

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Further Provision Relevant to Recognition, Approval and Designation

Section 35: Award in Wales of an approved qualification: restriction on application of conditions imposed by Ofqual

78. **Section 35** avoids a form of a qualification that is awarded as approved by Qualifications Wales being regulated simultaneously by both Qualifications Wales and Ofqual. Ofqual is a regulator of qualifications established under the Apprenticeships, Skills, Children and Learning Act 2009. Ofqual's functions are similar to the functions of Qualifications Wales. An awarding body may be recognised by both Ofqual and by Qualifications Wales under the respective legislative regimes.
79. **Section 35** prevents any conditions of recognition imposed by Ofqual from applying to the award in Wales of a form of a qualification that is awarded as approved by Qualifications Wales. Qualifications Wales's conditions of recognition and those of approval would apply in these circumstances; Ofqual's conditions of recognition would not. The meaning of the award of a form of a qualification in Wales is set out in subsection (4) and section 57(4) is also relevant to this.
80. Qualifications not awarded as approved but regulated under Qualifications Wales's conditions of recognition, including any designated qualifications, may also be regulated by Ofqual (see section 36 whereby Qualifications Wales may regulate, through conditions of recognition, qualifications awarded in Wales which are within the body's recognition even if they are not approved). Section 35 ensures that such overlap does not occur in relation to forms of qualifications awarded as approved under Part 4 of the Act; sections 57(8) and 22(4) explain what is meant when a qualification is awarded as approved. Section 35 does not affect the application (if any) of conditions of recognition imposed by Ofqual to the award in Wales of forms of a qualification which are not awarded as approved – for example, designated qualifications or other qualifications which are not awarded as approved by Qualifications Wales, and may instead be ones in relation to which Ofqual regulates.