



Education Act 1997

1997 CHAPTER 44

PART V **U.K.**

SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

CHAPTER I **E+W+N.I.**

THE QUALIFICATIONS AND CURRICULUM AUTHORITY

Establishment of the Authority

21 The Qualifications and Curriculum Authority. **E+W+N.I.**

- (1) There shall be a body corporate known as the Qualifications and Curriculum Authority.
- (2) The Authority shall consist of not less than 8 nor more than 13 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
 - (a) shall appoint one as chairman, and
 - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of education, or to have held, and to have shown capacity in, any position carrying responsibility for the provision of education;
 - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of training or to have held, and to have shown capacity in, any position carrying responsibility for the provision of training; and
 - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.

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(5) Schedule 4 has effect in relation to the Authority.

Functions of the Authority

22 General function of Authority to advance education and training. E+W+N.I.

- (1) The functions conferred on the Qualifications and Curriculum Authority by this Part shall be exercised by the Authority for the purpose of advancing education and training in England and (so far as such functions are exercisable there) in Wales and in Northern Ireland.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

23 Functions of the Authority in relation to curriculum and assessment. E+W

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) ^{F1} with respect to—
 - (a) pupils at maintained schools in England who have not ceased to be of compulsory school age,
 - (b) pupils at maintained nursery schools in England, and
 - (c) children for whom funded nursery education is provided in England otherwise than at a maintained school or maintained nursery school.]
- (2) The functions are—
 - (a) to keep under review all aspects of the curriculum for ^{F2} maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
 - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
 - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
 - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
 - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; ^{F3} . . .
 - (f) ^{F3}

^{F4}(2A) In subsection (2) references to the curriculum for a maintained nursery school include references to the curriculum for any funded nursery education provided as mentioned in subsection (1)(c); and references to assessment in schools include references to assessment in funded nursery education.]

- (3) ^{F5}
- (4) ^{F5}

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(5) In this section—

“assessment” includes examination and test;

[^{F6}“funded nursery education” has the meaning given by section 77 of the Education Act 2002;] and

“maintained school” means—

- (a) [^{F7}any community, foundation or voluntary school, and
- (b) any community or foundation special school.]

Textual Amendments

- F1** Words in s. 23(1) substituted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F2** Words in s. 23(2)(a) substituted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F3** S. 23(2)(f) and preceding word repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), **Sch. 17 para. 1(3)(b), Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F4** S. 23(2A) inserted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(4)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F5** S. 23(3)(4) repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), **Sch. 17 para. 1(5), Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F6** Words in s. 23(5) inserted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(6)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F7** S. 23(5): in definition of "maintained school" paras. (a)(b) substituted (1.9.1999) for paras. (a)-(c) by 1998 c. 31, s. 140(1), **Sch. 30 para. 214** (b) (with ss. 138(9), 144(6)); S.I. 1999/2323, **art. 2(1), Sch. 1**

24 Functions of the Authority in relation to external vocational and academic qualifications. **E+W+N.I.**

- (1) The Qualifications and Curriculum Authority shall have, in relation to England, the functions set out in subsection (2) with respect to external qualifications.
- (2) The functions are—
 - (a) to keep under review all aspects of such qualifications;
 - (b) to advise the Secretary of State on such matters concerned with such qualifications as he may refer to them or as they may see fit;
 - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with such qualifications;
 - (d) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
 - (e) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
 - (f) to develop and publish criteria for the accreditation of such qualifications;
 - (g) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- [^{F8}(gg) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with

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a view to obtaining such qualifications and which fall within a prescribed description.]

[^{F9}(2A) In paragraph (f) of subsection (2) “criteria” includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar functions is not excessive; and paragraph (g) of that subsection is to be construed accordingly.]

^{F10}(3)

(4) The functions set out in subsection (2)(a) to (g) shall also be exercisable by the Qualifications and Curriculum Authority in relation to Northern Ireland but only with respect to National Vocational Qualifications.

(5) Subsection (2)(a) to (e) do not apply to qualifications awarded or authenticated by institutions within the higher education sector other than those which have been submitted for accreditation under subsection (2)(g).

(6) In this section “external qualification” means—

- (a) any academic or vocational qualification authenticated or awarded by an outside person, except an academic qualification at first degree level or any comparable or higher level; or
- (b) (whether within paragraph (a) or not) any National Vocational Qualification.

