



# Education Act 2011

## 2011 CHAPTER 21

### PART 4

#### QUALIFICATIONS AND THE CURRICULUM

##### *International comparison surveys*

#### **20 Requirement for schools to participate in international surveys**

In Chapter 4 of Part 9 of EA 1996 (provision of information by governing bodies etc), after section 538, insert—

##### **“538A Power to direct participation in international surveys**

The Secretary of State may direct the governing body of a community, foundation or voluntary school in England to secure that the school participates in such international education surveys as may be specified in the direction.”

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##### **Commencement Information**

**11** [S. 20](#) in force at 1.2.2012 by [S.I. 2012/84](#), [art. 3](#)

##### *Ofqual*

#### **21 The Chief Regulator of Qualifications and Examinations**

Schedule 7 (the Chief Regulator of Qualifications and Examinations) has effect.

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##### **Commencement Information**

**12** [S. 21](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

*Changes to legislation: There are currently no known outstanding effects  
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## 22 The qualifications standards objective

In section 128 of ASCLA 2009 (Ofqual's objectives) for subsection (2) (the qualifications standards objective) substitute—

- “(2) The qualifications standards objective is to secure that—
- (a) regulated qualifications give a reliable indication of knowledge, skills and understanding, and
  - (b) regulated qualifications indicate —
    - (i) a consistent level of attainment (including over time) between comparable regulated qualifications, and
    - (ii) a consistent level of attainment (but not over time) between regulated qualifications and comparable qualifications (including those awarded outside the United Kingdom) which are not qualifications to which this Part applies.”

### Commencement Information

**I3** S. 22 in force at 1.2.2012 by S.I. 2012/84, art. 3

## 23 Enforcement powers

(1) Part 7 of ASCLA 2009 (the Office of Qualifications and Examinations Regulation) is amended as set out in subsections (2) to (6).

(2) In section 151 (power to give directions), for subsection (1) substitute—

“(1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed or is likely to fail to comply with a condition to which the recognition is subject.”

(3) After section 151 insert—

### “151A Power to impose monetary penalties

- (1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed to comply with a condition to which the recognition is subject.
- (2) Ofqual may impose a monetary penalty on the recognised body.
- (3) A “monetary penalty” is a requirement to pay to Ofqual a penalty of an amount determined by Ofqual in accordance with section 151B.
- (4) Before imposing a monetary penalty on a recognised body, Ofqual must give notice to the body of its intention to do so.
- (5) The notice must—
  - (a) set out Ofqual's reasons for proposing to impose the penalty, and
  - (b) specify the period during which, and the way in which, the recognised body may make representations about the proposal.
- (6) The period specified under subsection (5)(b) must not be less than 28 days beginning with the date on which the notice is received.

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- (7) Ofqual must have regard to any representations made by the recognised body during the period specified in the notice in deciding whether to impose a monetary penalty on the body.
- (8) If Ofqual decides to impose a monetary penalty on the body, it must give the body a notice containing information as to—
  - (a) the grounds for imposing the penalty,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and
  - (f) the consequences of non-payment.

#### **151B Monetary penalties: amount**

- (1) The amount of a monetary penalty imposed on a recognised body under section 151A must not exceed 10% of the body's turnover.
- (2) The turnover of a body for the purposes of subsection (1) is to be determined in accordance with an order made by the Secretary of State.
- (3) Subject to subsection (1), the amount may be whatever Ofqual decides is appropriate in all the circumstances of the case.

#### **151C Monetary penalties: appeals**

- (1) A recognised body may appeal to the First-tier Tribunal against—
  - (a) a decision to impose a monetary penalty on the body under section 151A;
  - (b) a decision as to the amount of the penalty.
- (2) An appeal under this section may be made on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the penalty is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
  - (a) withdraw the requirement to pay the penalty;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to Ofqual.

