

**EXPLANATORY MEMORANDUM TO  
THE FURTHER EDUCATION TEACHERS' QUALIFICATIONS  
(ENGLAND) REGULATIONS 2007**

**2007 No 2264**

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

**2. Description**

2.1 These Regulations come into force on 1 September 2007. They are one of three separate but related sets of Regulations designed to deliver the Government's commitment to professionalising the FE workforce. The other two sets of Regulations are:

- (a) The Further Education (Teachers' Continuing Professional Development and Registration) (England) Regulations 2007; and
- (b) The Further Education (Principals' Qualifications) (England) Regulations 2007, both of which are scheduled to come into force at the same time as these Regulations.

2.2 These Regulations require all new teachers appointed from 1st September 2007 to-

hold or acquire within a specified period of time-

- (a) a 'Preparing to Teach in the Lifelong Learning Sector' (PTLLS) award (or its equivalent), which is a minimum threshold licence to teach for all who have an element of teaching in their role, irrespective of job title; and
- (b) a Diploma in Teaching in the Lifelong Learning Sector at minimum Level 5 (or its equivalent) leading to Qualified Teacher Learning and Skills (QTLS) status for those in a full teaching role; or
- (c) a Certificate in Teaching in the Lifelong Learning Sector at Level 3 or 4 (or its equivalent), leading to Associate Teacher Learning and Skills (ATLS) status for those in an associate teaching role, (i.e. a role that carries significantly less than the full range of teaching responsibilities carried out in a full teaching role); and

to complete a period of professional formation, (the post-qualification process by which a teacher demonstrates through professional practice that they meet the standards, and can use effectively the skills and knowledge acquired in teacher training).

2.2 Details of recognition schemes and equivalence for legacy qualifications, QTS

qualifications and qualifications from other UK nations and EU countries will be available via the Institute for Learning (IfL) and Standards Verification UK Ltd (SVUK), with qualifications added to a tariff database in phases.

2.3 These Regulations do not apply to teachers employed in FE Institutions before 1 September 2001, whether or not they have qualifications.

2.4 Nor do they apply to teachers employed in FE Institutions on or after 1 September 2001 and before 1 September 2007 who qualified under the 2001 Regulations.

2.5 Those teachers employed in FE Institutions on or after 1 September 2001 and before 1 September 2007 who have not qualified under the 2001 Regulations, but are enrolled on a course by 31 August 2007 with a view to qualifying under those Regulations can still qualify under those Regulations, provided they do so before 1 September 2008.

2.6 Those teachers employed in FE Institutions on or after 1 September 2001 and before 1 September 2007 who are not qualified under the 2001 Regulations and who do not qualify under those Regulations by 31 August 2008 must qualify under the new Regulations if they are employed in a full teaching role.

2.7 The new Regulations also require all teachers employed on or after 1 September 2007 to hold appropriate professional status. Those employed in a full teaching role must hold qualified teacher learning and skills (“QTLS”) status and those employed in an associate teaching role must hold associate teacher learning and skills status (“ATLS”) status. (The term “hold” includes maintain.) They also require those who begin teaching in the FE sector after 1 September 2007 and who already have qualified teacher status (“QTS”) to acquire QTLS or ATLS status but do not require such teachers to obtain further qualifications. Sixth form college teachers are excepted from this requirement and need only gain either QTS or QTLS status.

2.8 These Regulations revoke the Further Education Teachers’ Qualifications (England) Regulations 2001 (S.I. 2001/1209) (“the 2001 Regulations”), except for those teachers employed on after 1 September 2001 and before 1 September 2007 who are enrolled on a course with a view to qualifying under those Regulations by 31 August 2008.

2.9 The term ‘teacher’, which is defined in the Regulations themselves, relates to what people are employed to do, not what they are called and includes those who teach for only part of the time either because they are only employed on a part-time basis or because, although they are employed on a full-time basis, they are not required to teach full-time.

