

Status: Point in time view as at 06/08/2015.

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SCHEDULE 1

(introduced by section 2)

QUALIFICATIONS WALES

PART 1

ESTABLISHMENT OF QUALIFICATIONS WALES

Status

- 1 Qualifications Wales is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

Commencement Information

11 Sch. 1 para. 1 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Membership

- 2 Qualifications Wales is to consist of the following members—
- (a) a person appointed under paragraph 10 as the chief executive of Qualifications Wales (“the chief executive”);
 - (b) a person appointed by the Welsh Ministers to chair Qualifications Wales (“the chair”);
 - (c) at least eight and no more than ten other persons appointed by the Welsh Ministers under this paragraph (“ordinary members”).

Commencement Information

12 Sch. 1 para. 2 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

The chair and ordinary members

- 3 (1) The chair and ordinary members hold and vacate office in accordance with the terms and conditions of their appointments.
- (2) Subject to the provisions of this Schedule, those terms and conditions are to be determined by the Welsh Ministers.

Commencement Information

13 Sch. 1 para. 3 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 4 (1) A person is disqualified from being the chair or an ordinary member if the person is—
- (a) a member of an awarding body recognised by Qualifications Wales or a member of its staff;
 - (b) a Member of the National Assembly for Wales;
 - (c) a Member of the House of Commons or the House of Lords.

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- (2) A person ceases to hold office as the chair or as an ordinary member if that person becomes disqualified.

Commencement Information

I4 Sch. 1 para. 4 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 5 (1) The chair is to be appointed for a term of up to three years.
(2) A person may be reappointed as chair once only.

Commencement Information

I5 Sch. 1 para. 5 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 6 (1) Ordinary members are to be appointed for a term of up to three years.
(2) A person who has held office as an ordinary member may be reappointed.
(3) The terms of any reappointment may not permit an ordinary member to hold office for a total period of more than six years (whether or not continuous).
(4) But where a person previously appointed as an ordinary member has not held office as such in an immediately preceding period of three years or more, that person's previous period or periods of office as an ordinary member are to be disregarded for the purposes of sub-paragraph (3).

Commencement Information

I6 Sch. 1 para. 6 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 7 The chair or an ordinary member may resign from office at any time by giving written notice to the Welsh Ministers and to Qualifications Wales.

Commencement Information

I7 Sch. 1 para. 7 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 8 The Welsh Ministers may remove the chair or an ordinary member from office if they are satisfied that the person is unable or unfit to carry out the functions of office, or is otherwise failing to do so.

Commencement Information

I8 Sch. 1 para. 8 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 9 Qualifications Wales may, with the Welsh Ministers' approval, pay or make provision for the payment of remuneration, allowances and pension to, or in respect of, a person who is or has been the chair or an ordinary member.

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Commencement Information

I9 Sch. 1 para. 9 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

The chief executive and other staff

- 10 (1) The first person appointed as chief executive is to be appointed by the Welsh Ministers—
- (a) on such terms and conditions (including conditions as to remuneration, allowances and pension) as the Welsh Ministers determine, and
 - (b) for a term of up to three years.
- (2) Subsequent appointments (or reappointments) of a person as chief executive are to be made by Qualifications Wales.

Commencement Information

I10 Sch. 1 para. 10 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 11 A person may not be appointed as chief executive if the person is—
- (a) a member of an awarding body recognised by Qualifications Wales or a member of its staff;
 - (b) a Member of the National Assembly for Wales;
 - (c) a Member of the House of Commons or the House of Lords.

Commencement Information

I11 Sch. 1 para. 11 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 12 The previous appointment of a person as chief executive does not affect the person's eligibility for reappointment.

Commencement Information

I12 Sch. 1 para. 12 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 13 The chief executive is a member of Qualifications Wales' staff.

Commencement Information

I13 Sch. 1 para. 13 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 14 Qualifications Wales may appoint other members of staff.

Commencement Information

I14 Sch. 1 para. 14 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

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- 15 Except in relation to the first person appointed as chief executive under paragraph 10(1), the following are to be determined by Qualifications Wales, with the approval of the Welsh Ministers—
- (a) the terms and conditions of its staff (including remuneration and allowances);
 - (b) the payment or provision for the payment of pension to or in respect of a member of its staff or a former member of staff.

Commencement Information

I15 Sch. 1 para. 15 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 16 Service as a member of Qualifications Wales' staff is not service in the civil service of the State.