(7) For the purposes of this section—

- (a) a qualification is awarded by an outside person if the course of education or training leading to the qualification is provided by an institution or an employer and it is awarded by a person other than the institution or employer or a member of its or his staff; and
- (b) a qualification is authenticated by an outside person if it is awarded by an institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.

Textual Amendments

F8 S. 24(2)(gg) substituted (1.4.2001 for W. for specified purposes, 1.4.2002 for E. and otherwise prosp.) for s. 24(2)(h)(i) by 2000 c. 21, ss. 103(2), 154; S.I. 2001/1274, art. 2, Sch. Pt. I; S.I. 2002/279, art. 2(2)(a) (with art. 3)

F9 S. 24(2A) inserted (1.10.2002) by Education Act 2002 (c. 32), s. 189, Sch. 17 para. 2 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2

F10 S. 24(3) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), Sch. 1 para. 7 (with art. 7)

Modifications etc. (not altering text)

C1 S. 24(2)(gg): transfer of functions (31.12.2001) by S.I. 2001/3907, art. 3(1)

25 Other functions of the Authority. E+W

(1) The Qualifications and Curriculum Authority shall advise the Secretary of State on such matters connected with the provision of education or training in England as the Secretary of State may specify by order.

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- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.
- [^{F11}(5) The Authority may supply any person designated by the Secretary of State with such information as the Authority thinks fit about any matter in relation to which it has a function.]

Textual Amendments

F11 S. 25(5) inserted (28.7.2000 for specified purposes and 1.9.2000 insofar as it relates to England and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 69**; S.I. 2000/2114, art. 2(3), **Sch. Pt. III**

26 Supplementary provisions relating to discharge by Authority of their functions. **E+W+N.I.**

- (1) In carrying out their functions under this Part the Qualifications and Curriculum Authority shall—
 - (a) comply with any directions given by the Secretary of State; and
 - (b) act in accordance with any plans approved by him; and
 - (c) so far as relevant, have regard to—
 - (i) the requirements of [^{F12}section 78 of the Education Act 2002](general duties in respect of curriculum),
 - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
 - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty's Chief Inspector of Schools in England or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit [^{F13} . . . any qualification, they may do so on such terms (including terms as to payment) [^{F13} . . . as they may determine.
- [^{F14}(3A) Where in carrying out those functions the Authority accredit any qualification, they may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as they may determine.]
- (4) Those conditions may in particular include conditions—
 - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and

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- [^{F15}(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority—
- (i) to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or
 - (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.]
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” means—
- (a) children with special educational needs (as defined in section 312 of the ^{M1}Education Act 1996); or
 - (b) persons (other than children as so defined) who—
 - (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
 - (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

Textual Amendments

- F12** Words in s. 26(1)(c)(i) substituted (1.10.2002 except in relation to W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 69](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#)
- F13** Words in s. 26(3) repealed (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 215(2), [Sch. 22 Pt. 1](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 2](#)
- F14** S. 26(3A) inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 3\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 2](#)
- F15** S. 26(4)(b) substituted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 3\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 2](#)

Marginal Citations

- M1** 1996 c. 56.

[^{F16}26A Power of Authority to give directions **E+W+N.I.**

- (1) If it appears to the Qualifications and Curriculum Authority—
- (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
 - (b) that the failure—
 - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,

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the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.

- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications and Curriculum Authority—
 - (a) in England and Wales, by a mandatory order, or
 - (b) in Northern Ireland, by an order of mandamus.]

Textual Amendments

F16 S. 26A inserted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 4** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**

CHAPTER II U.K.

[^{F17}FUNCTIONS OF THE NATIONAL ASSEMBLY FOR WALES]

Textual Amendments

F17 Pt. V Ch. II heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 8** (with art. 7)

^{F18} ...

Textual Amendments

F18 S. 27 crossheading omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 9** (with art. 7)

^{F19}**27 The Qualifications, Curriculum and Assessment Authority for Wales. E+W**

.....

Textual Amendments

F19 S. 27 omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 9** (with art. 7)

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Functions of the ^{F20}National Assembly for Wales]

Textual Amendments

- F20** Words in s. 28 cross-heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 10** (with art. 7)

28 **General function of ^{F21}National Assembly for Wales] to advance education and training.** **E+W**

- (1) The functions conferred on the ^{F22}National Assembly for Wales] by this Part shall be exercised by ^{F23}the National Assembly for Wales] for the purpose of advancing education and training in Wales.
- (2) ^{F24}The National Assembly for Wales] shall exercise ^{F25}its functions] under this Part with a view to promoting quality and coherence in education and training in relation to which ^{F26}it has] functions under this Part.

