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# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 8 **E+W**

THE QUALIFICATIONS AND CURRICULUM DEVELOPMENT AGENCY

VALID FROM 01/04/2010

### CHAPTER 1 **E+W**

THE QCDA, OBJECTIVE AND GENERAL DUTIES

*The QCDA*

#### 175 **The Qualifications and Curriculum Development Agency** **E+W**

- (1) The body corporate originally established under section 21 of the Education Act 1997 (c. 44) as the Qualifications and Curriculum Authority is to continue in existence but is to be known instead as the Qualifications and Curriculum Development Agency.
- (2) In this Part the Qualifications and Curriculum Development Agency is referred to as “the QCDA”.
- (3) Schedule 11 makes further provision about the QCDA.

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### *Objective and general duties*

#### **176 Objective** E+W

The QCDA's objective is to promote quality and coherence in education and training in England.

#### **177 General duties** E+W

- (1) So far as reasonably practicable, in performing its functions the QCDA must act in a way—
  - (a) which is compatible with its objective, and
  - (b) which it considers most appropriate for the purpose of meeting its objective.
- (2) So far as relevant, in performing its functions the QCDA must have regard to—
  - (a) the reasonable requirements of learners, including persons with learning difficulties;
  - (b) the reasonable requirements of industry, commerce, finance, the professions and other employers regarding education and training (including required standards of practical competence);
  - (c) the reasonable requirements of institutions within the higher education sector;
  - (d) the requirements of section 78 of the Education Act 2002 (c. 32) (general requirements in relation to curriculum);
  - (e) information provided to it by a person falling within subsection (3);
  - (f) the desirability of facilitating innovation.
- (3) The persons falling within this subsection are—
  - (a) the Office of Qualifications and Examinations Regulation;
  - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (c) such other persons, or persons of such a description, as the Secretary of State may direct.
- (4) In performing its functions the QCDA must also have regard to such aspects of government policy as the Secretary of State may direct.
- (5) The QCDA must perform its functions efficiently and effectively.
- (6) In this section—
 

“learner” means a person who is, or may reasonably be expected to be, in receipt of education or training;

“persons with learning difficulties” has the same meaning as in section 129.

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## CHAPTER 2 **E+W**

### FUNCTIONS IN RELATION TO QUALIFICATIONS

#### 178 **Qualifications within the QCDA's remit** **E+W**

- (1) For the purposes of this Part a qualification is within the QCDA's remit if—
  - (a) it is an academic or vocational qualification awarded or authenticated in England, and
  - (b) it is not an excluded qualification.
- (2) But the Secretary of State may by order provide that a specified qualification, or qualifications of a specified description, despite falling within subsection (1), is or are outside the QCDA's remit for the purposes of this Part.
- (3) For the purposes of subsection (1) a qualification is awarded or authenticated in England 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 England.
- (4) An excluded qualification is a qualification awarded or authenticated by an institution within the higher education sector—
  - (a) at foundation degree level or any comparable level, or
  - (b) at first degree level, or any comparable or higher level.

#### Commencement Information

**II** [S. 178\(2\)](#) in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, [Sch.](#)

VALID FROM 01/04/2010

#### 179 **Qualifications: general functions** **E+W**

- (1) The QCDA must keep under review all aspects of qualifications within its remit.
- (2) The QCDA—
  - (a) may advise the Secretary of State on matters concerning qualifications within its remit, and
  - (b) must advise the Secretary of State on any such matters which are referred to the QCDA by the Secretary of State.
- (3) The QCDA may and, if requested to do so by the Secretary of State, must—
  - (a) carry out programmes of research and development for purposes connected with qualifications within its remit, or
  - (b) commission, co-ordinate or facilitate the carrying out of such programmes.
- (4) The QCDA may publish and disseminate, or facilitate the publication or other dissemination of, information relating to qualifications within its remit.

