

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL TEACHERS) (QUALIFICATIONS AND APPRAISAL)
(MISCELLANEOUS AMENDMENTS) (ENGLAND) REGULATIONS 2012

2012 No. 431

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument allows (i) holders of Qualified Teacher Learning and Skills (QTLS) status who are members of the Institute for Learning and (ii) fully qualified teachers from Australia, Canada, New Zealand and the USA to teach in schools as qualified teachers without undergoing further training or assessment. It makes provision for the performance of QTLS holders in the maintained sector to be appraised against different standards from those that apply to other teachers. There are also amendments arising from the abolition of the Training and Development Agency for Schools (“TDA”) and the General Teaching Council for England (“GTCE”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These regulations amend the Education (School Teachers’ Qualifications) (England) Regulations 2003 (“the 2003 Regulations”) which set out the various routes to achieve Qualified Teacher Status (“QTS”) in England.

4.2. They also amend the Education (School Teachers’ Appraisal) (England) Regulations 2012 (“the 2012 Regulations”) to allow flexibility in terms of the standards against which QTLS holders are assessed for the purposes of appraisals.

4.3 The Education Act 2011 (“the Act”) abolishes the TDA and GTCE with effect from 1 April 2012. These Regulations make amendments to the 2003 Regulations arising from this.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Schools are currently unable to appoint qualified teachers from Australia, Canada, New Zealand and the USA to permanent qualified teacher posts without them undertaking further training or assessment in England. The National Academic Recognition Information Centre (NARIC) reported in 2003 that teacher training systems in the mentioned countries are equivalent to those in the UK. This instrument amends the 2003 Regulations so that fully qualified teachers from these countries have QTS and can be appointed to permanent positions as qualified teachers without undertaking further training.

7.2 Teachers with QTLS status, the qualification for teachers in further education, also cannot be appointed to permanent posts as qualified teachers in schools and are not recognised as qualified teachers. The findings from the ‘Review of Vocational Education – the Wolf Report’ (March 2011) concluded that these restrictions make it difficult for schools to recruit teachers to deliver high quality vocational teaching. The Government has agreed with this finding. This instrument amends the 2003 Regulations so that holders of QTLS who are members of the Institute for Learning have QTS and can be appointed to permanent positions as qualified teachers without undertaking further training.

7.3 The 2012 Regulations make provision for the appraisal of teachers in the maintained sector and require teachers’ performance to be assessed against the Teachers’ Standards published by the Secretary of State in July 2011. Their performance can also be assessed against any other set of standards relating to teacher performance published by the Secretary of State that the head teacher, governing body or local authority considers applicable. In the case of QTLS teachers, alternative standards may be more appropriate. This instrument amends the 2012 Regulations to give schools and local authorities flexibility to choose which standards (including any relevant professional standards) are most appropriate to assess QTLS holders against in their appraisal.

7.4 The reasons for these changes are to give head teachers greater freedom to appoint the right teachers to permanent posts as qualified teachers and improve the quality of teaching in schools.

7.5 The Act provides for the abolition of the TDA and GTCE with a view to bringing their key functions back within the Department for Education where they will be carried out by a new executive agency, the Teaching Agency, on behalf of the Secretary of State. The reason for this is to improve the transparency, accountability and efficiency of the education system, eliminate duplication of activity and discontinue activities which are not necessary. The Secretary of State has the powers to exercise the functions that the TDA and GTCE currently carry out, including the accreditation of teacher training

providers, the regulation of the teaching profession and the award of QTS. This instrument amends the 2003 Regulations accordingly to deal with references to the TDA and the GTCE in those regulations.

7.6 There are no plans for consolidation.

8. Consultation outcome

8.1 An on-line consultation was available between 23 September 2011 and 16 December 2011 which allowed a range of interested groups, including teachers and head-teacher groups, to respond to the proposals relating to QTLS holders and fully qualified teachers from Australia, Canada, New Zealand and the USA. 86% of the respondents were in favour of allowing QTLS holders to teach in schools as qualified teachers and 76% agreed that teachers qualified in the countries listed should be allowed to be recognised as qualified teachers without further training.

8.2 The consultation responses revealed some concerns about teacher quality as QTLS holders are only trained to teach 14-19 year olds and teachers from overseas do not have experience of schools in England. There were also some concerns that QTLS holders will be subject to both QTLS standards and the standards for qualified teachers. This instrument allows head-teachers the flexibility to assess QTLS holders against whichever standards are most appropriate to them. The Department for Education response to the consultation has been published on its website.

8.3 The intention to abolish the GTCE and bring its key functions into the Department for Education was set out in the Schools White Paper “The Importance of Teaching” in November 2010. The Department for Education provided a range of interested groups, including the teacher and head teacher unions, with an opportunity to discuss the issues and invited them to comment. A range of representations on the decision to abolish the GTCE and the TDA were received, of which the majority were broadly positive.

9. Guidance

9.1 The Department for Education is providing guidance on the recognition of QTLS holders and fully qualified teachers from Australia, Canada, New Zealand and the USA, including the steps that must be taken to obtain recognition as a qualified teacher.

9.2 The Department’s model appraisal and capability policy will be amended to reflect the additional flexibility schools will have when assessing the performance of QTLS holders.

9.3 The Department for Education is publishing a range of advice which will inform teachers, employers and the public of the functions of the new Teaching Agency which will be available on their website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is not significant.

10.3 A full Impact Assessment has not been prepared for this instrument although an equalities impact assessment has been carried out.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The policy changes are permissive allowing schools greater freedom to recruit and retain the most suitable teachers for their pupils. Schools and local authorities will remain responsible for decisions on employing QTLS holders and fully qualified teachers from Australia, Canada, New Zealand and the USA.

12.2 Data on QTLS holders teaching in schools will be maintained by the Institute for Learning whilst the Teaching Agency will maintain records of QTS awards made to fully qualified teachers from Australia, Canada New Zealand and the USA. The quality of vocational teaching will continue to be measured through Ofsted inspection reports. The Department for Education will also consider the effects of the policy change on teacher supply through the annual School Workforce Census, including vacancy rates in shortage subjects and in geographical areas where teacher recruitment can continue to be challenging.

13. Contact

John Joseph at the Department for Education email: john.joseph@education.gsi.gov.uk can answer any queries regarding the instrument.