Textual Amendments

- F21** Words in s. 28 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 10** (with art. 7)
- F22** Words in s. 28(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(a)(i)** (with art. 7)
- F23** Words in s. 28(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(a)(ii)** (with art. 7)
- F24** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(i)** (with art. 7)
- F25** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(ii)** (with art. 7)
- F26** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(iii)** (with art. 7)

29 **Functions of the ^{F27}National Assembly for Wales] in relation to curriculum and assessment.** **E+W**

- (1) ^{F28}The National Assembly for Wales] shall have the functions set out in subsection (2) ^{F29}with respect to—
 - (a) pupils at maintained schools in Wales who have not ceased to be of compulsory school age,
 - (b) pupils at maintained nursery schools in Wales, and
 - (c) children for whom funded nursery education is provided in Wales otherwise than at a maintained school or maintained nursery school.]

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- (2) The functions are—
- (a) to keep under review all aspects of the curriculum for ^{F30}maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
 - ^{F31}(b)
 - ^{F32}(c)
 - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
 - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; ^{F33} . . .
 - (f) ^{F33}

^{F34}(2A) In subsection (2) references to the curriculum for a maintained nursery school include references to the curriculum for any funded nursery education provided as mentioned in subsection (1)(c); and references to assessment in schools include references to assessment in funded nursery education.]

- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are ^{F35}under compulsory school age.]
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
- (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
 - (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section “assessment” and “maintained school” have the same meaning as in section 23^{F36}; and “funded nursery education” has the meaning given by section 98 of the Education Act 2002;]

Textual Amendments

- F27** Words in s. 29 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 12** (with art. 7)
- F28** Words in s. 29(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(a)** (with art. 7)
- F29** Words in s. 29(1) substituted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), **Sch. 17 para. 5(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F30** Words in s. 29(2)(a) substituted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, **Sch. 17 para. 5(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F31** S. 29(2)(b) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(b)(i)** (with art. 7)
- F32** S. 29(2)(c) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(b)(ii)** (with art. 7)

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- F33** S. 29(2)(f) and preceding word repealed (19.12.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 5(3)(b), **Sch. 22 Pt. 2** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F34** S. 29(2A) inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 5(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F35** Words in s. 29(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 215** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F36** Words in s. 29(5) inserted (19.12.2002) by virtue of Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 5(6)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

Modifications etc. (not altering text)

- C2** S. 29 modified (temp.) (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), arts. 1(1), **7(4)** (with art. 7)

30 Functions of the ^{F37}National Assembly for Wales] in relation to external vocational and academic qualifications. **E+W**

^{F38}(1) This section applies for the purposes of the following functions with respect to external qualifications in relation to Wales—

- (i) to keep under review all aspects of such qualifications;
- (ii) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
- (iii) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
- (iv) to develop and publish criteria for the accreditation of such qualifications;
- (v) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- (vi) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.]

^{F39}(1A) In subsection (1) (d)— “criteria” includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar functions is not excessive; and paragraph (e) of that subsection is to be construed accordingly.”;

(1B) Subject to subsection (2), with respect to external qualifications other than National Vocational Qualifications, the functions set out in subsection (1) are exercisable solely by the National Assembly for Wales.

(1C) Subject to subsection (2), with respect to National Vocational Qualifications—

- (i) the functions specified in subsections (1)(a) to (d) are exercisable concurrently by the National Assembly for Wales and the Qualifications and Curriculum Authority;
- (ii) the functions specified in subsection 1(e) and (f) are exercisable solely by the Qualifications and Curriculum Authority.]

^{F40}(2) The National Assembly for Wales may by order prescribe that—

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- (i) a function specified in subsection (1) which is for the time being exercisable solely by the Assembly shall be exercised concurrently by the Assembly and the Qualifications and Curriculum Authority;
- (ii) such a function which is for the time being exercisable solely by the Qualifications and Curriculum Authority shall be exercised either concurrently by that Authority and the Assembly or solely by the Assembly;
- (iii) such a function which is for the time being exercisable concurrently by the Qualifications and Curriculum Authority and the Assembly shall be exercised solely by the Assembly.]

[^{F41}(3) The Authority shall have, in relation to Wales, the following functions with respect to external qualifications, namely—

- (a) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
- (b) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.]

^{F42}(4)

(5) In this section “external qualification” has the same meaning as in section 24.

