



Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 7

THE OFFICE OF QUALIFICATIONS AND EXAMINATIONS REGULATION

CHAPTER 1

ESTABLISHMENT, OBJECTIVES AND GENERAL DUTIES

Establishment

127 The Office of Qualifications and Examinations Regulation

- (1) There is to be a body corporate known as the Office of Qualifications and Examinations Regulation.
- (2) In this Part that body is referred to as “Ofqual”.
- (3) Schedule 9 makes further provision about Ofqual.

Objectives and general duties

128 Objectives

- (1) Ofqual’s objectives are—
 - (a) the qualifications standards objective,
 - (b) the assessments standards objective,
 - (c) the public confidence objective,
 - (d) the awareness objective, and

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- (e) the efficiency objective.
- (2) The qualifications standards objective is to secure that regulated qualifications—
 - (a) give a reliable indication of knowledge, skills and understanding, and
 - (b) indicate a consistent level of attainment (including over time) between comparable regulated qualifications.
- (3) The assessments standards objective is to promote the development and implementation of regulated assessment arrangements which—
 - (a) give a reliable indication of achievement, and
 - (b) indicate a consistent level of attainment (including over time) between comparable assessments.
- (4) The public confidence objective is to promote public confidence in regulated qualifications and regulated assessment arrangements.
- (5) The awareness objective is to promote awareness and understanding of—
 - (a) the range of regulated qualifications available,
 - (b) the benefits of regulated qualifications to learners, employers and institutions within the higher education sector, and
 - (c) the benefits of recognition under section 132 to bodies awarding or authenticating qualifications to which this Part applies.
- (6) The efficiency objective is to secure that regulated qualifications are provided efficiently and in particular that any relevant sums payable to a body awarding or authenticating a qualification in respect of which the body is recognised under section 132 represent value for money.
- (7) For the purposes of subsection (6) a sum is relevant if it is payable in respect of the award or authentication of the qualification in question.

129 General duties

- (1) So far as reasonably practicable, in performing its functions Ofqual must act in a way—
 - (a) which is compatible with its objectives, and
 - (b) which it considers most appropriate for the purpose of meeting its objectives.
- (2) So far as relevant, in performing its functions Ofqual must have regard to—
 - (a) the need to ensure that the number of regulated qualifications available for award or authentication is appropriate;
 - (b) the other reasonable requirements of relevant learners, including persons with learning difficulties;
 - (c) the reasonable requirements of pupils and children, including persons with learning difficulties, in relation to regulated assessment arrangements;
 - (d) the reasonable requirements of industry, commerce, finance, the professions and other employers regarding education and training (including required standards of practical competence);
 - (e) the reasonable requirements of institutions within the higher education sector;
 - (f) information provided to Ofqual by a person falling within subsection (4);
 - (g) the desirability of facilitating innovation in connection with the provision of regulated qualifications;

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- (h) the specified purposes of regulated assessment arrangements.
- (3) For the purposes of subsection (2)(a) the number of regulated qualifications available for award or authentication is appropriate if the number is such that—
 - (a) there is a reasonable level of choice for learners, in terms of both the number of different regulated qualifications and the number of different forms of such qualifications, but
 - (b) the number of different regulated qualifications in similar subject areas or serving similar functions is not excessive.
- (4) The persons falling within this subsection are—
 - (a) the Qualifications and Curriculum Development Agency;
 - (b) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;
 - (c) such other relevant persons, or relevant persons of such a description, as the Secretary of State may direct.
- (5) In subsection (4)(c) “relevant person” means a person who appears to the Secretary of State to have knowledge of, or expertise in, requirements of a kind mentioned in subsection (2)(d).
- (6) In performing its functions Ofqual must also have regard to such aspects of government policy as the Secretary of State may direct.
- (7) The Secretary of State must publish a direction given under subsection (6).
- (8) Ofqual must perform its functions efficiently and effectively.
- (9) “Persons with learning difficulties” means—
 - (a) children with special educational needs (as defined in section 312 of the [Education Act 1996 \(c. 56\)](#)), and
 - (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.
- (10) 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.
- (11) “Relevant learner” means a person seeking to obtain, or who may reasonably be expected to seek to obtain, a regulated qualification.

Regulated qualifications and regulated assessment arrangements

130 Meaning of “regulated qualifications” etc.

- (1) In this Part a “regulated qualification” means a qualification to which this Part applies which is awarded or authenticated by a body which is recognised under section 132 in respect of the qualification.

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- (2) This Part applies to any of the following qualifications which is not an excluded qualification—
- (a) an academic or vocational qualification awarded or authenticated in England;
 - (b) a vocational qualification awarded or authenticated in Northern Ireland.
- (3) An excluded qualification is any of the following—
- (a) a foundation degree;
 - (b) a first degree;
 - (c) a degree at a higher level.
- (4) For the purposes of subsection (2) a qualification is awarded or authenticated in England or Northern Ireland 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 England or Northern Ireland (as the case may be).
- (5) The Secretary of State may by order repeal subsection (2)(b).
- (6) An order under subsection (5) may make amendments and repeals to a provision of, or in an instrument made under, this or any other Act (including any Act passed after this Act) in consequence of the repeal of subsection (2)(b).
- (7) Before making an order under subsection (5) the Secretary of State must consult the Department for Employment and Learning in Northern Ireland.

131 Meaning of “regulated assessment arrangements” etc.

- (1) This section applies for the purposes of this Part.
- (2) “Regulated assessment arrangements” means—
- (a) NC assessment arrangements, and
 - (b) EYFS assessment arrangements.
- (3) “NC assessment arrangements” means arrangements made under or by virtue of an order made under section 87(3)(c) of the [Education Act 2002 \(c. 32\)](#) for assessing pupils in England in respect of each key stage for the specified purposes.
- (4) In subsection (3)—
- “assessing” includes testing;
- “key stage” has the same meaning as in Part 6 of the [Education Act 2002 \(c. 32\)](#) (see section 76 of that Act).
- (5) “EYFS assessment arrangements” means arrangements made under or by virtue of an order made under section 39(1)(a) of the [Childcare Act 2006 \(c. 21\)](#) for assessing children in England for the specified purposes.
- (6) “The specified purposes” in relation to regulated assessment arrangements—
- (a) if the arrangements are NC assessment arrangements, has the same meaning as in section 76(1) of the [Education Act 2002](#);
 - (b) if the arrangements are EYFS assessment arrangements, has the same meaning as in section 41(2)(c) of the [Childcare Act 2006](#).