

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1 Qualification Wales

Part 1 – Establishment of Qualifications Wales

122. This Schedule is introduced by section 2.

Paragraph 1: Status

123. This paragraph explains that Qualifications Wales is not a Crown body.

Paragraph 2: Membership

124. This paragraph outlines the membership of Qualifications Wales. The Chief Executive Officer will be a member of Qualifications Wales and a chair and eight to ten ordinary members will be appointed by the Welsh Ministers.

Paragraphs 3 to 9: The chair and ordinary members

125. These paragraphs outline the requirements and restrictions relating to the appointments, resignation and potential removal of members of Qualifications Wales. The chair may be reappointed as chair once only, and restrictions on the ordinary members' terms of appointment and reappointment enable the membership of Qualifications Wales to be regularly renewed.

Paragraphs 10 to 16: The chief executive and other staff

126. The first chief executive will be appointed by the Welsh Ministers, for a period of up to three years and subsequent appointments will be made by Qualifications Wales. Reappointments to the role of chief executive are permitted.

127. Other than the first chief executive, Qualifications Wales may appoint its own staff. (This is in addition to the power of the Welsh Ministers to make a transfer scheme under Schedule 2 to the Act to transfer staff from the Welsh Government to Qualifications Wales). Qualifications Wales will determine the terms and conditions, remuneration and pension provisions for staff – but these arrangements must be approved by the Welsh Ministers. The staff of Qualifications Wales will not be civil servants.

Paragraphs 17 and 18: Committees

128. These paragraphs give Qualifications Wales powers to establish and to dissolve committees, sub-committees and joint committees. Qualifications Wales is able to pay remuneration and allowances to members of each of these three categories of committee (unless they are also members of Qualifications Wales or its staff).

Paragraphs 19 to 21: Delegation

129. These paragraphs give Qualifications Wales the powers to delegate any of its functions to a member of Qualification Wales, to a member of staff, to a committee or to a joint committee. A committee or a joint committee may itself sub-delegate a function to one of its sub-committees. Committees and joint committees may set the terms and extent of a delegation to a sub-committee, but any delegation, in the case of a committee, is subject to any direction given by Qualifications Wales and in the case of a joint committee, to a direction given by Qualifications Wales and the person with whom the joint-committee is established. The terms of the delegation and any direction govern what a committee may or may not do.

Paragraphs 22 to 25: Procedure

130. Qualifications Wales may determine the procedure (for example, the terms of reference) for itself and its committees. Committees may regulate the procedure of sub-committees they establish. Joint committees may set out their own procedures and those of sub-committees they establish. Vacancies in membership or deficiencies in appointments to Qualifications Wales, its committees, sub-committees or joint committees do not affect the validity of the proceedings.

Paragraph 26: Register of interests

131. This paragraph requires Qualifications Wales to record and publish its members' interests.

Paragraph 27: Supplementary powers

132. This paragraph gives Qualifications Wales the power to do anything necessary or appropriate in relation to its functions. Sub-paragraph (2) sets out the exceptions to that general position, with the effect that Qualifications Wales can neither exceed any expenditure threshold set out by the Welsh Ministers, nor borrow or lend money, without the Welsh Ministers' approval. Any expenditure threshold will be set out in a notice given to Qualifications Wales by the Welsh Ministers.

Paragraphs 28 to 30: Annual and other reports

133. These paragraphs require Qualifications Wales to report annually to the National Assembly for Wales and specify what that report must contain, while enabling Qualifications Wales to include additional information. As well as reporting on its work of the previous year, and setting out its proposals for the coming year, Qualifications Wales must report on any findings it has made in the reporting year about the impact of its activities on the qualification system, about its engagement with stakeholders and about any conclusions it has drawn from research it has undertaken. Stakeholders might include, for example, learners, parents, employers, higher education institutions, schools, colleges, awarding bodies, professional bodies and other regulators.
134. The reporting year runs to 31 August each year and the annual report must be prepared as soon as reasonably practicable after that date. The annual report must be published. Qualifications Wales may produce and publish additional reports as it sees fit on matters relating to its functions.

Paragraph 31: Finance

135. This paragraph enables the Welsh Ministers to provide funding in the form of grants to Qualifications Wales. The Welsh Ministers must publish any terms and conditions of such grants.

Paragraphs –32 - 34: Accounts and audit

136. Qualifications Wales must ensure it keeps proper accounts and records, and prepare a statement of accounts for each financial year. The Welsh Ministers have the power to issue directions to Qualifications Wales on the preparation of the statement of accounts covering the information to be contained in the statement, how the information needs to be presented, the method and principles according to which the statement needs to be made and any other additional information to accompany it.
137. These paragraphs set out the accounts and audit processes required of Qualifications Wales; these include the preparation and submission to the Auditor General for Wales of an annual statement of accounts by 31 August each year and, in accordance with any directions provided by the Welsh Ministers. The Welsh Ministers may vary or revoke a direction given to Qualifications Wales at any time. These paragraphs also places duties on the Auditor General in relation to the statement of accounts and defines financial year.

Paragraph 35: Examination of use of resources

138. This paragraph enables the Auditor General for Wales to audit the performance of Qualifications Wales but not the merits of Qualifications Wales’ policy objectives.

Schedule 1Part 2

Paragraphs 36 - 40: Consequential Amendments

139. These paragraphs contain amendments to primary legislation. The effect of these amendments is that Qualifications Wales:
- a) will become subject to review by the Children’s Commissioner for Wales and the Commissioner for Older People in Wales;
 - b) must adhere to the requirements of the Freedom of Information Act 2000;
 - c) may be investigated by the Public Services Ombudsman for Wales; and
 - d) must comply with duties under the Equality Act 2010.