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

3.1 None.

#### **4. Legislative Background**

4.1 Section 136(a) and (c) of the 2002 Act enables the Secretary of State to make regulations which prohibit people from teaching in FE Institutions unless they have specific qualifications and which impose specific conditions which must be complied with by or in respect of such teachers. Section 145 of the 2002 Act also enables the Secretary of State to make regulations which confer a discretion on himself or another specified person to approve or accredit such qualifications. These Regulations are made under these sections.

#### **5. Territorial Extent and Application**

5.1 These Regulations apply to England only.

#### **6. European Convention on Human Rights**

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

#### **7. Policy Background**

##### Policy

7.1 These Regulations are being made in order to give effect to the Government's commitment to reforming initial teacher training for FE teachers. This commitment was announced in Equipping our Teachers for the Future (November 2004) and in the subsequent White Paper, Further Education: Raising Skills, Improving Life Chances (March 2006). It is one of a number of steps being implemented to reform and professionalise the FE workforce.

7.2 Following the publication of Ofsted's report, the initial training of further education teachers (2003), the then Department for Education and Skills consultation under Equipping our Teachers (2004) secured broad acceptance of the thrust of these reforms to improve the quality of initial teacher training. The results of the consultation strongly supported the Department's proposals for replacing the 2001 Regulations, which made provision for Initial Teacher Training for FE teachers. The key reforms are around the introduction of a) new teaching qualifications based on new professional standards, b) new professional statuses (ATLS and QTLS), with professional formation as one of the requirements for gaining this, c) a shift towards the teaching role and responsibilities being the key factor in determining which level of qualification is required, (as opposed to it being part-time or full-time status).

##### Consultation

7.3 An initial consultation on the proposed reforms was conducted between 11 April and 4 July 2006. Responses indicated support for the reforms around extending the window for gaining QTLS to 5 years to accommodate part-time teachers and introducing an initial 'preparing to teach' award, whilst highlighting issues:

- (a) relating to the wording of the Regulations: i.e. the need for clarity on the processes around the introduction of a probationary period under section

136(b) EA 02 with questions around how it would operate and be resourced in practice;

- (b) relating to the implementation of the Regulations: i) the need for clear communication with the sector on the introduction of the Regulations and the detail underpinning these; ii) clarification of funding issues around whether the individual or employer should pay.

7.4 A further period of targeted consultation was undertaken with the draft regulations between 18 May and 15 June 2007 with key stakeholders. A number of requests were made by respondents for clarity on the application of the Regulations for existing teachers, the timescales for implementation of the Regulations and the definitions of the 'full' and 'associate' teaching roles. There was overall agreement that the maximum time allowed to gain the PTTLS initial award should be reduced from the proposed 2 years to 1. There was broad support for the introduction of 'professional formation' as a requirement for gaining professional status. This was instead of introducing a probationary period under section 136(b) EA 02, because there was not support for introducing a fixed period of time in the regulations for a probationary period, and whereas section 136(b) EA 02 would have required this, the alternative option of professional formation option afforded more flexibility. There was also wide agreement for the introduction of a requirement for holders of QTS moving into the FE sector to complete a training module designed to familiarise them with the role of a teacher in an FE Institution as a requirement for gaining QTLS. The draft regulations were subsequently revised in the light of these responses.

## Guidance

7.5 The Department will publish brief overarching guidance to accompany these Regulations which will sign-post users towards the more detailed guidance available from key partner organisations, including Lifelong Learning UK (LLUK) and the Institute for Learning (IfL).

7.6 In advance of the introduction of the Regulations, the Department wrote to FE Institutions in June setting out in detail the essential preparation required prior to these Regulations coming into force. The communication explained the effect of the new Regulations, put them in context with the wider reform of the FE workforce, and gave a number of links to key sectoral partners to whom FE Institutions and the workforce could apply for advice and guidance to ensure compliance.

