
WELSH STATUTORY INSTRUMENTS

1999 No. 2817

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

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999 and shall come into force on 1st September 1999.

Revocations and transitional provisions

- 2.—(1) Part I of Schedule I shall have effect as respects the revocations there mentioned.
(2) Part II of Schedule 1 shall have effect as respects the transitional matters there mentioned.

Interpretation

- 3.—(1) Except where the context otherwise requires, in these Regulations—
- (a) a reference to a school is a reference to a school maintained by a local education authority or a special school not so maintained;
 - (b) a reference to a further education institution is a reference to an institution, not being a school, which provides further education (whether or not it also provides higher education) and either—
 - (i) is maintained by a local education authority, or
 - (ii) is within the further education sector;
 - (c) a reference to an institution without qualification is a reference to a further education institution or an institution within the higher education sector; and
 - (d) a reference to a worker with children or young persons is a reference to a person, other than a teacher, whose work brings him regularly into contact with persons who have not attained the age of 19 years.
- (2) Except where the context otherwise requires, in these Regulations—
- “accredited institution” means an institution accredited by the Higher Education Funding Council for Wales under paragraph 2 of Schedule 3;
- “Assembly” means the National Assembly for Wales⁽¹⁾;

(1) The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All the functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 with effect from 1st July 1999. Accordingly, in relation to Wales, references to the Secretary of State in the relevant sections of and Schedules to the Education Reform Act 1988 are to be construed as being, or including, a reference to the Assembly see section 43 of the Government of Wales Act 1998.

“authorisation” means an authorisation to teach granted to a person by the Assembly in accordance with Part II or III of Schedule 2;

“BTEC” means the Business and Technology Education Council;

“city college” means a city technology college or a city college for the technology of the arts;

“company” has the same meaning as in the Companies Act 1985(2);

“graduate teacher” means a person to whom an authorisation has been granted in accordance with Part II of Schedule 2;

“hearing impaired” means deaf or partially hearing;

“higher education” means education provided by any of the following courses—

- (a) a course for the further training of teachers or youth and community workers;
- (b) a post-graduate course (including a higher degree course);
- (c) a first degree course;
- (d) a course for the Diploma of Higher Education;
- (e) a course for the BTEC Higher National Diploma or BTEC Higher National Certificate provided by the Edexcel Foundation, or the Diploma in Management Studies;
- (f) a course for the Certificate in Education;
- (g) a course in preparation for a National Vocational Qualification at level 4 or 5;
- (h) a course providing education (whether or not in preparation for an examination) at a standard higher than the standard of courses providing education in preparation for examinations at advanced level for the General Certificate of Education or the examination for the BTEC National Certificate or the BTEC National Diploma provided by the Edexcel Foundation;

“qualified teacher” has the meaning given to it by regulation 10 and “unqualified teacher” shall be construed accordingly;

“recommending body” means the body that is the organiser of the training given or to be given to the person named in the recommendation;

“registered teacher” means a person to whom an authorisation has been granted in accordance with Part III of Schedule 2;

“relevant employment” has the meaning given to it by regulation 5; and

“visually impaired” means blind or partially sighted.

(3) In these Regulations—

- (a) any reference to the 1959 Regulations is a reference to the Schools Regulations 1959(3) (as from time to time in force) including those regulations as applied to teachers at special schools by regulation 16 of the Handicapped Pupils and Special Schools Regulations 1959(4), and any reference to an approval for the purposes of any provision of the 1959 Regulations shall be construed as including a reference to an approval which, by virtue of regulation 21 thereof, had effect as if given under that provision;
- (b) any reference to the 1982 Regulations is a reference to the Education (Teachers) Regulations 1982(5);

(2) 1985 c. 6

(3) S.I. 1959/364; the relevant amending instruments are S.I. 1968/1281, 1969/1777, 1971/342, 1973/2021 and 1975/1054.

(4) S.I. 1959/365; the relevant amending instruments are S.I. 1968/1281 and 1971/342.

(5) S.I. 1982/106 as amended by S.I. 1988/542 and 1989/329.

(c) any reference to the 1989 Regulations is a reference to the Education (Teachers) Regulations 1989(6); and

(d) any reference to the 1993 Regulations is a reference to the Education (Teachers) Regulations 1993(7).