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### **151D Monetary penalties: interest and recovery**

- (1) This section applies if all or part of a monetary penalty imposed on a recognised body is unpaid at the end of the period ending on the applicable date.
  - (2) The applicable date is—
    - (a) the last date on which the recognised body may make an appeal under section 151C in respect of the penalty, if no such appeal is made;
    - (b) if an appeal under section 151C in respect of the penalty is made—
      - (i) the date on which the appeal is determined, or
      - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
  - (3) The unpaid amount of the penalty for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
  - (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the penalty.
  - (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.”
- (4) In section 152 (power to withdraw recognition), for subsection (2) substitute—
- “(2) Ofqual may withdraw recognition from the recognised body in respect of the award or authentication of—
- (a) a specified qualification or description of qualification in respect of which the body is recognised, or
  - (b) every qualification or description of qualification in respect of which the body is recognised.”
- (5) After section 152 insert—

### **“152A Costs recovery**

- (1) Ofqual may, by notice, require a recognised body on which a sanction has been imposed to pay the costs incurred by Ofqual in relation to imposing the sanction, up to the time it is imposed.
- (2) The references in subsection (1) to imposing a sanction are to—
  - (a) giving a direction under section 151;
  - (b) imposing a monetary penalty under section 151A;
  - (c) withdrawing recognition under section 152.
- (3) “Costs” includes in particular—
  - (a) investigation costs;
  - (b) administration costs;
  - (c) costs of obtaining expert advice (including legal advice).
- (4) A notice given to a recognised body under subsection (1) must contain information as to—

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- (a) the amount required to be paid,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and
  - (f) the consequences of non-payment.
- (5) The body may require Ofqual to provide a detailed breakdown of the amount specified in the notice.

#### **152B Costs recovery: appeals**

- (1) A recognised body may appeal to the First-tier Tribunal against—
  - (a) a decision under section 152A(1) to require the body to pay costs;
  - (b) a decision as to the amount of those costs.
- (2) An appeal under this section may be made on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the costs is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
  - (a) withdraw the requirement to pay the costs;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to Ofqual.

#### **152C Costs: interest and recovery**

- (1) This section applies if all or part of an amount of costs that a recognised body is required to pay under section 152A(1) is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
  - (a) the last date on which the recognised body may make an appeal under section 152B in respect of the costs, if no such appeal is made;
  - (b) if an appeal under section 152B in respect of the costs is made—
    - (i) the date on which the appeal is determined, or
    - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the costs for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).

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- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the costs.
- (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.”
- (6) In section 153 (qualifications regulatory framework), in subsection (8)(e), for “152” substitute “ 152C ”.
- (7) In section 262(6) of ASCLA 2009 (orders and regulations subject to affirmative resolution procedure), after paragraph (e) insert—  
 “(ea) an order under section 151B(2);”.

#### Commencement Information

**I4** [S. 23](#) in force at 1.5.2012 by [S.I. 2012/924](#), [art. 3](#)

### *Qualifications: Wales*

## **F1 24 Enforcement powers of Welsh Ministers**

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#### Textual Amendments

**F1** [S. 24](#) omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015](#) (anaw 5), s. 60(2), [Sch. 4 para. 10](#); [S.I. 2015/1687](#), [art. 2](#) (with [arts. 3-12](#))

### *Abolition of the Qualifications and Curriculum Development Agency*

## **25 Abolition of the Qualifications and Curriculum Development Agency**

Sections 175 to 191 of, and Schedule 11 to, ASCLA 2009 (the Qualifications and Curriculum Development Agency) are repealed.

#### Commencement Information

**I5** [S. 25](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

## **26 Abolition of the QCDA: consequential amendments**

- (1) Schedule 8 (abolition of the QCDA: consequential amendments) has effect.
- (2) The Secretary of State may by order make changes in consequence of section 25 to any provision of subordinate legislation made before the date on which this Act is passed.
- (3) “Subordinate legislation” has the meaning given by section 21(1) of the Interpretation Act 1978.