Commencement Information

I16 Sch. 1 para. 16 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Committees

- 17 (1) Qualifications Wales may establish committees.
- (2) A committee established under this paragraph may—
- (a) establish sub-committees;
 - (b) dissolve sub-committees established by it.
- (3) Qualifications Wales may also dissolve sub-committees established under this paragraph.
- (4) Qualifications Wales may pay remuneration and allowances to any person who—
- (a) is a member of a committee or a sub-committee established under this paragraph, but
 - (b) is not a member of Qualifications Wales or a member of its staff.

Commencement Information

I17 Sch. 1 para. 17 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 18 (1) Qualifications Wales may, in connection with the exercise of its functions, establish a committee jointly with any person.
- (2) In this Schedule a committee established under this paragraph is referred to as a “joint committee”.
- (3) A joint committee may establish sub-committees (“joint sub-committee”).
- (4) Qualifications Wales may pay remuneration and allowances to any person who—
- (a) is a member of a joint committee or a joint sub-committee, but
 - (b) is not a member of Qualifications Wales or a member of its staff.

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Commencement Information

I18 Sch. 1 para. 18 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Delegation

- 19 (1) Qualifications Wales may delegate any of its functions to—
- (a) a member of Qualifications Wales or a member of its staff;
 - (b) a committee established by Qualifications Wales under paragraph 17;
 - (c) a joint committee.
- (2) A function is delegated under this paragraph to the extent and on the terms that Qualifications Wales determines.

Commencement Information

I19 Sch. 1 para. 19 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 20 (1) A committee established by Qualifications Wales under paragraph 17 may delegate any of its functions to a sub-committee established by it.
- (2) A function is delegated under this paragraph to the extent and on the terms that the committee determines, but this is subject to any direction given by Qualifications Wales as to what a committee established by it may or may not do.

Commencement Information

I20 Sch. 1 para. 20 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 21 (1) A joint committee may delegate any of its functions to a sub-committee established by it.
- (2) A function is delegated under this paragraph to the extent and on the terms that the joint committee determines, but this is subject to any direction given by Qualifications Wales and the person with whom it established the joint committee as to what the joint committee may or may not do.

Commencement Information

I21 Sch. 1 para. 21 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Procedure

- 22 Qualifications Wales may regulate—
- (a) its own proceedings (including quorum), and
 - (b) the procedure (including quorum) of its committees (except joint committees).

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Commencement Information

I22 Sch. 1 para. 22 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 23 A committee established by Qualifications Wales under paragraph 17 may regulate the procedure (including quorum) of any sub-committee established by it.

Commencement Information

I23 Sch. 1 para. 23 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 24 A joint committee may regulate—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any sub-committee established by it.

Commencement Information

I24 Sch. 1 para. 24 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 25 The validity of proceedings of Qualifications Wales, of a committee or sub-committee established under paragraph 17, or of a joint committee or a joint sub-committee, is not affected by—
- (a) a vacancy;
 - (b) a defective appointment.

Commencement Information

I25 Sch. 1 para. 25 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Register of interests

- 26 (1) Qualifications Wales must establish and maintain a system for the declaration and registration of its members' interests.
- (2) Qualifications Wales must publish entries recorded in the register of members' interests.

Commencement Information

I26 Sch. 1 para. 26 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Supplementary powers

- 27 (1) Qualifications Wales may do anything that it considers necessary or appropriate for the purposes of, or in connection with, its functions.
- (2) But Qualifications Wales may not, without the approval of the Welsh Ministers—
- (a) acquire or dispose of land or any other property, for consideration of an amount in excess of the expenditure threshold;

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- (b) borrow or lend money.
- (3) The expenditure threshold is whatever amount (if any) is specified in a notice given by the Welsh Ministers to Qualifications Wales for the purposes of this paragraph.
- (4) A notice under paragraph (3)—
 - (a) may specify different thresholds for different kinds of land or other property, and
 - (b) may be varied or revoked by the Welsh Ministers.

Commencement Information

I27 Sch. 1 para. 27 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Annual and other reports

- 28 (1) As soon as reasonably practicable after the end of each reporting period Qualifications Wales must prepare a report (“the annual report”) giving details of—
- (a) how Qualifications Wales has exercised its functions during the period (including by reference to its principal aims);
 - (b) Qualifications Wales' proposed activities and priorities for the next reporting period.
- (2) The information that is to be included under sub-paragraph (1)(a) includes (among other things)—
- (a) details of the conclusions of any assessment carried out by Qualifications Wales, during the reporting period, of the impact of the exercise of its functions on—
 - (i) the Welsh qualification system;
 - (ii) learners, employers and higher education institutions;
 - (b) details of how Qualifications Wales has involved stakeholders in the exercise of its functions during the reporting period;
 - (c) details of any conclusions reached, during the reporting period, as a result of any research carried out by or on behalf of Qualifications Wales under section 46(3).
- (3) In sub-paragraph (2)(b) “stakeholders” means those persons whom Qualifications Wales considers have an interest in the exercise of its functions.
- (4) The annual report may include any other information Qualifications Wales thinks fit.
- (5) In this paragraph “reporting period” means—
- (a) the period beginning with the day on which section 2(1) comes into force and ending with 31 August 2016; and
 - (b) subsequently, each successive period of 12 months.

