

## SCHEDULES

### SCHEDULE 12

Sections 174 and 192

#### OFQUAL AND THE QCDA: MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Public Records Act 1958 (c. 51)*

- 1 In paragraph 3 of Schedule 1 to the Public Records Act 1958, in Part 2 of the Table (definition of public records: other establishments and organisations) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.

##### *Parliamentary Commissioner Act 1967 (c. 13)*

- 2 (1) Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation) is amended as follows.
  - (2) At the appropriate place insert—

“Office of Qualifications and Examinations Regulation.”
  - (3) For “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.

##### *Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 3 (1) Subject to sub-paragraph (2), in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” includes the Qualifications and Curriculum Development Agency.
  - (2) The provision in sub-paragraph (1) has effect as if made by an order made by the Secretary of State under section 1(5) of that Act (power to provide that a person is to be a public body for the purposes of the Act) and accordingly may be varied or revoked by such an order.

##### *Superannuation Act 1972 (c. 11)*

- 4 In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act) under the heading “Other bodies” for “The Qualifications and Curriculum Authority” substitute “The Qualifications and Curriculum Development Agency”.

##### *House of Commons Disqualification Act 1975 (c. 24)*

- 5 (1) Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) is amended as follows.
  - (2) For the entry relating to members of the Qualifications and Curriculum Authority substitute—

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“Any member of the Qualifications and Curriculum Development Agency (continued under section 175 of the Apprenticeships, Skills, Children and Learning Act 2009) in receipt of remuneration.”

(3) At the appropriate place insert—

“The Chief Regulator of Qualifications and Examinations and any member of the Office of Qualifications and Examinations Regulation in receipt of remuneration.”

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

6 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert—

“The Chief Regulator of Qualifications and Examinations and any member of the Office of Qualifications and Examinations Regulation in receipt of remuneration.”

*Race Relations Act 1976 (c. 74)*

7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies etc. subject to general statutory duty which were added after commencement of the duty) for “The Qualifications and Curriculum Authority” substitute “The Qualifications and Curriculum Development Agency”.

*Charities Act 1993 (c. 10)*

8 In Schedule 2 to the Charities Act 1993 (exempt charities) omit paragraph (da).

*Education Act 1996 (c. 56)*

9 The Education Act 1996 is amended as follows.

10 In section 391(10) (functions of advisory councils) in paragraph (a) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.

11 (1) Section 408 (provision of information) is amended as follows.

(2) In subsection (1)(a) after “2002” insert “or the provisions of Parts 7 and 8 of the Apprenticeships, Skills, Children and Learning Act 2009”.

(3) In subsection (2)(e)—

(a) for “external” substitute “relevant”;

(b) after “2000” insert “which are approved under section 98 or 99 of that Act”.

*Education Act 1997 (c. 44)*

12 The Education Act 1997 is amended as follows.

13 Sections 21 to 26A (the Qualifications and Curriculum Authority) cease to have effect.

14 In section 29 (functions of the Welsh Ministers in relation to curriculum and assessment) for subsection (5) substitute—

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“(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.”

15 (1) Section 30 (functions of the Welsh Ministers in relation to external vocational and academic qualifications) is amended as follows.

(2) For subsection (1) substitute—

“(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.”

(3) In subsection (1A)—

- (a) for “(1)(d)” substitute “(1)(g)”;
- (b) for “(e)” substitute “(h)”.

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- (4) For subsection (1B) substitute—
- “(1B) The functions set out in subsection (1) are exercisable solely by the Welsh Ministers.”
- (5) Omit subsections (1C), (1D) and (2).
- (6) For subsection (5) substitute—
- “(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.”
- (7) Omit subsection (6).
- (8) In the title, for “external vocational and academic” substitute “relevant”.
- 16 (1) Section 32 (supplementary provisions relating to discharge by the Welsh Ministers of their functions) is amended as follows.
- (2) In subsection (1)(c)—
- (a) in sub-paragraph (ii) before “requirements” insert “reasonable”;
- (b) for sub-paragraph (iii) substitute—
- “(iii) the reasonable requirements of persons with learning difficulties.”
- (3) In subsection (4) for paragraph (a) (but not the “and” after it) substitute—
- “(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;”.
- (4) Omit subsection (4A).
- (5) For subsection (6) substitute—
- “(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

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- (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.”

