

1989 No. 1319

EDUCATION, ENGLAND AND WALES

The Education (Teachers) Regulations 1989

Made - - - - - *1st August 1989*

Laid before Parliament *2nd August 1989*

Coming into force - *1st September 1989*

In exercise of the powers conferred by sections 218(1)(a), (b), (c) and (d), (2), (3), (5) and (6) and 232(5) of the Education Reform Act 1988(a), the Secretary of State for Education and Science hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Education (Teachers) Regulations 1989 and shall come into force on 1st September 1989.

Revocations and transitional provisions

2.—(1) Subject to paragraph 2(3) of Schedule 5, the Education (Teachers) Regulations 1982(b), the Education (Teachers) (Amendment) Regulations 1988(c) and the Education (Teachers) (Amendment) Regulations 1989(d) are hereby revoked.

(2) Schedule 1 shall have effect as respects the transitional matters there mentioned.

Schools and institutions to which these Regulations apply and interpretation

3.—(1) Except where the context otherwise requires, in these Regulations—

- (a) a reference to a school is a reference to a school maintained by a local education authority, a special school not so maintained, or a grant-maintained school;
- (b) a reference to a further or higher education institution is a reference to an institution providing further education or higher education (or both) which is either maintained by a local education authority or is designated by or under Schedule 2 as an institution substantially dependent for its maintenance on assistance from local education authorities or on grants under section 100(1)(b) of the Education Act 1944(e);

(a) 1988 c.40.

(b) S.I. 1982/106.

(c) S.I. 1988/542.

(d) S.I. 1989/329.

(e) 1944 c.31, amended by section 213(3) of the Education Reform Act 1988.

- (c) a reference to an institution, without qualification, is a reference to a further or higher education institution or an institution within the PCFC funding sector;
- (d) a reference to a worker with children or young persons is a reference to a person, other than a teacher, whose work brings him regularly into contact with persons who have not attained the age of 19 years.

(2) Except where the context otherwise requires, in these Regulations—

“city technology college” and “city college for the technology of the arts” means an independent school situated in England or Wales which is, or was at the relevant time, recognised by the Secretary of State as a city technology college or city college for the technology of the arts, respectively;

“hearing impaired” means deaf or partially hearing;

“higher education” means education provided by any of the following courses:—

- (a) a course for the further training of teachers or youth and community workers;
- (b) a post-graduate course (including a higher degree course);
- (c) a first degree course;
- (d) a course for the Diploma of Higher Education;
- (e) a course for the Higher National Diploma or Higher National Certificate of the Business & Technician Education Council, or the Diploma in Management Studies;
- (f) a course for the Certificate in Education;
- (g) a course in preparation for a professional examination at a standard higher than the standard of examinations at advanced level for the General Certificate of Education or the examination for the National Certificate or the National Diploma of the Business & Technician Education Council;
- (h) a course providing education (whether or not in preparation for an examination) at a standard higher than the standard of courses providing education in preparation for examinations at advanced level for the General Certificate of Education or the examination for the National Certificate or the National Diploma of the Business & Technician Education Council;

“licensed teacher” has the meaning assigned thereto by paragraph 2 of Schedule 4;

“recommending body” means—

- (a) in the case of a special school maintained by a local education authority or a county, controlled, aided or special agreement school which has no delegated budget, the local education authority;
- (b) in the case of such a school which has a delegated budget, the governing body of the school;
- (c) in the case of a grant-maintained school, the governing body of the school; and
- (d) in the case of a special school not maintained by a local education authority, the governing body of the school;

and any reference to a school which has a delegated budget shall be construed in accordance with section 33(6)(b) of the Education Reform Act 1988.

“relevant employment” has the meaning assigned thereto by regulation 7;

“qualified teacher” has the meaning assigned thereto by regulation 13 and

“unqualified teacher” shall be construed accordingly;

“visually impaired” means blind or partially sighted.

Approvals

4. Except where the context otherwise requires, an approval for the purposes of these Regulations may apply generally (subject to such exceptions, if any, as are specified therein) or only in a particular case.

Cross references

5. Except where the context otherwise requires, any reference in these Regulations to

a regulation or Schedule is a reference to a regulation contained herein or to a Schedule hereto, any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

PART II

PROVISIONS APPLYING TO SCHOOLS AND FURTHER OR HIGHER EDUCATION INSTITUTIONS

Staffing of schools and maintained or assisted institutions

6.—(1) At any school or further or higher education institution there shall be employed a staff of teachers suitable and sufficient in numbers for the purpose of securing the provision of education appropriate to the ages, abilities, aptitudes and needs of the pupils having regard to any arrangements for the utilisation of the services of teachers employed otherwise than at the school or institution in question.

(2) Without prejudice to the generality of paragraph (1)–

- (a) the staff of teachers employed at a school shall include a head teacher;
- (b) the staff of teachers employed at a further or higher education institution shall have qualifications appropriate to the giving of adequate instruction in the subjects in which courses are provided.

(3) The requirement in paragraph (1) is additional to the requirements relating to qualifications for employment at schools contained in Part IV of these Regulations.