Commencement Information

I28 Sch. 1 para. 28 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 29 Qualifications Wales must—

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- (a) lay a copy of the annual report before the National Assembly for Wales;
- (b) publish the annual report.

Commencement Information

I29 Sch. 1 para. 29 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 30 Qualifications Wales may if it thinks fit prepare and publish other reports on matters relating to its functions.

Commencement Information

I30 Sch. 1 para. 30 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Finance

- 31 (1) The Welsh Ministers may make grants to Qualifications Wales of such amounts and subject to such terms and conditions (including as to repayment) as they may determine.
- (2) The Welsh Ministers must publish any terms and conditions to which grants made under sub-paragraph (1) are subject.

Commencement Information

I31 Sch. 1 para. 31 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Accounts and audit

- 32 (1) Qualifications Wales must keep proper accounts and proper records in relation to the accounts.
- (2) Qualifications Wales must prepare a statement of accounts in respect of each financial year in accordance with directions given by the Welsh Ministers.
- (3) The directions may make provision as to—
- (a) the information to be contained in the statement;
 - (b) the manner in which the information is to be presented;
 - (c) the methods and principles according to which the statement is to be prepared;
 - (d) any additional information that is to accompany the statement.
- (4) The Welsh Ministers may vary or revoke a direction they have given under this paragraph.

Commencement Information

I32 Sch. 1 para. 32 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 33 (1) No later than 31 August after the end of each financial year Qualifications Wales must submit its statement of accounts to the Auditor General for Wales.

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- (2) The Auditor General must—
- (a) examine, certify and report on the statement of accounts, and
 - (b) no later than 4 months after the statement was submitted, lay before the National Assembly for Wales a copy of the certified statement and report.

Commencement Information

I33 Sch. 1 para. 33 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

- 34 In paragraphs 32 and 33 “financial year” means—
- (a) the period beginning on the day on which section 2(1) comes into force and ending on the following 31 March;
 - (b) subsequently, each successive period of 12 months.

Commencement Information

I34 Sch. 1 para. 34 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

Examination of use of resources

- 35 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging Qualifications Wales' functions.
- (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of Qualifications Wales.

Commencement Information

I35 Sch. 1 para. 35 in force at 6.8.2015 by S.I. 2015/1591, art. 2(c)

PART 2

CONSEQUENTIAL AMENDMENTS

VALID FROM 21/09/2015

Care Standards Act 2000 (c.14)

- 36 In Schedule 2A to the Care Standards Act 2000 (persons subject to review by the commissioner under section 72B), after paragraph 10, insert—
- “10A Qualifications Wales.”

Freedom of Information Act 2000 (c.36)

- 37 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert— “Qualifications Wales.”

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Commencement Information

I36 Sch. 1 para. 37 in force at 6.8.2015 by S.I. 2015/1591, art. 2(d)

VALID FROM 21/09/2015

Public Services Ombudsman (Wales) Act 2005 (c.10)

38 In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (investigation of complaints etc: listed authorities), under the sub-heading “Education and training”, at the end insert— “Qualifications Wales.”

VALID FROM 21/09/2015

Commissioner for Older People (Wales) Act 2006 (c.30)

39 In Schedule 2 to the Commissioner for Older People (Wales) Act 2006 (persons whose functions are subject to review under section 3), under the sub-heading “Education and training”—

- (a) omit the entry “The Qualifications, Curriculum and Assessment Authority for Wales”, and
- (b) at the end insert—
 “Qualifications Wales.”

VALID FROM 21/09/2015

Equality Act 2010 (c.15)

40 In Part 2 of Schedule 19 to the Equality Act 2010 (public authorities subject to public sector equality duty: relevant Welsh authorities), under the sub-heading “Other educational bodies”, at the end insert— “Qualifications Wales.”

