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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) and makes amendments to Part 1 of the Education and Skills Act 2008 in consequence of the provisions made by Part 7 of the 2009 Act. Part 1 of the 2008 Act applies to persons in England who have ceased to be of compulsory school age but who are under the age of 18 and who have not attained a level 3 qualification (within the meaning of section 3 of the 2008 Act). Section 2 of that Act requires them to participate in education or training.

Article 2(2) amends section 3 of the 2008 Act (meaning of “level 3 qualification”) so as to amend the reference to prescribed external qualifications and external qualifications of a prescribed description to instead refer to prescribed qualifications and qualifications of a prescribed description. This is because the 2009 Act repealed section 24 of the Education Act 1997, which defined external qualifications.

Article 2(3) amends section 6 of the 2008 Act (meaning of “relevant training or education”) so that it refers to regulated qualifications rather than accredited qualifications. This is because under the 2009 Act, providing a body has been recognised under the Act in respect of a specific qualification or description of qualification, it may not necessarily have to obtain accreditation for a form of the qualification it awards. Whether it does or not is a matter for the Office of Qualifications and Examinations Regulation (Ofqual), which is established under the 2009 Act. Prior to the 2009 Act the position was different since the Education Act 1997 required all forms of qualifications to be accredited. The 2008 Act applies to qualifications awarded or authenticated by a body recognised by Ofqual, irrespective of whether those qualifications are accredited.

Article 2(4) amends section 8 of the 2008 Act (meaning of “sufficient relevant training or education”) again to refer to regulated qualifications rather than accredited qualifications. Under section 145 of the 2009 Act a recognised body is required to assign hours of guided learning to forms of qualifications if it considers that there are, or may reasonably be expected to be, persons seeking to obtain the qualification in order to meet the duty under section 2 of the 2008 Act. Section 8 is amended to cross-refer to section 145 of the 2009 Act.

An impact assessment has not been produced for this instrument as it has no impact on businesses, the public sector or civil society organisations.