PART III

PROVISIONS OF GENERAL APPLICATION

Employment to which Part III applies

7. This Part shall apply in relation to the employment of persons–

- (a) by a local education authority, as teachers (whether or not at a school or institution) or as workers with children or young persons;
- (b) by any other body, as teachers at a school or institution;

and any reference in this Part to relevant employment is a reference to such employment.

Health standards – appointments

8.—(1) A person shall not be appointed to relevant employment unless his employers are satisfied as to his health and physical capacity therefor.

(2) For the purposes of this regulation, where it appears to his employers reasonable so to do–

- (a) in the case of the first appointment as a teacher of a person in respect of whom the Secretary of State has been satisfied that he has the health and physical capacity for teaching, they may accept the Secretary of State's conclusion in the matter;
- (b) in the case of any appointment to relevant employment of a person previously in such employment, they may rely upon the person's medical record while in that employment.

Health standards – continued employment

9.—(1) A person in relevant employment shall not continue in that employment if his employers are satisfied that he has not the health or physical capacity therefor.

(2) For the purposes of this Regulation, where it appears to his employers that a person may no longer have the health or physical capacity for his employment—

- (a) they shall afford him an opportunity to submit medical evidence and make representations to them;
- (b) they shall consider such evidence and representations and any other medical evidence available to them, including such evidence which has been furnished in confidence on the ground that it would not be in the best interests of the person concerned to see it;
- (c) they may require him, or at his request shall arrange for him, to submit himself for examination by a duly qualified medical practitioner appointed by them and, if without good cause he fails to submit himself for such examination or refuses to make available medical evidence or information sought by the medical practitioner, they may reach a conclusion in the matter on such evidence and information as is available to them, notwithstanding that further medical evidence may be desirable.

(3) At any time before such medical examination as is referred to in paragraph (2)(c) the employers, or the person himself, may submit to the appointed medical practitioner a statement containing evidence or other matter relevant to the examination; and the examination may be attended by any duly qualified medical practitioner appointed for the purpose by the person being examined.

Barring by the Secretary of State

10.—(1) The powers conferred on the Secretary of State by paragraph (2) shall only be exercisable—

- (a) on medical grounds;
- (b) on grounds of a person's misconduct (whether or not evidenced by his conviction of a criminal offence), or
- (c) in relation only to employment as a teacher, on educational grounds.

(2) On such grounds as aforesaid the Secretary of State may, subject to such qualifications (if any) as he may specify—

- (a) in the case of a person in relevant employment, direct his employers—
 - (i) to suspend or terminate his employment, or
 - (ii) to make his continued employment subject to specified conditions;
- (b) in the case of such a person in respect of whom a direction is given under sub-paragraph (a) or of a person not in relevant employment, direct that—
 - (i) he be not subsequently appointed to or employed in relevant employment, or
 - (ii) he be only subsequently so appointed or employed in relevant employment subject to specified conditions, including conditions relating to the employment in question.

(3) In the case of a person in relevant employment, the Secretary of State shall not exercise his powers under paragraph (2) without first consulting his employers.

(4) Where the Secretary of State is considering exercising his powers under paragraph (2) on medical grounds, sub-paragraphs (a), (b) and (c) of paragraph (2) and paragraph (3) of regulation 9 shall apply for the purposes of this regulation as if any reference therein to the employers were a reference to the Secretary of State.

(5) Where the Secretary of State is considering exercising his powers under paragraph (2) on grounds of a person's misconduct or on educational grounds—

- (a) he shall afford the person concerned an opportunity to make representations to him, and
- (b) he shall consider such representations and all other relevant information available to him.

(6) A direction given under this regulation may be withdrawn or varied by a subsequent direction but, subject as aforesaid, the employers of persons in relevant employment shall comply with such a direction prohibiting or restricting a person's employment or further employment.

Misconduct reports

11. Where a person is dismissed from relevant employment on grounds of his misconduct (whether or not he is convicted of a criminal offence) or his employers would have so dismissed him, or considered so dismissing him, but for his resignation, his employers shall report the facts of the case to the Secretary of State.

PART IV

PROVISIONS APPLYING ONLY TO SCHOOLS

Employment to which Part IV applies

12. This Part shall apply in relation to the employment of persons as teachers at schools.

Employment normally restricted to qualified teachers

13. Save in the cases and circumstances specified in Schedules 3 and 4, and subject to regulations 15, 16, 17 and 18 no person shall be employed as a teacher at a school unless he is a qualified teacher in accordance with Schedule 5; and references in this Part to a qualified or unqualified teacher shall be construed accordingly.

Probationary service of qualified teachers

14. The provisions of Schedule 6 relating to probation shall have effect in the case of such a qualified teacher as is mentioned in paragraph 2(1) of that Schedule.

Employment of teachers of hearing impaired pupils

15. Subject to regulations 17 and 18, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are hearing impaired (otherwise than to give instruction in a craft, trade or domestic subject) unless in addition to being a qualified teacher in accordance with Schedule 5, he possesses a qualification for the time being approved by the Secretary of State for the purpose of this regulation.