(4) Except where the context otherwise requires, an approval for the purposes of these Regulations may apply generally (subject to such exceptions, if any, as are specified therein) or only in a particular case, and “approved” in relation to a course means approved by the Assembly.

(5) Any references in these Regulations to a regulation or Schedule is a reference to a regulation contained herein or to a Schedule hereto, any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

PART II

PROVISIONS APPLYING TO SCHOOLS AND FURTHER EDUCATION INSTITUTIONS

Staffing of schools and further education institutions

4.—(1) At any school or further education institution there shall be employed a staff of teachers suitable and sufficient in numbers for the purpose of securing the provision of education appropriate to the ages, abilities, aptitudes and needs of the pupils or students having regard to any arrangements for the utilisation of the services of teachers employed otherwise than at the school or further education institution in question.

(2) Without prejudice to the generality of paragraph (1)—

(a) the staff of teachers employed at a school shall include a head teacher;

(b) the staff of teachers employed at a further education institution shall have qualifications appropriate to the giving of adequate instruction in the subjects in which courses are provided.

(3) The requirement in paragraph (1) is additional to the requirements relating to qualifications for employment at schools contained in Part IV of these Regulations.

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.

(6) S.I. 1989/1319.

(7) S.I. 1993/543.

(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⁽⁸⁾, 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⁽⁹⁾ (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.

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

⁽⁸⁾ 1995 c. 50.

⁽⁹⁾ S.I. 1997/3001 to which there are amendments not relevant to these Regulations.

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.

PART IV

PROVISIONS APPLYING ONLY TO SCHOOLS

Employment to which Part IV applies

8. Subject to regulation 9 this Part shall apply in relation to the employment of persons as teachers at schools, unless they are employed solely in the provision of—

- (a) part-time education to persons over compulsory school age only; or
- (b) full-time education to persons who have attained the age of 19 years only; or
- (c) both such part-time and such full-time education.

9. 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 being employed shall be construed accordingly.

Employment normally restricted to qualified teachers

10. Save in the cases and circumstances specified in Schedule 2, and subject to regulations 11, 12, 13 and 14 no person shall be employed as a teacher at a school unless he is a qualified teacher in accordance with Schedule 3.

Employment of teachers of hearing impaired pupils

11. Subject to regulations 13 and 14, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are hearing impaired (otherwise than to give instruction in a craft, trade or domestic subject), unless in addition to being a qualified teacher in accordance with Schedule 3, he possesses a qualification for the time being approved by the Assembly for the purpose of this regulation.

Employment of teachers of visually impaired pupils

12. Subject to regulations 13 and 14, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are visually impaired (otherwise than to give instruction in a craft, trade or domestic subject), unless in addition to being a qualified teacher in accordance with Schedule 3, he possesses a qualification for the time being approved by the Assembly for the purpose of this regulation.

Employment of teachers of pupils who are both hearing and visually impaired

13.—(1) Subject to paragraph (2) and regulation 14, a person shall not be a qualified teacher for the purpose of employment at a school as a teacher of a class of pupils who are both hearing impaired and visually impaired (otherwise than to give instruction in a craft, trade or domestic subject), unless in addition to being a qualified teacher in accordance with Schedule 3, he possesses a qualification for the time being approved by the Assembly for the purpose of this regulation.

(2) A person who possesses a qualification approved under regulation 11 or 12 shall be a qualified teacher for the purpose mentioned in paragraph (1) notwithstanding that he does not possess a

qualification approved for the purpose of that paragraph where his employers are satisfied that no teacher with such a qualification is available to teach the class in question.

Temporary employment of teachers of the visually impaired or hearing impaired (or both)

14. A person may be employed at a special school as the teacher of a class of pupils who are—
- (a) hearing impaired;
 - (b) visually impaired; or
 - (c) both hearing impaired and visually impaired,

notwithstanding that he is not a qualified teacher in accordance with regulation 11, 12 or 13(1), as the case may be, for the purpose of such employment if his employers are satisfied that it is his intention to acquire a qualification approved by the Assembly under regulation 11, 12 or 13(1), as the case may be, provided however that the aggregate period for which he has been employed, in one or more schools, as the teacher of such a class of pupils as are mentioned in sub-paragraph (a), (b) or (c), as the case may be, does not exceed three years.

31st August 1999

Dafydd Elis Thomas
Presiding Officer, National Assembly for Wales