17 After section 32 insert—

**“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.

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- (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.
- (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.”
- 18 (1) Section 32A (power of the Welsh Ministers to give directions) is amended as follows.
- (2) In subsection (1)(b)(i) for “any qualification accredited by them or by the Qualifications and Curriculum Authority” substitute “any qualification in respect of which that person is recognised by them or by the Office of Qualifications and Examinations Regulation”.
- (3) In subsection (5) after “this section” insert “and sections 32B and 32C”.
- (4) Omit subsection (6).
- 19 After section 32A insert—

**“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.

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- (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.
- (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.”

### “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.

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- (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).”
- 20 In section 35(1) (transfer of staff) at the end insert “, 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”.
- 21 Section 36 (levy on bodies awarding qualifications accredited by relevant body) ceases to have effect.
- 22 In section 54(1) (orders and regulations) omit “, except an order under section 25 or 31,”.
- 23 In section 58(6) (short title, commencement and extent etc)—
- (a) omit the entries for—
    - (i) sections 21 and 22,
    - (ii) section 24(4), (6) and (7),
    - (iii) sections 26 and 26A, and
    - (iv) Schedule 4;
  - (b) for “34 to 36” substitute “35”.
- 24 Schedule 4 (the Qualifications and Curriculum Authority) ceases to have effect.
- 25 In Schedule 7 (minor and consequential amendments) omit paragraph 2.

*Learning and Skills Act 2000 (c. 21)*

- 26 The Learning and Skills Act 2000 is amended as follows.
- 27 (1) Section 96 (external qualifications: persons under 19) is amended as follows.
- (2) In subsection (1)(b) for “an external qualification” substitute “a relevant qualification”.
  - (3) In subsection (2) for “external” substitute “relevant”.
  - (4) For subsections (5) to (7) substitute—
 

“(5) In this section “a relevant qualification”—

    - (a) in relation to England, means a qualification to which Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 applies;
    - (b) in relation to Wales, has the same meaning as in section 30 of the Education Act 1997.”
- 28 (1) Section 98 (approved qualifications: England) is amended as follows.
- (2) Before subsection (3) insert—
 

“(2B) A qualification may be approved only if—

    - (a) the conditions mentioned in subsection (2C) are satisfied in relation to the qualification, or
    - (b) the Office of Qualifications and Examinations Regulation is consulted before the approval is given.



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- (2C) The conditions are that—
- (a) the qualification is a regulated qualification within the meaning of Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009, and
  - (b) if the qualification is subject to the accreditation requirement (within the meaning of Chapter 2 of that Part), it is accredited under section 139 of that Act.”
- (3) In subsections (7) and (8) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency or the Young People’s Learning Agency for England”.
- 29 (1) In section 99 (approved qualifications: Wales) is amended as follows.
- (2) In subsection (2)—
- (a) before paragraph (a) insert—
    - “(za) the conditions mentioned in subsection (2ZA) are then satisfied in relation to the qualification.”;
  - (b) in paragraphs (a) and (b) after “then” insert “otherwise”.
- (3) After subsection (2) insert—
- “(2ZA) The conditions are that—
- (a) the qualification is awarded or authenticated by a person recognised in that respect under section 30(1)(e) of the Education Act 1997, and
  - (b) if the qualification is subject to a requirement of accreditation pursuant to a determination made under section 30(1)(f) of that Act, it is accredited under section 30(1)(h) of that Act.”

#### *Freedom of Information Act 2000 (c. 36)*

- 30 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) for “The Qualifications Curriculum Authority” substitute “The Qualifications and Curriculum Development Agency”.