Employment of teachers of visually impaired pupils

16. Subject to regulations 17 and 18, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are visually impaired (otherwise than to give instruction in a craft, trade or domestic subject) unless in addition to being a qualified teacher in accordance with Schedule 5 he possesses a qualification for the time being approved by the Secretary of State for the purpose of this regulation.

Employment of teachers of pupils who are both hearing and visually impaired

17.—(1) Subject to paragraph (2) and regulation 18, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are both hearing and visually impaired (otherwise than to give instruction in a craft, trade or domestic subject) unless, in addition to being a qualified teacher in accordance with Schedule 5, he possesses a qualification approved by the Secretary of State for the purpose of this regulation.

(2) A person who possesses a qualification approved under regulation 15 or 16 shall be a qualified teacher for the purpose mentioned in paragraph (1) notwithstanding that he does not possess a qualification approved for the purpose of that paragraph where the authority or other body are satisfied that no teacher with such a qualification is available to teach the class in question.

Temporary employment of teachers of the visually impaired or hearing impaired (or both)

18. A person may be employed at a special school as the teacher of a class of pupils who are—

- (a) hearing impaired,
- (b) visually impaired, or
- (c) both hearing impaired and visually impaired

notwithstanding that he is not a qualified teacher in accordance with regulation 15, 16 or 17(1), as the case may be, for the purpose of such employment if his employers are satisfied that it is his intention to acquire a qualification approved by the Secretary of State under regulation 15, 16 or 17(1) as the case may be, provided however, that the aggregate period for which he has been employed, in one or more schools, as the teacher of such a class of pupils as are mentioned in sub-paragraph (a), (b) or (c), as the case may be, does not exceed three years.

SCHEDULE 1

Regulation 2(2)

GENERAL TRANSITIONAL PROVISIONS

Construction of Schedule

1.—(1) In this Schedule any reference to the 1959 Regulations is a reference to the Schools Regulations 1959(a) (as from time to time in force), including those regulations as applied to teachers at special schools by regulation 16 of the Handicapped Pupils and Special Schools Regulations 1959(b); and any reference to an approval for the purposes of any provision of the 1959 Regulations shall be construed as including a reference to an approval which, by virtue of regulation 21 thereof, had effect as if given under that provision.

(2) In this Schedule any reference to the 1975 Regulations is a reference to the Further Education Regulations 1975(c); and any reference to a prohibition or restriction under any provision of those regulations shall be construed as including a reference to one which, by virtue of regulation 4(3) thereof, had effect as if given under that provision.

(3) In this Schedule any reference to the 1982 Regulations is a reference to the Education (Teachers) Regulations 1982(d).

Barring of teachers etc.

2. Any prohibition or restriction on a person's employment in force—

- (a) immediately before 8th April 1982 under paragraph 5 or 6 of Schedule 2 to the 1959 Regulations, or
 - (b) immediately before 8th April 1982 under regulation 14 or 15 of the 1975 Regulations or under either of those regulations as extended by regulation 17 of those regulations, or
 - (c) immediately before 1st September 1989, under regulation 10(2) of the 1982 Regulations,
- shall have effect as if it were contained in a direction under regulation 10(2) and, accordingly, regulation 10(6) shall apply in relation thereto.

Existing qualifications for teaching hearing impaired pupils

3. Any person who on 31st August 1989 possessed—

- (i) a qualification mentioned in regulation 15(1) of the 1982 Regulations, or
 - (ii) a comparable qualification approved for the purposes of that regulation, or
 - (iii) a qualification mentioned in regulation 20(3) of the 1959 Regulations, or
 - (iv) an equivalent qualification approved for the purposes of that regulation,
- shall be treated as possessing a qualification approved for the purpose of regulation 15.

(a) S.I. 1959/364; relevant amending instruments are S.I. 1968/1281, 1969/1777, 1971/342, 1973/2021 and 1975/1054.

(b) S.I. 1959/365; relevant amending instruments are S.I. 1968/1281 and 1971/342.

(c) S.I. 1975/1054.

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

Existing qualifications for teaching visually impaired pupils

4. Any person who on 31st August 1989 possessed—

- (i) a qualification mentioned in regulation 16(1) of the 1982 Regulations, or
- (ii) a qualification approved for the purpose of that regulation as comparable to a qualification so mentioned, or
- (iii) a qualification for teaching blind pupils which, immediately before 8th April 1982, satisfied the requirements of the Secretary of State under regulation 15(2) of the Handicapped Pupils and Special Schools Regulations 1959(a)

shall be treated as possessing a qualification approved for the purpose of regulation 16.

Continued employment of existing teachers of pupils who are hearing or visually impaired or both

5.—(1) A person who has satisfied the requirements of regulation 18 of the 1982 Regulations for employment at a special school as the teacher of a class of pupils who were both deaf or partially hearing and also blind may, notwithstanding that he is not a qualified teacher for the purpose of regulation 17(1), be employed at a school as a teacher of a class of pupils who are both hearing and visually impaired.

