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# Education Act 1997

## 1997 CHAPTER 44

### PART V

#### SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

### CHAPTER I

#### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

##### *Establishment of the Authority*

#### <sup>F1</sup>21 **The Qualifications and Curriculum Authority.**

.....

##### **Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

##### *Functions of the Authority*

#### <sup>F1</sup>22 **General function of Authority to advance education and training.**

.....

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**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 23 Functions of the Authority in relation to curriculum and assessment.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 24 Functions of the Authority in relation to external vocational and academic qualifications.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 25 Other functions of the Authority.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 26 Supplementary provisions relating to discharge by Authority of their functions.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

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**<sup>F1</sup>26A Power of Authority to give directions**

.....

**Textual Amendments**

- F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**CHAPTER II**

**[<sup>F2</sup>FUNCTIONS OF THE NATIONAL ASSEMBLY FOR WALES]**

**Textual Amendments**

- F2** 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)

*F3* ...

**Textual Amendments**

- F3** 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)

**<sup>F4</sup>27 The Qualifications, Curriculum and Assessment Authority for Wales.**

.....

**Textual Amendments**

- F4** 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)

*Functions of the [<sup>F5</sup>National Assembly for Wales]*

**Textual Amendments**

- F5** 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)

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**28 General function of [F6National Assembly for Wales] to advance education and training.**

- (1) The functions conferred on the [F7National Assembly for Wales] by this Part shall be exercised by [F8the National Assembly for Wales] for the purpose of advancing education and training in Wales.
- (2) [F9The National Assembly for Wales] shall exercise [F10its functions] under this Part with a view to promoting quality and coherence in education and training in relation to which [F11it has] functions under this Part.

**Textual Amendments**

- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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 [F12National Assembly for Wales] in relation to curriculum and assessment.**

- (1) [F13The National Assembly for Wales] shall have the functions set out in subsection (2) [F14 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.]
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for [F15maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
  - [F16(b) .....]
  - [F17(c) .....]

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- (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; <sup>F18</sup> . . .
- (f) <sup>F18</sup> . . . . .

[<sup>F19</sup>(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 [<sup>F20</sup>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.

[<sup>F21</sup>(5) In this section—

“assessment” includes examination and test;

“funded nursery education” has the meaning given by section 98 of the Education Act 2002;

“maintained school” means—

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

(6) In the definition of “maintained school”, the reference to a community, foundation or voluntary school or to a community or foundation special school, is a reference to such a school within the meaning of the School Standards and Framework Act 1998.]

### Textual Amendments

- F12** 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)
- F13** 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)
- F14** 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
- F15** 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
- F16** 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)
- F17** 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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- F18** 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
- F19** 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
- F20** 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**
- F21** S. 29(5)(6) substituted for s. 29(5) (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 14**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**Modifications etc. (not altering text)**

- C1** 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 [<sup>F22</sup>National Assembly for Wales] in relation to [<sup>F23</sup>relevant] qualifications**

[<sup>F24</sup>(1) This section applies for the purposes of the following functions—

- (a) to keep under review all aspects of relevant qualifications;
- (b) to provide support and advice to any person providing courses leading to relevant qualifications with a view to establishing and maintaining high standards in the provision of such courses;
- (c) to publish and disseminate, and assist in the publication and dissemination of, information relating to relevant qualifications;
- (d) to develop and publish criteria for the recognition of any person who awards or authenticates a relevant qualification;
- (e) to recognise in respect of the award or authentication of a specified relevant qualification or description of relevant qualification, any person who meets such criteria and applies to be so recognised;
- (f) to determine that a specified relevant qualification or description of relevant qualification is to be subject to a requirement of accreditation;
- (g) in respect of relevant qualifications which are subject to that requirement, to develop and publish criteria for the accreditation of particular forms of any such qualifications;
- (h) where a relevant qualification is subject to that requirement, to accredit a particular form of the qualification which meets such criteria and is submitted for accreditation by a person recognised under paragraph (e) in respect of the qualification;
- (i) to publish and disseminate, and assist in the publication and dissemination of, information relating to persons recognised under paragraph (e);
- (j) 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 relevant qualifications and which fall within a prescribed description.]

[<sup>F25</sup>(1A) In subsection [<sup>F26</sup>(1)(g)]— “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 [<sup>F27</sup>(h)] of that subsection is to be construed accordingly.]

[<sup>F28</sup>(1B) The functions set out in subsection (1) are exercisable solely by the Welsh Ministers.]

