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STATUTORY INSTRUMENTS

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**2010 No. 733**

**EDUCATION, ENGLAND**

**The Adult Skills (Specified Qualifications) Regulations 2010**

*Made* - - - - *6th March 2010*  
*Laid before Parliament* *11th March 2010*  
*Coming into force* - - *1st April 2010*

The Secretary of State for Business, Innovation and Skills, makes the following Regulations in exercise of the powers conferred by sections 87, 88, 89, 262(3) of and paragraph 3 of Schedule 5 to the Apprenticeships, Skills, Children and Learning Act 2009<sup>(1)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Adult Skills (Specified Qualifications) Regulations 2010 and come into force on 1st April 2010.

**Interpretation and application**

2.—(1) In these Regulations—

“the Act” means the Apprenticeships, Skills, Children and Learning Act 2009;

“an education or training provider” means any body which provides courses of study for qualifications specified in, or for the purposes of, these Regulations;

“the Schedule” means Schedule 5 to the Act.

These Regulations apply in relation to England.

**Literacy qualifications**

3. For the purposes of paragraph 1(a) of the Schedule, a specified qualification in literacy is a qualification, or description of a qualification, which is assessed by the Chief Executive<sup>(2)</sup> to be at the level of attainment specified in paragraph 4 of the Schedule.

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(1) 2009 c. 22.

(2) “The Chief Executive” is the Chief Executive of Skills Funding (see section 81 of the Act).

### **Numeracy qualifications**

4. For the purposes of paragraph 1(b) of the Schedule, a specified qualification in numeracy is a qualification, or description of a qualification, which is assessed by the Chief Executive to be at the level of attainment specified in paragraph 5 of the Schedule.

### **Vocational qualifications at level 2**

5. For the purposes of paragraph 1(c) of the Schedule, a specified vocational qualification at level 2 is a vocational qualification, or description of a vocational qualification, which is assessed by the Chief Executive to be at the level of attainment specified in paragraph 6 of the Schedule.

### **Qualifications at level 3**

6. For the purposes of paragraph 2 of the Schedule, a specified qualification at level 3 is a qualification, or a description of a qualification, which is assessed by the Chief Executive to be at the level of attainment specified in paragraph 7 of the Schedule.

### **Publication of lists**

7. The Chief Executive must make available to the public lists of the specified qualifications and specified vocational qualifications assessed, in exercise of the Chief Executive's functions under regulations 3, 4, 5 and 6, as being at the relevant level of attainment<sup>(3)</sup>.

### **Exclusion for apprentices**

8. For the purposes of sections 87(3)(c), 88(2)(c) and 88(4)(c), it is a condition that a person should not be studying for a specified qualification as part of their engagement under the Government arrangements known, at 1st April 2010, as Apprenticeships.

### **Persons to be treated as not having a specified qualification**

9.—(1) A person is to be treated for the purposes of sections 87(1) or 88(1) of the Act insofar as they are connected with the provision of a course of study for a qualification specified for the purposes of regulation 3, as not having that qualification or a qualification (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level if that person—

- (a) is assessed in accordance with regulation 10 as having literacy skills below the level of attainment described in paragraph 4 of the Schedule; and
- (b) has been awarded on a previous occasion either—
  - (i) a qualification specified for the purposes of regulation 3; or
  - (ii) a qualification (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable level to or higher level than a qualification specified for the purposes of regulation 3.

(2) A person is to be treated for the purposes of sections 87(1) or 88(1) of the Act insofar as they are connected with the provision of a course of study for a qualification specified for the purposes of regulation 4, as not having that qualification or a qualification (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level if that person—

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(3) The Chief Executive's lists of specified qualifications will be available on the Chief Executive's website.

- (a) is assessed in accordance with regulation 10 as having numeracy skills below the level of attainment described in paragraph 4 of the Schedule; and
- (b) has been awarded on a previous occasion either—
  - (i) a qualification specified for the purposes of regulation 4; or
  - (ii) a qualification (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable level to or higher level than a qualification specified for the purposes of regulation 4.

#### **Assessment of skill level**

**10.**—(1) For the purposes of regulation 9, an education or training provider may assess whether a person has a skill level below the level of attainment demonstrated by paragraphs 3 and 4 of the Schedule.

(2) For the purposes of performing the function in subparagraph (1), an education or training provider may select a test or assessment.

#### **Tuition fees**

**11.** For the purposes of section 88(7) of the Act, “tuition fees” include—

- (a) the costs of any examination for a qualification specified in regulations 3 and 4;
- (b) the costs of any assessment under regulation 10.

6th March 2010

*Kevin Brennan*  
Minister for Further Education, Skills,  
Apprenticeships and Consumer Affairs  
Department for Business, Innovation and Skills

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Under sections 87 to 89 of the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”), the Chief Executive of Skills Funding (“the Chief Executive”) is under a duty to secure the provision of proper facilities for eligible persons undertaking a course of study for specified qualifications (as described in Schedule 5 to the 2009 Act), and to ensure that courses of study for such qualifications are free of charge to eligible persons. These Regulations specify the qualifications to which these duties relate, and make other related provisions. These Regulations replace the Adult Skills (Specified Qualifications) Regulations 2009 (“the 2009 Regulations”) which made similar provisions in respect of the Learning and Skills Council for England, which is abolished under the 2009 Act.

Regulations 3, 4, 5 and 6 confer functions on the Chief Executive to determine specified qualifications and specified vocational qualifications. Regulation 7 requires the Chief Executive to make lists of these qualifications available to the public.

Regulation 8 ensures that a person who is undertaking a specified qualification as part of an apprenticeship programme will not be someone in respect of whom the Chief Executive is under duties under sections 87 or 88 of the 2009 Act. This regulation is made in exercise of the powers at sections 87(3)(c), 88(2)(c) and 88(4)(c) to specify conditions which persons must satisfy in order to fall within sections 87(3), 88(2) and 88(4) respectively.

Regulation 9 sets out persons who are to be treated as not having a specified qualification. This enables persons who have obtained a specified literacy or specified numeracy qualification, but who have since lost the skills at the relevant level, to take a further course of study to obtain the qualification again.

Regulation 10 provides that education or training providers may assess whether a person has a skill level below that specified for literacy and numeracy; and that they may exercise their discretion as to the means by which they assess skill levels.

Regulation 11 provides that the cost of an examination for a specified literacy and numeracy qualification will constitute “tuition fees” for the purposes of section 88.

A full impact assessment of the effect on the costs of business and the voluntary sector was carried out in respect of the 2009 Regulations and is available from the Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET.