

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: General

Section 55: Regulations

111. This section deals with how the powers under the Act to make regulations may be exercised and what they may contain. The regulations referred to in subsection (2) are to be made by statutory instrument following the affirmative procedure which requires the National Assembly for Wales's approval of a draft instrument before it can be made. The powers to make the regulations referred to are provided in sections 21 (power to specify minimum requirements), 38(3) (power to make regulations about the amount of monetary penalties) and 59 (power to make consequential and transitional provision). But if regulations making consequential and transitional provision do not amend or repeal any provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales, they must be made by statutory instrument, but the negative procedure applies (subsection (3)).

Section 56: Interpretation of references to "qualification"

112. This section defines "qualification" for the purposes of the Act. Degrees of various levels are excluded.
113. Except so far as a contrary intention appears, the definition requires that the qualification is "awarded in Wales". The meaning of this expression in this context is explained in subsection (2). Whether a qualification is awarded in Wales depends in part upon the location of the assessment, or prospective assessment in respect of the qualification, which must be wholly or mainly in Wales, rather than the location of the awarding bodies. Section 57(4) explains further what this means.
114. An award of a qualification is defined as including the award of credits in respect of components of a qualification and to a qualification awarded by one or more bodies together. References to a form of a qualification are to the version of a qualification that a particular awarding body offers or wishes to offer.

Section 57: General interpretation and index of defined expressions

115. Subsection (1) provides that the Act is to be read as one with the Education Act 1996. This means that general provisions and general definitions in that Act apply to this Act. For example, the term "special educational needs" (used in subsection (5)) has the same meaning in this Act as that given in the Education Act 1996 (see section 312 of that Act). But where an expression in this Act has a different interpretation from that in the Education Act 1996, the definition in this Act applies rather than the definition in the Education Act 1996.
116. Subsection (3) sets out definitions which are self-explanatory and subsection (4) deals with what it means for a person to be assessed wholly or mainly in Wales, which

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

depends upon the location where the learner carries out the activities being assessed (for example sitting an examination or performing an observed activity) as opposed to the location of the person making the assessment judgement (for example an examiner marking question papers elsewhere in the UK).

117. Definitions are also provided in respect of what is meant in the Act by references to a person having a learning difficulty and to a body being recognised in respect of a qualification.

Section 58: Consequential amendments

118. This section introduces Schedule 4 containing consequential amendments to legislation to take account of the establishment of Qualifications Wales and the new regulatory system.

Section 59: Power to make consequential and transitional provision etc

119. This section empowers the Welsh Ministers to make regulations to provide for any consequential, supplementary or incidental provision, or any transitional, transitory or saving provisions in the circumstances set out.

Section 60: Coming into force

120. This section provides for certain provisions within the Act to come into force on Royal Assent. The remaining provisions of the Act come into force on the date specified by the Welsh Ministers in commencement orders made under this section.

Section 61: Short title and inclusion as one of the Education Acts

121. This section is self-explanatory. See paragraph 72 above about the effect of this Act being listed as one of the Education Acts.