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- F<sup>29</sup>(1C) .....
- F<sup>30</sup>(1D) .....
- F<sup>31</sup>(2) .....
- [F<sup>32</sup>(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.]
- F<sup>33</sup>(4) .....
- [F<sup>34</sup>(5) In this Chapter “relevant qualification” means an academic or vocational qualification awarded or authenticated in Wales other than an excluded qualification.
- (5A) An excluded qualification is any of the following—
- (a) a foundation degree;
  - (b) a first degree;
  - (c) a degree at a higher level.
- (5B) For the purposes of subsection (5) a qualification is awarded or authenticated in Wales if there are, or may reasonably be expected to be, persons seeking to obtain the qualification who are, will be or may reasonably be expected to be assessed for those purposes wholly or mainly in Wales.
- (5C) In this section and sections 32 to 32C a reference to the award or authentication of a qualification includes a reference to—
- (a) the award or authentication of credits in respect of components of a qualification, and
  - (b) the award or authentication of a qualification by a person either alone or jointly with others.]
- F<sup>35</sup>(6) .....

#### Textual Amendments

- F22** 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)
- F23** Word in s. 30 heading substituted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 15(8)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F24** S. 30(1) substituted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 15(2)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F25** 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)
- F26** Word in s. 30(1A) substituted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 15(3)(a)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F27** Word in s. 30(1A) substituted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 15(3)(b)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

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- F28** S. 30(1B) substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(4)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F29** S. 30(1C) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(5), Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)
- F30** S. 30(1D) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(5), Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)
- F31** S. 30(2) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(5), Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)
- F32** 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**
- F33** 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)
- F34** S. 30(5)-(5C) substituted for s. 30(5) (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(6)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F35** S. 30(6) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(7), Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)

**F36** 31 **Other functions of the Authority.**

.....

**Textual Amendments**

**F36** 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)

**32 Supplementary provisions relating to discharge by [F37 the National Assembly for Wales of its functions] .**

- (1) In carrying out [F38 its functions] under this Part [F39 the National Assembly for Wales] shall—
  - <sup>F40</sup>(a) .....
  - <sup>F41</sup>(b) .....
  - (c) so far as relevant, have regard to—
    - (i) the requirements of [F42 section 99 of the Education Act 2002] (general duties in respect of curriculum),
    - (ii) the [F43 reasonable] requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - [F44 (iii) the reasonable requirements of persons with learning difficulties.]
- (2) In carrying out those functions [F45 the National Assembly for Wales] shall in addition have regard to information supplied [F46 to it] by [F47 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.



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- (3) Where in carrying out any of [<sup>F48</sup>its functions] under this Part [<sup>F49</sup>the Assembly [<sup>F50</sup>recognises any person or] accredits]<sup>F51</sup>... any qualification, [<sup>F52</sup>it may] do so on such terms (including terms as to payment) <sup>F51</sup>... as [<sup>F52</sup>it may] determine.
- <sup>F53</sup>(3A) Where in carrying out those functions [<sup>F54</sup>the National Assembly for Wales [<sup>F55</sup>recognises any person or] accredits] any qualification, [<sup>F56</sup>it may], at the time of [<sup>F57</sup>recognition or of] accreditation or later, impose such conditions on [<sup>F58</sup>recognition or] accreditation or continued [<sup>F59</sup>recognition or] accreditation as [<sup>F56</sup>it may] determine.]
- (4) Those conditions may in particular include conditions—
- <sup>F60</sup>(a) limiting the amount of a fee that can be charged for the award or authentication of, or for the provision of any other service in relation to, the qualification in question;] and
  - <sup>F61</sup>(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for [<sup>F62</sup>the National Assembly for Wales] —
    - (i) to satisfy [<sup>F63</sup>itself] that the appropriate standards are being [<sup>F64</sup>maintained by the recognised person in question in relation to the award or authentication of qualifications generally or in relation to the award or authentication of the qualification in question], or
    - (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.]
- <sup>F65</sup>(4A) .....
- <sup>F66</sup>(5) .....
- <sup>F67</sup>(6) In this section “persons with learning difficulties” means—
- (a) children with special educational needs (as defined in section 312 of the Education Act 1996), and
  - (b) other persons 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.
- (7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person's home.]