Textual Amendments

- F37** Words in s. 30 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 14** (with art. 7)
- F38** S. 30(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 15(a)** (with art. 7)
- F39** S. 30(1A)-(1C) inserted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 15(b)** (with art. 7)
- F40** S. 30(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 15(c)** (with art. 7)
- F41** S. 30(3) repealed (1.4.2001 for W. and otherwise *prosp.*) by 2000 c. 21, ss. 103(4)(c), 153, 154, **Sch. 11**; S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F42** S. 30(4) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 15(d)** (with art. 7)

^{F43}**31 Other functions of the Authority.** **E+W**

.....

Textual Amendments

- F43** S. 31 omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 16** (with art. 7)

Status: Point in time view as at 01/04/2006.

Changes to legislation: Education Act 1997, Part V is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

32 Supplementary provisions relating to discharge by [F44 the National Assembly for Wales of its functions] . E+W

(1) In carrying out [F45 its functions] under this Part [F46 the National Assembly for Wales] shall—

^{F47}(a)

^{F48}(b)

(c) so far as relevant, have regard to—

^{F49}(i) the requirements of [F50 section 99 of the Education Act 2002](general duties in respect of curriculum),

(ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and

(iii) the requirements of persons with special learning needs.

(2) In carrying out those functions [F51 the National Assembly for Wales] shall in addition have regard to information supplied [F52 to it] by [F53 Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] or by any body designated by the Secretary of State for the purposes of this section.

(3) Where in carrying out any of [F54 its functions] under this Part [F55 the Assembly accredits] ^{F56}... any qualification, [F57 it may] do so on such terms (including terms as to payment) ^{F56}... as [F57 it may] determine.

[F58 (3A) Where in carrying out those functions [F59 the National Assembly for Wales accredits] any qualification, [F60 it may] , at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as [F60 it may] determine.]

(4) Those conditions may in particular include conditions—

(a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and

[F61 (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for [F62 the National Assembly for Wales] —

(i) to satisfy [F63 itself] that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or

(ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.]

[F64 (4A) Where authorised to do so under paragraph 2(3) of Schedule 4, the National Assembly for Wales may act as agent for the Qualifications and Curriculum Authority in connection with the exercise of any of that Authority’s functions in relation to Wales.]

^{F65}(5)

(6) In this section “persons with special learning needs” has the same meaning as in section 26.

Status: Point in time view as at 01/04/2006.

Changes to legislation: Education Act 1997, Part V is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F44** Words in s. 32 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 17** (with art. 7)
- F45** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(i)** (with art. 7)
- F46** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(ii)** (with art. 7)
- F47** S. 32(1)(a) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F48** S. 32(1)(b) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F49** Words in s. 32(1)(c)(i) substituted (19.12.2002 for W., 1.3.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 70 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 2
- F50** Words in s. 32(1)(c)(i) substituted (19.12.2002 for W., 1.3.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 70** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 2
- F51** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(i)** (with art. 7)
- F52** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(ii)** (with art. 7)
- F53** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, **Sch.**
- F54** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(i)** (with art. 7)
- F55** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(ii)** (with art. 7)
- F56** Words in s. 32(3) repealed (19.12.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 7(2), **Sch. 22 Pt. 2** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F57** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(iii)** (with art. 7)
- F58** S. 32(3A) inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 7(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F59** Words in s. 32(3A) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(d)(i)** (with art. 7)
- F60** Words in s. 32(3A) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(d)(ii)** (with art. 7)
- F61** S. 32(4)(b) substituted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 7(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

Status: Point in time view as at 01/04/2006.

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- F62** Words in s. 32(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(e)(i)** (with art. 7)
- F63** Word in s. 32(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(e)(ii)** (with art. 7)
- F64** S. 32(4A) inserted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(f)** (with art. 7)
- F65** S. 32(5) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(g)** (with art. 7)

[^{F66}32A Power of [^{F67}National Assembly for Wales] to give directions E+W

- (1) If it appears to [^{F68}the National Assembly for Wales] —
- (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by [^{F69}the National Assembly for Wales] has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
 - (b) that the failure—
 - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
 [^{F69}the National Assembly for Wales] may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of [^{F70}the National Assembly for Wales] , by a mandatory order.]

Textual Amendments

- F66** S. 32A inserted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, **Sch. 17 para. 8** (with ss. 210(8), 214(4)); [S.I. 2002/3185](#), arts. 2, 4, Sch. Pt. 1
- F67** Words in s. 32A heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 19** (with art. 7)
- F68** Words in s. 32A(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 20(a)(i)** (with art. 7)
- F69** Words in s. 32A(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 20(a)(ii)** (with art. 7)

Status: Point in time view as at 01/04/2006.