#### *Education Act 2002 (c. 32)*

- 31 The Education Act 2002 is amended as follows.
- 32 (1) Section 76 (interpretation of Part 6) is amended as follows.
- (2) At the beginning insert “(1)”.
  - (3) In the definition of “assess” omit “examine and”.
  - (4) In the definition of “assessment arrangements” for the words from “for the purpose” to the end substitute “for the specified purposes”.
  - (5) At the end insert—
    - “(2) In subsection (1) “the specified purposes”, in relation to assessment arrangements for a key stage, means—
      - (a) the purpose of ascertaining what pupils have achieved in relation to the attainment targets for that stage, and
      - (b) such other purposes as the Secretary of State may by order specify.”

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- 33 In section 85(6) (curriculum requirements for the fourth key stage) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.
- 34 In section 85A(5) (entitlement areas for the fourth key stage) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.
- 35 (1) Section 87 (establishment of the National Curriculum for England by order) is amended as follows.
- (2) In subsection (5) for “published as specified” substitute “published by a person, and in the manner, specified”.
- (3) In subsection (7)—
- (a) omit the “and” at the end of paragraph (a);
- (b) after paragraph (b) insert—
- “ (c) the Qualifications and Curriculum Development Agency, and
- (d) any other person with whom the Secretary of State has made arrangements in connection with the development, implementation or monitoring of assessment arrangements,”.
- (4) Omit subsection (9).
- (5) In subsection (10) for the words before paragraph (a) substitute “The duties that may be imposed by virtue of subsection (7)(a) or (b) include, in relation to persons exercising any function in connection with the moderation or monitoring of assessment arrangements, the duty to permit them—”.
- (6) For subsection (11) substitute—
- “(11) An order under subsection (3)(c) may authorise a person specified in the order to make delegated supplementary provisions in relation to such matters as may be specified in the order.
- (12) In this section “delegated supplementary provisions” means such provisions (other than provisions conferring or imposing functions as mentioned in subsection (7)(a) or (b)) as appear to the authorised person to be expedient for giving full effect to, or otherwise supplementing, the provisions made by the order.
- (13) An order under subsection (3)(c) authorising the making of delegated supplementary provisions may provide that such provisions may be made only with the approval of the Secretary of State.
- (14) Any delegated supplementary provisions shall, on being published as specified in the order under which they are made, have effect for the purposes of this Part as if made by the order.”
- 36 (1) Section 90 (development work and experiments) is amended as follows.
- (2) In subsections (3)(c) and (4) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.

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- (3) In subsection (5) for the words from “to the” to the end substitute “on any matters specified by the Secretary of State to—
- (a) the Secretary of State, or
  - (b) the reviewing body.”
- (4) After subsection (5) insert—
- “(5A) If required by the Secretary of State to do so the reviewing body shall keep under review development work or experiments carried out following a direction given under subsection (1).
- (5B) In this section “the reviewing body” means the Qualifications and Curriculum Development Agency, or any other person, if designated as such by the Secretary of State.
- (5C) A designation under subsection (5B) may make different provision for different purposes.”
- 37 (1) Section 96 (procedure for making certain orders and regulations) is amended as follows.
- (2) In subsection (2)—
- (a) for “Qualifications and Curriculum Authority (in this section referred to as “the Authority”)” substitute “Qualifications and Curriculum Development Agency (in this section referred to as “the Agency”)”;
  - (b) for “them” substitute “it”;
  - (c) for “they are” substitute “it is”.
- (3) For subsection (3) substitute—
- “(3) The Agency shall give notice of the proposal to such of the following as appear to it to be concerned with the proposal—
- (a) associations of local education authorities,
  - (b) bodies representing the interests of school governing bodies, and
  - (c) organisations representing school teachers.
- (3A) The Agency shall also publish the proposal in such manner as, in its opinion, is likely to bring the proposal to the notice of any other persons who may be concerned with the proposal.
- (3B) The Agency shall give the bodies and other persons mentioned in subsections (3) and (3A) a reasonable opportunity of submitting evidence and representations as to the issues arising from the proposal.”
- (4) In subsection (4)—
- (a) for “Authority”, wherever appearing, substitute “Agency”;
  - (b) in paragraph (c) for “think” substitute “thinks”.
- (5) In subsection (5)—
- (a) for “Authority” substitute “Agency”;
  - (b) for “their” substitute “its”.
- (6) In subsection (6)—
- (a) for “Authority have” substitute “Agency has”;