#### Textual Amendments

- F37** 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)
- F38** 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)
- F39** 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)

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- F40** 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)
- F41** 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)
- F42** 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
- F43** Word in s. 32(1)(c)(ii) inserted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(2)(a)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F44** S. 32(1)(c)(iii) substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(2)(b)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F45** 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)
- F46** 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)
- F47** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, **Sch.**
- F48** 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)
- F49** 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)
- F50** Words in s. 32(3) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(7)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F51** 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
- F52** 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)
- F53** 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
- F54** 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)
- F55** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(a)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F56** 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)
- F57** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(b)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F58** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(c)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F59** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(d)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F60** S. 32(4)(a) substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(3)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- 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

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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** Words in s. 32(4)(b)(i) substituted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(9), 173(3)(4)**; S.I. 2009/784, art. 2(a)
- F65** S. 32(4A) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(4), Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)
- F66** 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)
- F67** S. 32(6)(7) substituted for s. 32(6) (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(5)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**[<sup>F68</sup>32ZA] Qualifications functions of Welsh Ministers: co-operation and joint working etc.**

- (1) The Welsh Ministers may co-operate or work jointly with a relevant authority where it is appropriate to do so in connection with the carrying out of any of their qualifications functions.
- (2) The Welsh Ministers may provide information to a relevant authority for the purpose of enabling or facilitating the carrying out of a relevant function of the authority.
- (3) Subject to subsection (4), the Welsh Ministers and any other relevant authority may establish a committee jointly, and any committee so established may establish sub-committees.
- (4) The Welsh Ministers may only exercise the power in subsection (3) if they consider it appropriate to do so for the purpose of the carrying out of any of their qualifications functions.
- (5) In this section a committee established under subsection (3) is referred to as a “joint committee” and a sub-committee established under that subsection is referred to as a “joint sub-committee”.
- (6) A joint committee and a joint sub-committee must include at least one member of staff of the Welsh Assembly Government.
- (7) A joint committee may regulate—
  - (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any sub-committee established by it.
- (8) The validity of proceedings of a joint committee or a joint sub-committee is not affected by—
  - (a) a vacancy, or
  - (b) a defective appointment.
- (9) The Welsh Ministers may delegate any of their qualifications functions to a joint committee to the extent and on the terms that they determine.
- (10) A joint committee may delegate any of its functions to a sub-committee established by it to the extent and on the terms that the joint committee determines.

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- (11) The powers of a joint committee under subsection (10) are subject to the power of the Welsh Ministers and any other person with whom they established the joint committee to direct (acting jointly) what the committee may and may not do.
- (12) Nothing in subsection (2)—
- (a) affects any power to disclose information that exists apart from that subsection, or
  - (b) authorises the disclosure of information in contravention of any provision made by or under any Act which prevents disclosure of the information.
- (13) In this section—
- “qualifications functions” means functions in connection with relevant qualifications;
- “relevant authority” means any person who carries out a function (whether or not in the United Kingdom) which is similar to any of the qualifications functions of the Welsh Ministers;
- “relevant function” means a function which is similar to any of the qualifications functions of the Welsh Ministers.]

#### Textual Amendments

**F68** S. 32ZA inserted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), [Sch. 12 para. 17](#); S.I. 2010/2413, art. 2(a) (with arts. 3-5)

#### [<sup>F69</sup>32A Power of Welsh Ministers to give directions

- (1) If it appears to the Welsh Ministers—
- (a) that any recognised person has failed or is likely to fail to comply with any condition subject to which the recognition has effect, and
  - (b) that the failure—
    - (i) prejudices or would be likely to prejudice the proper award or authentication by that person of [<sup>F70</sup>any qualification in respect of which that person is recognised by them or by the Office of Qualifications and Examinations Regulation], or
    - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain any such qualification awarded or authenticated by that person,

the Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the recognition has effect.

- (2) If it appears to the Welsh Ministers—
- (a) that any recognised person who awards or authenticates any qualification accredited by them 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 Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.

- (3) It shall be the duty of the recognised person to comply with any direction under this section.
- (4) Any direction under this section is enforceable, on the application of the Welsh Ministers, by a mandatory order.
- (5) In this section [<sup>F71</sup>and sections 32B and 32C] “recognised person” means a person recognised by the Welsh Ministers.