## **8. Impact**

8.1 A Regulatory Impact Assessment has been prepared and is attached to this Explanatory Memorandum.

8.2 The impact on the public sector carries no additional financial burden, since staff development funding exists within current and future LSC funding to providers as part of standard contract arrangements. Existing Departmental budgets will cover the additional costs of providing grant assistance to all LSC-funded providers in 07-08 to support improvement and good practice in key areas of support for teacher trainees, previously identified by Ofsted as areas of weakness, including mentoring, assessment and teaching observation.

## **9. Contact**

9.1 Any enquiries about the contents of this memorandum should be addressed to: Korin Wilshaw, Improvement Group, Department for Innovation, Universities and Skills, email: [korin.wilshaw@dfes.gsi.gov.uk](mailto:korin.wilshaw@dfes.gsi.gov.uk), telephone: 020 7273 4814

# REGULATORY IMPACT ASSESSMENT FOR INITIAL TEACHER TRAINING REFORMS

## 1. TITLE OF PROPOSAL

1.1 The Further Education Teachers' Qualifications (England) Regulations 2007.

## 2. PURPOSE AND INTENDED EFFECT

### Objective

2.1 To underpin the reform programme set out in '*Equipping our Teachers for the Future: Reforming Initial Teacher Training for the Learning and Skills Sector*' (November 2004) and reaffirmed in the FE Reform White Paper '*Raising Skills; Improving Life Chances*' (March 2006) to meet the Government's target of a fully-qualified further education (FE) workforce by 2010.

### Background

2.2 In September 2001, the *Further Education Teachers' Qualifications (England) Regulations* (S.I. 1209/2001) introduced a requirement that all new FE college teachers to hold, or be working towards, prescribed teaching qualifications. However, these regulations were not retrospective: existing teachers were exempt from the requirement to hold a teaching qualification.

2.3 Following criticism of FE teacher training provision by Ofsted in 2003, a DfES consultation document outlined a vision for the initial teacher training (ITT) system of the future. In addition to the introduction of new qualifications, (Diploma and Certificate in teaching in the lifelong learning sector), ITT will be strengthened by the introduction of:

- Qualified Teacher Learning and Skills (QTLS) status for those undertaking a full teaching role; and,
- Associate Teacher Learning and Skills (ATLS) status for 'associate' teachers, ie those undertaking less than the full teaching role.

2.4 "*Equipping our Teachers...*" not only sets out the policy aim that all learners will be taught by qualified and skilled teachers but proposes a step-change in the quality of initial teacher training through a range of reforms to fully address the earlier criticisms by Ofsted.

2.5 The regulations set out the requirements to be met by those undertaking a full teaching role, those with less than the full range of teaching responsibilities ('associate teaching role') and those who are embarking upon a teaching career in FE ('Preparing to Teach').

### Rationale for government intervention

2.6 The rationale for Government intervention is to provide levers to ensure the FE sector responds to the weaknesses identified by Ofsted in the 2003 report, through the vision for quality improvement set out in *Equipping our Teachers* (2004) and the FE White Paper (2006). Staff training and development is expected to be catered for within LSC provider funding, however it is not ring-fenced and there is no guarantee that it is being spent effectively to professionalise the sector. Therefore without regulatory intervention we will not realise the necessary improvement in teacher training set out in the vision, with the risk that quality improvement will remain patchy and weaknesses will not be addressed.

2.7 The consequences for not taking these regulatory powers would be to undermine the ITT reform programme, now an integral part of the national strategy for teaching and learning set out in para 4.22 of *'Raising Skills...'*. The result would lead to insufficient skills in the FE workforce to deliver real quality improvements to learners, which could lead to failure to meet the 80% success target, thus jeopardising the ability of colleges and providers to meet the business demands of employers and the economic challenges now facing the nation.

