



Education Act 1997

1997 CHAPTER 44

An Act to amend the law relating to education in schools and further education in England and Wales; to make provision for the supervision of the awarding of external academic and vocational qualifications in England, Wales and Northern Ireland; and for connected purposes. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent Information

- E1** For the extent of this Act, see s. 58(5)-(7); amendments and repeals of enactments extending to S. and N.I. are co-extensive with those enactments.

Modifications etc. (not altering text)

- C1** Act: functions transferred (1.7.1999) in relation to specified provisions by [S.I. 1999/672](#), art. 2, [Sch.1](#)
Act applied (E.W.) (1.6.2001) by [S.I. 2001/1507](#), reg. 2, [Sch. 2 para. 2](#)
- C2** Act applied (1.4.2005) by [Central Sussex College \(Government\) Regulations 2005](#) (S.I. 2005/397),
[Sch. 2 para. 2](#)
- C3** Act modified (7.4.2005) by [Education Act 2005](#) (c. 18), s. [96\(2\)](#)
- C4** Education Acts modified (*temp.*) (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3),
[Sch. 6 para. 3\(3\)](#); [S.I. 2007/935](#), art. 5(bb)

PART I

ASSISTED PLACES SCHEME

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Textual Amendments
F1 S. 1 repealed (1.9.1997) by 1997 c. 59, ss. 6(3), 7(3)(a), Sch. Pt.I (with s. 1(3))

PART II

SCHOOL DISCIPLINE

Responsibility for discipline

F2

Textual Amendments
F2 Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F3

Textual Amendments
F3 Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

Power to restrain pupils

F4 **Power of members of staff to restrain pupils.**

.....

Textual Amendments
F4 S. 4 repealed (1.4.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 18 Pt. 6; S.I. 2007/935, art. 4(d)

Detention

F5 **Detention outside school hours lawful despite absence of parental consent.**

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Textual Amendments

F5 S. 5 repealed (1.4.2007 for E., 31.10.2010 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 6](#); [S.I. 2007/935](#), art. 4(d); [S.I. 2010/2543](#), art. 2(m)

Commencement Information

II S. 5 wholly in force at 1.9.1998 see s. 58(3) and [S.I. 1998/386](#), arts. 2(4), 4, [Sch. 1 Pt. IV](#), [Sch. 2 Pt. II](#) (subject to transitional provisions in [Sch. 2 Pt. II](#))

Exclusion of pupils from school

F6

Textual Amendments

F6 Ss. 6-8 repealed (1.9.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para. 208\(b\)](#), [Sch.31](#) (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), art. 2(1), [Sch.1](#)

F7

Textual Amendments

F7 Ss. 6-8 repealed (1.9.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para. 208\(b\)](#), [Sch.31](#) (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), art. 2(1), [Sch.1](#)

F8

Textual Amendments

F8 Ss. 6-8 repealed (1.9.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para. 208\(b\)](#), [Sch.31](#) (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), art. 2(1), [Sch.1](#)

LEA plans

F9 **LEA plans relating to children with behavioural difficulties.**

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Textual Amendments

F9 S. 9 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); [S.I. 2005/394](#), art. 2(1)(l); [S.I. 2006/885](#), art. 3(b)

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PART III

SCHOOL ADMISSIONS

CHAPTER I

COUNTY AND VOLUNTARY SCHOOLS

Partially-selective schools

F1010

Textual Amendments

F10 Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

Children permanently excluded from two or more schools

F1111

Textual Amendments

F11 Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

F1212

Textual Amendments

F12 Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

PROSPECTIVE

Home-school partnership documents

F1313

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Textual Amendments

F13 Pt. III (ss. 10-14) repealed (1.2.1999 to the extent that it relates to the repeal of s. 13 of the amended Act) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(3), **Sch.1 Pt. III**

CHAPTER II

GRANT-MAINTAINED SCHOOLS

F14 **14**

Textual Amendments

F14 Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s.140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

