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WELSH STATUTORY INSTRUMENTS

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**1999 No. 2817**

**The Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999**

**PART III**

**PROVISIONS OF GENERAL APPLICATION**

**5.**—(1) Any reference in this Part to relevant employment is subject to paragraph (2), a reference to employment—

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

(2) For the purposes of this Part, employment includes the engagement of a person to provide his services as a teacher otherwise than under a contract of employment and references to employment or relevant employment shall be construed accordingly.

**Health standards-appointments**

**6.**—(1) Subject to paragraph (4), a person shall not be appointed to relevant employment if, having regard to any duty of the employer under Part II of the Disability Discrimination Act 1995(1), he does not have the health and mental and physical capacity for that employment.

(2) In the case of the first appointment as a teacher of a person in respect of whom the Assembly has been satisfied that he has the health and mental and physical capacity for teaching, his employers may accept the conclusions of the Assembly in the matter where it appears to them reasonable to do so.

(3) In the case of any appointment to relevant employment of a person previously in such employment, his employers may where it appears to them reasonable to do so rely upon the person's medical record while in that employment for the purpose of determining that the person has the health and mental and physical capacity for such employment.

(4) A person who is in receipt of a retirement pension by virtue of regulation E4(4) of the Teachers' Pensions Regulations 1997(2) (ill health retirement) shall not be regarded as having the health and mental and physical capacity to be appointed to relevant employment or to be engaged to provide his services as a teacher at a school or further education institution otherwise than under a contract of employment, save that a person whose entitlement to such pension took effect before 1st April 1997 may be so appointed or engaged to serve part-time.

(5) Nothing in paragraph (4) prevents the appointment or engagement of a person who has ceased to be incapacitated and whose retirement pension has for that reason ceased to be payable.

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(1) 1995 c. 50.

(2) S.I.1997/3001 to which there are amendments not relevant to these Regulations.

### **Health standards-continued employment**

7.—(1) A person in relevant employment shall not continue in that employment if, having regard to any duty of the employer under Part II of the Disability Discrimination Act 1995, he does not have the health and mental and physical capacity for that employment.

(2) For the purposes of this regulation, where it appears to his employers that a person may no longer have the health or mental 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, including a conclusion that he no longer has the health or mental or physical capacity for his employment, 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.