



Education and Skills Act 2008

2008 CHAPTER 25

PART 5 U.K.

MISCELLANEOUS AND GENERAL

CHAPTER 2 E+W

MISCELLANEOUS

External qualifications

159 Approved external qualifications: England E+W

- (1) Section 98 of the Learning and Skills Act 2000 (c. 21) (approved qualifications: England) is amended as follows.
- (2) After subsection (2) insert—
 - “(2A) A body may be designated under subsection (2)(b) in relation to the giving of approvals under—
 - (a) section 96,
 - (b) section 97, or
 - (c) both of those sections.”
- (3) Omit subsection (4) (which renders an approval given by a designated body ineffective unless the Secretary of State consents to the approval).

Commencement Information

II S. 159 in force at 28.2.2009 by [S.I. 2009/387](#), [art. 2](#)

Status: Point in time view as at 31/10/2009. This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Education and Skills Act 2008, Cross Heading: External qualifications. (See end of Document for details)

PROSPECTIVE

160 Approved external qualifications: Wales E+W

^{F1}(1)

^{F2}(2)

^{F3}(3)

Textual Amendments

- F1** S. 160(1) omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 8**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F2** S. 160(2) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 16 Pt. 2**; S.I. 2010/303, art. 3, Sch. 2 (with arts. 1314) (as amended (30.3.2010) by S.I. 2010/1151, art. 22)
- F3** S. 160(3) omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 8**; S.I. 2015/1687, art. 2 (with arts. 3-12)

161 Functions of Qualifications and Curriculum Authority in England and Northern Ireland E+W

- (1) The Education Act 1997 (c. 44) is amended as follows.
- (2) Section 24 (functions of QCA in relation to external vocational and academic qualifications) is amended as follows.
- (3) In subsection (2)—
- (a) for paragraph (f) substitute—
 - “(ea) to develop and publish criteria for the recognition of persons who, as outside persons, award or authenticate such qualifications or credits in respect of components of such qualifications;
 - (eb) to recognise, where they meet such criteria, any such persons who apply to be recognised;
 - (f) to develop and publish criteria for the accreditation of such qualifications where they are awarded or authenticated by persons recognised under paragraph (eb);”;
 - (b) after paragraph (g) insert—
 - “(ga) to develop and publish rules and procedures for dealing with the effect on the continued accreditation of such qualifications where any person awarding or authenticating them ceases to be recognised;”.
- (4) In subsection (4), for “(g)” substitute “ (ga) ”.
- (5) In subsection (7)—
- (a) in paragraph (a), after “a qualification” insert “ or a credit in respect of a component of a qualification ” and after “the qualification” insert “ or component ”;

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- (b) in paragraph (b), after “a qualification” insert “ or a credit in respect of a component of a qualification ”.
- (6) Section 26 (supplementary provisions relating to discharge by QCA of their functions) is amended as follows.
- (7) In subsection (3), after “the Authority” insert “ recognise any person or ”.
- (8) In subsection (3A)—
 - (a) after “the Authority” insert “ recognise any person or ”;
 - (b) after “at the time of” insert “ recognition or of ”;
 - (c) after “conditions on” insert “ recognition or ”;
 - (d) after “continued” insert “ recognition or ”.
- (9) In subsection (4)(b)(i), for the words from “maintained” to “receiving the accreditation” substitute “ 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 ”.
- (10) Section 26A (power of QCA to give directions) is amended as follows.
- (11) For subsection (1) substitute—
 - “(1) If it appears to the Qualifications and Curriculum Authority—
 - (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 any accredited qualification, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain any accredited qualification awarded or authenticated by that person,the Authority 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.
- (1A) If it appears to the Authority—
 - (a) that any person who awards or authenticates any accredited qualification 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 person mentioned in paragraph (a) to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.”
- (12) In subsection (2), for “the awarding body” substitute “ the recognised person or (as the case may be) the person mentioned in subsection (1A)(a) ”.

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(13) After subsection (3) insert—

“(4) In this section—

“accredited qualification” means a qualification accredited by the Authority, and

“recognised person” means a person recognised by the Authority.

