

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (SCHOOL TEACHERS' QUALIFICATIONS AND INDUCTION**  
**ARRANGEMENTS AND SPECIAL EDUCATIONAL NEEDS CO-ORDINATORS)**  
**(AMENDMENT) REGULATIONS 2016**

**2016 No. 1123**

**1. Introduction**

1.1 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 This instrument makes amendments to the Education (School Teachers' Qualifications) (England) Regulations 2003; the Education (Induction Arrangements for School Teachers) (England) Regulations 2012; the Education (Special Educational Needs Co-ordinators) (England) Regulations 2008; and the Special Educational Needs and Disability Regulations 2014; arising from an amendment to the European Community Recognition of Qualifications Directive (2005/36/EC), under Directive 2013/55/EC; the effect of the amendments is to recognise teachers from other EEA member states who are qualified only to teach pupils with special educational needs and disability (SEND pupils) as qualified to work in equivalent roles (teaching SEND pupils) in England.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None

*Other matters of interest to the House of Commons*

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

4.1 This instrument implements a European obligation as set out above.

**5. Extent and Territorial Application**

5.1 This instrument extends to England.

5.2 This instrument applies to England.

**6. European Convention on Human Rights**

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

## 7. Policy background

### *What is being done and why*

- 7.1 Fully qualified teachers in other Member States of the European Economic Area (EEA) are entitled to the automatic recognition of Qualified Teacher Status (QTS) in England and are exempt from induction requirements. This reflects the requirement in the European Community Recognition of Qualifications Directive (2005/36/EC) ('the Directive') for Member States to recognise the professional qualifications of other Member States. Some EEA member states have arrangements for a teacher to be qualified to work with Special Educational Needs and Disabilities (SEND) pupils only. No such status currently exists in England, and these teachers are therefore not entitled to the automatic award of QTS.
- 7.2 The Directive was amended in 2014 (by Directive 2013/55/EC) to require Member States to recognise professional qualifications from other Member States when these qualify a professional to work only in parts of a domestic profession. Previously, a European SEND teacher was not automatically recognised for QTS in England, because their professional status has a narrower scope than English QTS (which qualifies a teacher to teach both SEND and non-SEND pupils). Under the provisions of the amended Directive, the Department is now required to recognise European SEND teachers as qualified to work in equivalent roles (teaching SEND pupils in special schools and specialist units within mainstream schools) in England.
- 7.3 The amendments to these Regulations grant European SEND teachers partial access to the teaching profession for these teachers such that they are qualified only to teach pupils in SEND specialist schools and specialist units within mainstream settings. These teachers will not be recognised as qualified to teach mainstream classes and nor will they be able to take the role of special educational needs co-ordinator. Such teachers will be exempt from serving a period of statutory induction. The Regulations provide that such teachers are qualified to teach only in special schools, and specialist units within mainstream schools. These can be clearly distinguished from mainstream classes, and are most directly comparable to the settings in which the European SEND teachers are qualified to teach in their home countries.
- 7.4 The Regulations also amend the Education (Special Education Needs Co-ordinators) (England) Regulations 2008 and the Special Educational Needs and Disability Regulations 2014 to provide that a European SEND teacher who has been granted partial access cannot be a special educational needs coordinator in a mainstream school. This reflects the restrictive nature of the recognition to SEND specialist settings.
- 7.5 It will continue to be for head teachers to decide whether an individual teacher is suitable for appointment to a teaching position. If working in a maintained school, these teachers would be paid on the qualified teachers' pay ranges as set out in the School Teachers' Pay and Conditions Document.
- 7.6 The National College for Teaching and Leadership (NCTL) will be responsible for confirming QTS to EEA teachers qualified to teach only SEND pupils in their home country. The process for considering applications will be very similar to the process that already exists to recognise fully qualified teachers from other Member States. Teachers would apply to the NCTL for confirmation that they are entitled to QTS and the application would be considered against information and advice received from the education authorities in the EEA Member State of qualification. If the authority

advises that a teacher is qualified to teach pupils with SEND only, the NCTL would confirm that the teacher is similarly qualified in England. The decision will be recorded on the NCTL database and in a letter issued to the teacher.

### ***Consolidation***

- 7.7 The Department does not anticipate consolidating these Regulations in the immediate future.

## **8. Consultation outcome**

- 8.1 The Department has informally discussed the way in which it had chosen to comply with the Directive with a number of interested groups, including head teachers and special educational needs coordinators. However, there is no statutory obligation to consult on amendments to these Regulations, and they are being amended in order to comply with a European Union Directive.

## **9. Guidance**

- 9.1 As the instrument is making changes to the route to QTS, guidance in relation to these particular Regulations is unnecessary. The Department already publishes information on obtaining QTS in order to be able to teach in a maintained school or non-maintained special school in England: <https://www.gov.uk/guidance/qualified-teacher-status-qts#eea-nationals>, and on exemptions to induction: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/458233/Statutory\\_induction\\_guidance\\_for\\_newly\\_qualified\\_teachers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458233/Statutory_induction_guidance_for_newly_qualified_teachers.pdf). Both sets of guidance will be updated on the date the Regulations take effect.

## **10. Impact**

- 10.1 There is minimal impact on business, charities or voluntary bodies.
- 10.2 There is minimal impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 This instrument does not regulate business and therefore does not require a post implementation review under S28-32 of the Small Business Enterprise and Employment Act 2015.

## **13. Contact**

- 13.1 John Murphy at the Department for Education Telephone: 020 7340 7473 or email: [john.murphy@education.gov.uk](mailto:john.murphy@education.gov.uk) can answer any queries regarding the instrument.