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#### Commencement Information

- I6** [S. 26\(1\)](#) in force at 15.1.2012 for specified purposes by [S.I. 2012/84](#), [art. 2](#)  
**I7** [S. 26\(1\)](#) in force at 1.4.2012 in so far as not already in force by [S.I. 2012/924](#), [art. 2](#)  
**I8** [S. 26\(2\)\(3\)](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

### 27 Abolition of the QCDA: transfer schemes

Schedule 9 (schemes for the transfer of staff, property, rights and liabilities from the QCDA to other persons) has effect.

#### Commencement Information

- I9** [S. 27](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#) (with [arts. 4, 5](#))

## Careers education and guidance

### 28 Education and training support services in England

- (1) Part 2 of ESA 2008 (education and training support services in England) is amended as set out in subsections (2) to (5).
- (2) Section 69 (Secretary of State directions in relation to education and training support services) is repealed.
- (3) In consequence of subsection (2)—
  - (a) in section 68 (provision of support services by local authorities)—
    - (i) omit subsection (2);
    - (ii) in subsection (3), omit “and section 69”;
    - (iii) in subsection (4), omit paragraph (a) (and the “and” after it);
  - (b) in section 70(2) (local authorities: supplementary powers), omit “or 69”;
  - (c) in section 71(8) (provision of support on conditional basis), for “68(2) and (4)” substitute “ 68(4) ”.
- (4) Section 73 (duty on schools and FE institutions to permit access by persons involved in providing education and training support services) is repealed.
- (5) In section 76A (supply of information obtained in connection with education and training support services), omit subsection (5) (information not to be disclosed in a way that reveals identity of individual to whom it relates).
- (6) In consequence of the amendment made by subsection (2), omit section 255(2) of ASCLA 2009.

#### Commencement Information

- I10** [S. 28\(1\)-\(4\)\(6\)](#) in force at 1.9.2012 by [S.I. 2012/1087](#), [art. 3](#)  
**I11** [S. 28\(5\)](#) in force at 1.2.2012 by [S.I. 2012/84](#), [art. 3](#)

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## **29 Careers guidance in schools in England**

(1) Part 7 of EA 1997 (careers education and guidance) is amended as set out in subsections (2) to (8).

(2) Before section 43 insert—

### **“42A Provision of careers guidance in schools in England**

- (1) The responsible authorities for a school in England within subsection (2) must secure that all registered pupils at the school are provided with independent careers guidance during the relevant phase of their education.
- (2) A school is within this subsection if it provides secondary education and is one of the following—
  - (a) a community, foundation or voluntary school;
  - (b) a community or foundation special school (other than one established in a hospital);
  - (c) a pupil referral unit.
- (3) The responsible authorities for a school within subsection (2) are—
  - (a) in the case of a school within subsection (2)(a) or (b), its governing body;
  - (b) in the case of a pupil referral unit, the local authority that maintain it.
- (4) The responsible authorities must secure that careers guidance provided under subsection (1)—
  - (a) is presented in an impartial manner,
  - (b) includes information on options available in respect of 16 to 18 education or training, including apprenticeships, and
  - (c) is guidance that the person giving it considers will promote the best interests of the pupils to whom it is given.
- (5) Careers guidance provided to pupils at a school is independent for the purposes of this section if it is provided other than by—
  - (a) a teacher employed or engaged at the school, or
  - (b) any other person employed at the school.
- (6) For the purposes of this section the relevant phase of a pupil's education is the period—
  - (a) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 14, and
  - (b) ending with the expiry of the school year in which the majority of pupils in the pupil's class attain the age of 16.