SCHEDULE 2

(introduced by section 2)

TRANSFERS OF PROPERTY AND STAFF TO QUALIFICATIONS WALES

- 1 (1) The Welsh Ministers may make one or more schemes providing for—
- (a) staff of the Welsh Assembly Government to become members of staff of Qualifications Wales, and
 - (b) the transfer of property, rights and liabilities of the Welsh Ministers to Qualifications Wales.
- (2) The things that may be transferred under a scheme under this Schedule (a “transfer scheme”) include—

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- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- (3) A transfer scheme may make consequential, supplementary, incidental, transitional or transitory provision, for example so as to—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done in respect of anything transferred;
 - (d) make provision for the shared ownership or use of property;
 - (e) make provision for references to the Welsh Assembly Government or the Welsh Ministers in an instrument or other document in respect of anything transferred to be treated as references to Qualifications Wales;
 - (f) make provision which is the same as or similar to a provision made by the TUPE regulations in a case where those regulations do not apply in relation to the transfer.
- 2 A transfer scheme may provide—
 - (a) for modification by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- 3 For the purposes of this Schedule—
 - (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual's employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- 4 In this Schedule—
 - “civil service” (“*gwasanaeth sifil*”) means the civil service of the State;
 - “TUPE regulations” (“*rheoliadau TUPE*”) means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);
 - references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - references to the transfer of property include the grant of a lease.
- 5 The Welsh Ministers must lay a copy of a transfer scheme made under this Schedule before the National Assembly for Wales.

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VALID FROM 21/09/2015

SCHEDULE 3

(introduced by section 11)

FURTHER PROVISION ABOUT RECOGNITION OF AWARDING BODIES

Duration of recognition

- 1 (1) The recognition of an awarding body has effect from whatever date is specified by Qualifications Wales on recognising the body.
- (2) It ceases to have effect on whichever is the earliest of—
- (a) its surrender under paragraph 17;
 - (b) its withdrawal under paragraph 19;
 - (c) the awarding body (in the case of a body recognised under section 9) ceasing to be recognised under section 8.

Standard conditions of recognition

- 2 (1) Qualifications Wales must prepare and publish conditions (the “standard conditions”) to which (subject to sub-paragraphs (3) and (4)) each recognition of an awarding body is to be subject.
- (2) The standard conditions may, among other things, make provision about compliance with directions given to a recognised body by Qualifications Wales under this paragraph.
- (3) Different standard conditions may be set for different purposes, including among other things by reference to—
- (a) different descriptions of awarding bodies;
 - (b) different qualifications or descriptions of qualification (including by reference to whether or not a qualification is an approved qualification or a qualification designated under section 29);
 - (c) different circumstances in which a qualification is awarded;
 - (d) different descriptions of person to whom a qualification is awarded.
- (4) Qualifications Wales may determine that, in a particular case, recognition of an awarding body is not to be subject to a standard condition specified in the determination which would otherwise apply.
- (5) A determination within sub-paragraph (4) may be made either at the time of granting the recognition concerned, or subsequently, and may be revoked by Qualifications Wales.
- (6) The standard conditions may not include—
- (a) fee capping conditions (for which see paragraphs 6 to 11);
 - (b) transfer conditions (for which see paragraphs 12 to 16).
- 3 (1) Qualifications Wales may revise the standard conditions; and if it does so, each recognition (whether granted before or after the revisions come into effect) is to be subject to the conditions as revised.

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- (2) Sub-paragraph (1) is subject to paragraph 2(3) and (4).
- (3) If Qualifications Wales revises the standard conditions, it must—
 - (a) publish the conditions as revised,
 - (b) notify each recognised body of the revisions, and of when they are to come into effect.
- (4) Qualifications Wales may provide that a revision to the conditions is to come into effect on different dates in relation to different bodies, or in relation to different descriptions of body.
- (5) A revision is not to be treated as coming into effect in relation to a body before the body has been notified of it.

Special conditions to which recognition may be subject

- 4 (1) The recognition of a body may, in addition, be made subject to any other conditions (“special conditions”) specified by Qualifications Wales, either at the time of recognising the body or subsequently.
- (2) The special conditions may include—
 - (a) fee capping conditions;
 - (b) transfer conditions;
 - (c) conditions making provision about compliance with directions given under this paragraph by Qualifications Wales.
- (3) Special conditions may make different provision for different purposes, including among other things by reference to—
 - (a) different qualifications or descriptions of qualification (including by reference to whether or not a qualification is an approved qualification or a qualification designated under section 29);
 - (b) different circumstances in which a qualification is awarded;
 - (c) different descriptions of person to whom a qualification is awarded.