2.8 It is therefore necessary to take sufficient powers to ensure that teachers are professionally trained and as well-equipped as possible at the start of their teaching careers. The proposals in *Equipping our Teachers* not only envisaged amendments to current regulations for the qualifications to comply with the reforms but also to utilise powers under the Education Act 2002 to:

Ensure that all newly appointed teachers will be qualified or working towards the prescribed and reformed teaching qualification;

Control the content of provision of teacher training courses by FE colleges and HE institutions to ensure a minimum standard is applied; and

Specify conditions to be complied with by college teachers, such as serving a probationary period linked to formal induction arrangements within the ITT reform programme.

2.9 The proposed regulations, which apply only to FE colleges, are not retrospective although all teachers employed between September 2001 and September 2007 are already required to be qualified under 2001 regulations; those employed prior to September 2001 are exempt. For those exempt from these regulations, eg teachers in the non-college environment, the qualification requirement will form part of the LSC's contract and funding conditions.

### **3. CONSULTATION**

#### **Within government**

3.1 This policy has been developed by Workforce Development Division,

consulting with other relevant DIUS teams in the Skills Group and Legal Advisor's Office, and other Government Departments including the Schools Directorate at DCSF and the MOD. We also consulted with partner agencies, including LLUK, SVUK, IfL, Ofsted, LSC and QIA, and developed steering groups of officials, key stakeholders and interest groups, including unions and representative bodies for FE providers, that collectively represented the whole sector, to guide the development of this policy. The reforms outlined in *Equipping our Teachers* were also consulted on within Government in 2004.

## **Public Consultation**

3.2 A formal 12 week consultation was launched on this proposal, which ran from 11 April to 4 July 2006, after publication of the 2006 FE Reform White Paper. This included an online consultation, supplemented by events for governors and regional workshops. There was a public consultation on the reforms set out in *Equipping our Teachers*.

3.3 The draft regulations were the subject of a 4 week consultation (18 May to 15 June) of selected key stakeholders, representative of the learning and skills sector. The foreshortened period set for the consultation was necessary to ensure that the ministerial sign-off and Parliamentary passage of the regulations could be completed by 1 September, the date to which the Government is publicly committed to their introduction.

## **4. OPTIONS**

### Option one

4.1 Do nothing. The risk of doing nothing is that inconsistency in teaching across the sector remains and weaknesses identified by Ofsted would not be addressed. There will be insufficient impetus for sector improvement in quality and standards of teaching and targets for a fully qualified and professional sector would not be met. There would be no regulatory leverage to require providers to use existing staff development funding within LSC contracts to support training and development that is based on the new standards, qualifications and professional statuses. The existing regulations would be out of date requiring qualifications that will no longer be available and failing to accommodate new qualification and status requirements.

### Option two

4.2 Adopt a voluntary approach. This would not lead to consistency across the sector and weaknesses identified by Ofsted would remain. Current variable practice will continue. How the new qualifications and QTLS are regarded in the sector would be determined by who chooses to participate, and on providers' decisions on who to employ. This would undermine confidence in the quality of post-16 teaching and could affect adversely efforts to meet publicly-stated targets within the Government's skills agenda and any future policy development in light of the recommendations of the Leitch review. As with option one, it would not provide sufficient incentive for money in the system for staff training to be used effectively in accordance with the new professional standards.



### Option three

4.3 Introduce regulations to underpin the reforms, further emphasised in the required improvements in the training and development of teachers set out in the FE Reform White Paper. Policy analysis indicated no viable alternative means of delivering this policy objective. Regulations will ensure consistency and compliance, and drive forward teachers' qualification reform to meet the target for a fully qualified workforce by 2010. Earlier consultation (see under 3.2) showed a favourable response to the proposed reforms with no strong objection to using the regulatory route to achieve them. Clear expectations are set including standards for the training and development of staff. Ofsted will also monitor improvements in the future.

## **5. COSTS AND BENEFITS**

### **5.1 Sectors and groups affected**

**Option 1:** Under primary legislation (Education Act 2002) only FE institutions have a statutory requirement to comply with the 2001 regulations. If we did nothing, these providers would continue to be covered under these existing regulations.

