A to C, enable regulations to be made requiring teachers to have satisfactorily completed an induction period in order to teach in maintained schools and non-maintained special schools. Such provision is currently contained in the Education (Induction Arrangements for School Teachers) (England) Regulations 2012. This instrument amends those Regulations.

7. Policy background

What is being done and why?

In relation to Initial Teacher Training and the coronavirus (COVID-19) outbreak

- 7.1 Since 2012/13, Initial Teacher Training (ITT) institutions train circa 30,000 qualified teachers annually, in order to meet the teaching needs of schools in England. For the latest cohorts of trainees for which data is available (2017/18 and 2018/19) – circa 24,000 of these have gone on to fill teacher vacancies within 16 months of qualification². Provisional 2020/21 ITT Census data indicates that 41,472 trainee teachers have been recruited and are currently on ITT courses leading to the award of qualified teacher status (QTS) in England³.
- 7.2 ITT trainees are required to spend sufficient time undertaking practical teaching experience on placement in school in order to be recommended for the award of QTS. Some ITT trainees' practical teaching experience on school placement has been disrupted throughout the 20/21 academic year for various reasons related to coronavirus (COVID-19). Due to the varying restrictions which have been imposed regionally throughout the year, there is a greater variance in the disruption experienced by ITT trainees during the 20/21 academic year than there was during the 19/20 academic year. On 5 January 2021 national lockdown measures introduced by the UK Government meant that schools in England remained open only to very limited categories of pupils. For some trainees, the regional disruption and the national closure of schools will have curtailed the time available to undertake practical teaching experience in person in school, thus limiting their opportunities to demonstrate that they are meeting all of the specified standards required in order to be awarded QTS (the Teachers' Standards, published in 2011).
- 7.3 This instrument amends the requirement that for a person to be recognised as a qualified teacher, they must undertake any period of practical teaching experience for the purposes of ITT wholly or mainly in a school or other specified institution in England. This requirement is being amended to allow trainees to undertake their practical teaching experience (school placements) wholly or mainly in a school or appropriate institution outside England before 1 September 2021. This enables providers to widen their pool of placement schools. This could include trainees training at accredited institutions in England but who might, for example, be placed mainly in schools in Wales.
- 7.4 It also amends the requirement that for a person to be recognised as a qualified teacher, they must be assessed by an accredited institution as meeting the specified standards. This requirement is being amended to allow accredited ITT providers to

² Performance profiles, trainee QTS & employment rates: <https://explore-education-statistics.service.gov.uk/data-tables/permalink/6aba52b0-b6f5-41a3-b5b3-123be7b89c67>

³ Initial Teacher Training census: <https://explore-education-statistics.service.gov.uk/find-statistics/initial-teacher-training-census>

recommend trainees on all routes for QTS if they are satisfied that the trainee has demonstrated adequate progress towards meeting the Teachers' Standards, and would have met them, were it not for a reason relating to the incidence or transmission of coronavirus (COVID-19). This will apply to assessments completed by the accredited provider before 1 September 2021. Accredited ITT providers will be expected to assess trainees in this way only where necessary and to continue to ensure courses are as comprehensive as possible. Accredited ITT providers will not be permitted to recommend for QTS those trainees they deem have not made adequate progress towards meeting the Teachers' Standards.

- 7.5 Since the coronavirus (COVID-19) outbreak, providers have adapted towards online delivery, and trainees' experience of delivering remote education during their placement in school may be used as evidence towards meeting the Teachers' Standards. Nonetheless, whilst providers have adapted their course delivery, the level of disruption caused by coronavirus (COVID-19) means that the way QTS is assessed also needs to be adapted. This amendment achieves this by allowing accredited ITT providers to recommend trainees for QTS according to the conditions set out above, thus protecting the flow and quality of early career teacher supply to schools in September 2021.

In relation to the recognition of qualifications of overseas teachers

- 7.6 Appropriately qualified overseas teachers are important for the supply of teachers to schools in England. Qualified Teacher Status is required to work in a maintained school and non-maintained special school in England on a permanent basis. Whilst QTS is not legally required in academies and free schools, some schools of this type may prefer teachers with QTS.
- 7.7 Teachers who are qualified in a country in the European Economic Area, Switzerland, USA, Canada, Australia and New Zealand can apply directly to the Teaching Regulation Agency (TRA, an executive agency of the Department for Education) for QTS. Teachers are required to demonstrate that they meet the requirements to be a qualified teacher in one of the countries above and, if appropriately qualified, can be awarded QTS without further training. In 2019/20 2,458 teachers from the EEA and Switzerland, and 1,410 teachers from the four other countries listed were awarded QTS⁴. Teachers from other countries are required to complete an accredited training programme in England, or a route to QTS known as the Assessment Only route to gain QTS.
- 7.8 The regulations that govern the award of QTS to teachers qualified in the USA, Canada, Australia, and New Zealand do not permit those teachers to obtain QTS if they are subject to regulatory decisions or proceedings relating to eligibility to teach in their home country. Regulation of teachers in some of those countries is at a regional, rather than national level, and the regulations are now being amended to take account of that. This amendment specifies with more particularity the source of evidence which applicants will have to produce in order for the TRA to assess their applications to become qualified teachers in England. This is achieved by changing the definitions of competent authority or regulatory body for the regulation of teachers so that such a body can be at a regional rather than national level. It also changes the

