



# 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*

#### **21 The Qualifications and Curriculum Authority.**

- (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.**

- (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.**

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) [<sup>F1</sup> 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 [<sup>F2</sup> 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; <sup>F3</sup> . . .
  - (f) <sup>F3</sup> . . . . .

[<sup>F4</sup>(2ZA) If the Secretary of State so provides by order, the Qualifications and Curriculum Authority shall also have—

- (a) such additional functions as may be specified in the order with respect to pupils falling within subsection (1)(a) or (b) who are young children, and
- (b) such functions as may be specified in the order with respect to children not falling within subsection (1)(a) or (b) for whom early years provision is provided in England by early years providers to whom section 40 of

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the Childcare Act 2006 (duty to implement Early Years Foundation Stage) applies.

(2ZB) Before making an order under subsection (2ZA), the Secretary of State shall consult the Qualifications and Curriculum Authority.]

[<sup>F5</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) <sup>F6</sup>.....

(4) <sup>F6</sup>.....

(5) In this section—

“assessment” includes examination and test;

[<sup>F7</sup>“early years provider” and “early years provision” have the same meaning as in Part 3 of the Childcare Act 2006;]

“maintained school” means—

(a) [<sup>F8</sup>any community, foundation or voluntary school, and

(b) any community or foundation special school.]

[<sup>F9</sup>“young children” has the same meaning as in Part 3 of the Childcare Act 2006.]

#### 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(2ZA)(2ZB) inserted (1.10.2007) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 2(3)**; S.I. 2007/2717, **art. 2(d)**
- F5** 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**
- F6** 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**
- F7** Words in s. 23(5) substituted (1.10.2007) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 2(5)(a)**; S.I. 2007/2717, **art. 2(d)** (with **art. 3**)
- F8** 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**
- F9** Words in s. 23(5) inserted (1.10.2007) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 2(5)(b)**; S.I. 2007/2717, **art. 2(d)** (with **art. 3**)

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

(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—

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- (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;
- [<sup>F10</sup>(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 a view to obtaining such qualifications and which fall within a prescribed description.]

[<sup>F11</sup>(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.]

<sup>F12</sup>(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.

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#### Textual Amendments

- F10** 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)
- F11** 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
- F12** 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.

- (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.
- (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.
- [<sup>F13</sup>(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

- F13** 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.

- (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 [<sup>F14</sup>section 78 of the Education Act 2002](general duties in respect of curriculum),

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- (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 [<sup>F15</sup> Her Majesty's Chief Inspector of Education, Children's Services and Skills ] 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 <sup>F16</sup> . . . any qualification, they may do so on such terms (including terms as to payment) <sup>F16</sup> . . . as they may determine.
- [<sup>F17</sup>(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
  - [<sup>F18</sup>(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 <sup>M1</sup>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

- F14** 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](#)
- F15** Words in s. 26(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 21](#); S.I. 2007/935, [art. 5\(gg\)](#)
- F16** 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](#)

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**F17** 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**

**F18** 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.

### [<sup>F19</sup>26A Power of Authority to give directions

- (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,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

**F19** 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**

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