**Option 2:** If this was opt-in as opposed to statutory, it could apply theoretically to whichever types of FE providers were specified, potentially the wider FE sector as well as FE institutions, as there would be no primary legislation restrictions, although it would only apply on a voluntary basis.

**Option 3:** As with Option 1, only FE institutions would have a statutory requirement to comply with the regulations owing to the terms of the primary legislation, (Education Act 2002). Within these institutions, the following teachers would be required to comply with the regulations:

All newly-appointed staff by FE colleges who perform a teaching role;

All existing staff appointed after September 2001 who are not qualified under the 2001 regulations, (except those who are enrolled on a course by 31 August leading to the old qualifications and due to qualify before September 2008).

All existing staff appointed after September 2001 who are working towards an appropriate qualification and who are not due to complete this by September 2008;

All who provide Initial Teacher Training courses, i.e. institutions in both the Further and Higher Education sectors.

Existing qualified staff, teachers who joined the sector before the 2001 regulations were introduced and sixth form college teachers would be exempt from further qualification requirements under the regulations.

### **5.2 Benefits**

**Option 1:** There would be no benefits to quality improvement, since it would not be possible to ensure take-up of new qualifications and implementation of

new standards. In order to make the old regulations enforceable, it would be necessary to continue to offer the old qualifications instead of being able to phase these out. All benefits from the reform of standards and qualifications would be lost due to failure of implementation.

**Option 2:** There would be only limited and negative benefits since there would be no legal leverage on resistant staff or employers to make use of existing staff development budgets and gain appropriate qualifications and professional status. There would be no requirement for consistency across the sector and it would represent a weakening of statutory requirement at a time when the sector has supported the idea of maintaining regulations, subject to their reform to align them to new professional qualification routes.

**Option 3:** This will ensure the creation of a fully qualified, professional, skilled and self-confident workforce. Regulations will also ensure minimum standards and consistency of quality of providers of teacher training across the sector. This will improve standards of provision and raise esteem for the quality of education in the FE system. Improved quality of teaching and learning will contribute to achievement of Government targets on skills. In particular, it is crucial to ensuring we meet the Leitch ambition and target for 80% learner achievement as well as the FE sector's contribution to the 14-19 agenda.

### 5.3 Costs

**Options 1 and 2:** Although not ringfenced, finances for staff training and development are already provided in LSC funding so no additional costs to staff training budgets would be incurred, whichever option was taken. However it is assumed that for Options 1 and 2 the loss of opportunity to improve the quality of teaching through mandatory take-up of the new professional standards and associated qualifications would impact on the overall costs to the sector. This would be because the effectiveness of teaching and learning would not improve sufficiently, which would impact on learner achievement rates. Therefore the cost of meeting targets relating to this, including the 80% success target, would therefore be higher.

Under Option 2, part of the £30 million fund, (intended for the development of providers' ITT support infrastructures as opposed to ITT course fees), would be available to those providers who opted into taking forward the reforms. The amount would be determined by the level of voluntary compliance.

There would be a negative cost implication from Options 1 and 2 through loss of employer confidence, if the sector did not improve quality, which would lead to a poorer reputation of FE provision and less business for providers in a demand-led system.

**Option 3:** No additional costs to those already agreed within the last Spending Review for approved expenditure to accompany the ITT Reforms which is a 3 year programme agreed for 2005-06 to 2007-08. Up to £30m has been set aside in Improvement Group budgets which will go to LSC to distribute to help the development of providers' ITT support infrastructures (as

opposed to ITT course fees).

