

2002 No. 435

**EDUCATION, ENGLAND AND WALES
EDUCATION, NORTHERN IRELAND**

The Education (QCA Levy) Regulations 2002

Made - - - - - 26th February 2002
Laid before Parliament - 4th March 2002
Coming into force - - 28th March 2002

In exercise of the powers conferred on the Secretary of State by sections 36 and 54(3) of the Education Act 1997(a) the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (QCA Levy) Regulations 2002 and shall come into force on 28th March 2002.

Interpretation

2. In these Regulations—
- “accounting period” has the meaning given by regulation 4;
 - “auditor’s certificate” has the meaning given by regulation 8(4);
 - “audit period” means the period comprising the accounting periods the levy returns for which are referred to in the request made under regulation 8(1);
 - “awarding body” means any person who awards National Vocational Qualifications;
 - “leviable award” means, in relation to an awarding body, the award of a National Vocational Qualification accredited by QCA;
 - “levy return” has the same meaning given by regulation 7(1);
 - “QCA” means the Qualifications and Curriculum Authority.

Imposition of Levy

3.—(1) Each awarding body shall pay a levy to QCA in respect of each accounting period in accordance with the following provisions of these Regulations.

(2) The levy shall be calculated in accordance with regulations 5 and 6 and payments of the levy shall be made in accordance with regulation 9.

(a) 1997 c. 44.

Accounting Periods

4. In each year there shall be four accounting periods, each of three months' duration commencing, respectively, on 1st January, 1st April, 1st July and 1st October.

Calculation of levy

5.—(1) Subject to paragraphs (2) and (3) below the levy in respect of each accounting period shall be £10 multiplied by the number of leviable awards made by the awarding body in question during the accounting period.

(2) If however—

- (a) an awarding body has not submitted a levy return within the time referred to in regulation 7(1),
- (b) QCA has reason to believe that one or more figures provided in the levy return is less than it should have been, or
- (c) QCA has reason to believe that a levy return has failed to include a number in respect of an accredited National Vocational Qualification

the levy in respect of the accounting period in question shall be £10 multiplied by the number of leviable awards estimated by QCA to have been made by the awarding body during the accounting period.

(3) If an awarding body has not submitted an auditor's certificate within the time referred to in regulation 8(3) or if the certificate contains a qualified opinion, the aggregate levy in respect of the accounting periods comprising the audit period in question shall be £10 multiplied by the number of awards estimated by QCA under this paragraph to have been made during those accounting periods.

Calculation of levy—supplementary

6.—(1) If—

- (a) the levy for any accounting period or for any accounting periods comprising an audit period (either such period being referred to in this regulation a “relevant period”) has been calculated in accordance with regulation 5(2) or (3) and,
- (b) after such a calculation has been made a relevant event occurs,

the amount of the levy for the first accounting period to follow the occurrence of the relevant event (“the first subsequent accounting period”) shall (subject to paragraph (2)) be $A - B + C$ where—

- A is the amount of the levy for the first subsequent accounting period calculated under regulation 5(1) or, as appropriate, 5(2),
- B is the amount of the levy for the relevant period which was calculated in accordance with regulation 5(2) or (3) as the case may be (or, if the same accounting period is the first accounting period to follow more than one relevant event, the aggregate of the amounts of the levies for the relevant periods in question so calculated), and
- C is the amount which would have been the amount of the levy for the relevant period if it had been calculated in accordance with regulation 5(1) (or, if the same accounting period is the first accounting period to follow more than one relevant event, the aggregate of the amounts which would have been the amounts of the levies for the relevant periods in question so calculated).

(2) If $B - C$ is greater than A, the levy for the first subsequent accounting period shall be reduced to zero and the levy for the next accounting period (or, as appropriate, the levies for more than one subsequent accounting period) shall be reduced such that the aggregate reduction is equal to the difference between $B - C$ and A.

(3) In this regulation a “relevant event” is—

- (a) the submission of a levy return relating to the relevant period in circumstances where neither regulation 5(2)(b) nor regulation 5(2)(c) applies,

- (b) QCA ceasing to have reason to believe either of the matters referred to in regulation 5(2)(b) or (c), or
- (c) the submission of an auditor's certificate relating to the relevant period.