- 5 (1) Qualifications Wales may revise or revoke a special condition.
- (2) If Qualifications Wales revises or revokes a special condition, it must—
 - (a) notify the body concerned of the revision or revocation, and
 - (b) specify when the revision or revocation is to come into effect.
- (3) The date specified under sub-paragraph (2)(b) must not precede the date of notification under sub-paragraph (2)(a).
- (4) This paragraph is subject to paragraph 11 (revision of a fee capping condition).

Fee capping conditions

- 6 (1) A fee capping condition is a special condition limiting the amount charged by a recognised body in connection with—
 - (a) the award by the body to a person of an approved qualification,
 - (b) the award by the body to a person of a form of a qualification that is designated under section 29, or

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(c) the provision by the body of any other service or facility in respect of the award by the body to a person of an approved qualification or of a form of qualification designated under section 29, as the case may be, where the course of education or training leading to the qualification, and undertaken by the person concerned, is publicly funded.

(2) A course of education or training is publicly funded, for the purposes of this paragraph, if it is—

- (a) funded by the Welsh Ministers or a local authority in Wales, or
- (b) provided by or on behalf of a maintained school in Wales.

(3) In this paragraph, “maintained school” means—

- (a) a community, foundation or voluntary school;
- (b) a community special school.

7 Qualifications Wales may impose a fee capping condition only if satisfied that it is appropriate to do so to secure value for money.

Procedure for imposing fee capping conditions

8 (1) Before imposing a fee capping condition, Qualifications Wales must give the body concerned notice of its intention to do so.

(2) The notice must—

- (a) set out the fee capping condition Qualifications Wales proposes to impose;
- (b) explain why Qualifications Wales proposes to impose the condition;
- (c) specify when Qualifications Wales proposes to decide whether to impose it.

(3) In deciding whether to impose the condition, Qualifications Wales must have regard to any representations made by the recognised body.

9 (1) If Qualifications Wales decides to impose the fee capping condition, it must give notice to the recognised body of the decision.

(2) The notice must—

- (a) inform the body of its right under arrangements made under paragraph 10 to request a review of the decision,
- (b) state the latest date on which any request for review may be made, and
- (c) specify the date on which, in the absence of a request for review, the condition is to take effect.

(3) The date specified under sub-paragraph (2)(c) must be a date after the latest date on which a review may be requested under arrangements made under paragraph 10.

Review of fee capping conditions

10 (1) Qualifications Wales must make arrangements for a decision under paragraph 9 to impose a fee capping condition to be subject to review at the request of the recognised body concerned.

(2) The arrangements must—

- (a) specify the period within which a review may be requested,

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- (b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the fee capping condition concerned,
 - (c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to impose the condition, or to alter the condition concerned, and
 - (d) require Qualifications Wales to notify the body concerned of the outcome of the review.
- (3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.
- (4) A person is independent of Qualifications Wales, for this purpose—
- (a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;
 - (b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.
- (5) If following a review Qualifications Wales confirms its decision to impose a condition, or alters the condition concerned, it must give notice to the body concerned—
- (a) setting out the condition, as confirmed or altered,
 - (b) giving reasons for the confirmation or alteration, and
 - (c) stating the date on which the condition, or the condition as altered, will take effect.

Revision of fee capping conditions

- 11 Paragraphs 8 to 10 apply in respect of a revision of a fee capping condition under paragraph 5 as if the revision constituted the imposition of a fee capping condition.

Transfer conditions

- 12 (1) A transfer condition is a special condition requiring an awarding body, on the occurrence of an event specified in the condition, and on being so directed by Qualifications Wales, to make arrangements specified in the direction for the purpose of securing that a form of a qualification which is or has been awarded by the body may be awarded by another awarding body where—
- (a) the form of qualification has been approved by Qualifications Wales, or
 - (b) the form of qualification has been designated by Qualifications Wales under section 29.
- (2) The arrangements may include, among other things, provision for the transfer of property and rights and for the making of payments.
- (3) Qualifications Wales may give a direction to an awarding body in accordance with a transfer condition only if it is satisfied that it is necessary to do so in order to avoid significant adverse effects on persons who are seeking, or might reasonably be expected to seek, to obtain the form of a qualification to which the direction relates.

