

## **Explanatory Memorandum to the Education (School Teachers' Qualifications) (Amendment) (Wales) Regulations 2008**

This Explanatory Memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales.

### **(i) Description**

These regulations amend requirements at paragraph 5 of Part 1 of Schedule 2 to the Education (School Teachers' Qualifications) (Wales) Regulations 2004 ("the 2004 Regulations") which need to be satisfied by an individual undertaking initial teacher training in Wales in order to be recognised as a qualified teacher. In addition to the existing requirements, trainees on courses of initial teacher training (ITT) in Wales will need to undertake any period of practical teaching experience **wholly or mainly** in a school, independent school or other institution (except a pupil referral unit) **in Wales**. In addition, two minor technical amendments are made to correct references in the legislation.

### **(ii) Matters of Special Interest to the Subordinate Legislation Committee**

None

### **(iii) Legislative Background**

The enabling powers are conferred on the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. Amendments to the 2004 Regulations will be made under sections 132, 145 and 210(7) of the Education Act 2002 via the negative resolution procedures in accordance with the terms of the Government of Wales Act 2006.

### **(iv) Purpose and Intended Effect of the Legislation**

The 2004 Regulations set out the requirements needed to be satisfied by individuals before they can be recognised as a qualified teacher and obtain Qualified Teacher Status (QTS). For persons seeking QTS via ITT in Wales, the requirements are that they:-

- (a) must hold a first degree or equivalent qualification granted by a United Kingdom institution or an equivalent degree or other qualification granted by a foreign institution;
- (b) must have successfully completed a course of initial teacher training at an accredited institution in Wales; and
- (c) are assessed by the accredited institution as meeting the specified standards (the QTS Standards).

The Education (School Teachers' Qualifications) (Amendment) (Wales) Regulations 2008 will amend the 2004 Regulations to add to these requirements so that a person undertaking a course of ITT at an accredited institution in Wales, to be recognised as a qualified teacher and gain QTS, will also have to undertake

any period of practical teaching experience, for the purposes of that course of ITT, wholly or mainly in Wales.

The Welsh Assembly Government's ITT Change Plan, published on 29 March 2006, included a section on continued progress on modifications to ITT regulatory requirements which said that in the light of the proposed reduction in ITT intake numbers, the Welsh Assembly Government would also look again at a possible revision to the 2004 Regulations which would introduce a requirement that practical teaching experience on ITT courses here must be wholly or mainly in Wales.

Our revised QTS Standards have an increase in the number of Wales-specific elements. These apply on a mandatory basis for all ITT trainees on courses which commenced after September 2007. Our view is that placing trainees in schools outside Wales for the whole of their training would probably make it impossible for trainees to demonstrate that they meet the Standards that have a specifically Welsh dimension. We think that the majority of the time a trainee spends undergoing practical teaching experience in schools as part of an ITT course should take place in schools in Wales.

Providers need to work with a range of schools to provide sufficient breadth of experience but we do not think that this change will reduce the range of practical teaching experiences available to trainees to any significant degree. There is a wide range of schools in Wales but in any event the proposed new requirement does not demand that they should be used exclusively, just 'wholly or mainly'. In practice, the majority of students already undertake their practical teaching experience wholly or mainly in Wales.

As part of the ITT Change Plan, there are reductions planned in ITT intake numbers until 2010/11. This should mean that there will be sufficient partnership school places becoming available in Wales over the next few years to offer replacements for any presently provided by schools in England.

We are also taking the opportunity to make a couple of technical changes to the 2004 Regulations. Paragraph 11(3)(b) currently requires persons, in respect of whom the States of Guernsey Education Council has submitted to the Welsh Ministers or the General Teaching Council for Wales a recommendation that they should be recognised as a qualified teacher, to have attained the age of 24 years before the commencement of their teacher's licence. Lawyers have advised that this requirement, as worded, may be deemed to be in breach of The Employment Equality (Age) Regulations 2006 which came into force on 1 October 2006 and which implements requirements of EC Directive 2000/78/EC.

