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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1744 (W.183)**

**EDUCATION, WALES**

**The Education (Specified Work and  
Registration) (Wales) Regulations 2004**

*Made* - - - - *6 July 2004*

*Coming into force* - - *1 September 2004*

The National Assembly for Wales in exercise of the powers conferred on it by sections 133, 134, 145 and 210(7) of the Education Act 2002<sup>(1)</sup> hereby makes the following Regulations:

**Name, commencement and application**

1. These Regulations are called the Education (Specified Work and Registration) (Wales) Regulations 2004 and come into force on 1 September 2004.

2. These Regulations apply in relation to Wales.

**Revocations, savings and transitional provisions**

3.—(1) Subject to paragraph (2) the Regulations mentioned in Part 1 of Schedule 1 are revoked to the extent specified in that Schedule.

(2) The savings and transitional provisions mentioned in Part 2 of Schedule 1 are to have effect.

**Interpretation**

4. In these Regulations —

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998<sup>(2)</sup>;

“the 1959 Regulations” (“*Rheoliadau 1959*”) means the Schools Regulations 1959<sup>(3)</sup>;

“the 1982 Regulations” (“*Rheoliadau 1982*”) means the Education (Teachers) Regulations 1982<sup>(4)</sup>;

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the Education (Teachers) Regulations 1989<sup>(5)</sup>;

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(1) 2002 c. 32. “Regulations” means regulations made by the National Assembly for Wales (see section 212(1)).

(2) 1998 c. 30.

(3) S.I. 1959/364 as amended by S.I. 1968/1281, 1969/1777, 1971/342, 1973/2021 and 1978/1144.

(4) S.I. 1982/106 as amended by S.I. 1988/542 and 1989/329.

(5) S.I. 1989/1319 as amended by S.I. 1989/1541, 1990/1561, 1991/1134, 1991/1840, 1991/2240 and 1992/1809.

“the 1993 Regulations” (“*Rheoliadau 1993*”) means the Education (Teachers) Regulations 1993(6);

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999(7); and

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales.

### **Requirement to be qualified**

5. No persons may carry out work specified in regulation 6 in a school unless they —
- (a) are qualified teachers, or
  - (b) satisfy the requirements specified in Schedule 2.

### **Specified work**

- 6.—(1) Each of the following activities is specified work for the purposes of these Regulations —
- (a) planning and preparing lessons and courses for pupils;
  - (b) delivering lessons to pupils;
  - (c) assessing the development, progress and attainment of pupils; and
  - (d) reporting on the development, progress and attainment of pupils.
- (2) In paragraph (1)(b) “delivering” includes delivery via distance learning or computer aided techniques.

### **Requirement to be registered**

7. Qualified teachers may carry out work specified in regulation 6 in a school only if they are registered under section 3 of the 1998 Act (register maintained by the General Teaching Council)(8).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9).

6 July 2004

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(6) S.I. 1993/543 as amended by S.I. 1997/368, 1997/2679 and 1998/1584.

(7) S.I. 1999/2817 (W. 18) as amended by S.I. 2002/1663 (W. 158), 2002/2938 (W. 279), 2003/140 (W.12), 2003/2458 (W. 240) and revoked in part by S.I. 2004/1729 (W.173).

(8) The Regulations currently in force under this provision are the General Teaching Council for Wales (Functions) Regulations 2000, S.I. 2000/1979 (W. 140) as amended by S.I. 2001/2496 (W. 200) and S.I. 2004/1741 (W.180).

(9) 1998 c. 38.

## SCHEDULE 1

Regulation 3

## PART 1

### REVOCATIONS

<i>Regulations Revoked</i>	<i>Reference</i>	<i>Extent of Revocation</i>
The Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999	S.I. <a href="#">1999/2817 (W.18)</a>	Paragraphs 4, 6 and 7 of Part II of Schedule 1; Schedule 2
The Teachers (Compulsory Registration) (Wales) Regulations 2000	S.I. <a href="#">2000/3122 (W.200)</a>	The whole Regulations

## PART 2

### SAVINGS AND GENERAL TRANSITIONAL PROVISIONS

**Probation decisions by the National Assembly**

1.—(1) In the case of persons who, on 1st September 1992, had commenced but not completed a period of probation under regulation 14 of, and Schedule 6 to, the 1989 Regulations, regulation 14 and Schedule 6 are to continue to have effect until all their provisions have been complied with.