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- 13 (1) If Qualifications Wales proposes to give a direction to an awarding body in accordance with a transfer condition, it must give the body concerned notice of the proposal.
- (2) The notice must—
- (a) set out the proposed direction;
 - (b) explain why Qualifications Wales proposes to give the direction;
 - (c) specify when it proposes to decide whether to give the direction.
- (3) In deciding whether to give the direction, Qualifications Wales must have regard to any representations made by the awarding body.
- 14 (1) If Qualifications Wales decides to give the direction, it must give notice to the awarding body of the decision, setting out the direction.
- (2) The notice must—
- (a) inform the body of its right to request a review of the decision,
 - (b) state the latest date on which any request for review may be made, and
 - (c) specify the date by which, in the absence of a request for review, the direction is to come into effect.
- (3) The date specified under sub-paragraph (2)(c) must be a date after the latest date on which a review may be requested under arrangements made under paragraph 16.
- 15 If Qualifications Wales gives a direction to an awarding body in accordance with a transfer condition, it may, if it considers it reasonable and appropriate to do so in the circumstances, pay compensation to the body in respect of loss sustained by the body by reason of compliance with the direction.

Review of decision to give direction

- 16 (1) Qualifications Wales must make arrangements for its decision to give the direction referred to in paragraph 14 to be subject to review at the request of the awarding body concerned.
- (2) The arrangements must—
- (a) specify the period within which a review may be requested,
 - (b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the direction,
 - (c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to give the direction, or to alter the direction, and
 - (d) require Qualifications Wales to notify the body concerned of the outcome of the review.
- (3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.
- (4) A person is independent of Qualifications Wales, for this purpose—
- (a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;
 - (b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.

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- (5) If following a review Qualifications Wales confirms its decision to give a direction, or alters the direction concerned, it must give notice to the body concerned—
- (a) setting out the direction, as confirmed or altered,
 - (b) giving reasons for the confirmation or alteration, and
 - (c) stating the date on which the direction, or the direction as altered, will take effect.

Surrender of recognition

- 17 (1) A recognised body may give notice (a “surrender notice”) to Qualifications Wales that it wishes to cease to be recognised in respect of—
- (a) the award of a specified qualification or description of qualification, or
 - (b) every qualification in respect of which it is recognised.
- (2) A surrender notice must specify the date with the expiry of which the body wishes to cease to be recognised in the respect concerned.
- (3) As soon as reasonably practicable after receipt of a surrender notice, Qualifications Wales must give notice to the recognised body (an “acknowledgement of surrender”) providing that the body is to cease to be recognised in that respect with the expiry of the date specified in the surrender notice or, if Qualifications Wales thinks appropriate, with the expiry of a different date.
- (4) If the acknowledgement of surrender specifies that the body is to cease to be recognised in that respect with the expiry of a different date from that specified in the surrender notice, the acknowledgement of surrender must give reasons for this.
- (5) Recognition in the respect concerned ceases to have effect with the expiry of the date specified in the acknowledgement of surrender.
- (6) In determining whether a body's recognition is to cease to have effect with the expiry of the date specified in the surrender notice, or with the expiry of a different date, Qualifications Wales is to have regard to—
- (a) the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the qualification, or a qualification of the description, specified in the surrender notice, and
 - (b) the body's wish that recognition should cease to have effect with the expiry of the date specified in the surrender notice.

Transitional provision in respect of surrender

- 18 (1) Qualifications Wales may, if it considers it appropriate to do so for the purpose of avoiding prejudice to persons who are seeking or might reasonably be expected to seek to obtain the qualification concerned, or a qualification of the description concerned, make provision in an acknowledgement of surrender under paragraph 17(3) that is within sub-paragraph (2).
- (2) Provision within this sub-paragraph is provision to the effect that, from the expiry of the surrender date until the expiry of the extension date, the body is to be treated for purposes specified by Qualifications Wales in the acknowledgement of surrender as being recognised in respect of the award of the qualification or description of qualification concerned.

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- (3) If Qualifications Wales makes provision within sub-paragraph (2)—
- (a) it must give reasons for this in the acknowledgement of surrender, and
 - (b) the body is to be treated, from the expiry of the surrender date, for the purposes specified in the acknowledgement of surrender, and until the expiry of the extension date, as being recognised in respect of the award of the qualification or description of qualification concerned.

- (4) In this paragraph—

“extension date” (“*dyddiad estyn*”) means a date specified by Qualifications Wales in the acknowledgement of surrender for the purposes of this paragraph;

“surrender date” (“*dyddiad ildio*”) means the date specified by Qualifications Wales in the acknowledgement of surrender as being that from the expiry of which the body is to cease to be recognised.