⁴ Teaching Regulation Agency, Annual report and accounts for the year ended 31 March 2020. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919855/P3536_TRA_Annual_Report_2019-20_FINAL.pdf

definition around any decision or proceedings which might restrict an applicant's ability to teach so that such proceedings or decisions could be in a part of that country, rather than at a national level.

- 7.9 In 2019, the University of Gibraltar launched a Postgraduate Certificate of Education (PGCE). To accompany this, the Gibraltar government introduced a form of professional status for teachers, Gibraltarian QTS. The Gibraltarian qualification was developed in conjunction with representatives from an English teacher training provider, and teachers who complete the course are required to meet the English Teachers' Standards on completion, at which point they are awarded Gibraltarian QTS. However, as there is no legal means for these teachers to be awarded QTS, they are at a disadvantage compared to teachers who qualified elsewhere on the continent of Europe. To correct this, this instrument introduces a route for these teachers who have completed a comparable route of ITT to be awarded QTS. Whilst we expect the numbers of teachers awarded QTS through this route to be very small, this will ensure that Gibraltarian teachers are fairly treated alongside their European counterparts. We will make guidance on the application route available.
- 7.10 For all teachers who apply for QTS through the routes described above, the TRA will check that teachers are not subject to any restrictions to their practice by the organisation responsible for regulating the teaching profession in the country, or part of that country in which they qualified. Such teachers are also required to undergo the same checks as all other staff, and any other checks schools think necessary (such as overseas criminal record checks) upon appointment to a school.

In relation to Statutory Induction, School Workforce Census and Ofsted inspection

- 7.11 The following sub-section sets out the changes to statutory induction (regulation 5) before moving onto the associated changes to the School Workforce Census (SWC) (regulation 4) and Ofsted inspection (regulation 3).

Statutory Induction

- 7.12 With some limited exceptions a teacher is required to successfully complete an induction period in order to be able to teach as a qualified teacher in a relevant⁵ school in England. Each year, around 30,000 early career teachers (ECTs) undertake their statutory induction in schools in England. If an ECT fails to meet the Teachers' Standards at the end of induction, they cannot be employed lawfully as a qualified teacher in a relevant school.
- 7.13 Currently over 20% of new teachers leave the profession within their first two years of teaching, and over 30% leave within their first five years. The Department has committed to address these issues and reform the support available to teachers at the beginning of their career. This instrument therefore makes reforms to statutory induction, extending the induction period from a one year/three term period to a two year/six term period. The end of induction will continue to be marked by a decision as to whether the teacher's performance against the Teachers' Standards is satisfactory.

⁵ A relevant school includes: a maintained school (maintained by a Local Authority in England); a non-maintained special school; a maintained nursery schools; a nursery school that forms part of a maintained school; a local authority maintained children's centre; and a pupil referral unit (PRU).

- 7.14 A two-year induction will be underpinned by a structured training and development programme based on the Early Career Framework⁶ (ECF). Schools will be able to deliver an ECF-based induction through one of three approaches set out in statutory guidance:
- A funded provider-led programme - Schools can choose to work with providers accredited by the Department for Education who will design and deliver a programme of face-to-face and online training to ECTs and their mentors;
 - Schools use freely available DfE accredited materials⁷, which includes ready to use materials and resources for new teachers and mentors, to deliver their own ECT and mentor support; or
 - Schools design and deliver their own two-year induction programme, based on the ECF.
- 7.15 As the new arrangements will come into force in September 2021, there will be ECTs who have begun but not finished a one-year induction. This may be due to having started their induction after September 2020, due to extensions to their induction period under the regulations, or because they have paused their induction and plan to resume later. This instrument has the effect of creating a two-year transition period which will allow ECTs who commenced induction prior to September 2021 to complete an induction period of one year. From September 2023, this cohort of ECTs can still finish induction, but would have to complete a two-year period.
- 7.16 In addition to the 10% timetable reduction that ECTs currently receive in a one-year induction, this instrument also gives ECTs a 5% timetable reduction in the second year of induction to allow sufficient time to complete ECF professional development activities.
- 7.17 Currently ECTs are permitted up to 29 days of absence in their induction year (with the exception of statutory maternity and parental bereavement leave) before their induction period is automatically extended. This instrument extends this provision to allow for 29 days of absence per year of induction. Currently ECTs who take statutory maternity leave or parental bereavement leave while serving their induction period or an extension to their induction period may decide whether their induction should be extended (or further extended) to reflect the number of days absent for this purpose; their induction period is not automatically extended. This instrument updates this provision in line with wider government changes to also include statutory paternity leave, statutory adoption leave and shared parental leave in those provisions.
- 7.18 All schools who deliver statutory induction are required to appoint an appropriate body. Appropriate bodies have the main quality assurance role within the induction process and are expected to check that headteachers are aware of, and are capable of meeting, their responsibilities for monitoring support and assessment. They are also expected to check that the monitoring, support, assessment, and guidance procedures in place are fair and appropriate. Currently there are three different types of organisation that can act as an appropriate body: Teaching Schools, Local Authorities,