(2) Teachers who —

- (a) have been determined to be unsuitable for further employment as qualified teachers pursuant to paragraph 2(c) of Schedule 2 to the 1959 Regulations; or
- (b) have received written notice under paragraph 5(2) of Schedule 6 to the 1982 Regulations, are not to carry out work specified in regulation 6 in a school without the consent of the National Assembly.

**Licensed, overseas trained and registered teachers**

2.—(1) The 1993 Regulations are to continue to apply as if the Education (Teachers) (Amendment) (No. 2) Regulations 1997<sup>(10)</sup>, the 1999 Regulations, the Education (School Teachers' Qualifications) (Wales) Regulations 2004<sup>(11)</sup> and these Regulations had not been made for the purposes of —

- (a) permitting the employment as teachers at a school of unqualified teachers who were licensed teachers or overseas trained teachers as therein defined on 30th November 1997, and duties imposed on persons in connection therewith are to continue to apply; and
- (b) determining whether persons, who on or at any time before 30th November 1997 were licensed teachers, overseas trained teachers or registered teachers as therein defined, are qualified teachers.

(2) Persons who are employed at a school by virtue of paragraph (1)(a) may carry out work specified in regulation 6 in a school until they cease to be so employed.

<sup>(10)</sup> S.I. [1997/2679](#).

<sup>(11)</sup> S.I. [2004/1729 \(W 173\)](#).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

### Graduate Teachers

3. In the case of persons who before 1st September 2004 were granted an authorisation to teach by virtue of paragraphs 5 to 11 of Schedule 2 to the 1999 Regulations, those paragraphs are to continue to have effect as if these Regulations had not been made, until those persons successfully complete or cease to undertake the training proposed by virtue of those paragraphs.

### Registered Teachers

4. In the case of persons who before 1st September 2004 were granted an authorisation to teach by virtue of paragraphs 12 to 18 of Schedule 2 to the 1999 Regulations, those paragraphs are to continue to have effect as if these Regulations had not been made, until those persons successfully complete or cease to undertake the training proposed by virtue of those paragraphs.

## SCHEDULE 2

Regulation 5

### THE REQUIREMENTS TO BE SATISFIED BY PERSONS WHO ARE NOT QUALIFIED TEACHERS IN ORDER TO CARRY OUT THE WORK SPECIFIED IN REGULATION 6

#### Interpretation

1. In this Schedule —

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means the scheme established by the National Assembly under regulation 8 of the Education (School Teachers' Qualifications) (Wales) Regulations 2004<sup>(12)</sup>;

“graduate teachers” (“*athrawon graddedig*”) means persons who have been granted an authorisation to teach in accordance with paragraphs 5 to 11 of Schedule 2 to the 1999 Regulations before 1st September 2004; and

“registered teachers” (“*athrawon cofrestredig*”) means persons who have been granted an authorisation to teach in accordance with paragraphs 12 to 18 of Schedule 2 to the 1999 Regulations before 1st September 2004.

#### Existing unqualified teachers in nursery classes and at nursery schools

2.—(1) This paragraph applies in the case of —

- (a) assistant teachers at a nursery school, or
- (b) teachers of a nursery class,

who were permitted to be employed as teachers by paragraph 4 of Schedule 4 of the 1982 Regulations and who were so employed immediately before 1st September 1989.

(2) Such persons may carry out work specified in regulation 6 in a school in the same capacity as they were employed before 1st September 1989.

#### Instructors with special qualifications or special experience

3.—(1) This paragraph applies in the case of persons who are not qualified teachers appointed, or proposed to be appointed, to give instruction in any art or skill or in any subject or group of subjects (including any form of vocational training), where special qualifications or special experience or both are required in order to carry out the work specified in regulation 6.

<sup>(12)</sup> S.I. 2004/1729 (W.173).

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 6 in a school if at the time of their appointment —

- (a) the local education authority (in the case of a school which has no delegated budget or a pupil referral unit), the governing body acting with the consent of the local education authority (in the case of a school which has a delegated budget), or the governing body (in the case of a special school not maintained by a local education authority), as the case may be, are satisfied as to their qualifications or experience or both; and
- (b) no suitable qualified teachers, graduate teachers, registered teachers or teachers on the employment-based teacher training scheme are available for such appointment or to give such instruction.