(2) Any person who on 31st August 1989 was employed as the teacher of a class of pupils who are:—

- (a) hearing impaired,
- (b) visually impaired, or
- (c) both hearing impaired and visually impaired,

may continue to be so employed until 31st August 1994 notwithstanding that he is not a qualified teacher in accordance with regulation 15, 16 or 17(1), as the case may be, for the purpose of such employment, if his employers are satisfied that it is his intention to acquire a qualification approved by the Secretary of State under regulation 15, 16 or 17(1), as the case may be.

Period of employment of student teachers

6. An approval for the purposes of regulation 17(2) of the 1959 Regulations or paragraph 5(2)(a) of Schedule 4 to the 1982 Regulations of a period exceeding two years during which a person may be employed as a student teacher shall have effect as if given for the purposes of paragraph 2(2)(a) of Schedule 3.

Approval of courses for initial training of teachers

7. Any approval given for the purposes of paragraph 2(a)(ii) of Schedule 5 to the 1982 Regulations of a course as one for the initial training of teachers, in force immediately before 1st September 1989, shall have effect as if given for the purpose of paragraph 2(2)(a)(iii) of Schedule 5.

Approval of abnormal probation period

8. Where, in the case of a particular teacher, a probationary period shorter or longer than the normal period had been determined for the purposes of sub-paragraph (4) or (5) of paragraph 3 of Schedule 6 to the 1982 Regulations but had not been completed before 1st September 1989 that determination shall have effect as if it was a determination under paragraph 3(3) or, as the case may be, paragraph 3(4) of Schedule 6, by the relevant authority or body in relation to the teacher in question for the purposes of that Schedule.

Probation decisions by the Secretary of State

9.—(1) A teacher who was determined to be unsuitable for further employment as a qualified teacher pursuant to paragraph 2(c) of Schedule 2 to the 1959 Regulations or who received written notice under paragraph 5(2) of Schedule 6 to the 1982 Regulations shall not be employed as a teacher in a school maintained by a local education authority without the consent of the Secretary of State.

(2) An approval given for the purposes of paragraph 2(c) of Schedule 2 to the 1959 Regulations or a consent given for the purpose of paragraph 5(2)(b) of Schedule 6 to the 1982 Regulations for the further employment of a teacher shall have effect as if it were a consent given for the purposes of sub-paragraph (1), and paragraph 3(1) of Schedule 6 shall have effect as if the teacher had taken up his appointment at the beginning of that period of further employment.

(a) S.I. 1959/365.

SCHEDULE 2

Regulation 3(1)(b)

DESIGNATED FURTHER OR HIGHER EDUCATION INSTITUTIONS

Cordwainers Technical College, London
Morley College
Cambridge Institute of Education
Coleg Harlech, Gwynedd
College of the Sea, London
Co-operative College, Loughborough
Fircroft College, Birmingham
Hillcroft College, Surbiton
National Sea Training Trust, London
Northern College, Oxford
Plater College, Oxford
Ruskin College, Oxford
Trinity College, Carmarthen

SCHEDULE 3

Regulation 13

CASES AND CIRCUMSTANCES IN WHICH UNQUALIFIED TEACHERS (OTHER THAN LICENSED TEACHERS) MAY BE EMPLOYED AT SCHOOLS

Existing unqualified teachers in nursery classes and at nursery schools

1.—(1) This paragraph shall apply to an unqualified teacher whose employment as an assistant teacher at a nursery school or as a teacher of a nursery class was permitted by paragraph 4 of Schedule 4 to the Education (Teachers) Regulations 1982 and who was so employed immediately before 1st September 1989.

(2) Such a teacher may continue to be employed as he was employed immediately before 1st September 1989 but shall not be appointed to such employment on or after that date.

Student teachers

2.—(1) This paragraph shall apply in the case of an unqualified teacher over the age of 18 years who either—

- (a) having been accepted for admission to a course then approved by the Secretary of State as a course for the initial training of teachers in schools, is awaiting admission to that course, or
- (b) having been admitted to such a course, has failed satisfactorily to complete it by the date of the end of the period ordinarily required therefor but, during the year next following that date, is continuing the course with a view to so completing it within that year.

(2) Such a teacher may be employed as a teacher at a school so, however, that—

- (a) the aggregate period for which he has been employed by virtue of this paragraph or paragraph 5(2)(a) of Schedule 4 to the Education (Teachers) Regulations 1982, by one or more authorities or bodies, does not exceed 2 years or such longer period, if any, as is approved in his case by the Secretary of State, and
- (b) he is required neither to take responsibility for a class nor to teach a subject which is not also taught by a qualified teacher at the school.

Instructors with special qualifications or experience

3.—(1) This paragraph shall apply in the case of an unqualified teacher 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) the teaching of which requires special qualifications or experience if, at the time of his appointment—

- (a) the local education authority (in the case of a special school maintained by a local education authority or a county, controlled, aided or special agreement school which has no delegated budget), the governing body acting with the consent of the local education authority (in the case of such a school which has a delegated budget) or the governing body (in the case of a grant-maintained school or a special school not maintained by a

local education authority) are satisfied as to his qualifications or, as the case may be, experience, and

- (b) no suitable qualified teacher or licensed teacher is available for appointment or to give the instruction.

