

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: School Workforce

Abolition of the General Teaching Council for England

Section 7: Abolition of the General Teaching Council for England

98. *Section 7* amends section 1 of THEA 1998 to remove references to the General Teaching Council for England (the “GTCE”). The amendment has the effect of abolishing the GTCE, but the General Teaching Council for Wales (the “GTCW”) continues unaffected.

Section 8: Functions of Secretary of State in relation to teachers

99. *Subsection (1)* inserts new sections 141A to 141E into EA 2002, providing for the Secretary of State to exercise regulatory functions for the teaching profession in England.
100. New section 141B allows the Secretary of State to consider allegations of unacceptable professional conduct, conduct that may bring the profession into disrepute or convictions of a relevant offence and to decide whether to prohibit the person from teaching by making a prohibition order. (Teachers covered by these arrangements are set out in the new section 141A.)
101. New section 141C provides that the Secretary of State must keep a list (available for the public to view) of teachers who are subject to a prohibition order (barred from teaching) or teachers who have failed the teacher induction period in circumstances that may be prescribed. The Secretary of State can include a person on the list who has been banned from teaching in Wales, Scotland or Northern Ireland.
102. New section 141D provides that where a teacher has been dismissed for serious misconduct (or where they would have been dismissed had they not resigned) the employer must consider whether to refer the case to the Secretary of State. Section 141E ensures that the same applies in respect of teachers employed through supply agencies or contractors.
103. *Subsection (2)* inserts new Schedule 11A into EA 2002 which makes provision about the regulations to be made by the Secretary of State under new section 141B. Paragraph 2 of the new schedule provides that the regulations must make provision about the procedures to be followed by the Secretary of State in making decisions about prohibiting a person from teaching. Paragraph 3 provides that regulations may allow the Secretary of State to make an interim prohibition order but only where he or she considers it necessary in the public interest to do so. Regulations must require the Secretary of State to review the order every six months if the teacher concerned applies for such a review. Paragraph 4 provides that the regulations may specify the effect of a prohibition order, including what teaching work the teacher may nevertheless carry

out and may make provision about the publication of information relating to cases. Paragraph 5 provides that the regulations must allow for the right to appeal against a prohibition order, within 28 days, to the High Court, from where there will be no further right to appeal (this replicates current regulatory arrangements under the GTCE). They may also provide for a teacher who is subject to a prohibition order to apply to have the order set aside and the procedures for this. Paragraph 6 allows regulations to provide that notice of a prohibition order be served on the teacher's employer and to require the employer to take action, such as dismissal. They may also make provisions about the effect in England of teachers being banned from teaching in Wales, Scotland or Northern Ireland.

Section 9: Requirement for teachers in England to serve induction period

104. **Section 9** inserts new sections 135A to 135C into EA 2002. The new sections largely reproduce section 19 of THEA 1998 regarding teachers' induction periods, and transfer existing provisions regarding induction from the GTCE to the Secretary of State as far as these relate to England. Arrangements for Wales are unaffected and remain covered by section 19 of THEA 1998.
105. New section 135A allows regulations to make provision for teachers to have completed an induction period of not less than three school terms and provides for a range of detail to be set out in regulations regarding the induction process. This includes the determination by the Secretary of State of the standards against which a person is to be assessed for the purpose of deciding whether the person has satisfactorily completed an induction period.
106. New section 135B provides that the regulations must include a right of appeal to the Secretary of State by a person aggrieved by an induction decision. There is to be no further right of appeal.
107. In addition, the new sections provide that regulations may allow teachers to complete their induction period within an independent nursery school where the school meets the conditions for induction. The regulations can also allow a teacher to serve more than one induction period. Other than the transfer of functions to the Secretary of State, these are the only substantive changes from section 19 of THEA 1998.

Section 10: Abolition of the GTCE: transitional provision

108. **Section 10** makes transitional provisions in respect of certain functions currently undertaken by the GTCE. It provides that any prohibition orders made by the GTCE will continue as if they had been made by the Secretary of State under new section 141B. Any conditional orders made by the GTCE will continue for the specified period or until revoked. The investigation of any teachers in England by the GTCE immediately prior to commencement may be continued by the Secretary of State.

Section 11: Abolition of the GTCE: consequential amendments

109. **Section 11** gives effect to Schedule 2 which makes consequential amendments to other enactments to reflect the changes made by provisions of this Act. Most of the changes are to remove references to the GTCE or to replace them with references to the Secretary of State.

Section 12: Abolition of the GTCE: transfer schemes

110. **Section 12** gives effect to Schedule 3 which enables the Secretary of State to create a scheme whereby members of GTCE staff can have their contracts of employment transferred to the Secretary of State, with appropriate civil service terms and conditions, unless they give notice of objection.

*These notes refer to the Education Act 2011 (c.21)
which received Royal Assent on 15 November 2011*

111. The Secretary of State may also create a property transfer scheme, through which the GTCE's assets and liabilities may transfer to the Secretary of State.