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VALID FROM 01/04/2010

**180 Assistance etc. in relation to qualifications functions of Ofqual** **E+W**

- (1) The QCDA must, if requested to do so by Ofqual, assist Ofqual in setting criteria under section 133 or 140 which relate to a qualification or description of qualification within subsection (2).
- (2) A qualification or description of qualification is within this subsection if Ofqual is required to comply with the duty imposed by section 143(2) in relation to it.
- (3) The QCDA may—
  - (a) assist Ofqual in setting qualifications criteria which do not fall within subsection (1), and
  - (b) provide other assistance, information or advice to Ofqual in connection with the performance by Ofqual of any of its qualifications functions.
- (4) In this section—
 

“assistance” does not include financial assistance (and “assist” is to be construed accordingly);

“Ofqual” means the Office of Qualifications and Examinations Regulation;

“qualifications criteria” means criteria required to be set by Ofqual under—

  - (a) section 133 (criteria for recognition of awarding bodies),
  - (b) section 140 (criteria for accreditation of qualifications subject to the accreditation requirement), and
  - (c) section 146 (criteria in connection with the assignment of number of hours of guided learning);

“qualifications functions” means functions in connection with qualifications to which Part 7 applies (see section 130).

VALID FROM 01/04/2010

**CHAPTER 3** **E+W**

FUNCTIONS IN RELATION TO CURRICULUM, EARLY  
YEARS FOUNDATION STAGE AND ASSESSMENT

**181 Curriculum** **E+W**

- (1) The QCDA must keep under review all aspects of the curriculum.
- (2) The QCDA—
  - (a) may advise the Secretary of State on matters concerning the curriculum, and
  - (b) must advise the Secretary of State on any such matters which are referred to the QCDA by the Secretary of State.
- (3) The QCDA may and, if requested to do so by the Secretary of State, must—

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- (a) carry out programmes of research and development for purposes connected with the curriculum, or
  - (b) commission, co-ordinate or facilitate the carrying out of such programmes.
- (4) The QCDA may publish and disseminate, or facilitate the publication or other dissemination of, information relating to the curriculum.
- (5) In this Part “the curriculum” means the curriculum for—
- (a) pupils at maintained schools in England who have not ceased to be of compulsory school age, and
  - (b) pupils at maintained nursery schools in England.

### **182 Early learning goals and educational programmes** **E+W**

- (1) The QCDA must keep under review all aspects of the early learning goals and educational programmes.
- (2) The QCDA—
- (a) may advise the Secretary of State on matters concerning the early learning goals and educational programmes, and
  - (b) must advise the Secretary of State on any such matters which are referred to the QCDA by the Secretary of State.
- (3) The QCDA may and, if requested to do so by the Secretary of State, must—
- (a) carry out programmes of research and development for purposes connected with the early learning goals and educational programmes, or
  - (b) commission, co-ordinate or facilitate the carrying out of such programmes.
- (4) The QCDA may publish and disseminate, or facilitate the publication or other dissemination of, information relating to the early learning goals and educational programmes.
- (5) In this Part “the early learning goals and educational programmes” means the requirements specified under section 39(1)(a) of the Childcare Act 2006 (c. 21) by virtue of paragraphs (a) and (b) of section 41(2) of that Act.

### **183 Assessment arrangements** **E+W**

- (1) The QCDA must keep under review all aspects of assessment arrangements within its remit.
- (2) The QCDA—
- (a) may advise the Secretary of State on matters concerning assessment arrangements within its remit, and
  - (b) must advise the Secretary of State on any such matters which are referred to the QCDA by the Secretary of State.
- (3) The QCDA may and, if requested to do so by the Secretary of State, must—
- (a) carry out programmes of research and development for purposes connected with assessment arrangements within its remit, or
  - (b) commission, co-ordinate or facilitate the carrying out of such programmes.

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- (4) The QCDA may publish and disseminate, or facilitate the publication or other dissemination of, information relating to assessment arrangements within its remit.
- (5) For the purposes of this Part the following are assessment arrangements within the QCDA's remit—
  - (a) regulated assessment arrangements;
  - (b) arrangements which do not fall within paragraph (a) but which are for tests and other assessments in respect of—
    - (i) pupils at maintained schools in England who have not ceased to be of compulsory school age, and
    - (ii) pupils at maintained nursery schools in England.