PART IV

BASELINE ASSESSMENTS AND PUPILS’ PERFORMANCE

F15F15 **CHAPTER I**

Textual Amendments

F15 Pt. IV Ch. I repealed (2.9.2002 except in relation to W.) by Education Act 2002 (c. 32), ss. 204, 215(2), 216, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**

CHAPTER II

PUPILS’ PERFORMANCE

19 **School performance targets.**

(1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for requiring the governing bodies of maintained schools to secure that annual targets are set in respect of the performance of pupils—

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- (a) in public examinations or in assessments for the purposes of the National Curriculum, in the case of pupils of compulsory school age; or
 - (b) in public examinations or in connection with the attainment of other external qualifications, in the case of pupils of any age over that age.
- (2) Regulations under this section may require—
- (a) such targets, and
 - (b) the past performance of pupils in the particular examinations or assessments, or in connection with the attainment of the particular qualifications, to which such targets relate,
- to be published in such manner as is specified in the regulations.
- [^{F22}(3) In this section “maintained school” means—
- (a) a community, foundation or voluntary school, or
 - (b) a community or foundation special school (other than one established in a hospital).]

Textual Amendments

F22 S. 19(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.213** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

20 Provision of information about individual pupils' performance.

After section 537 of the ^{M1}Education Act 1996 there shall be inserted—

“537A Provision of information about individual pupils' performance.

- (1) The Secretary of State may by regulations make provision requiring—
- (a) the governing body of every school which is—
 - (i) maintained by a local education authority, or
 - (ii) a grant-maintained school, or
 - (iii) a special school which is not maintained by a local education authority, and
 - (b) the proprietor of each independent school,
- to provide to the Secretary of State such individual performance information relating to pupils or former pupils at the school as may be prescribed.
- (2) In this section “individual performance information” means information about the performance of individual pupils (identified in the prescribed manner)—
- (a) in any assessment made for the purposes of the National Curriculum or in accordance with a baseline assessment scheme (within the meaning of Chapter I of Part IV of the Education Act 1997);
 - (b) in any prescribed public examination;
 - (c) in connection with the attainment of any vocational qualification; or
 - (d) in any such other assessment or examination, or in connection with the attainment of any such other qualification, as may be prescribed.
- (3) The Secretary of State may provide any information received by him by virtue of subsection (1)—

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- (a) to any prescribed body or person, or
 - (b) to any body or person falling within a prescribed category.
- (4) Any body or person holding any individual performance information may provide that information to any body to which this subsection applies; and any body to which this subsection applies—
- (a) may provide any information received by it under this subsection—
 - (i) to the Secretary of State, or
 - (ii) to the governing body or proprietor of the school attended by the pupil or pupils to whom the information relates; and
 - (b) may, at such times as the Secretary of State may determine, provide to any prescribed body such information received by it under this subsection as may be prescribed.
- (5) Subsection (4) applies to any body which, for the purposes of or in connection with the functions of the Secretary of State relating to education, is responsible for collating or checking information relating to the performance of pupils—
- (a) in any assessment or examination falling within subsection (2)(a), (b) or (d), or
 - (b) in connection with the attainment of any qualification falling within subsection (2)(c) or (d).
- (6) No individual performance information received under or by virtue of this section shall be published in any form which includes the name of the pupil or pupils to whom it relates.
- (7) References in this section to the attainment of a qualification of any description include references to the completion of any module or part of a course leading to any such qualification.”

Marginal Citations

M1 1996 c. 56.

PART V

SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

CHAPTER I

THE QUALIFICATIONS AND CURRICULUM AUTHORITY

Establishment of the Authority

21 The Qualifications and Curriculum Authority.

- (1) There shall be a body corporate known as the Qualifications and Curriculum Authority.
- (2) The Authority shall consist of not less than 8 nor more than 13 members appointed by the Secretary of State.

