
WELSH STATUTORY INSTRUMENTS

2005 No. 3239

**The Qualifications, Curriculum and Assessment
Authority for Wales (Transfer of Functions to the
National Assembly for Wales and Abolition) Order 2005**

Title, commencement and interpretation

1.—(1) The title of this Order is the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and it comes into force on 1 April 2006.

(2) In this Order:

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“ACCAC” means the Qualifications, Curriculum and Assessment Authority for Wales;

“transfer date” (“*dyddiad trosglwyddo*”) means 1 April 2006.

Transfer of Functions of ACCAC to the National Assembly

2. Subject to article 9, on the transfer date all the functions of ACCAC are transferred to the National Assembly.

Transfer of staff

3. For the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981(1)—

- (a) the transfer of functions effected by Article 2 is to be treated as a transfer of an undertaking;
- (b) each person who was, immediately before the transfer date, employed by ACCAC under a contract of employment is to be treated as employed in the undertaking immediately before the transfer date.

Transfer of property, rights and liabilities

4.—(1) On the transfer date, all property, rights and liabilities to which ACCAC was entitled or subject immediately before the transfer date are transferred to the National Assembly.

(2) A certificate issued by the National Assembly that any property, rights or liabilities has been transferred by paragraph (1) shall be conclusive evidence of the transfer.

(3) The reference in paragraph (1) to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of article 3.

(4) Paragraph (1) has effect in relation to property, rights and liabilities—

- (a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer otherwise than by this order;

- (b) without any instrument or other formality being required.

Provision for continuity in the exercise of functions

5. Anything done by or in relation to ACCAC which has effect immediately before the transfer date shall so far as it is required for continuing its effect on and after the transfer date have effect as if done by or in relation to the National Assembly.

Abolition of ACCAC

6. On the transfer date ACCAC ceases to exist.

Transitional provisions etc

7.—(1) Nothing in this Order affects the validity of anything done by or in relation to ACCAC before the transfer date.

(2) There may be continued by or in relation to the National Assembly anything (including legal proceedings) which is in the process of being done by or in relation to ACCAC before the transfer date.

(3) On or after the transfer date so far as is necessary or appropriate, references to ACCAC in any instruments, contracts or legal proceedings are to be treated as references to the National Assembly.

(4) Until the coming into force of section 189 of the Education Act 2002 to the extent that it relates to paragraph 5(5) of Schedule 17 to that Act, section 29 of the Education Act 1997 (functions of ACCAC in relation to curriculum and assessment) shall have effect as if for subsection (4) there was substituted—

“(4) The National Assembly for Wales may exercise any function of a designated body within the meaning of Chapter 1 of Part 4”.

Accounts

8.—(1) The National Assembly must—

- (a) prepare a statement of accounts for the period from the date of the last statement of accounts prepared by ACCAC to the transfer date;
- (b) send a copy of the statement to the Auditor General for Wales before the end of the period of 6 months beginning with the transfer date;

(2) The Auditor General for Wales must—

- (a) examine, certify and report on the statement received under this article;
- (b) lay a copy of the report on the statement before the National Assembly.

Consequential amendments to Acts and other legislation

9.—(1) The Acts specified in Schedule 1 are amended in accordance with that Schedule.

(2) The subordinate legislation specified in Schedule 2 is amended in accordance with that Schedule.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2).

22 November 2005

D. Elis-Thomas
The Presiding Officer of the National Assembly