(5) In this section any reference to the award or authentication of any qualification by any person is a reference to its award or authentication by any person alone or jointly with others.”

Commencement Information

I2 S. 161(1)-(3)(a)(5)-(9) in force at 28.2.2009 by [S.I. 2009/387](#), [art. 2](#)

162 Functions of Welsh Ministers etc **E+W**

(1) The Education Act 1997 (c. 44) is amended as follows.

(2) Section 30 (functions in Wales in relation to external vocational and academic qualifications) is amended as follows.

(3) In subsection (1)—

(a) the existing paragraphs (i) to (vi) are re-numbered as paragraphs (a) to (f);

(b) for paragraph (d) (as re-numbered) substitute—

“(ca) to develop and publish criteria for the recognition of persons who, as outside persons, award or authenticate such qualifications or credits in respect of components of such qualifications;

(cb) to recognise, where they meet such criteria, any such persons who apply to be recognised;

(d) to develop and publish criteria for the accreditation of such qualifications where they are awarded or authenticated by persons recognised under paragraph (cb);”;

(c) after paragraph (e) (as re-numbered) insert—

“(ea) to develop and publish rules and procedures for dealing with the effect on the continued accreditation of such qualifications where any person awarding or authenticating them ceases to be recognised;”.

(4) For subsections (1B) and (1C) substitute—

“(1B) The following functions are exercisable solely by the Welsh Ministers—

(a) the functions set out in paragraphs (ca) and (cb) of subsection (1); and

(b) the functions set out in the other paragraphs of that subsection so far as they relate to external qualifications other than National Vocational Qualifications.

(1C) The functions set out in those other paragraphs so far as they relate to National Vocations Qualifications are exercisable as follows—

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- (a) the functions set out in paragraphs (a) to (c), (d) and (ea) of subsection (1) are exercisable concurrently by the Welsh Ministers and the Qualifications and Curriculum Authority; and
 - (b) the functions set out in paragraphs (e) and (f) of that subsection are exercisable solely by the Qualifications and Curriculum Authority.
- (1D) Subsections (1B) and (1C) are subject to any exercise of the power conferred by subsection (2).”
- (5) After subsection (5) insert—
 - “(6) Subsection (7) of section 24 (interpretation of references to the award or authentication by outside persons of external qualifications or credits in respect of components of them) applies for the purposes of this section as it applies for the purposes of that section.”
- (6) Section 32 (supplementary provisions relating to discharge by Welsh Ministers of their functions) is amended as follows.
- (7) In subsection (3), before “accredits” insert “ recognises any person or ”.
- (8) In subsection (3A)—
 - (a) before “accredits” insert “ recognises any person or ”;
 - (b) after “at the time of” insert “ recognition or of ”;
 - (c) after “conditions on” insert “ recognition or ”;
 - (d) after “continued” insert “ recognition or ”.
- (9) In subsection (4)(b)(i), for the words from “maintained” to “receiving the accreditation” substitute “ 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 ”.
- (10) For section 32A substitute—

“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 any qualification accredited by them or by the Qualifications and Curriculum Authority, 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

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- 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 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 “recognised person” means a person recognised by the Welsh Ministers.
- (6) In this section any reference to the award or authentication of any qualification by any person is a reference to its award or authentication by any person alone or jointly with others.”

Commencement Information

I3 S. 162(1) (2) (3)(a) (3)(b) (4)-(10) in force at 31.3.2009 for W. by [S.I. 2009/784](#), [art. 2\(a\)](#)

I4 S. 162(3)(c) in force at 31.10.2009 for W. by [S.I. 2009/784](#), [art. 5\(a\)](#)

PROSPECTIVE

^{F4}163 Functions of Qualifications and Curriculum Authority in Northern Ireland in relation to vocational qualifications **E+W**

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Textual Amendments

F4 S. 163 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. 16 Pt. 4](#); [S.I. 2010/1151](#), art. 2, Sch. 1; [S.I. 2010/2413](#), art. 2(b)(ii)(jj)

Status:

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Changes to legislation:

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