Submission of levy return

7.—(1) Subject to paragraph (2) within 14 days of the last day of each accounting period each awarding body shall submit to QCA a statement in writing (referred to in these Regulations as a “levy return”) which sets out in respect of each accredited National Vocational Qualification included in the return the number of leviable awards made by the body during the accounting period.

(2) The first levy return shall be submitted in respect of the accounting period commencing 1st April 2002.

Submission of auditor's certificate

8.—(1) Subject to paragraph (2) QCA may at any time make a request to an awarding body that the awarding body provide an auditor's certificate in respect of all the levy returns submitted since the previous request made under this paragraph (or, in the case of the first request under this paragraph, since 28th March 2002).

(2) The first request under paragraph (1) may not be made before 28th March 2003 and no subsequent request may be made under paragraph (1) until after the expiry of one year from the previous request.

(3) Where a request has been made under paragraph (1) the awarding body shall submit the auditor's certificate to QCA within 90 days of the date of the request.

(4) In these Regulations an “auditor's certificate” means a certificate given—

- (a) by the auditors of the awarding body appointed pursuant to any statutory provision applying to the awarding body in question requiring an audit of the awarding body's accounts, or
- (b) by any other person other than—
 - (i) an officer or employee of the awarding body,
 - (ii) a partner or employee of such a person, or of a partnership of which such a person is a partner,who is eligible by virtue of section 25 of the Companies Act 1989(a) for appointment as a company auditor,

stating that, in the opinion of the person giving the certificate, the levy returns referred to in the request under paragraph (1) give a true and fair statement of the number of leviable awards made in the accounting period to which each return relates.

Payment of the levy

9.—(1) QCA shall issue each awarding body with a demand notice stating the amount of levy payable in respect of each accounting period, the date by which payment must be made and the address to which payment should be sent.

(2) Where a demand notice relates to levy calculated in accordance with regulation 5(2) the demand notice shall state that fact and the reason for the levy being calculated under regulation 5(2).

(3) Where the levy for an audit period is calculated in accordance with regulation 5(3), and the levy so calculated (“X”) is greater than the aggregate of the amounts specified in the demand notices issued in accordance with paragraph (1) for the accounting periods comprising the audit period (“Y”) QCA shall issue a further demand notice stating that fact and that X-Y is payable by way of levy.

(4) The levy shall be due and payable to QCA 7 days after the date of the demand notice and shall be paid in such manner as may be specified in the demand notice.

(a) 1989 c. 40.

Withdrawal of accreditation of qualification in cases of non-payment of levy

10.—(1) If, after the expiry of the time allowed for the payment of the levy, an awarding body has not paid the levy in full, QCA may serve a notice under this regulation (a “notice of default”) on the awarding body.

(2) The notice of default shall set out the amount of levy unpaid at the date of the notice and shall require payment of the sum within 7 days of the notice.

(3) The notice of default shall also state that, without prejudice to the taking by QCA of recovery action, failure by the awarding body to make the payment notified within the time set by the notice may result in the withdrawal by QCA of accreditation for all or some of the National Vocational Qualifications awarded by the awarding body.

(4) If, upon the expiry of the time set by the notice of default, the levy remains unpaid, QCA may, subject to any transitional provisions determined by QCA and specified in the notice of default, withdraw its accreditation of—

- (a) all National Vocational Qualifications awarded by the awarding body or
- (b) such National Vocational Qualifications awarded by the awarding body as may be specified in the notice,

after a date or dates specified in the notice of default; and different dates may be specified in relation to the withdrawal of accreditation of different qualifications.

Ivan Lewis
Parliamentary Under-Secretary of State,
Department for Education and Skills

26th February 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the imposition of a levy on persons awarding National Vocational Qualifications which are accredited by the Qualifications and Curriculum Authority.

Regulation 2 provide definitions. Regulations 3 and 4 make provision for the imposition of the levy and set out the accounting periods.

Regulations 5 and 6 provide for the calculation of the levy. They include provision for the levy to be as estimated by QCA if an auditors certificate is not provided within the period set out in regulation 8.

Regulations 7 and 8 provide for the submission of levy returns and auditors certificates. Regulation 9 makes provisions about payment of the levy and including provision for QCA to issue a demand notice. Regulation 10 makes provision for QCA to withdraw accreditation for National Vocational Qualifications if an awarding body does not pay the levy.

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