The Regulations and the Directive prohibit discrimination based on age. The age provision actually represents the Guernsey requirements, and the Channel Islands are not part of the UK. Nevertheless it is felt that there might be an issue in carrying this provision into our regulations and it is therefore proposed that the age 24 requirement be removed from the 2004 Regulations.

We have spoken to the Crown Advocate in Guernsey who has explained that the provision in the regulations describes the Guernsey Licensed Teacher Scheme –

a version of the former Licensed Teacher Scheme which has for some years since been replaced in Wales and England by the present Graduate Teacher Programme. He has said that Guernsey is not currently offering the Licensed Teacher Scheme - it has been described as being "mothballed". Consequently, if we wish to remove the reference to a person having to have obtained the age of 24 years before the licence commenced, this will not present any difficulties to the Guernsey authorities.

The provisions in paragraph 11 of Schedule 2 to the 2004 Regulations, which set out the requirements to be met by those qualifying from Guernsey, affect very few people and therefore there has been no urgency in amending the 2004 Regulations. However, we have taken the opportunity to make this amendment alongside the amendment requiring ITT students to undertake their practical teaching experience wholly or mainly in Wales.

We will also take the opportunity of updating the reference to the States of Guernsey Education Council, which has ceased to exist, with the current title of the relevant authority, the States of Guernsey Education Department.

#### **(v) Implementation**

The proposed coming into force date is 1 September 2008.

There are no legal implications should these regulations not be made on this date. However, the proposals to introduce a requirement that the practical teaching experience on ITT courses must be undertaken wholly or mainly in Wales might require initial teacher training providers and their partnership schools to make adjustments to current arrangements. We are therefore proposing that the new arrangements should not start until the beginning of the next academic year. Additionally, trainees currently on courses of more than a year are already likely to have had made arrangements for undertaking their practical teaching experience. Hence, the amending regulations will come into force on 1 September 2008, for those ITT students commencing their courses from September 2008 only. Students commencing courses on or before 1 September 2008 are not affected and ITT providers will be able to arrange practical teaching experience for these students according to existing arrangements.

#### **(vi) Consultation**

A consultation exercise was carried out for a period of 8 weeks between 19 October and 14 December 2007. Further information is contained in the Regulatory Impact Assessment below.

### **Regulatory Impact Assessment**

Options

**Option 1: Do nothing**

If the Education (School Teachers' Qualifications) (Amendment) (Wales) Regulations 2008 are not made, ITT providers may continue to place ITT trainees in England based schools for their practical teacher training experience. If trainees spend insufficient time undertaking their training in schools in Wales, our view is that it would probably be impossible for them to meet the QTS Standards that have a specifically Welsh dimension. We do not, therefore, consider this to be a viable option.

If the age 24 requirement is not removed from Paragraph 11(3)b of the Regulations, Lawyers have advised that, as worded, this requirement may be deemed to be in breach of The Employment Equality (Age) Regulations 2006 which came into force on 1 October 2006 and implement requirements of EC Directive 2000/78/EC.

### **Benefits**

There are no specific benefits to be gained from not amending the regulations to require ITT trainee in Wales to undertake their practical teaching experience wholly or mainly in Wales. It is true that that if the regulations were not amended ITT providers would not have to alter any existing arrangements they may have with ITT Partnership Schools in England. However, we do not consider that any small savings gained from retaining the status quo would outweigh the clear advantages of introducing the requirements.

### **Costs**

The new Regulations will only impact upon a small audience – mainly ITT providers and their partnership schools. There are no additional cost implications or savings to be made by the Welsh Assembly Government, ITT Providers or their partnership schools in continuing with the current practical teacher training placement arrangements.

There could be cost implications for the Welsh Assembly Government if Paragraph 11(3)(b) of the Regulations is challenged as breaching The Employment Equality (Age) Regulations 2006.

## **Option 2: Make the Legislation**

### **Benefits**

In making the amending regulations, ITT trainees undertaking their practical teaching experience wholly or mainly in Wales, are better placed to gain the experience they need to meet the QTS standards which have a specifically Welsh dimension. However, the proposed new requirement does not demand that schools in Wales be used exclusively, just 'wholly or mainly' and therefore ITT trainees can continue to spend part of their practical teaching experience in schools cross border if this would better suit their specific training needs.