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F70 Words in s. 32A(3) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 20(b)** (with art. 7)

CHAPTER III **E+W+N.I.**

PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

Dissolution of existing bodies

F71 **33** **Dissolution of existing bodies.** **E+W**

Textual Amendments

F71 S. 33 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

Transfer of property and staff

F72 **34** **Transfer of property.** **E+W+N.I.**

Textual Amendments

F72 S. 34 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

35 **Transfer of staff.** **E+W+N.I.**

- (1) This section applies to any person who—
 - (a) is employed by the National Council for Vocational Qualifications (“the NCVQ”) or the School Curriculum and Assessment Authority (“the SCAA”) immediately before section 21 comes into force, and
 - (b) is designated as respects the Qualifications and Curriculum Authority ^{F73}... by order of the Secretary of State;and in this section “the relevant Authority” means, in relation to any such person, [^{F74}the Qualifications and Curriculum Authority].
- (2) A contract of employment between a person to whom this section applies and the NCVQ or the SCAA shall have effect, from the day on which the order under subsection (1)(b) comes into force, as if originally made between him and the relevant Authority.
- (3) Without prejudice to subsection (2)—
 - (a) all the rights, powers, duties and liabilities of the NCVQ or the SCAA under or in connection with a contract to which that subsection applies shall by virtue

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- of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and
- (b) anything done before that day by or in relation to the NCVQ or the SCAA in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the relevant Authority.
- (4) Subsections (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by subsection (2).
- (5) In subsection (4) the reference to an employee's working conditions includes a reference to any rights (whether accrued or contingent) under any pension or superannuation scheme of which he was a member by virtue of his employment with the NCVQ or the SCAA (as the case may be).
- (6) An order under subsection (1)(b) may designate a person either individually or as falling within a class or description of employee.
- (7) No order under subsection (1)(b) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (8) Any order under subsection (1)(b) made before the day on which section 21 comes into force shall come into force on that day.
- (9) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (7) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

Textual Amendments

- F73** Words in s. 35(1)(b) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 21(a)** (with art. 7)
- F74** Words in s. 35(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 21(b)** (with art. 7)

Levy on bodies awarding accredited qualifications

36 **Levy on bodies awarding qualifications accredited by relevant ^{F75}body** . **E+W** **+N.I.**

- (1) The Secretary of State may by regulations provide for a levy to be payable to the relevant ^{F76}body] by persons who award vocational qualifications accredited by that ^{F76}body] .
- (2) Regulations under this section shall—
- (a) specify the rate of the levy or the method by which it is to be calculated (and, without prejudice to the generality of section 54(3), may make different provision in relation to different cases);
- (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy;

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- (c) provide for the relevant [^{F77}body] to withdraw their accreditation of a qualification in cases of non-payment of the levy.
- (3) Any sums received by [^{F78}the relevant body] in respect of the levy shall be applied by them in giving such financial assistance to other bodies as the Secretary of State may specify with a view to assisting [^{F79}that relevant body] to secure the development and improvement of standards in relation to vocational qualifications.
- (4) In this section “the [^{F80}relevant body]” means—
 - (a) the Qualifications and Curriculum Authority in the case of a qualification accredited by that Authority; and
 - (b) [^{F81}the National Assembly for Wales] in the case of a qualification accredited by [^{F82}the Assembly] .

Textual Amendments

- F75** Word in s. 36 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 22** (with art. 7)
- F76** Word in s. 36(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(a)** (with art. 7)
- F77** Word in s. 36(2)(c) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(b)** (with art. 7)
- F78** Words in s. 36(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(c)(i)** (with art. 7)
- F79** Words in s. 36(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(c)(ii)** (with art. 7)
- F80** Words in s. 36(4) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(d)(i)** (with art. 7)
- F81** Words in s. 36(4)(b) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(d)(ii)** (with art. 7)
- F82** Words in s. 36(4)(b) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 23(d)(iii)** (with art. 7)

CHAPTER IV **U.K.**

CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

- F83** **37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications. **E+W****

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Status: Point in time view as at 01/04/2006.

Changes to legislation: Education Act 1997, Part V is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F83 S. 37 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 7](#)

Status:

Point in time view as at 01/04/2006.

Changes to legislation:

Education Act 1997, Part V is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.