<sup>F72</sup>(6) . . . . . ]

#### Textual Amendments

- F69** S. 32A substituted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), ss. **162(10)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F70** Word in s. 32A(1)(b)(i) substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 18(2)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F71** Words in s. 32A(5) inserted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 18(3)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F72** S. 32A(6) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 18(4)**, **Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)

#### [<sup>F73</sup>32B Power of Welsh Ministers to withdraw recognition

- (1) Subsection (2) applies if a recognised person has failed to comply with any condition subject to which the recognition has effect.
- (2) The Welsh Ministers may withdraw recognition from the recognised person in respect of the award or authentication of a specified qualification or a specified description of qualification if it appears to them that the failure mentioned in subsection (1) prejudices or would be likely to prejudice—
  - (a) the proper award or authentication by the person of the qualification or a qualification of the description in question, or
  - (b) persons who might reasonably be expected to seek to obtain the qualification or a qualification of the description in question awarded or authenticated by the person.
- (3) Subsection (4) applies if a recognised person who awards or authenticates a qualification accredited by the Welsh Ministers has failed to comply with any condition subject to which the accreditation has effect.
- (4) The Welsh Ministers may withdraw recognition from the recognised person in respect of the qualification if it appears to them that the failure mentioned in subsection (3) prejudices or would be likely to prejudice—
  - (a) the proper award or authentication by the person of the qualification, or
  - (b) persons who might reasonably be expected to seek to obtain the qualification.
- (5) Before withdrawing recognition from a recognised person in any respect the Welsh Ministers must give notice to the person of their intention to do so.

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- (6) The notice must—
- (a) set out the Welsh Ministers' reasons for proposing to withdraw recognition from the recognised person in the respect in question, and
  - (b) specify the period during which, and the way in which, the recognised person may make representations about the proposal.
- (7) The Welsh Ministers must have regard to any representations made by the recognised person during the period specified in the notice in deciding whether to withdraw recognition from the person in the respect in question.
- (8) If the Welsh Ministers decide to withdraw recognition from a recognised person they must give notice to the person of their decision and of the date on which the withdrawal is to take effect.
- (9) At any time before a withdrawal takes effect the Welsh Ministers may vary the date on which it is to take effect by giving further notice to the recognised person.
- (10) The Welsh Ministers must establish arrangements for the review, at the request of a recognised person, of a decision to withdraw recognition under this section.
- (11) The arrangements established under subsection (10) may require or permit the decision on review to be made by a person other than the Welsh Ministers.

#### Textual Amendments

**F73** Ss. 32B, 32C inserted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), [Sch. 12 para. 19](#); S.I. 2010/2413, art. 2(a) (with arts. 3-5)

### 32C Surrender of recognition

- (1) A recognised person may give notice to the Welsh Ministers that the person wishes to cease to be recognised in respect of the award or authentication of a specified qualification or description of qualification.
- (2) As soon as reasonably practicable after receipt of a notice under subsection (1) the Welsh Ministers must give notice to the recognised person of the date on which the person is to cease to be recognised in the respect in question (“the surrender date”).
- (3) At any time before the surrender date the Welsh Ministers may vary that date by giving further notice to the recognised person.
- (4) In deciding or varying the surrender date the Welsh Ministers must have regard to the need to avoid prejudicing persons who are seeking, or might reasonably be expected to seek, to obtain the qualification, or a qualification of the description, specified in the notice under subsection (1).]

#### Textual Amendments

**F73** Ss. 32B, 32C inserted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), [Sch. 12 para. 19](#); S.I. 2010/2413, art. 2(a) (with arts. 3-5)

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### CHAPTER III

#### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

##### *Dissolution of existing bodies*

#### <sup>F74</sup>33 **Dissolution of existing bodies.**

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##### **Textual Amendments**

**F74** S. 33 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 7](#)

##### *Transfer of property and staff*

#### <sup>F75</sup>34 **Transfer of property.**

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##### **Textual Amendments**

**F75** S. 34 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 7](#)

#### **35 Transfer of staff.**

- (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 <sup>F76</sup>... by order of the Secretary of State;and in this section “the relevant Authority” means, in relation to any such person, [<sup>F77</sup>the Qualifications and Curriculum Authority][<sup>F78</sup>, known instead as the Qualifications and Curriculum Development Agency from the day on which section 175 of the Apprenticeships, Skills, Children and Learning Act 2009 comes into force].
- (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 of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and

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- (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

- F76** 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)
- F77** 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)
- F78** Words in s. 35(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 12 para. 20**; S.I. 2010/1151, art. 2, Sch. 1

#### *Levy on bodies awarding accredited qualifications*

### <sup>F79</sup>36 Levy on bodies awarding qualifications accredited by relevant body.

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#### Textual Amendments

- F79** S. 36 repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 12 para. 21**, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1



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## CHAPTER IV

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

<sup>F80</sup>**37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.**

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**Textual Amendments**

**F80** S. 37 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 7**

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