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- (3) Of the members of the Authority, the Secretary of State—
 - (a) shall appoint one as chairman, and
 - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of education, or to have held, and to have shown capacity in, any position carrying responsibility for the provision of education;
 - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of training or to have held, and to have shown capacity in, any position carrying responsibility for the provision of training; and
 - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.
- (5) Schedule 4 has effect in relation to the Authority.

Functions of the Authority

22 General function of Authority to advance education and training.

- (1) The functions conferred on the Qualifications and Curriculum Authority by this Part shall be exercised by the Authority for the purpose of advancing education and training in England and (so far as such functions are exercisable there) in Wales and in Northern Ireland.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

23 Functions of the Authority in relation to curriculum and assessment.

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) [^{F23} with respect to—
 - (a) pupils at maintained schools in England who have not ceased to be of compulsory school age,
 - (b) pupils at maintained nursery schools in England, ^{F24}...
 - ^{F24}(c)]
- (2) The functions are—
 - (a) to keep under review all aspects of the curriculum for [^{F25} maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
 - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
 - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;

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- (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
- (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; ^{F26} . . .
- (f) ^{F26}

[^{F27}(2ZA) If the Secretary of State so provides by order, the Qualifications and Curriculum Authority shall also have—

- (a) such additional functions as may be specified in the order with respect to pupils falling within subsection (1)(a) or (b) who are young children, and
- (b) such functions as may be specified in the order with respect to children not falling within subsection (1)(a) or (b) for whom early years provision is provided in England by early years providers to whom section 40 of the Childcare Act 2006 (duty to implement Early Years Foundation Stage) applies.

(2ZB) Before making an order under subsection (2ZA), the Secretary of State shall consult the Qualifications and Curriculum Authority.]

^{F28}(2A)

^{F29}(3)

^{F29}(4)

(5) In this section—

- “assessment” includes examination and test;
- [^{F30}“early years provider” and “early years provision” have the same meaning as in Part 3 of the Childcare Act 2006;]
- “maintained school” means—
 - (a) [^{F31}any community, foundation or voluntary school, and
 - (b) any community or foundation special school.]
- [^{F32}“young children” has the same meaning as in Part 3 of the Childcare Act 2006.]

Textual Amendments

- F23** Words in s. 23(1) substituted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F24** S. 23(1)(c) and preceding word repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 2(2), **Sch. 3 Pt. 1**; S.I. 2008/2261, **art. 2** (with Sch. 1)
- F25** Words in s. 23(2)(a) substituted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 1(3) (a)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F26** S. 23(2)(f) and preceding word repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 1(3)(b), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**
- F27** S. 23(2ZA)(2ZB) inserted (1.10.2007) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 1 para. 2(3)**; S.I. 2007/2717, **art. 2(d)**
- F28** S. 23(2A) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 2(4), **Sch. 3 Pt. 1**; S.I. 2008/2261, **art. 2** (with Sch. 1)
- F29** S. 23(3)(4) repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 1(5), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**

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- F30** Words in s. 23(5) substituted (1.10.2007) by **Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 2(5)(a)**; S.I. 2007/2717, art. 2(d) (with art. 3)
- F31** S. 23(5): in definition of "maintained school" paras. (a)(b) substituted (1.9.1999) for paras. (a)-(c) by 1998 c. 31, s. 140(1), **Sch. 30 para. 214** (b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F32** Words in s. 23(5) inserted (1.10.2007) by **Childcare Act 2006 (c. 21), s. 109(2), Sch. 1 para. 2(5)(b)**; S.I. 2007/2717, art. 2(d) (with art. 3)

24 **Functions of the Authority in relation to external vocational and academic qualifications.**

(1) The Qualifications and Curriculum Authority shall have, in relation to England, the functions set out in subsection (2) with respect to external qualifications.