(3) Persons appointed pursuant to sub-paragraphs (1) and (2) may carry out work specified in regulation 6 in a school, subject to sub-paragraph (4), only for such period of time as no suitable qualified teachers, graduate teachers, registered teachers or teachers on the employment-based teacher training scheme are available for appointment or to give instruction.

(4) Sub-paragraph (3) does not apply in the case of such persons appointed before 8th April 1982 where —

- (a) the appointment was for a specified period, if and so long as that period has not expired; or
- (b) the appointment was for an unspecified period, if it was not otherwise expressed to be temporary only.

### **Overseas Trained Teachers**

4.—(1) Subject to sub-paragraph (2), persons who are not qualified teachers may carry out work specified in regulation 6 in a school (other than a pupil referral unit) if they have successfully completed a programme of professional training for teachers in any country outside the United Kingdom and which is recognised as such a programme of training by the competent authority in that country.

(2) Sub-paragraph (1) is not to apply in the case of persons mentioned in that sub-paragraph after the expiry of a period of two years commencing on whichever is the earlier of —

- (a) the day on which they first carry out work specified in regulation 6 in a school by virtue of sub-paragraph (1), or
- (b) the day on which they were first employed as teachers in a school by virtue of paragraph 4 of Schedule 2 to the 1999 Regulations.

### **Graduate teachers**

5.—(1) This paragraph applies in the case of persons who have been granted an authorisation to teach in accordance with paragraphs 5 to 11 of Schedule 2 to the 1999 Regulations before 1st September 2004.

(2) Such persons may carry out work specified in regulation 6 in a school until they successfully complete or cease to undertake the training proposed by virtue of those paragraphs.

### **Registered teachers**

6.—(1) This paragraph applies in the case of persons who have been granted an authorisation to teach in accordance with paragraphs 12 to 18 of Schedule 2 to the 1999 Regulations before 1st September 2004.

(2) Such persons may carry out work specified in regulation 6 in a school until they successfully complete or cease to undertake the training proposed by virtue of those paragraphs.

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### **Employment-based teacher training scheme**

7.—(1) This paragraph applies in the case of persons who are undertaking training for the purposes of the employment-based teacher training scheme.

(2) Such persons may carry out work specified in regulation 6 in a school until they successfully complete or cease to undertake that training.

### **Other persons who may carry out specified work**

8.—(1) This paragraph applies in the case of persons who are not qualified teachers and who are not mentioned in paragraphs 2 to 7 of this Schedule.

(2) Such persons may carry out work specified in regulation 6 in a school only if the following conditions are satisfied —

- (a) they carry out work specified in regulation 6 in order to assist or support the work of qualified teachers or nominated teachers in the school;
- (b) they are subject to the direction and supervision of such qualified teachers or nominated teachers in accordance with arrangements made by the head teacher of the school; and
- (c) the head teacher is satisfied that they have the skills, expertise and experience required to carry out work specified in regulation 6.

(3) Head teachers may, if they consider the nomination appropriate in the circumstances, nominate persons who are mentioned in paragraphs 3, 4, 5, 6 or 7 of this Schedule as nominated teachers for the purpose of sub-paragraph (2).

(4) In determining whether the persons mentioned in sub-paragraph (1) have the skills, expertise and experience required to carry out work specified in regulation 6 in a school, head teachers may have regard to —

- (a) such standards for higher-level teaching assistants, or guidance concerning school support staff, as may be published from time to time by the National Assembly; and
- (b) such guidance as to contractual matters relating to school support staff as may be published from time to time by any local education authority or other employer.

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## **EXPLANATORY NOTE**

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

These Regulations specify work that may be carried out in schools by qualified teachers and persons who satisfy specified requirements. The requirements to be satisfied are specified in Schedule 2.

Schedule 2 to these Regulations now provides for most of those persons who were mentioned in Schedule 2 to the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999 to carry out specified work in schools, in the same circumstances as previously. Paragraph 8 of Schedule 2 to these Regulations provides for other persons to carry out specified work in schools if the conditions mentioned in that paragraph are satisfied. Persons categorised as “student teachers” under the 1999 Regulations (i.e. those awaiting admission to a course of initial training for teachers or deferring its completion) can no longer carry out specified work in the same circumstances as previously but must satisfy the conditions in paragraph 8.

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These Regulations also provide for qualified teachers carrying out work specified in regulation 6 in schools to be registered with the General Teaching Council for Wales.