⁶ The Early Career Framework, published in January 2018 alongside the Department's Recruitment and Retention strategy, sets out what early career teachers are entitled to learn about and learn how to do when they start their careers. It underpins a new entitlement for 2 years of professional development designed to help early career teachers develop their practice, knowledge and working habits.

⁷ Materials available at: <https://www.early-career-framework.education.gov.uk>

and organisations designated by the Secretary of State. From September 2021 Teaching School Hubs will replace Teaching Schools as appropriate bodies. This instrument reflects this change.

School Workforce Census

- 7.19 To support the delivery of statutory induction and ensure funding is provided to schools for the ECT's 5% timetable reduction and their mentor, it is necessary to adjust our data collection to identify ECTs in their second year of induction. Several possible methods of collecting this data were explored with the sector and using the SWC was agreed to be the least burdensome. As the SWC is an established data collection and the creation of the data is integrated into school processes, the burden should be minimal.
- 7.20 To enable the Department to allocate funding, we need to know the number of second year ECTs (as distinct from first year ECTs) in each school. This instrument amends regulations to add an additional field to the School Workforce Census, allowing the collection of the data required.
- 7.21 It is anticipated that this data will be published in the aggregate level publication of the SWC as part of the national statistics, though not in headline figures. This publication takes place at the end of June each year.

Ofsted inspection

- 7.22 This instrument also amends regulations to provide a remit for Ofsted to inspect government-funded training programmes for teachers and others engaged in the provision of education or training. This provision will permit the inspection by Ofsted of two programmes that it is intended will be inspected from September 2021: ECF Provider-led programmes including the training of ECF mentors and reformed National Professional Qualifications (NPQs). Ofsted's specific remit in relation to these inspections will be set out in detail in a written request to HMCI, under section 126 of the Education and Inspections Act 2006.
- 7.23 The ECF aims to improve the overall quality and consistency of teaching. The provider-led package of support (see para 7.15), consisting of ECT training, self-study materials, resources and mentor training, will be available from September 2021 together with statutory guidance aimed at ensuring all ECTs receive an ECF-based induction. By amending regulations to widen Ofsted's inspection remit, the provider-led programmes of training delivered to ECTs and their mentors will be subject to inspection.
- 7.24 From September 2021, a [reformed suite of NPQs](#) will be available for teachers and leaders who want to develop their knowledge and skills in school leadership and specialist areas of teaching practice. Through these regulations Ofsted's extended inspection remit will enable it to inspect NPQ training.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There are no plans to consolidate the relevant regulations.

10. Consultation outcome

In relation to Initial Teacher Training and the coronavirus (COVID-19) outbreak

- 10.1 Whilst there is no statutory duty to consult on amending these regulations, Department officials consulted with sector experts in the available timescales. The consultation activity undertaken was proportionate with the need to act quickly to provide clarity on how QTS will be assessed, after a disrupted training year and given the national lockdown announced on 5 January. Officials undertook dialogue with ITT sector representative bodies including the Universities Council for the Education of Teachers (UCET), which represents university-sector ITT institutions, and the National Association of School Based Teacher Trainers (NASBTT), which represents school-led ITT institutions. Feedback received indicated that the way QTS is assessed needs to be adapted again this year, as it was last year, due to the disruption to training.

