

EXPLANATORY MEMORANDUM TO

THE QUALIFICATIONS WALES ACT 2015 (CONSEQUENTIAL PROVISION) ORDER 2017

2017 No. 121

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The instrument (“this Order”) makes provision in consequence of the Qualifications Wales Act 2015 (“the 2015 Act”) and the Qualifications Wales Act 2015 (Consequential Amendments) Regulations 2016 (“the 2016 Regulations”).
- 2.2 The 2015 Act created a new body called Qualifications Wales to regulate non-degree qualifications awarded in Wales.
- 2.3 The 2016 Regulations make consequential amendments to a number of pieces of primary and secondary legislation so that references to the previous system for the regulation of qualifications awarded in Wales now refer to the new regulatory regime.
- 2.4 However, Assembly legislation, such as the 2016 Regulations, can only extend to England and Wales.
- 2.5 There were two statutory instruments that were amended by the 2016 Regulations, where the Assembly did not have the power to provide the necessary territorial extent. This Order therefore provides that the amendments made to these two statutory instruments extend beyond just England and Wales.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This is the fifth Order to be made under section 150 of the Government of Wales Act 2006. The others, unrelated to this Order, are: the Local Government (Wales) Measure 2009 (Consequential Modifications) Order 2010 (SI 2010/212); the Natural Resources Body for Wales (Consequential Provision) Order 2013 (SI 2013/1821); the Human Transplantation (Wales) Act 2013 (Consequential Provision) Order 2015 (SI 2015/865); and the Higher Education (Wales) Act 2015 (Consequential Provision) Order 2015 (SI 2015/1353).

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Under Part 4 of the Government of Wales Act 2006 (“GOWA”), the National Assembly for Wales may make laws known as Acts of the Assembly. The National Assembly for Wales passed the 2015 Act on 16 June 2015 and it was given Royal Assent on 5 August 2015.
- 4.2 Welsh Ministers subsequently made the 2016 Regulations on 24 February 2016, which came into force on 1 May 2016.
- 4.3 This Order is scheduled to come into force on 1 April 2017.

5. Extent and Territorial Application

- 5.1 This instrument has UK wide extent. However, the substantive amendments in Articles 2 and 3 have more limited territorial extent and application.
- 5.2 Article 2 amends the Motor Vehicle (Driving Licences) Regulations 1999 (“the 1999 Regulations”). The 1999 Regulations extend and apply to Scotland and to England and Wales. Regulation 7 of the 2016 Regulations only amended the 1999 Regulations insofar as they extend and apply to England and Wales. Article 2(3) therefore provides that that amendment extends and applies to Scotland too. Article 2(2) also amends the 1999 Regulations to remove two redundant references to qualifications accredited by Welsh Ministers. However, unlike Article 2(3), the Article 2(2) amendment extends and applies to England and Wales as well as to Scotland.
- 5.3 Article 3 amends the National Minimum Wage Regulations 2015 (“the 2015 Regulations”). Although the 2015 Regulations extend to all of the UK, the amendments to them by regulation 19 of the 2016 Regulations only extend and apply to England and Wales. Article 3 therefore provides that those amendments to the 2015 Regulations also extend and apply to Scotland and to Northern Ireland.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The UK Government departments with policy ownership of the two statutory instruments being amended by this Order are the Department for Transport (“DfT”) regarding the 1999 Regulations, and the Department for Business, Energy and Industrial Strategy (“BEIS”) regarding the 2015 Regulations.
- 7.2 Each of these departments confirmed that they wanted the Secretary of State for Wales to use his power under section 150 of GOWA to make consequential amendments to these two statutory instruments in this Order, so that references to the new regulatory regime for Wales achieve the same extent as the instruments being amended.

Consolidation

- 7.3 This Order makes minor consequential amendments to two pieces of secondary legislation and is therefore not a suitable vehicle for consolidation.

8. Consultation outcome

- 8.1 We have not publically consulted on the amendments contained in this Order as they are purely consequential amendments to ensure that the references to the new qualifications regime achieve the appropriate territorial extent. The amendments to the two instruments in this Order have been discussed with, and approved by, the relevant UK Government Departments (DfT and BEIS) and discussed with the Welsh Government.
- 8.2 The underlying policy of creating Qualification Wales is a Welsh Government policy.

9. Guidance

- 9.1 As this Order makes only minor consequential amendments to statutory instruments as regards their extent, no guidance is thought to be necessary.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not impact upon activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 There are no plans for a review of the effects of the Order.

13. Contact

- 13.1 Queries about the content of the instrument or this memorandum should be addressed to Jodye Crabbe, Wales Office, (Tel: 029 2092 4202, email: Jodye.Crabbe@walesoffice.gsi.gov.uk).
- 13.2 Owen Robinson, Wales Office Legal Advisers, can answer legal queries about the instrument (Tel: 0207 270 0400, email: Owen.Robinson@cabinetoffice.gov.uk).