In addition to the above, in making the amending Regulations, Welsh legislation would parallel England's; "The Education (School Teachers' Qualifications)

(England) Regulations 2003 which specify at Paragraph 7(c) of Part 1 of Schedule 2 that persons on ITT courses in England undertake their practical teaching experience wholly or mainly in a school, city college, academy, independent school or other institution (except a pupil referral unit) in England.

Removing the age 24 requirement referred to in paragraph 11(3)(b) of the Regulations avoids the potential risk of breaching The Employment Equality (Age) Regulations 2006 and prevents any legal challenge that could arise.

### **Costs**

There are no cost implications for the Welsh Assembly Government. Cost implications for ITT Providers should be minimal as the majority of trainees already undertake their practical teaching experience in Wales and the Providers have to make regular updates of their Partnership schools in any event; and the requirements are being phased in, only applying to new students from September 2008. There may be some limited cost implications for any partnership schools **in England** if Welsh border ITT Providers are no longer be able to use them for practical teacher training once the amending Regulations come into force.

### **(d) Competition Assessment**

Not applicable to these Regulations

### **(e) Consultation**

An electronic consultation exercise took place on the terms of the amending Regulations for a period of 8 weeks between 19 October and 14 December 2007. Those consulted were:

Local education authorities  
School diocesan organisations  
Professional education organisations  
Teaching unions  
The General Teaching Council for Wales and England  
The Higher Education Funding Council for Wales  
ITT Providers in Wales  
The Universities Council for the Education of Teachers Cymru (UCET Cymru)  
ESTYN  
The Training and Development Agency for Schools  
Central Government Education Departments  
Headteachers and Governing Bodies in a 10% sample of schools including ITT partnership Schools in Wales via ITT Providers

The consultation document was available on the Welsh Assembly Government's website at:

[http://new.wales.gov.uk/topics/educationandskills/education\\_and\\_skills\\_consult/education\\_and\\_skills\\_consul/1735324/?lang=en](http://new.wales.gov.uk/topics/educationandskills/education_and_skills_consult/education_and_skills_consul/1735324/?lang=en)

A total of eight responses were received from a variety of stakeholders. All but one of the respondents were in favour of introducing the requirement that trainees undertake their ITT practical teaching experience wholly or mainly in Wales; recognising that in light of falling ITT intake numbers, and the need to cover the Welsh curriculum and Wales' cultural agenda, that trainees' practical teaching experiences should be more closely aligned to Wales's QTS standards, and that the majority of practical teaching experience should be in Welsh schools.

One respondent misinterpreted the proposed requirement as referring to the settings in which a newly qualified teacher (NQT) must undertake their statutory induction period post QTS. This is not the case and NQTs who gain QTS in Wales remain able to undertake and complete their induction period in schools outside Wales.

No respondents disagreed with the proposed timetable for introducing the requirement or objected to the introduction of the minor technical amendments. Therefore, no changes have been made to the draft amending regulations as a result of the consultation.

#### **(f) Post Implementation Review**

ITT Providers in Wales will be expected to meet the new statutory requirements in respect of their discharged duties and ensure that their trainees carry out their practical teaching experience wholly or mainly in Wales. ITT providers and their courses are routinely inspected by Estyn and are subject to accreditation by the Higher Education Funding Council for Wales (HEFCW). Arrangements are in place for Estyn and HEFCW to take action should an adverse report be made and a provider was found to be not acting in compliance with Welsh Assembly Government requirements. Therefore, it is not considered necessary, or appropriate, to introduce further monitoring arrangements.

#### **(g) Summary**

We do not anticipate any significant cost implications for ITT Providers or schools in Wales by making these regulations. We understand that very few ITT providers in Wales place ITT trainees in school placements in England entirely for the length of their practical teaching experience. ITT trainees will benefit the most as there will no longer be any possibility of them not having the opportunity of gaining sufficient breadth of teaching experience at the wide range of schools in Wales to meet those QTS standards which have a Wales specific dimension.