

# QUALIFICATIONS WALES ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Recognition of Awarding Bodies**

16. Awarding bodies may apply for general recognition by Qualifications Wales, and be regulated by Qualifications Wales (through conditions of recognition) in respect of qualifications for which they are recognised and which are awarded in Wales. Section 57 defines “awarding body” as “a person who awards, or proposes to award, a qualification”. There is no requirement that an awarding body be recognised in order to award qualifications in Wales. An awarding body must however be recognised in order to apply for the approval or designation of a form of qualification it awards. Generally speaking, it is only such qualifications that can be provided on certain publicly funded courses. In addition, by selecting qualifications from an awarding body that is recognised, learning providers, and through them learners, will be provided with the additional levels of protection that the oversight of a regulatory body provides.
17. The Act refers to two types of recognition: general and specific. General recognition covers all qualifications except those for which Qualifications Wales has developed specific recognition criteria. However, provision is also made later in this Part at section 8 to enable awarding bodies to exclude certain qualifications from their application for general recognition, with the effect that Qualifications Wales would not apply the conditions of recognition to the excluded qualification and so would not regulate the excluded qualification. Awarding bodies may subsequently apply to Qualifications Wales if they wish the excluded qualification to become regulated by Qualifications Wales in future.
18. In exercising its functions under this Part Qualifications Wales must have regard to the principles set out in section 54(2) (performance of regulatory activities). See also section 47 as to the requirement to prepare a statement of its policy in relation to its functions under this Part.

#### **Section 4: Recognition of awarding bodies**

19. This section gives Qualifications Wales the power to recognise awarding bodies. Section 57 defines what is meant by an “awarding body”. Only awarding bodies that have been recognised by Qualifications Wales may apply to have their qualifications approved or designated by Qualifications Wales (and so eligible for use on certain publicly funded courses). Awarding bodies typically develop qualifications and deliver them through learning providers, such as schools, colleges and work-based learning providers. Awarding bodies specify and administer assessment arrangements and are accountable for determining whether or not to award a qualification to a learner (and, if appropriate, what grade should be issued).

#### **Section 5: Duty to set general recognition criteria**

20. Qualifications Wales is under a duty to set and publish the criteria against which it will consider whether or not to recognise, generally, an awarding body. These criteria

are referred to as ‘general recognition criteria’ but there may be different criteria for different types of awarding body. An example of a general criterion that might apply to all bodies would be a requirement that an awarding body has appropriate arrangements to identify and monitor conflicts of interest. On the other hand, a criterion about the ability to provide safe warehouse facilities to store secure examination papers may not be applicable to an awarding body solely providing online assessment.

### ***Section 6: Power to set qualification specific recognition criteria***

21. This section gives Qualifications Wales the power to determine that awarding bodies intending to offer certain types of qualification should, in addition to the general recognition criteria, meet specific criteria in order to be regulated in respect of them and to be eligible to submit those types of qualification to Qualifications Wales for approval or designation. For example, Qualifications Wales may require all awarding bodies intending to offer GCSEs and/or A levels in Wales to demonstrate a capability to fulfil marking and grading processes in time to issue a high volume of accurate results on a single date. As with the general recognition criteria, the specific recognition criteria may vary according to the type of awarding body. In addition, they may vary according to the type of qualification in question.

### ***Section 7: Revision of general and qualification specific recognition criteria***

22. This section gives Qualifications Wales the power to revise the general and qualification specific recognition criteria. It must publish the revised criteria and make it clear from which date the revisions apply. Revised criteria must be published before they can come into effect. Although there is no express requirement for an awarding body, once recognised, to continue to meet the general recognition or qualification specific recognition criteria, Qualifications Wales could include such a requirement as a condition of recognition under Schedule 3.

### ***Section 8: General recognition of an awarding body***

23. Awarding bodies may apply to Qualifications Wales to become generally recognised as a body awarding qualifications in Wales. This section requires Qualifications Wales to recognise all awarding bodies that have applied to it and which meet the published general recognition criteria. Awarding bodies may however specify, in applying to be recognised, that they do not wish to be generally recognised in respect of a specified qualification or description of qualification – that is, that they wish to exclude one or more specified qualifications from regulation by Qualifications Wales. An awarding body may wish to do this, for example, in the case of a qualification that it has developed to meet the needs of a particular employer and which does not enable the awarding body to meet Qualifications Wales’s conditions of recognition (perhaps in relation to the structure or title of the qualification). In such a case, the criteria against which the application is considered are not to include criteria to the extent that they apply in respect of any excluded qualifications. So where an awarding body does not meet all the criteria but its failure to do so is only to the extent that the criteria apply to a qualification which it has excluded from its application for recognition, the effect of subsection (6) is that Qualifications Wales must recognise the awarding body. If an awarding body has previously excluded qualifications from its recognition, surrendered part of its general recognition, or had part of its general recognition withdrawn, it may apply to Qualifications Wales to bring those qualifications into its general recognition in the future (see subsections (7) and (8)).
24. The Act also enables Qualifications Wales to recognise an awarding body that has applied for general recognition but does not fully meet all of the criteria (for reasons other than the criteria in question not being met only in respect of qualifications that have been excluded from the awarding body’s application for recognition). Subsection (5) sets out the matters that Qualifications Wales must consider when deciding whether to recognise an awarding body that does not meet all the criteria.

This provision could address situations where, for example, it emerges that a particular criterion is not relevant to the body being considered. General recognition is required before any qualification offered by that awarding body can be approved (under Part 4) or designated (under Part 5) by Qualifications Wales. In order to have some types of qualifications regulated (and also submitted for approval or designated) by Qualifications Wales, an awarding body may in addition, have to obtain ‘qualification specific recognition’ under section 9.

***Section 9: Qualification specific recognition of an awarding body***

25. This section is similar to section 8 but applies in situations where an awarding body is applying to be recognised in respect of qualifications to which qualification specific recognition criteria apply (section 6). An awarding body can only obtain specific recognition if it also has general recognition. If a body applies for qualification specific recognition, provided that the body satisfies the general and applicable qualification specific recognition criteria, Qualification Wales must recognise the body in respect of that specific qualification. As with general recognition, if the body does not meet the criteria in full, Qualifications Wales has discretion to recognise the body under this section.

***Section 10: Rules about applications for recognition***

26. This section requires Qualifications Wales to make and publish the rules that awarding bodies need to follow in making their application for recognition to Qualifications Wales. These rules may specify, for example, how applications must be made and any fees to be paid for dealing with the application – providing such a fee has been included in a published scheme approved by the Welsh Ministers (under section 49).