(2) Such a teacher may be employed at a school to give such instruction as aforesaid, subject to paragraph (3), for such period as no suitable qualified teacher or licensed teacher is available for appointment or to give the instruction.

(3) In the case of such a teacher appointed before 8th April 1982, paragraph (2) shall have effect as if the words "subject to paragraph (3)" to the end were omitted—

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

4.—(1) This paragraph shall apply in the case of an unqualified teacher in respect of whom the recommending body has submitted a statement to the Secretary of State pursuant to paragraph 2(2)(e) of Schedule 5.

- (2) Such a teacher may be employed as a teacher at a school until 1st September 1990.

SCHEDULE 4

Regulation 13

CASES AND CIRCUMSTANCES IN WHICH UNQUALIFIED TEACHERS MAY BE EMPLOYED AT SCHOOLS—LICENSED TEACHERS

PART 1

GENERAL AND INTERPRETATION

1.—(1) This paragraph shall apply to a person who is not a qualified teacher but who has been granted a licence to teach in accordance with Part 2 of this Schedule.

(2) Subject to the provisions of Part 3 of this Schedule, such a person may be employed as a teacher in a school.

Interpretation

2. In this Schedule, and Schedule 5, unless the context otherwise requires,—

"licence" means a licence to teach granted to a person by the Secretary of State in accordance with Part 2 of this Schedule;

"licensed teacher" means a person to whom a licence has been granted.

PART 2

Requirements for the granting of a licence

3.—(1) On the recommendation of the recommending body, acting, in the case of a school which has a delegated budget, with the consent of the local education authority, the Secretary of State may grant a licence to the person named in that recommendation.

(2) Where the local education authority refuses to give its consent it shall notify the recommending body of its reasons in writing and shall report the facts of the case to the Secretary of State.

4. A recommendation for a licence shall contain such particulars as the Secretary of State may determine.

5. Without prejudice to the generality of paragraph 4, a recommendation shall include:

- (1) a statement by the recommending body that the person named in the recommendation:
(a) is in their opinion a suitable person to be a teacher; and
(b) has attained in English and mathematics the standard required to obtain grade C in the General Certificate of Secondary Education; and
(c) has successfully completed
(i) not less than two years' full-time higher education in England or Wales; or

- (ii) comparable education either full-time or part-time whether in England or Wales or elsewhere; and
- (d) (i) will have attained the age of 26 years by the date on which it is proposed he shall take up employment as a licensed teacher; or
- (ii) is recognised as a trained teacher by the competent authority in any country outside the United Kingdom;
- (2) particulars of the training proposed to be given to the licensed teacher;
- (3) (a) a statement that
 - (i) the teacher has successfully completed a course of at least three years' duration of initial training for teachers in schools at an educational establishment outside England and Wales and has been employed for not less than one year as a teacher in a school, independent school, institution or university or other educational establishment either in England or Wales or elsewhere and was not dismissed on grounds other than redundancy; and
 - (ii) the teacher may be employed in more than one school during the period of the licence; or
- (b) particulars of the post in which the licensed teacher is to be employed, including
 - (i) the name of the school at which he is to be employed;
 - (ii) the age range of the pupils he is to teach;
 - (iii) any subjects in which the licensed teacher is to specialise;
 - (iv) a statement as to whether the teacher is to be employed full-time or part-time and in the latter case his normal working hours.

PART 3

SUPPLEMENTARY PROVISIONS

- 6.—(1) Subject to sub-paragraph (2), a licence shall remain in force—
- (a) in the case of a first licence for a full-time post, for two years from the date of its commencement; or
 - (b) in the case of a first licence for a part-time post or a subsequent licence (whether for a full-time or part-time post) for such period as may be specified in the licence.
- (2) (a) A licence shall lapse if a licensed teacher to whom paragraph 5(3)(a) applies ceases to be employed by the local education authority which was the recommending body or with whose consent the recommending body acted pursuant to paragraph 3.
- (b) A licence shall lapse if a licensed teacher to whom paragraph 5(3)(b) applies ceases to be employed in the post of which particulars are given in the licence.
- (3) For the purpose of this paragraph “date of commencement” means the date specified in the licence as its date of commencement.
7. The recommending body and, in the case of a school which has a delegated budget, the local education authority shall cause the licensed teacher to receive during the period of the licence the training particulars of which were given in pursuance of paragraph 5(2).
8. When the recommending body has submitted a recommendation to the Secretary of State pursuant to Part 2 of this Schedule, the person named in that recommendation may be provisionally employed as a licensed teacher until 14 days after the Secretary of State has notified the recommending body of his decision whether or not to grant the licence.
9. Without prejudice to regulation 11, in any case where a licence lapses by virtue of paragraph 6(2) the recommending body shall report the facts of the case to the Secretary of State unless they have reported the facts of the case to him in pursuance of the duty imposed by regulation 11.