(7) In this section—

“apprenticeship” includes employment and training leading to the issue of an apprenticeship certificate under section 3 or 4 of the Apprenticeships, Skills, Children and Learning Act 2009;

“career” includes undertaking any training, education, employment or occupation;

“careers guidance” means guidance about careers;

“class”, in relation to a pupil, means—



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- (a) the teaching group in which the pupil is regularly taught, or
- (b) if the pupil is taught in different groups for different subjects, such one of those groups as is designated by the head teacher of the school or, in the case of a pupil at a pupil referral unit, by the teacher in charge of the unit;

“16 to 18 education or training” means education or training suitable to the requirements of persons who have ceased to be of compulsory school age but have not attained the age of 18;

“training” includes a voluntary or other placement apt to enable the development of any skill or competency (whether or not taking place at a time when the person concerned is still a registered pupil at a school in England).”

(3) In section 43 (careers education in schools)—

- (a) in subsection (1), after “school” insert “ in Wales ”;
- (b) in subsection (2), omit paragraph (d) (but not the “and” after it);
- (c) omit subsections (2A) and (2B);
- (d) in subsection (3)—
  - (i) omit “(and, where applicable, subsection (2B))”;
  - (ii) omit paragraph (b) (but not the “and” after it);
- (e) omit subsection (4);
- (f) in subsection (6)—
  - (i) in the definition of “class”, for the words from “, in relation” to the end substitute “ has the same meaning as in section 42A; ”;
  - (ii) omit the definitions of “16-18 education or training” and “training”;
- (g) in the heading, at the end insert “ in Wales ”.

(4) In section 44—

- (a) in subsection (8)(a), for “listed in section 43(2)(a) to (d)” substitute “ in Wales listed in section 43(2)(a) and (c) ”;
- (b) in subsection (8)(b), after “institutions” insert “ in Wales ”;
- (c) for subsection (9) substitute—

“(9) It is the duty of the each of the following to secure that subsections (1), (4) and (6) are complied with—

  - (a) the governing body of the school or institution;
  - (b) its head teacher, principal or other head.”;
- (d) in subsection (10)(a), after “a school” insert “ in Wales ”;
- (e) in subsection (10)(b), after “an institution” insert “ in Wales ”;
- (f) in the heading, after “institutions” insert “ in Wales ”.

(5) In section 45 (provision of careers information at schools and other institutions)—

- (a) in subsection (2)(a), for “listed in section 43(2)(a) to (d)” substitute “ in Wales listed in section 43(2)(a) and (c) ”;
- (b) in subsection (2), omit the words from “and, in the case” to the end;
- (c) omit subsections (2A) and (2B);
- (d) for subsection (3) substitute—

“(3) It is the duty of each of the following to secure that subsection (1) is complied with—

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- (a) the governing body of the school or institution;
  - (b) its head teacher, principal or other head.”;
- (e) in subsection (5), for ““careers education” and “16-18 education or training”” substitute “and “careers education””.
- (6) In section 45A (guidance as to discharge of duties)—
  - (a) in subsection (1), for “43(2)(a), (c) or (e)” substitute “ 42A(2) ”;
  - (b) in subsection (2), for “any of sections 43(3), 44(9) and 45(3)” substitute “ 42A(1) or (4) ”;
  - (c) in the heading, at the end insert “ : schools in England ”.
- (7) In section 45B (provision of curriculum information), in the heading, at the end insert “ : Wales ”.
- (8) In section 46 (extension or modification of provisions of sections 43 to 45)—
  - (a) in subsection (1), for the words from “43” to “44(10)(a)(i)” substitute “ 42A, 43 or 44 by substituting for the period specified in section 42A(6), 43(5) or 44(10)(a)(i) ”;
  - (b) after subsection (2) insert—
 

“(2A) The Secretary of State may by regulations make provision for requiring—

    - (a) the governing bodies of institutions in England within the further education sector, and
    - (b) the principals or other heads of such institutions,

to secure that careers guidance is provided for any specified description of persons attending such institutions.”;
  - (c) in subsection (3)(a), after “institutions” insert “ in Wales ”;
  - (d) in subsection (5), after the definition of “careers education” insert—
 

““careers guidance” has the same meaning as in section 42A;”.
- (9) In consequence of the amendments made by subsections (1) to (8), omit—
  - (a) paragraph 71 of Schedule 9 to LSA 2000;
  - (b) paragraph 8 of Schedule 7 to EA 2002;
  - (c) section 81(2) and (3) of ESA 2008;
  - (d) section 250 of ASCLA 2009.