In relation to the recognition of qualifications of overseas teachers

- 10.2 The proposal for appropriately qualified Gibraltar teachers to be awarded QTS was discussed with the Government of Gibraltar, University of Gibraltar, and the Foreign and Commonwealth Office. It has been unanimously supported by all parties. Given the very small number of teachers affected, and the fact that Gibraltar training is modelled on a course of English Teacher Training we have not consulted widely on this proposal which we assess to be correcting an unforeseen disadvantage.
- 10.3 Meanwhile, the proposal to amend regulations for teachers from the USA, Australia, Canada and New Zealand is intended to correct inconsistency in the regulations and does not change the practical policy towards such teachers. As a result, it has not been consulted on.

In relation to Statutory Induction, School Workforce Census and Ofsted inspection

- 10.4 A public consultation on the proposed reforms to statutory induction, strengthening qualified teacher status and improving career progression for teachers, was carried out from December 2017 to March 2018, receiving over 2000 responses from the public.
- 10.5 The Department published its [response](#) in May 2018 which set out the key proposed changes to induction. The extension of induction from one to two years was supported by half the respondents; providing an extra 5% off timetable for ECTs in the second year of induction was in line with the 80% of respondents supporting some form of additional timetable reduction; implementing a training programme underpinned by the ECF was supported by 88% of respondents. Since publication of the government consultation response in 2018 and publication of the [Early Career Framework](#) and [Recruitment and Retention Strategy](#) in 2019 the reforms to statutory induction have been highly anticipated by the sector. In addition to the 17/18 public consultation, officials also held a targeted consultation with teachers, head teachers, ITT providers, appropriate bodies and trade union representatives in January - March 2020. This consultation focused on the specific changes to induction which the sector were broadly supportive of. The Department have continued to consult with the sector

throughout the policy development stage to make sure the changes to induction are fit for purpose.

- 10.6 Changes to the Department's data collections are routinely discussed with the Star Chamber Scrutiny Board (SCSB), a representative group of schools and local authorities. The SCSB can reject changes to data collections and can only be overruled at ministerial level. The board were supportive of the changes.
- 10.7 On Ofsted inspection, there is no statutory duty to consult on these changes and no expectation from potential providers that consultation would be required because the role of quality assurance of the ECF and NPQ programmes was already set out in the terms of the programmes' invitations to tender. Providers bidding for these contracts were therefore already aware of the intention to appoint an external quality assurance function that would inspect their provision.

11. Guidance

In relation to Initial Teacher Training and the coronavirus (COVID-19) outbreak

- 11.1 The Department continues to update published guidance for ITT providers, such as the [ITT criteria](#) and the ITT coronavirus (COVID-19) guidance pages on GOV.UK. Notice of the amendments to ITT included in this instrument has been published on the coronavirus (COVID-19) [guidance page](#). We will update guidance accordingly when the amendments come into force.

In relation to the recognition of qualifications of overseas teachers

- 11.2 Online [guidance on Qualified Teacher Status](#) will be updated to include guidance for qualified teachers from Gibraltar at the point at which the legislation is given effect.

In relation to Statutory Induction, School Workforce Census and Ofsted inspection

- 11.3 To ensure the sector is given a term's notice of the changes to statutory induction the Department will publish updated statutory guidance on induction for early career teachers and associated guidance for appropriate bodies in a 25 March [GOV.UK announcement](#). We will also utilise a variety of communication channels to ensure school leaders are aware of the changes.
- 11.4 The Department annually updates guidance on the collection for schools and local authorities and when the amendments come into force this guidance will be updated to specify exactly the data required.
- 11.5 There is currently no relevant guidance for Ofsted inspection of ECF and NPQ programmes. Ofsted will publish a quality assurance framework prior to beginning inspection.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the initial assessment has concluded that the instrument will not have a significant impact on business. On induction, the main stakeholder group that is outside of the public sector is the independent school sector. Although teachers working in the independent sector

are not required to undertake induction, independent schools can recruit ECTs and host their induction should they wish to. Independent schools in this position and the Independent Schools Teacher Induction Panel (ISTip) (which acts as the appropriate body for their member schools) will be required to familiarise themselves with the new regulations and guidance. We have continued to work with ISTip and their network of schools to make sure they are prepared for the changes to induction. On Ofsted inspection, providers of ECF and NPQ programmes will not be impacted beyond the quality assurance inspection requirements that will be set out in the terms of the contracts they enter into with the Department.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The impact of these amendments will be monitored at an operational level, and consideration given to amending the legislation as need is identified.
- 14.2 The ITT amendments relating to the coronavirus (COVID-19) pandemic are time limited to coincide with the start of the next academic year 21/22 and so will cease to have effect on 1 September 2021.

15. Contact

- 15.1 Alisha Hubert at the Department for Education, (Telephone: 02072275114 or email: alisha.hubert@education.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Gareth Conyard, Deputy Director for Developing Teachers and Leaders, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nick Gibb MP, Minister of State for School Standards at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.