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WELSH STATUTORY INSTRUMENTS

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**2010 No. 2710 (W.227)**

**EDUCATION, WALES**

**The Education (Specified Work and  
Registration) (Wales) Regulations 2010**

<i>Made</i>	- - - -	<i>9 November 2010</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 November 2010</i>
<i>Coming into force</i>	- -	<i>1 December 2010</i>

The Welsh Ministers in exercise of the powers conferred on them by sections 133, 134, 145 and 210(7) of the Education Act 2002<sup>(1)</sup> and now vested in them, make the following Regulations:

**Name, commencement and application**

1. These Regulations are called the Education (Specified Work and Registration) (Wales) Regulations 2010 and come into force on 1 December 2010.
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.  
(2) The savings and transitional provisions mentioned in Part 2 of Schedule 1 have effect.

**Interpretation**

4. In these Regulations—  
“the 1996 Act” (“*Deddf 1996*”) means the Employment Rights Act 1996<sup>(2)</sup>;  
“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998<sup>(3)</sup>;  
“the 1959 Regulations” (“*Rheoliadau 1959*”) means the Schools Regulations 1959<sup>(4)</sup>;  
“the 1982 Regulations” (“*Rheoliadau 1982*”) means the Education (Teachers) Regulations 1982<sup>(5)</sup>;

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(1) 2002 c. 32. “Regulations” means regulations made by the Welsh Ministers (*see* section 212(1)).  
(2) 1996 c. 18. Part VIII was substituted by Part 1 of Schedule 4 to the Employment Relations Act 1999 (c. 26).  
(3) 1998 c. 30.  
(4) S.I. 1959/364 as amended by S.I. 1968/1281, 1969/1777, 1971/342, 1973/2021 and 1978/1144.  
(5) S.I. 1982/106 as amended by S.I. 1988/542 and 1989/329.

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the Education (Teachers) Regulations 1989(6);

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Further Education Teachers' Qualifications (Wales) Regulations 2002(7); and

“the 2004 Regulations” (“*Rheoliadau 2004*”) means the Education (School Teachers' Qualifications) (Wales) Regulations 2004(8).

### **Requirement to be qualified**

5. No person may carry out work specified in regulation 7 in a school unless they—
- (a) are a qualified teacher; or
  - (b) satisfy the requirements specified in at least one of the paragraphs of Schedule 2.

### **Extension of specified period**

6. Where any person is permitted to carry out work specified in regulation 7 for a specified period by virtue of any of the provisions of Schedule 2, that period will be extended by a period equal to the aggregate of any period or periods during which the person concerned is absent from work—

- (a) in exercise of that person's—
  - (i) right to maternity leave conferred by section 71 or 73 of the 1996 Act(9) or a contract of employment and has the right to return to work by virtue of either of these sections or a contract of employment;
  - (ii) right to parental leave conferred by section 76 of the 1996 Act;
  - (iii) right to paternity leave conferred by section 80A, 80AA, 80B or 80BB of the 1996 Act(10); or
  - (iv) right to adoption leave conferred by section 75A or 75B of the 1996 Act(11); or
- (b) because of pregnancy.

### **Specified work**

7.—(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.

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

(7) S.I. 2002/1663 as amended by S.I. 2003/1717 and S.I. 2004/1745.

(8) S.I. 2004/1729 as amended by S.I. 2007/2811 and 2008/215.

(9) Section 71 was amended by paragraph 31, and section 73 by paragraph 32, of Schedule 1 to the Work and Families Act 2006 (c. 18) and both sections were amended by section 17 of the Employment Act 2002 (c. 22).

(10) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 c. 22, and sections 80AA and 80BB (which have not, at the time of making these Regulations, been commenced) were inserted by sections 3 and 4 respectively of the Work and Families Act 2006 c. 18.

(11) Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 c. 22. Section 75A was amended by paragraph 33 of Schedule 1 to the Work and Families Act 2006 c. 18. Section 75B was amended by paragraph 34 of Schedule 1 to the Work and Families Act 2006 c. 18.

### **Requirement to be registered**

8. Qualified teachers may carry out work specified in regulation 7 in a school only if they are registered under section 3 of the 1998 Act (register maintained by the General Teaching Council)(12).

9 November 2010

*Leighton Andrews*  
Minister for Children, Education and Lifelong  
Learning, one of the Welsh Ministers

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(12) 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), S.I. 2004/1741 (W. 180), S.I. 2006/1343 (W. 133) and S.I. 2009/1353 (W. 129).

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

## SCHEDULE 1

Regulation 3

**PART 1****Revocations**

<i>Regulations Revoked</i>	<i>Reference</i>	<i>Extent of Revocation</i>
The Education (Specified Work and Registration) (Wales) Regulations 2004	S.I. 2004/1744 (W.183)	The whole Regulations

**PART 2****Savings and General Transitional Provisions****Probation decisions**

1. In the case of a person who on 1 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 7 in a school without the consent of the Welsh Ministers.