(2) The functions are—

- (a) to keep under review all aspects of such qualifications;
- (b) to advise the Secretary of State on such matters concerned with such qualifications as he may refer to them or as they may see fit;
- (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with such qualifications;
- (d) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
- (e) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
- [^{F33}(ea) to develop and publish criteria for the recognition of persons who, as outside persons, award or authenticate such qualifications or credits in respect of components of such qualifications;
- (eb) to recognise, where they meet such criteria, any such persons who apply to be recognised;
- (f) to develop and publish criteria for the accreditation of such qualifications where they are awarded or authenticated by persons recognised under paragraph (eb);]
- (g) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- [^{F34}(gg) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.]

[^{F35}(2A) In paragraph (f) of subsection (2) “criteria” includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar functions is not excessive; and paragraph (g) of that subsection is to be construed accordingly.]

^{F36}(3)

(4) The functions set out in subsection (2)(a) to (g) shall also be exercisable by the Qualifications and Curriculum Authority in relation to Northern Ireland but only with respect to National Vocational Qualifications.

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- (5) Subsection (2)(a) to (e) do not apply to qualifications awarded or authenticated by institutions within the higher education sector other than those which have been submitted for accreditation under subsection (2)(g).
- (6) In this section “external qualification” means—
- (a) any academic or vocational qualification authenticated or awarded by an outside person, except an academic qualification at first degree level or any comparable or higher level; or
 - (b) (whether within paragraph (a) or not) any National Vocational Qualification.
- (7) For the purposes of this section—
- (a) a qualification [^{F37}or a credit in respect of a component of a qualification] is awarded by an outside person if the course of education or training leading to the qualification [^{F37}or component] is provided by an institution or an employer and it is awarded by a person other than the institution or employer or a member of its or his staff; and
 - (b) a qualification [^{F38}or a credit in respect of a component of a qualification] is authenticated by an outside person if it is awarded by an institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.

Textual Amendments

- F33** S. 24(2)(ea)(eb)(f) substituted for s. 24(2)(f) (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 161(3)(a)**, 173(4); S.I. 2009/387, **art. 2**
- F34** S. 24(2)(gg) substituted (1.4.2001 for W. for specified purposes, 1.4.2002 for E. and otherwise prosp.) for s. 24(2)(h)(i) by [2000 c. 21](#), **ss. 103(2)**, 154; S.I. 2001/1274, **art. 2**, *Sch. Pt. I*; S.I. 2002/279, **art. 2(2)(a)** (with **art. 3**)
- F35** S. 24(2A) inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, **Sch. 17 para. 2** (with **ss. 210(8)**, 214(4)); S.I. 2002/2439, **art. 2**
- F36** S. 24(3) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), **art. 1(1)**, **Sch. 1 para. 7** (with **art. 7**)
- F37** Words in s. 24(7)(a) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 161(5)(a)**, 173(4); S.I. 2009/387, **art. 2**
- F38** Words in s. 24(7)(b) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 161(5)(b)**, 173(4); S.I. 2009/387, **art. 2**

Modifications etc. (not altering text)

- C7** S. 24(2)(gg): transfer of functions (31.12.2001) by [S.I. 2001/3907](#), **art. 3(1)**

25 Other functions of the Authority.

- (1) The Qualifications and Curriculum Authority shall advise the Secretary of State on such matters connected with the provision of education or training in England as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry

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out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.

(4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.

[^{F39}(5) The Authority may supply any person designated by the Secretary of State with such information as the Authority thinks fit about any matter in relation to which it has a function.]

Textual Amendments

F39 S. 25(5) inserted (28.7.2000 for specified purposes and 1.9.2000 insofar as it relates to England and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 69**; S.I. 2000/2114, art. 2(3), **Sch. Pt. III**

26 Supplementary provisions relating to discharge by Authority of their functions.

(1) In carrying out their functions under this Part the Qualifications and Curriculum Authority shall—

- (a) comply with any directions given by the Secretary of State; and
- (b) act in accordance with any plans approved by him; and
- (c) so far as relevant, have regard to—
 - (i) the requirements of [^{F40}section 78 of the Education Act 2002] (general duties in respect of curriculum),
 - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
 - (iii) the requirements of persons with special learning needs.