VALID FROM 01/04/2010

## CHAPTER 4 **E+W**

### OTHER FUNCTIONS AND SUPPLEMENTARY PROVISION

#### *Other functions*

#### **184 Provision of services or other assistance **E+W****

- (1) The QCDA may provide services or other assistance in connection with any of the following—
  - (a) qualifications within the QCDA's remit;
  - (b) the curriculum;
  - (c) the early learning goals and educational programmes;
  - (d) assessment arrangements within the QCDA's remit.
- (2) The QCDA may, with the consent of the Secretary of State, also provide services or other assistance which—
  - (a) do not fall within subsection (1), but
  - (b) are otherwise provided in connection with education or training in England.
- (3) The QCDA may not lend money.
- (4) The power under subsection (1) may only be exercised to provide other forms of financial assistance with the consent of the Secretary of State.
- (5) Services or other assistance provided by virtue of this section may be provided on such terms and subject to such conditions (if any) as the QCDA may determine.
- (6) The QCDA may, with the consent of the Secretary of State, charge a fee for, or in connection with, any service or other assistance provided under this section.
- (7) Any consent of the Secretary of State required under this section may be given—
  - (a) unconditionally or subject to conditions, and
  - (b) generally or specifically.

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- (8) Services or other assistance may be provided under this section to any person whether or not in the United Kingdom.
- (9) The powers under subsections (1) and (2) must not be exercised—
  - (a) to assist Ofqual in setting qualifications criteria, or
  - (b) to provide other assistance, information or advice to Ofqual in connection with the performance by Ofqual of any of its qualifications functions.
- (10) In subsection (9) “Ofqual”, “qualifications criteria” and “qualifications functions” have the same meanings as in section 180.

#### **185 Provision of information or advice** **E+W**

- (1) The QCDA must advise the Secretary of State on any additional matters which are referred to it by the Secretary of State.
- (2) An “additional matter” is a matter relating to the provision of education or training in England other than one which may be referred to the QCDA under section 179(2)(b), 181(2)(b), 182(2)(b) or 183(2)(b).
- (3) If requested to do so by the Secretary of State, the QCDA must provide the Secretary of State with information on such matters relating to any of its functions as may be specified in the request.

#### **186 Ancillary activities** **E+W**

- (1) The QCDA must carry out such ancillary activities as the Secretary of State may direct.
- (2) An ancillary activity is an activity which the Secretary of State considers it appropriate for the QCDA to carry out for the purposes of, or in connection with, any of its functions.

#### **187 Co-operation and joint working** **E+W**

- (1) The QCDA may co-operate or work jointly with another public authority where it is appropriate to do so for the efficient and effective performance of any of the QCDA's functions.
- (2) In this section “public authority” includes any person who performs functions (whether or not in the United Kingdom) which are of a public nature.

#### **188 Power to confer supplementary functions on the QCDA** **E+W**

- (1) The Secretary of State may by order confer supplementary functions on the QCDA.
- (2) A supplementary function is a function which is to be performed in connection with any of the following—
  - (a) qualifications within the QCDA's remit;
  - (b) the curriculum;
  - (c) the early learning goals and educational programmes;
  - (d) assessment arrangements within the QCDA's remit.

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- (3) The Secretary of State must consult the QCDA before making an order under this section.

*Supplementary provision*

**189 Directions etc. by the Secretary of State** E+W

- (1) The Secretary of State may give the QCDA directions as to the performance of any of its functions.
- (2) The QCDA must, in performing its functions, act in accordance with any plans approved by the Secretary of State.

**190 Guidance by the Secretary of State** E+W

The QCDA must, in performing its functions, have regard to any guidance given by the Secretary of State.

VALID FROM 01/04/2010

**CHAPTER 5** E+W

GENERAL

**191 Interpretation of Part** E+W

- (1) In this Part—
- “the curriculum” has the meaning given by section 181;
  - “the early learning goals and educational programmes” has the meaning given by section 182;
  - “education” includes the learning by, and development of, young children pursuant to the learning and development requirements within the meaning given by section 39(1)(a) of the Childcare Act 2006 (c. 21);
  - “maintained school” means—
    - (a) a community, foundation or voluntary school, and
    - (b) a community or foundation special school;
  - “the QCDA” means the Qualifications and Curriculum Development Agency;
  - “regulated assessment arrangements” has the same meaning as in Part 7 (see section 131);
  - “young child” has the same meaning as in the Childcare Act 2006 (see section 19 of that Act).
- (2) References in this Part to assessment arrangements within the QCDA's remit are to be construed in accordance with section 183.
- (3) References in this Part to qualifications within the QCDA's remit are to be construed in accordance with section 178.



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## **192 Minor and consequential amendments** **E+W**

Schedule 12 contains minor and consequential amendments relating to the provision made by this Part (and by Part 7).

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