## 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 7**

**Interpretation**

1. In this Schedule—

“accredited institution” (“*sefydliad achrededig*”) means an institution accredited by the Higher Education Funding Council for Wales under regulation 7 of the 2004 Regulations or by the Training and Development Agency for Schools under regulation 11 of the Education (School Teachers' Qualifications) (England) Regulations 2003<sup>(13)</sup> and

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means a scheme established by the Welsh Ministers under regulation 8 of the 2004 Regulations.

(13) S.I. 2003/1662 as amended by the Education Act 2005 (c. 18) and by S.I. 2007/2782 and S.I. 2009/3156.

### **Existing teachers of nursery classes and at nursery schools who are not qualified teachers**

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 1 September 1989.

(2) Such persons may carry out work specified in regulation 7 in a school in the same capacity as they were employed before 1 September 1989.

### **Persons 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 carry out work specified in regulation 7 in respect of any art or skill or in any subject or group of subjects, where special qualifications or special experience or both are required in order to do so.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 7 in a school if at the time of their appointment—

- (a) the local authority (in the case of a school which has no delegated budget or in the case of a pupil referral unit), the governing body acting with the consent of the local 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 authority), as the case may be, is satisfied as to their qualifications or experience or both; and
- (b) no suitable qualified teacher or teacher on an employment-based teacher training scheme is available for such appointment; or
- (c) in respect of work described in paragraph 6(2) of this Schedule, no suitable person who holds qualifications required under regulation 3 of the 2002 Regulations is available for such appointment.

(3) Persons appointed with special qualifications or experience described in sub-paragraph (1) carrying out work specified in regulation 7 as permitted by sub-paragraph (2) may do so, subject to sub-paragraph (4), only for such period of time as no suitable qualified teacher or teacher on an employment-based teacher training scheme is available for appointment or, in respect of work described in paragraph 6(2) of this Schedule, only for such periods of time as no suitable person who holds qualifications required under regulation 3 of the 2002 Regulations is available for such appointment.

(4) Sub-paragraph (3) does not apply in the case of such persons appointed before 8 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) This paragraph applies in the case of persons who have successfully completed a programme of professional training for teachers in any country outside the United Kingdom, which programme is recognised as such by the competent authority in that country.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 7 in a school (other than a pupil referral unit) for a period of up to two years commencing on the day on which they first carry out work specified in regulation 7 in a school.

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### **Trainees on initial teacher training courses**

5.—(1) This paragraph applies in the case of persons who are undertaking a course of initial training for teachers in schools at an accredited institution in Wales or England.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 7 in a school (other than a pupil referral unit) under the supervision of a qualified teacher during any period in which they are undertaking practical teaching experience for the purposes of that course.

### **Qualified further education teachers teaching vocational courses within the local curriculum**

6.—(1) This paragraph applies in the case of persons who hold qualifications required under regulation 3 of the 2002 Regulations.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 7 in a school to the extent that the work comprises the delivery of vocational courses of study forming a part or the whole of a local curriculum that has been formed by a local authority pursuant to section 116A of the Education Act 2002(14) or by the Welsh Ministers pursuant to section 33A of the Learning and Skills Act 2000(15).

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

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

(2) Such persons may carry out work specified in regulation 7 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 7 in a school only if the following conditions are satisfied—

- (a) they carry out work specified in regulation 7 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 7.

(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 7 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 Welsh Ministers; and

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(14) As inserted by section 4 of the [Learning and Skills \(Wales\) Measure 2009 \(2009 nawm No 1\)](#) and commenced on 7 December 2009 (S.I. 2009/3174, art 2(1)(b)) for certain purposes and on 1 January 2010 (S.I. 2009/3174, art 2(2)(c)) for the remaining purposes.

(15) As inserted by section 22 of the [Learning and Skills \(Wales\) Measure 2009](#) but which as at the date of these Regulations has not been commenced.

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- (b) such guidance as to contractual matters relating to school support staff as may be published from time to time by any local 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.

The Education (Specified Work and Registration) (Wales) Regulations 2004 are revoked.

Schedule 2 to these Regulations provides for most of those persons who were mentioned in Schedule 2 to the Education (Specified Work and Registration) (Wales) Regulations 2004 to carry out specified work in schools, in the same circumstances as previously. Some requirements which no longer apply have been removed and new categories of persons who satisfy particular requirements have been included. Those persons now include trainees on initial teacher training courses leading to qualified teacher status and further education teachers delivering courses within the local curriculum as set out in the Learning and Skills (Wales) Measure 2009. 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.

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