



Qualifications Wales Act 2015

2015 anaw 5

PART 6

FURTHER PROVISION RELEVANT TO RECOGNITION, APPROVAL AND DESIGNATION

Funding etc of certain courses

34 Restriction on funding and provision of certain courses

- (1) Unless a requirement set out in subsection (3) or (5) is met, a course of education or training that leads to the award of a form of a qualification and is within subsection (2) must not be—
 - (a) funded by an authorised body, or
 - (b) provided by or on behalf of a maintained school in Wales.
- (2) A course of education or training is within this subsection if it is provided, or proposed to be provided—
 - (a) by or on behalf of a school or institution or employer, and
 - (b) for pupils who are of compulsory school age, or above compulsory school age but under 19.
- (3) The requirement is that—
 - (a) the form of qualification to which the course leads is awarded by a recognised body as an approved qualification, and
 - (b) if the form of the qualification is subject to an award limitation condition, the provision of the course is not such that it leads to the award of the qualification to a person otherwise than in accordance with that condition.
- (4) In subsection (3)(b), an award limitation condition is a condition to which approval of the form of qualification under Part 4 is subject and which relates to the person or description of person to whom the qualification may be awarded.
- (5) The requirement is that—

- (a) the form of the qualification to which the course leads is awarded by a recognised body and is designated under section 29, and
 - (b) if Qualifications Wales has specified purposes under section 30(6) for which the designation is to have effect, the provision of the course is not such that it leads to the award of the qualification otherwise than in accordance with those purposes.
- (6) In relation to a maintained school, the local authority and governing body must carry out their functions with a view to securing that subsection (1)(b) is not contravened.
- (7) The restriction imposed by this section does not apply in respect of the provision of a course of education or training to a person with a learning difficulty.
- (8) Nor does the restriction apply in respect of a course of education or training designated by the Welsh Ministers for the purpose of this section.
- (9) A designation under subsection (8) may make provision—
- (a) generally in respect of a course or description of course, or
 - (b) in respect of a course or description of course provided in circumstances, or to a person or description of person, specified in the designation.
- (10) A designation under subsection (8)—
- (a) must be in writing;
 - (b) may be varied or revoked.
- (11) In this section, references to a course leading to a form of a qualification include references to a course that is one of two or more components leading to a form of the qualification.
- (12) In this section—
- “authorised body” (“*corff awdurdodedig*”) means—
 - (a) the Welsh Ministers;
 - (b) a local authority in Wales;
 - “maintained school” (“*ysgol a gynhelir*”) means—
 - (a) a community, foundation or voluntary school;
 - (b) a community special school.

Delineation of roles of Qualifications Wales and Ofqual

35 Award in Wales of an approved qualification: restriction on application of conditions imposed by Ofqual

- (1) Any condition to which recognition of an awarding body by Ofqual under section 132 of the [Apprenticeships, Skills, Children and Learning Act 2009 \(c.22\)](#) (recognition of awarding bodies) is subject does not apply in respect of, or for the purposes of, any award in Wales by that body of a form of qualification awarded as an approved qualification (but this does not affect the application, if any, of those conditions in respect of or for the purposes of the award in Wales of a form of qualification that is not awarded as an approved qualification, even if that form is designated under section 29).
- (2) Accordingly, in section 132 of the Apprenticeships, Skills, Children and Learning Act 2009, after subsection (9), insert—

“(10) See section 35 of the Qualifications Wales Act 2015 for provision about the effect of conditions imposed by or under this section, in respect of or for the purposes of the award in Wales by an awarding body of a form of a qualification awarded as an approved qualification (for which see section 22(4) of that Act).”

- (3) In this section “Ofqual” means the Office of Qualifications and Examinations Regulation established under section 127 of the Apprenticeships, Skills, Children and Learning Act 2009.
- (4) For the purposes of this section and section 36, the award of a form of a qualification in Wales is its award to persons assessed in respect of the qualification wholly or mainly in Wales.

36 Restriction on application of conditions imposed by Qualifications Wales

- (1) Any condition within subsection (2) applies only in respect of, or for the purposes of, the award in Wales by an awarding body of a form of a qualification in respect of the award of which the body is recognised under Part 3.
- (2) The conditions are the conditions to which recognition of the body under section 8 or 9 is subject.