SCHEDULE 5

Regulations 3(2) and 13

QUALIFIED TEACHERS AND TRANSITIONAL PROVISIONS RELATING TO QUALIFIED TEACHERS

- 1.—(1) A person shall be a qualified teacher for the purpose of regulation 13 (but subject to regulations 15 to 17) if—

- (a) he was qualified to be employed as a teacher on 31st August 1989 by virtue of Schedule 5 to the Education (Teachers) Regulations 1982, or
- (b) if paragraph 2(3) applies to him and he has received written notification from the Secretary of State that he is a qualified teacher, or
- (c) if, the Secretary of State being satisfied on or after 1st September 1989 that he is a person mentioned in paragraph 2(2) and, if he is a person mentioned in paragraph 2(2)(c) or (e), that the statement submitted by the recommending body is correct, he has received written notification from the Secretary of State that he is a qualified teacher

and in the case of a person receiving written notification under (b) or (c) the person shall, subject to sub-paragraphs (2), (3), (4) and (5), be qualified from such date as the Secretary of State may provide in the notification.

(2) The Secretary of State may provide for a person mentioned in paragraph 2 to be a qualified teacher from a date not more than one year prior to the date of notification to the extent that that is appropriate having regard to all the circumstances of the case.

(3) In the case of a person mentioned in paragraph 2(2)(c)(i), the Secretary of State shall not provide for a person to be a qualified teacher from a date prior to the date on which he completed two school years' full-time service or the period of part-time service specified in the licence as a licensed teacher.

(4) In the case of a person mentioned in paragraph 2(2)(c)(ii), the Secretary of State shall not provide for a person to be a qualified teacher from a date prior to the date on which he completed one school year's service as a licensed teacher.

(5) In the case of a person mentioned in paragraph 2(2)(c)(iii), the Secretary of State shall not provide for a person to be a qualified teacher from a date prior to the date on which he completed one term's service as a licensed teacher.

2.—(1) In this paragraph the expression "approved" means approved by the Secretary of State for the purposes of the sub-paragraph in which it appears.

(2) The person referred to in paragraph 1(1)(c) is a person—

- (a) who has successfully completed a course at an institution or university in England or Wales which—
 - (i) is for the degree of Bachelor of Education, the Certificate in Education, the Post-graduate Certificate in Education or a comparable academic award of, in each case, either a university in England or Wales or of the Council for National Academic Awards,
 - (ii) may only be followed by those who have attained in English and mathematics the standard required to obtain grade C in the General Certificate of Secondary Education, and
 - (iii) was at the time when the person completed it approved as a course for the initial training of teachers in schools; or
- (b) (i) who has successfully completed a course of initial training for teachers in schools at an educational institution in Scotland or Northern Ireland; or
 - (ii) who is registered as a teacher of primary or secondary education with the General Teaching Council for Scotland; or
 - (iii) who has been awarded confirmation of recognition as a teacher in schools in Northern Ireland by the Department of Education, Northern Ireland Office, that confirmation not having been subsequently withdrawn; or
- (c) in whose case the recommending body, acting, in the case of a school which has a delegated budget, with the consent of the local education authority, has submitted to the Secretary of State a recommendation that he should be awarded qualified teacher status (where the local education authority refuses to give its consent it shall notify the recommending body of its reasons in writing and shall report the facts of the case to the Secretary of State) and
 - (i) a statement that he has successfully completed two school years' full-time service or the period of part-time service specified in the licence as a licensed teacher and the training proposed in the recommendation for a licence; or
 - (ii) a statement that he has successfully completed not less than one school year's service as a licensed teacher and the training proposed in the recommendation for a licence and that before the date of commencement of the licence he had attained the age of 26 years and had been employed for not less than two years as a teacher or lecturer at an independent school or an institution or a university in the United Kingdom or as an Instructor or Education Officer in the Armed Forces of the Crown and was not dismissed on grounds other than redundancy; or

- (iii) a statement that he has successfully completed not less than one term's service as a licensed teacher and the training proposed in the recommendation for a licence and that before the date of commencement of the licence he had successfully completed a course of at least three years' duration of initial training for teachers in schools at an educational institution outside England and Wales and had been employed for not less than one year as a teacher or lecturer in a school, independent school, institution or university or other educational establishment either in England or Wales or elsewhere and was not dismissed on grounds other than redundancy; or
 - (d) who is a national of a member state of the European Economic Community who, as respects the profession of school teacher, falls within Article 3 of Council Directive 89/48/EEC(a) on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration; or
 - (e) in whose case the recommending body has submitted to the Secretary of State before 1st September 1990 a statement that
 - (i) he has obtained either the Diploma in the Teaching of Mentally Handicapped Children or the Declaration of Recognition of Experience of the Training Council for Teachers of the Mentally Handicapped or has obtained an equivalent diploma of the said Council in recognition of some other diploma awarded before the establishment of that Council or any comparable qualification;
 - (ii) he at any time before 8th April 1982 served as a teacher in a special school; and
 - (iii) he has satisfactorily completed at least three years' service before 1st September 1989 as a teacher in a special school since obtaining the Diploma or Declaration of the said Council or since obtaining the diploma awarded before the establishment of that Council or the equivalent or comparable qualification.
- (3) Where the Secretary of State was, on 31st August 1989, considering whether he could be satisfied that a person was such a person as is mentioned in
- (a) paragraph 2(b) of Schedule 5 to the Education (Teachers) Regulations 1982 ("the Schedule") or
 - (b) paragraph 2(c) of the Schedule or
- where before the 1st November 1990 the Secretary of State is considering whether he is satisfied that a person is such a person as is mentioned in paragraph 2(e) of the Schedule the Education (Teachers) Regulations 1982 shall continue to have effect with respect to that person until the Secretary of State has completed his consideration of the particular case (but paragraph 2(e)(i) of the Schedule shall be read with the addition after the words "local education authority" of the words "or governing body of a grant-maintained school"). If the Secretary of State is so satisfied the person shall be a qualified teacher for the purpose of Regulation 13 of these Regulations.