Withdrawal of recognition

- 19 (1) If a recognised body fails to comply with any condition to which recognition in respect of the award of a qualification or description of qualification is subject, Qualifications Wales may withdraw its recognition of the body in respect of the award of—
- (a) a specified qualification or description of qualification, or
 - (b) every qualification in respect of the award of which the body is recognised.
- (2) If a recognised body that awards an approved qualification fails to comply with any condition to which the approval is subject, Qualifications Wales may withdraw its recognition of the body in respect of the award of—
- (a) a specified qualification or description of qualification, or
 - (b) every qualification in respect of the award of which the body is recognised.

Procedure for withdrawal of recognition

- 20 (1) Before withdrawing recognition from a recognised body under paragraph 19, Qualifications Wales must give the body notice of its intention to do so.
- (2) The notice must—
- (a) explain why Qualifications Wales proposes to withdraw recognition in the respect concerned, and
 - (b) specify when Qualifications Wales proposes to decide whether to withdraw recognition.
- (3) In deciding whether to withdraw recognition as specified in the notice, Qualifications Wales must have regard to any representations made by the recognised body.
- 21 (1) If Qualifications Wales decides to withdraw recognition, it must give notice to the recognised body of the decision.
- (2) The notice must—
- (a) inform the body of its right under arrangements made under paragraph 22 to request a review of the decision,
 - (b) state the date by which any request for review must be made, and

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(c) specify the date with the expiry of which, in the absence of a request for review, the withdrawal is to take effect (the “withdrawal date”).

(3) The withdrawal date must be a date after the last date on which a review may be requested under arrangements made under paragraph 22.

(4) At any time before the withdrawal date, Qualifications Wales may decide not to withdraw the body's recognition; and if it does so, must give the body notice to this effect.

(5) In determining the withdrawal date, Qualifications Wales is to have regard to the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain a qualification, or a qualification of the description, in respect of the award of which recognition is to be withdrawn.

Review of decision to withdraw recognition

22 (1) Qualifications Wales must make arrangements for a decision to withdraw recognition from a body to be subject to review at the request of the body concerned.

(2) The arrangements must—

(a) specify the period within which a review may be requested,

(b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the withdrawal,

(c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to withdraw recognition, and

(d) require Qualifications Wales to notify the body concerned of the outcome of the review.

(3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.

(4) A person is independent of Qualifications Wales, for this purpose—

(a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;

(b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.

(5) If following a review Qualifications Wales confirms its decision to withdraw recognition, it must give notice to the body concerned—

(a) giving reasons for the confirmation, and

(b) stating the date with the expiry of which the withdrawal will take effect.

Transitional provision in respect of withdrawal

23 (1) Notice under paragraph 21 or 22 may include provision within sub-paragraph (2), if Qualifications Wales considers that provision appropriate for the purpose of avoiding prejudice to persons who are seeking or might reasonably be expected to seek to obtain the qualification, or a qualification of the description, in respect of the award of which recognition is to be withdrawn.

(2) Provision within this sub-paragraph is provision to the effect that, from the expiry of the withdrawal date until the expiry of the extension date, the body is to be treated

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for purposes specified by Qualifications Wales in the notice as being recognised in respect of the award of the qualification or description of qualification concerned.

- (3) If Qualifications Wales makes provision in a notice within sub-paragraph (2)—
- (a) it must give reasons for this in the notice, and
 - (b) the body is to be treated from the expiry of the withdrawal date, for the purposes specified in the notice, and until the expiry of the extension date, as being recognised in respect of the award of the qualification or description of qualification concerned.
- (4) Sub-paragraph (5) applies if—
- (a) notice under paragraph 21 contains provision within sub-paragraph (2) (the “original extension provision”), and
 - (b) a review of the decision to withdraw recognition is carried out under paragraph 22.
- (5) The original extension provision has no effect, for the purposes of sub-paragraph (3) (b), unless it is confirmed in notice under paragraph 22 confirming the decision to withdraw recognition.
- (6) In this paragraph—
- “extension date” (“*dyddiad estyn*”) means a date specified by Qualifications Wales in the notice for the purposes of this paragraph;
- “withdrawal date” (“*dyddiad tynnu'n ôl*”) means the date specified by Qualifications Wales in the notice as being that from the expiry of which recognition is to be withdrawn.

VALID FROM 21/09/2015

SCHEDULE 4

(introduced by section 58)

CONSEQUENTIAL AMENDMENTS

Education Act 1996 (c.56)

- 1 (1) The Education Act 1996 is amended as follows.
- (2) In section 408—
- (a) in subsection (1)(a) after “2009” insert “ or the provisions of the Qualifications Wales Act 2015 ”;
 - (b) in subsection (2)(e) omit “or 99”;
 - (c) after subsection (2)(e), insert—
 - “(f) arrangements relating to qualifications within the meaning given in section 56 of the Qualifications Wales Act 2015 which are approved under Part 4 of that Act and to courses of education or training leading to such qualifications.”
- (3) In Schedule 36A, in the table in paragraph 2, in the entry for sections 96, 101 and 102 of the Learning and Skills Act 2000—

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- (a) in the first column, omit “and 102”;
- (b) in the second column, after “qualifications” insert “ (in England) ”.