#### Commencement Information

- I12** S. 29(1)(2)(8) in force at 1.2.2012 for specified purposes by [S.I. 2012/84](#), **art. 3**
- I13** S. 29(1)(2)(8) in force at 1.9.2012 in so far as not already in force by [S.I. 2012/1087](#), **art. 3**
- I14** S. 29(3)-(7)(9) in force at 1.9.2012 by [S.I. 2012/1087](#), **art. 3**

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### *Repeal of the diploma entitlement*

## **30 Repeal of diploma entitlement for 16 to 18 year olds**

- (1) In section 45 of ASCLA 2009 (local authority duties in relation to the core and additional entitlements), the provisions to be inserted into EA 1996 are amended as set out in subsections (2) to (6).
- (2) In the italic cross-heading above section 17A, for “*core and additional entitlements*” substitute “*core entitlement*”.
- (3) In section 17A (duties in relation to the core and additional entitlements)—
  - (a) in subsection (1), for “core entitlement and the additional entitlement are” substitute “core entitlement is”;
  - (b) omit subsections (2) to (5);
  - (c) in subsection (7), omit the definitions of “additional entitlement area” and “the additional entitlement”;
  - (d) omit subsection (8);
  - (e) in subsection (9)—
    - (i) for “references in subsections (1) and (2)” substitute “reference in subsection (1)”;
    - (ii) for “do” substitute “does”;
  - (f) in the heading, for “core and additional entitlements” substitute “core entitlement”.
- (4) Omit section 17B (election for either core entitlement or additional entitlement).
- (5) In section 17C (the core entitlement)—
  - (a) before subsection (1) insert—

“(A1) A person over compulsory school age but under 19 has the core entitlement.”;
  - (b) in subsection (1), for “electing for” substitute “who has”;
  - (c) after subsection (4) insert—

“(5) In this section “course of study” means a course of education or training leading to a qualification specified, or a qualification of a description specified, by the Secretary of State by order for the purposes of this subsection.”
- (6) Omit section 17D (the additional entitlement).
- (7) In section 48 of ASCLA 2009 (provision of education for persons subject to youth detention), in the section 18A to be inserted into EA 1996—
  - (a) in subsection (2)(e), omit “and the additional entitlement” and “who have elected for them”;
  - (b) for subsection (4) substitute—

“(4) Section 17C (the core entitlement) applies for the purposes of subsection (2)(e).”

<sup>F2</sup>(8) .....

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### Textual Amendments

**F2** S. 30(8) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(g), [Sch. 14 para. 65\(a\)](#)

## 31 Repeal of diploma entitlement for fourth key stage

- (1) Section 74 of EIA 2006 (curriculum requirements for the fourth key stage) is amended as follows.
- (2) In subsection (1), in the new section 85A to be inserted into EA 2002—
  - (a) in subsection (1), for the words from “do either of the following” to the end substitute “ follow a course of study in a subject within each of such one or more of the four entitlement areas specified in subsection (2) as the pupil may choose. ”;
  - (b) in subsection (2), for “(1)(a)” substitute “ (1) ”;
  - (c) in subsection (4), for the words after “satisfied” substitute “ if a course of study in a subject within each of the entitlement areas specified in subsection (2) is made available to the pupil by or on behalf of the school at which the pupil is a registered pupil. ”;
  - (d) in subsection (5), for “(1)(a) or (b)” substitute “ (1) ”;
  - (e) in subsection (6), for the words after “means” substitute “ a course of education or training which leads to such qualification as the governing body may choose from among those approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act. ”
- (3) Omit subsection (3).

**Changes to legislation:**

There are currently no known outstanding effects for the Education Act 2011, Part 4.