

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: the Qualifications and Curriculum Development Agency

Chapter 2: Functions in relation to qualifications

Section 178: Qualifications within the QCDA's remit

516. This section defines which qualifications fall within the QCDA's remit. This remit is broadly similar to that of Ofqual. It covers all qualifications awarded or authenticated in England other than those which are both (a) at foundation degree level or equivalent or first degree level or above, and (b) awarded or authenticated by a higher education institution. As with Ofqual, the QCDA's remit is no longer restricted to qualifications awarded by an external body (so, for example, a qualification awarded by an employer following completion of its own training would fall within the QCDA's remit).
517. The Secretary of State is given the power by order to exclude qualifications from the QCDA's remit. The order-making power is subject to the negative procedure. This provision is designed to allow for any future narrowing of the QCDA's qualifications role. The intention is that this power could be used in particular to remove the QCDA's functions in relation to post-19 qualifications, if the Department for Business, Innovation and Skills were (following the review that it currently has under way) to conclude that it did not wish the QCDA to have advice and review functions with respect to these qualifications. Any such decision would not affect Ofqual's role in regulating these qualifications.

Section 179: Qualifications: general functions

518. This section sets out the QCDA's duties and powers in relation to qualifications within its remit (see above). These include its duty to keep all aspects of such qualifications under review; its duty to provide advice or carry out research relating to such qualifications at the request of the Secretary of State; and its general power to offer advice to the Secretary of State and to conduct research. It may also publish information relating to qualifications within its remit.

Section 180: Assistance etc. in relation to qualifications functions of Ofqual

519. This section requires the QCDA, where requested by Ofqual, to assist in setting criteria for recognition or accreditation which relate to a qualification or description of qualification where an order specifying minimum requirements under section 141(1) has effect. It also enables the QCDA generally to assist Ofqual in connection with its qualifications functions, including assistance with setting 'qualifications criteria' in other cases. 'Qualifications criteria' are the criteria for recognition of awarding bodies,

for accreditation of individual qualifications and for the assignment of a number of guided learning hours to a qualification.

520. The Government intends that this provision will be used to enable the QCDA to develop draft criteria for qualifications whose high level content is determined as a matter of policy by Ministers, for example, GCSEs, A-levels or Diplomas. The criteria would then be considered for adoption by Ofqual, and provided it was content to adopt them. This process will allow Ofqual to avoid the conflict of interest inherent in the QCA's functions, whereby it both develops the criteria and is responsible for providing assurance that the qualifications developed against those criteria are of a high standard. This process is supported by section 141, which allows the Secretary of State – where certain pre-conditions are met - to specify by order the minimum requirements for a specified qualification or description of qualification. Where such an order has been made, there would be an expectation that the QCDA would support the development of qualifications criteria, which is why section 180 imposes a duty on the QCDA to assist Ofqual where requested to do so.