## **6. SMALL FIRMS IMPACT TEST**

6.1 A number of supply agencies and employment businesses provide temporary teaching staff to FE colleges (currently turnover in the FE sector is quite high and colleges rely upon agencies to help manage short-term vacancies.) Introducing regulations requiring appropriate qualifications to teach will ensure that where a teacher is covered by the provisions of the regulations, the teacher supplied is appropriately qualified. This should not have any small firms impact as many FE colleges have long-standing contracts with regular suppliers. It is in the interests of such organisations to ensure that they provide temporary teaching staff that meet the requirements of the regulations. Small firms in receipt of LSC-funding will be eligible for a share of the £30m to support changes to infrastructure and support for ITT.

## **7. COMPETITION ASSESSMENT**

7.1 Not applicable.

## **8. ENFORCEMENT, SANCTIONS AND MONITORING**

### Enforcement

8.1 Regulations will span the reform requirements for ITT, ensuring all new teachers acquire the prescribed qualification and that providers of ITT courses meet the minimum standards to enable the new training programmes to commence from September 2007.

8.2 The Department will publish brief overarching guidance to accompany these Regulations which will sign-post users towards the more detailed guidance available from key partner organisations, including Lifelong Learning UK (LLUK) and the Institute for Learning. Guidance will be issued by LLUK to aid transition while the regulations are being embedded into the sector.

8.3 The system of self regulation being introduced will also require colleges to assess the training and development of staff, tackle weaknesses which will undermine the quality of delivery and record progress made in addressing these. Institutions will be required to monitor all teaching staff who hold or are working towards the new teaching qualification.

8.4 The merits of this policy will be evident to Governing bodies and Principals of both colleges and institutions providing teacher training courses. Non-compliance will undermine confidence in the sector and harm the reputation of FE and HE institutions as much as official sanctions. Inspection reports will also take account of this policy and non-compliance could affect this, and thus the success rates of the college provider. Supply agencies and employment businesses will not be able to place unqualified teachers, which will reflect on their ability to offer an effective service.

### Sanctions

8.4 Colleges who do not comply with the regulations will risk loss of funding for staff who are not compliant. Inspection reports will also report where providers fail to meet the LLUK teaching standards.

### Monitoring

8.5 The responsibility for ensuring all teachers are qualified or working towards QTLS will lie with institutions – a form of self-regulation. The Institute for Learning will handle the registration of teachers who are required to enrol with it. The LSC will monitor the staffing/HR element of all college's 3 year development plans to ensure qualification requirements for teachers. 'Policing' of the regulation will be done through existing mechanisms – i.e. action to support the regulations will be incorporated into existing OFSTED inspection procedures to avoid adding a new layer of bureaucracy.

8.5 Ofsted inspection and the Framework for Excellence will measure quality improvement and compliance with regulation. LLUK's replacement for the LSC's SIR data collection and the Institute for Learning's registration database will also provide regular statistics on the profile of the workforce including levels of qualification. Data on the correlation between learner retention and achievement rates and quality of teaching will also be commissioned.

*To be completed after public consultation:*

## **9. IMPLEMENTATION AND DELIVERY PLAN**

[include how we are going to implement the requirement; timescale etc]  
Regulation will come into force from September 2007. Colleges are expected to comply from that date and the requirements will be reflected in the LSC's contracts with these organisations. Implementation has already begun in the form of communications via partner agencies through publications and dissemination events, to enable necessary preparation for the changes. A number of colleges have also been involved in trialling the new qualifications, so are already in the process of implementing the changes in advance of them becoming a requirement.

## **10. POST-IMPLEMENTATION REVIEW**

[include dates for when a review will be conducted after a period of time]  
In September 2008 there will be a review through analysis of IfL records and the LLUK replacement for SIR data when this becomes available. There will be another review in January 2009 when the complete cycle of Ofsted inspections for the first academic year after the regulations apply is completed and reported.

## **11. SUMMARY AND RECOMMENDATION**

Due to the essential nature of these requirements to put in place a step change in the quality of teaching, we recommend the minister accepts Option 3.

**12. DECLARATION AND PUBLICATION**

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed ...Bill Rammell.....

Date .....27 July 2007.....

Minister's name, title, department

**13. CONTACT POINT**

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