EXPLANATORY MEMORANDUM TO

THE FURTHER EDUCATION (PRINCIPALS' QUALIFICATIONS) (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 472

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. Purpose of the instrument

2.1 These Regulations amend the Further Education (Principals' Qualifications) (England) Regulations 2007 (SI 2007/1864) (the "Principals' Qualifications Regulations"), to reflect the merger of the Centre for Excellence in Leadership and the Quality Improvement Agency to create the new incorporated body called the Learning and Skills Improvement Service. These regulations also introduce a flexible qualification period to complete the principals' qualification programme (PQP) (if being followed) and clarify the application of the Principals' Qualifications Regulations to principals with previous experience in a further education institution in Northern Ireland or Scotland.

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

3.1 None.

4. Legislative Context

4.1 Section 137 of the Education Act 2002 introduced the obligation on principals, appointed to their first post, to hold a principals' qualification. The Principals' Qualifications Regulations provide for the details of the obligation and these Regulations are required to amend the Principals' Qualifications Regulations to introduce a three year flexible qualification period for the PQP and clarify their application.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

- ***What is being done and why***

7.1 The aim of the Education Act 2002 was to introduce the legal obligation on principals to hold a relevant qualification first proposed in the Further Education White Paper (2006). The broad policy aims to establish a benchmark standard for persons serving as principals at a further education institution in England.

7.2 These Regulations introduce a time limit by which newly appointed principals of an English further education institution who are studying the PQP must have obtained their qualification. The aim is to ensure principals meet their obligation within a reasonable time with accepted periods of absence taken into consideration e.g. maternity leave. The flexible qualification period is not imposed on other equivalent qualifications because of the lack of a uniform period of study for such qualifications which may make the time limit unreasonable or unworkable. The average length for completion of the PQP is 15-18 months.

7.3 These Regulations allows principals with experience at a further education institution in Northern Ireland or Scotland to have their level of experience recognised in the same way as a counterpart at a further education institution in England or Wales. The Principals' Qualifications Regulations currently do not apply to a person who has previously been appointed as the principal at another further education institution in England or Wales. These Regulations amend the Principals' Qualifications Regulations so a person who has previously served as the principal at a further education institution in Northern Ireland or Scotland, in addition to England and Wales, will not be treated as if the appointment is their first principal's post. The aim is to ensure only those with no experience of serving as a principal are required to hold a qualification. The new provision applies only apply to the appointment of a principal on or after 1 April 2009 when these Regulations commence.

- ***Consolidation***

7.4 There is no intention to consolidate.

8. Consultation outcome

8.1 A consultation was held from 5 June 2008 and ran until 12 September 2008 aimed at stakeholders, representative bodies and individuals across the sector. A majority (60%) were in favour of the extension of the obligation to hold a qualification to existing principals but concerns raised included: necessity, when retirement would replace a significant number with new appointees who would require a qualification; encouraging experienced principals to take early retirement or discourage them from taking a challenging position before retirement. A significant majority (80%) favoured the qualification period with flexibility to consider unforeseen circumstances.

8.2 The level of voluntary take up by principals and natural rotation due to retirement was considered persuasive by the Department and the proposal to extend the obligation to hold a qualification was not developed. The proposal for a flexible qualification period as an exception to the legal obligation has been developed in these Regulations.

9. Guidance

9.1 Existing guidance will be amended accordingly.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Learning Skills and Improvement Service is responsible for the delivery and monitoring of take-up. A review will be held in September 2010 to measure mandatory compliance. Further education governing bodies are expected to ensure compliance with these Regulations.

13. Contact

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