

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Further Provision Relevant to Recognition, Approval and Designation

Section 34: Restriction on funding and provision of certain courses

72. This section places a restriction on the public funding of courses of education or training for learners under the age of 19, if those courses lead to qualifications. Those courses can only be funded by the Welsh Ministers, by local authorities or provided by (or on behalf of) a maintained school, if the forms of qualifications concerned are awarded by a recognised body as approved by Qualifications Wales under Part 4 (that is, awarded with the approval number), or if they are designated by Qualifications Wales under Part 5. In the case of a maintained school providing the course (or the course being provided on its behalf), the local authority and the governing body must ensure that they adhere to this restriction. Part 2 of the Schools Standards and Organisation (Wales) Act 2013 gives local authorities and the Welsh Ministers powers to intervene in the conduct of maintained schools and gives the Welsh Ministers powers to intervene in a local authority's exercise of its education functions. The effect of section 57(1) of this Act (which provides for this Act to be read as one with the Education Act 1996) and section 61(2) (which provides for this Act to be one of the Education Acts) is that these powers of intervention would be available in the event of a governing body or local authority failing to comply with the duty under this section.
73. It is also a requirement that the provision of the course is in accordance with any award limitation condition attaching to the approval (in the case of an approved qualification), or with any specified purposes for which the designation is to have effect (in the case of a designation). Subsection (4) explains that an award limitation condition is a condition of approval which relates to the person or description of person to whom the qualification may be awarded – such as a limitation based on the age of learners.
74. There is a specific exception to this restriction for any course provided to a person with a learning difficulty: this exception only relates to the course provided to the person with a learning difficulty and does not provide an exception in relation to other learners on that course. Dependent on the authorised body's funding powers, this exception would enable it to fund courses provided to any learner with a learning difficulty whatever qualification the course leads to and wherever the course is provided, for example whether in or outside of Wales. Section 57(5) defines what is meant by a person with a learning difficulty for the purposes of this Act.
75. Subsection (8) gives the Welsh Ministers the power to make further exceptions to this restriction – either for some particular courses or for other specific circumstances or particular cases that may arise. For example, an exception might be considered to enable a learner who has moved from an independent sector school to a maintained school in Wales to take the qualification for which they had been prepared. The exception is made by Welsh Ministers designating the course in writing.

*These notes refer to the Qualifications Wales Act 2015 (c.5)
which received Royal Assent on 05 August 2015*

76. Designation by the Welsh Ministers does not establish an alternative route for approving qualifications – its effect is that authorised bodies may be able to fund courses for learners who are under 19 even though it leads to a form of a qualification which is neither approved nor designated by Qualifications Wales.
77. The Act does not otherwise restrict the qualifications which may be used on courses. For example, an independent school in Wales could provide courses leading to forms of qualifications which are neither approved nor designated by Qualifications Wales.