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- (b) in paragraph (b) for “Authority” substitute “Agency”;
- (c) omit the words from “and shall send copies” to the end.

(7) After subsection (6) insert—

“(6A) The Secretary of State shall take such steps as in his opinion are likely to bring the documents mentioned in subsection (6)(a) and (b) to the notice of any person who submitted evidence or representations to the Agency.

“(6B) The Secretary of State shall send copies of those documents to the Agency.”

*Childcare Act 2006 (c. 21)*

38 The Childcare Act 2006 is amended as follows.

39 (1) Section 41 (the learning and development requirements) is amended as follows.

(2) In subsection (2)(c) for the words from “for the purpose” to “early learning goals” substitute “for the specified purposes”.

(3) After subsection (4) insert—

“(4A) In subsection (2)(c) “the specified purposes” means—

- (a) the purpose of ascertaining what children have achieved in relation to the early learning goals, and
- (b) such other purposes as the Secretary of State may by order specify.”

40 (1) Section 42 (further provisions about assessment arrangements) is amended as follows.

(2) In subsection (2)—

- (a) omit the “and” at the end of paragraph (b);
- (b) after paragraph (c) insert—

“(d) the Qualifications and Curriculum Development Agency, and

- (e) any other person with whom the Secretary of State has made arrangements in connection with the development, implementation or monitoring of assessment arrangements.”

(3) Omit subsection (4).

(4) In subsection (5) for the words before paragraph (a) substitute “The duties that may be imposed on a person mentioned in subsection (2)(a) to (c) by virtue of subsection (1) include, in relation to persons exercising any function in connection with the moderation or monitoring of assessment arrangements, the duty to permit them—”.

(5) For subsection (6) substitute—

“(6) A learning and development order specifying assessment arrangements may authorise a person specified in the order to make delegated supplementary provisions in relation to such matters as may be specified in the order.

(6A) In this section “delegated supplementary provisions” means such provisions (other than provisions conferring or imposing functions on persons

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mentioned in subsection (2)(a) to (c)) as appear to the authorised person to be expedient for giving full effect to, or otherwise supplementing, the provisions made by the order.

(6B) A learning and development order authorising the making of delegated supplementary provisions may provide that such provisions may be made only with the approval of the Secretary of State.

(6C) Any delegated supplementary provisions, on being published as specified in the order under which they are made, are to have effect for the purposes of this Chapter as if made by the order.”

41 In section 44(1) (instruments specifying learning and development or welfare requirements) for “published as specified” substitute “published by a person, and in the manner, specified”.

42 In section 46 (power to enable exemptions from learning and development requirements to be conferred) after subsection (1) insert—

“(1A) Regulations under subsection (1) may make provision about the conditions which may be imposed by the Secretary of State on making a direction.

(1B) If required by the Secretary of State to do so the reviewing body must keep under review the effect of a direction given under regulations made under subsection (1).

(1C) In subsection (1B) “the reviewing body” means the Qualifications and Curriculum Development Agency, or any other person, if designated as such by the Secretary of State.

(1D) A designation under subsection (1C) may make different provision for different purposes.”

*Safeguarding Vulnerable Groups Act 2006 (c. 47)*

43 In section 21(10) of the Safeguarding Vulnerable Groups Act 2006 (controlled activity relating to children) in paragraph (d) for “Qualifications and Curriculum Authority” substitute “Qualifications and Curriculum Development Agency”.