SCHEDULE 6

Regulation 15

PROBATION OF SCHOOL TEACHERS

1.—(1) In this Schedule—

"the relevant authority" in relation to a school and a teacher at a school, means the local education authority by whom the school is maintained and "the relevant body" shall mean the governing body of a grant-maintained school or of a special school which is not maintained by a local education authority;

"old provisions" means the provisions relating to the probation of teachers from time to time in force before 8th April 1982 and contained in the Schools Regulations 1959, the School Grants Regulations 1951(b) or the Primary and Secondary Schools (Grant Conditions) Regulations 1945(c), including those provisions as applied to teachers at special schools by regulations under section 33 of the Education Act 1944;

"probationary period" means the period for which a teacher is on probation in pursuance of paragraph 3;

(a) OJ No. L19, 24.1.89, p. 16.

(b) S.I. 1951/1743; the relevant provisions lapsed by reason of paragraph 16(2) of Schedule 8 of the Local Government Act 1958 (c.55).

(c) S.R. & O. 1945/636, revoked by S.I. 1951/1743.

"probationary teacher" means a teacher to whom this Schedule applies by virtue of paragraph 2;

"school" means a school maintained by a local education authority or a grant-maintained school or a special school which is not maintained by a local education authority;

"the 1982 Regulations" means the Education (Teachers) Regulations 1982.

(2) The provisions of this Schedule shall have effect in the case of a teacher at a school notwithstanding anything in his contract of service and that contract shall have effect subject thereto.

2.—(1) Subject to sub-paragraphs (2) and (3), this Schedule shall apply in the case of a teacher at a school who has not—

- (a) been notified in pursuance of paragraph 4(4) that he has satisfactorily completed a probationary period, nor
- (b) been notified in pursuance of paragraph 4(2) of Schedule 6 to the 1982 Regulations that he has satisfactorily completed his probationary period, nor
- (c) before 8th April 1982 satisfactorily completed a probationary period of service as a teacher within the meaning of the old provisions, and for the purposes hereof such a period shall be treated as having been satisfactorily completed unless at the end thereof the Secretary of State (or the Minister of Education) determined the teacher to be unsuitable for further employment as a qualified teacher.

(2) If, having regard to the previous experience of a teacher and the particular circumstances of his case the relevant authority or body determine before he takes up his appointment at a school that he should not be required to serve a probationary period then—

- (a) this Schedule shall not apply in his case, and
- (b) the relevant authority or body shall give him, and if he is not to be employed by them the persons by whom he is to be employed, written notice to that effect.

(3) This Schedule shall not apply to—

- (a) a qualified teacher who has completed more than two years' full-time, or equivalent part-time, continuous employment as a teacher in one city technology college, or one city college for the technology of the arts;
- (b) a qualified teacher who has received notification that he is a qualified teacher on the Secretary of State being satisfied that he is a person mentioned in paragraph 2(2)(c) of Schedule 5 if the local education authority in the case of a school maintained by a local education authority or the governing body in the case of a grant-maintained school or a special school which is not maintained by a local education authority have submitted with the recommendation submitted in accordance with that paragraph a statement that they are satisfied that as a licensed teacher the person gained experience comparable to the teaching experience likely to be gained by a probationary teacher during a one year period of probation.

3.—(1) A probationary teacher employed at a school shall be on probation for, subject to sub-paragraphs (3) to (6), the period expiring a year (or in the case of a part-time teacher, 2 years) after his taking up his appointment at that school or, where he has been employed at more than one school maintained by the same local education authority and there has been no break between his employments at the several schools, after his taking up his appointment at the first such school.

(2) The duties assigned to a probationary teacher, his supervision and the conditions under which he works shall be such as to facilitate a fair and effective assessment of his conduct and efficiency as a teacher.

(3) If, having regard to the previous experience of a probationary teacher and the particular circumstances of his case, the relevant authority or body determine at any time that he shall be on probation for a specified period shorter than that mentioned in sub-paragraph (1), that sub-paragraph shall have effect in his case as if the specified period were substituted for the period there mentioned.