(2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by [^{F41}Her Majesty's Chief Inspector of Education, Children's Services and Skills] or by any body designated by the Secretary of State for the purposes of this section.

(3) Where in carrying out any of their functions under this Part the Authority [^{F42}recognise any person or] accredit [^{F43}... any qualification, they may do so on such terms (including terms as to payment) ^{F43}... as they may determine.

[^{F44}(3A) Where in carrying out those functions the Authority [^{F45}recognise any person or] accredit any qualification, they may, at the time of [^{F46}recognition or of] accreditation or later, impose such conditions on [^{F47}recognition or] accreditation or continued [^{F48}recognition or] accreditation as they may determine.]

(4) Those conditions may in particular include conditions—

- (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
- [^{F49}(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority—
 - (i) to satisfy themselves that the appropriate standards are being [^{F50}maintained by the recognised person in question in relation to the

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- award or authentication of qualifications generally or in relation to the award or authentication of the qualification in question], or
- (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.]
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” means—
- (a) children with special educational needs (as defined in section 312 of the ^{M2}Education Act 1996); or
- (b) persons (other than children as so defined) who—
- (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
- (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

Textual Amendments

- F40** Words in s. 26(1)(c)(i) substituted (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 69](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F41** Words in s. 26(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 21](#); S.I. 2007/935, art. 5(gg)
- F42** Words in s. 26(3) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(7), 173(4); S.I. 2009/387, art. 2
- F43** Words in s. 26(3) repealed (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 215(2), [Sch. 22 Pt. 1](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2
- F44** S. 26(3A) inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 3\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2
- F45** Words in s. 26(3A) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(8)(a), 173(4); S.I. 2009/387, art. 2
- F46** Words in s. 26(3A) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(8)(b), 173(4); S.I. 2009/387, art. 2
- F47** Words in s. 26(3A) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(8)(c), 173(4); S.I. 2009/387, art. 2
- F48** Words in s. 26(3A) inserted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(8)(d), 173(4); S.I. 2009/387, art. 2
- F49** S. 26(4)(b) substituted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 3\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2
- F50** Words in s. 26(4)(b)(i) substituted (28.2.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 161(9), 173(4); S.I. 2009/387, art. 2

Marginal Citations

- M2** 1996 c. 56.

[^{F51}26A Power of Authority to give directions

- (1) If it appears to the Qualifications and Curriculum Authority—

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- (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
 - (b) that the failure—
 - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
 the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications and Curriculum Authority—
- (a) in England and Wales, by a mandatory order, or
 - (b) in Northern Ireland, by an order of mandamus.]

Textual Amendments

F51 S. 26A inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 4](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 2](#)

CHAPTER II

[^{F52}FUNCTIONS OF THE NATIONAL ASSEMBLY FOR WALES]

Textual Amendments

F52 Pt. V Ch. II heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), [Sch. 1 para. 8](#) (with art. 7)

^{F53} ...

Textual Amendments

F53 S. 27 crossheading omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 7)

^{F54}**27** **The Qualifications, Curriculum and Assessment Authority for Wales.**

.....

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Textual Amendments

- F54** S. 27 omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 9** (with art. 7)

Functions of the [F55 National Assembly for Wales]

Textual Amendments

- F55** Words in s. 28 cross-heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 10** (with art. 7)

28 General function of [F56 National Assembly for Wales] to advance education and training.

- (1) The functions conferred on the [F57 National Assembly for Wales] by this Part shall be exercised by [F58 the National Assembly for Wales] for the purpose of advancing education and training in Wales.
- (2) [F59 The National Assembly for Wales] shall exercise [F60 its functions] under this Part with a view to promoting quality and coherence in education and training in relation to which [F61 it has] functions under this Part.

Textual Amendments

- F56** Words in s. 28 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 10** (with art. 7)
- F57** Words in s. 28(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 11(a)(i)** (with art. 7)
- F58** Words in s. 28(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 11(a)(ii)** (with art. 7)
- F59** Words in s. 28(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 11(b)(i)** (with art. 7)
- F60** Words in s. 28(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 11(b)(ii)** (with art. 7)
- F61** Words in s. 28(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 11(b)(iii)** (with art. 7)

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29 Functions of the ^{F62}National Assembly for Wales] in relation to curriculum and assessment.

