EXPLANATORY MEMORANDUM TO

THE FURTHER EDUCATION TEACHERS' CONTINUING PROFESSIONAL DEVELOPMENT AND REGISTRATION (ENGLAND) (REVOCATION) REGULATIONS 2012

2012 No. 2165

AND

THE FURTHER EDUCATION TEACHERS' QUALIFICATIONS (ENGLAND) (AMENDMENT) REGULATIONS 2012

2012 No. 2166

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

2. Purpose of the instruments

2.1 The Further Education Teachers' Continuing Professional Development and Registration (England) (Revocation) Regulations 2012 revoke the Further Education Teachers' Continuing Professional Development and Registration (England) Regulations 2007 (S.I. 2007/2116).

2.2 The Further Education Teachers' Qualifications (England) (Amendment) Regulations 2012 amend the Further Education Teachers' Qualifications (England) Regulations 2007 (S.I. 2007/2264), to remove the references to the Institute for Learning ("IfL"), and those requirements which are dependent on mandatory registration with IfL.

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

3.1 None

4. Legislative Context

4.1 Section 136 of the Education Act 2002 enables the Secretary of State to make regulations requiring teachers at further education ("FE") institutions to hold specified qualifications or to comply with specified conditions.

5. Territorial Extent and Application

5.1 These instruments apply to England only.

6. European Convention on Human Rights

6.1 As both instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The 2007 Regulations (S.I. 2007/2116 and S.I. 2007/2264), which apply to FE institutions in England, took forward the previous Government's policy for professionalising the FE workforce.

7.2 In broad terms, the 2007 Regulations require new teachers to gain a recognised teaching qualification and achieve either Associate or Qualified Teacher Learning and Skills status (ATLS/QTLS) within five years of taking up their first teaching post. They also require teachers to register with the IfL, undertake at least 30 hours of continuous professional development (CPD) per year, and provide a record of that CPD to the IfL.

7.3 In January 2012, the Government appointed Lord Lingfield to chair an independent review of professionalism in the FE teaching workforce. The review's interim report was published on 27 March 2012 and amongst its recommendations, which the Government accepted in principle, was a recommendation to revoke the 2007 Regulations governing the FE teaching workforce, with effect from September 2012.

8. Consultation outcome

8.1 A consultation exercise entitled 'Consultation on Revocation of the Further Education Workforce Regulations' ran from 11 April to 4 June 2012. The consultation elicited 1,063 responses, 670 (63%) of which were from individuals.

8.2 The simple numerical totals showed:

- 74% of respondents were not in favour of revocation of S.I. 2007/2264
- 79% of respondents agreed that minimum expectations for training and qualifications should be stipulated as a condition of public funding
- 62% of respondents were not in favour of revocation of S.I. 2007/2116.

However, once the responses from the major representative organisations in the sector were considered separately from those of individuals, a more complex picture emerged.

8.3 The Association of Colleges (AoC) agreed that the existing regulations governing teaching qualifications were not fit for purpose and should be revoked, but requested that this should not happen immediately in September 2012 so time could be allowed for a clear alternative approach to be put in place. On balance, AoC were in favour of replacing the existing regulations with new regulations, but indicated that they would work with government and others to develop voluntary codes of practice if the regulatory requirements were lifted. The Association of Employment and Learning Providers (AELP) took the view that revocation of the 2007 Regulations should proceed, with employers given the freedom and responsibility to decide what appropriate qualifications should be held by their staff.

8.4 Both AoC and AELP agreed that the regulations governing IfL registration and the current CPD requirement should also be revoked, on the grounds that they are unworkable and that employers should respond to individual needs and develop their own approaches to managing CPD. The responses of other representative organisations and individuals were more mixed, but Government has also taken into account that more than 40% of teachers in the sector have not complied with the requirement to register with IfL.

8.5 The Government, after careful consideration, has taken the view that the existing requirements for core teaching qualification should remain in place for the time being, pending the development of an alternative approach. A Prospectus for the Development of a Guild for Further Education has been issued and the Learning and Skills Improvement Service (LSIS) has been commissioned to review the framework of teaching qualifications so changes can be introduced from September 2013. The statutory instrument 2007/2264 is therefore retained but amended to remove references to the IfL and the requirements to obtain ATLS and QTLS which are dependent on mandatory IfL registration.

8.6 With regard to the regulations governing the CPD requirement and mandatory registration with the IfL (S.I. 2007/2116), the Government has concluded that these should be revoked in their entirety.

9. Guidance

9.1 Existing guidance will be amended accordingly.

10. Impact

10.1 An Impact Assessment has not been prepared for these instruments as they have no wider impact on business, charities or voluntary bodies. The impact on the public sector is minimal.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The changes effected by both instruments will be subject to an internal review after 12 months to ensure that the process is working satisfactorily.

13. Contact

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