Education Act 1997 (c.44)

- 2
- (1) The Education Act 1997 is amended as follows.
 - (2) In section 29, after subsection (6) insert—
 - “(7) In this section references to ”school examinations and assessment” do not include examinations taken or assessments carried out for the purpose of the award of a qualification within the meaning of section 56 of the Qualifications Wales Act 2015.”
 - (3) Omit—
 - (a) section 30;
 - (b) section 32(3), (3A) and (4);
 - (c) sections 32ZA to 32C.
 - (4) In section 54 (orders and regulations)—
 - (a) in subsection (2) omit “32AB(2) or”;
 - (b) omit subsection (2A).

Learning and Skills Act 2000 (c.21)

- 3
- (1) The Learning and Skills Act 2000 is amended as follows.
 - (2) In section 96—
 - (a) in subsection (2)—
 - (i) in the opening words, omit “or 99”;
 - (ii) in paragraph (b), after “maintained school” insert “ in England ”;
 - (b) for subsection (5) substitute—
 - “(5) In this section “a relevant qualification” means a qualification to which Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 applies.”;
 - (c) in subsection (9), for “102 “local authority” has the same meaning as“ substitute “101 “local authority” has the same meaning as “local authority in England””.
 - (3) In the cross-heading immediately preceding section 96, at the end insert “ : England ”.
 - (4) In section 98 (the title of which becomes “ Approved qualifications ”), in subsection (1) omit the words from “in its” to the end.
 - (5) Omit section 99.
 - (6) In section 100—
 - (a) in the opening words of subsection (1), omit “in its application to England”;
 - (b) omit subsection (2).
 - (7) In section 101 (the title of which becomes “ Enforcement ”), in subsection (1) omit “in its application to England”.

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(8) Omit section 102.

(9) Omit section 103(4).

Education Act 2002 (c.32)

4 Omit paragraph 7 of Schedule 17 to the Education Act 2002.

National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238)

5 Omit paragraph 72 of Schedule 1 to the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.

Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239)

6 Omit paragraphs 14, 15, 18(c), (d) and (e) and 30 of Schedule 1 to the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.

Government of Wales Act 2006 (c.32)

7 In section 148 of the Government of Wales Act 2006, after subsection (2)(l) insert—
 “(la) Qualifications Wales,”.

Education and Skills Act 2008 (c.25)

8 Omit sections 160(1) and (3) and 162 of the Education and Skills Act 2008.

Apprenticeships, Skills, Children and Learning Act 2009 (c.22)

9 (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

(2) In section 253A(6) in the definition of “relevant qualification”, for “by section 30(5) of the Education Act 1997” substitute “ to “qualification” by section 56 of the Qualifications Wales Act 2015 ”.

(3) Omit paragraphs 45 and 48 of Schedule 6.

(4) Omit paragraphs 15, 16(3), 17 to 19 and 29 of Schedule 12.

Education Act 2011 (c.21)

10 Omit section 24 of the Education Act 2011.

Counter-Terrorism and Security Act 2015 (c.6)

11 (1) The Counter-Terrorism and Security Act 2015 is amended as follows.

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- (2) In section 32, in subsection (1), in the definition of “relevant further education body”, for the words from “Regulation” to the end of paragraph (b) substitute “ , or to qualifications awarded by bodies in respect of the award of which they are recognised by Qualifications Wales under Part 3 of the Qualifications Wales Act 2015; ”.
- (3) In Schedule 6, under the heading “Education, child care etc”, in the last entry (relating to the governing body or proprietor of an institution not otherwise listed), for the words from “Regulation” to the end of paragraph (a) substitute “ , or to qualifications awarded by bodies in respect of the award of which they are recognised by Qualifications Wales under Part 3 of the Qualifications Wales Act 2015; ”.
- (4) In Schedule 7, under the heading “Education, child care etc”, in the last entry (relating to the governing body or proprietor of an institution not otherwise listed), for the words from “Regulation” to the end of paragraph (a) substitute “ , or to qualifications awarded by bodies in respect of the award of which they are recognised by Qualifications Wales under Part 3 of the Qualifications Wales Act 2015; ”.

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