(4) If, having regard to the conduct and efficiency of a probationary teacher, it appears appropriate to the relevant authority or body at any time up to the expiry of one month from the end of any probationary period previously determined by the relevant authority or body that he should be on probation for a specified period longer than that mentioned in sub-paragraph (1) they may, after affording him an opportunity to make representations in the matter and considering such representations, so determine; and in such case that sub-paragraph shall have effect in his case (so long as he is employed at the school or is employed without a break at schools maintained by the same local education authority) as if the specified period were substituted for the period there mentioned.

(5) Where a probationary teacher employed at a school has been on sick leave or maternity leave in any year for an aggregate period falling in term time which is in excess of six weeks, the period mentioned in sub-paragraph (1) (as it has effect in his case where sub-paragraph (3) or (4) applies) shall be extended by that aggregate period.

For the purposes of this sub-paragraph a year means a period of 12 months beginning with the date, or an anniversary of the date, on which the teacher took up his appointment at the school or, where he has been employed as mentioned in sub-paragraph (1) at more than one school maintained by the same local education authority, on which he took up his appointment at the first of those schools.

(6) Where the relevant authority or body has determined as mentioned in sub-paragraph (3) or (4) they shall give the probationary teacher concerned written notice of their determination.

4.—(1) If it appears to the relevant authority or body, having regard to the conduct and efficiency of a probationary teacher and after consulting the head teacher and (in the case of a school maintained by a local education authority) the governing body of the school, that the teacher is not fitted and is unlikely to become fitted for employment in the post he holds then they may, after affording him an opportunity to make representations in the matter and considering such representations, at any time during his probationary period or within the month next following the expiry of that period determine that he has failed to complete successfully the required period of probation and if they do so determine they shall give him written notice of their determination.

(2) Subject to sub-paragraph (3), an authority or body who have given written notice of a determination under sub-paragraph (1)—

- (a) shall, as soon as practicable, dismiss the teacher from the post he held at the date of the determination provided that if the authority or body do not propose to employ him in another post, he shall be entitled to at least one month's notice or a month's salary in lieu thereof and he shall be afforded the opportunity to resign with effect from a date not later than the date specified by the authority or body as the date on which he should be dismissed from his employment; and
- (b) shall not thereafter employ him in that post.

(3) An authority or body shall not dismiss a teacher pursuant to sub-paragraph (2) unless they have afforded him the opportunity of appealing against the determination made under paragraph (1) and arrangements for an appeal under this paragraph shall provide for any appeal to be made within a specified period from the date of the determination.

(4) In cases not covered by sub-paragraph (1), or on the teacher succeeding in an appeal under sub-paragraph (3), the relevant authority or body shall, within one month of the teacher completing his probationary period or of the conclusion of the appeal (whichever is later) give the teacher written notice that he has satisfactorily completed his probation period.

1st August 1989

John MacGregor
Secretary of State for Education and Science

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supersede the Education (Teachers) Regulations 1982; they come into force on 1st September 1989.

The Regulations provide for the grant of licences to teach to applicants possessing certain academic and other qualifications. (Regulation 13 and Schedule 4.) On satisfactory completion of training and service under the licence, licensees may become qualified teachers. (Schedule 5 paragraph 2(2)(c).)

The Regulations also implement the EEC directive 89/48 on a general system for the

recognition of higher-education diplomas in relation to the profession of school teacher. (Schedule 5 paragraph 2(2)(d).) There is also provision for the recognition of teaching qualifications obtained in Scotland and Northern Ireland. (Schedule 5 paragraph 2(2)(b).)

Subject to transitional provisions, it will no longer be possible to become a qualified teacher on the bases specified in paragraph 2(b), (c), (d), (e) and (f) of Schedule 5 to the Education (Teachers) Regulations 1982, nor is there any longer a special provision permitting the employment as teachers in schools of unqualified teachers possessing the qualifications specified in paragraph 2(f)(i) of Schedule 5 to the Education (Teachers) Regulations 1982. However, teachers possessing such qualifications and having served in a special school before 8th April 1982 may become qualified teachers if they have three years satisfactory service in a special school since obtaining the qualification in question and before 1st September 1989.

The Secretary of State has a discretion to award qualified teacher status retrospectively for a period of up to one year. (Schedule 5 paragraph 1(2).)

A teacher who fails probation will lose his current post but may be appointed to another post, where he must serve a further period of probation. The requirement for probation extends to all schools maintained by local education authorities, who will now make the necessary probation decisions, and to special schools not so maintained and to grant-maintained schools; in these cases probation decisions will be taken by governing bodies. In some cases, teachers may be exempted from the requirement for probation. (Regulation 14 and Schedule 6.)

A qualified teacher of a class of pupils who are both hearing and visually impaired must have a qualification approved by the Secretary of State for the purposes of Regulation 17. However, teachers who possess a qualification approved for the purposes of Regulation 15 (which relates to pupils who are hearing impaired) or Regulation 16 (which relates to pupils who are visually impaired) are to be qualified teachers under Regulation 17 where no teacher with an approved qualification is available to teach the class in question.