(1) ^{F63}The National Assembly for Wales] shall have the functions set out in subsection (2) ^{F64}with respect to—

- (a) pupils at maintained schools in Wales who have not ceased to be of compulsory school age,
- (b) pupils at maintained nursery schools in Wales, and
- (c) children for whom funded nursery education is provided in Wales otherwise than at a maintained school or maintained nursery school.]

(2) The functions are—

- (a) to keep under review all aspects of the curriculum for ^{F65}maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
- ^{F66}(b)
- ^{F67}(c)
- (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
- (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; ^{F68} . . .
- (f) ^{F68}

^{F69}(2A) In subsection (2) references to the curriculum for a maintained nursery school include references to the curriculum for any funded nursery education provided as mentioned in subsection (1)(c); and references to assessment in schools include references to assessment in funded nursery education.]

- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are ^{F70}under compulsory school age.]
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
 - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
 - (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section “assessment” and “maintained school” have the same meaning as in section 23^{F71}; and “funded nursery education” has the meaning given by section 98 of the Education Act 2002;]

Textual Amendments

F62 Words in s. 29 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 12** (with art. 7)

F63 Words in s. 29(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(a)** (with art. 7)

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- F64** Words in s. 29(1) substituted (19.12.2002) by Education Act 2002 (c. 32), **Sch. 17 para. 5(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F65** Words in s. 29(2)(a) substituted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 5(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F66** S. 29(2)(b) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 13(b)(i)** (with art. 7)
- F67** S. 29(2)(c) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 13(b)(ii)** (with art. 7)
- F68** S. 29(2)(f) and preceding word repealed (19.12.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 5(3)(b), **Sch. 22 Pt. 2** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F69** S. 29(2A) inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 5(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F70** Words in s. 29(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 215** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F71** Words in s. 29(5) inserted (19.12.2002) by virtue of Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 5(6)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

Modifications etc. (not altering text)

- C8** S. 29 modified (temp.) (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), arts. 1(1), **7(4)** (with art. 7)

30 Functions of the [F72 National Assembly for Wales] in relation to external vocational and academic qualifications.

[F73(1) This section applies for the purposes of the following functions with respect to external qualifications in relation to Wales—

- ^{F74}(a) to keep under review all aspects of such qualifications;
- ^{F74}(b) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
- ^{F74}(c) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
- [F75(ca) to develop and publish criteria for the recognition of persons who, as outside persons, award or authenticate such qualifications or credits in respect of components of such qualifications;
- (cb) to recognise, where they meet such criteria, any such persons who apply to be recognised;
- (d) to develop and publish criteria for the accreditation of such qualifications where they are awarded or authenticated by persons recognised under paragraph (cb);]
- ^{F74}(e) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- [F76(ea) to develop and publish rules and procedures for dealing with the effect on the continued accreditation of such qualifications where any person awarding or authenticating them ceases to be recognised;]
- ^{F74}(f) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with

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a view to obtaining such qualifications and which fall within a prescribed description.]

[^{F77}(1A) In subsection (1) (d)—“criteria” includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar functions is not excessive; and paragraph (e) of that subsection is to be construed accordingly.]

[^{F78}(1B) The following functions are exercisable solely by the Welsh Ministers—

- (a) the functions set out in paragraphs (ca) and (cb) of subsection (1); and
- (b) the functions set out in the other paragraphs of that subsection so far as they relate to external qualifications other than National Vocational Qualifications.

(1C) The functions set out in those other paragraphs so far as they relate to National Vocational Qualifications are exercisable as follows—

- (a) the functions set out in paragraphs (a) to (c), (d) and (ea) of subsection (1) are exercisable concurrently by the Welsh Ministers and the Qualifications and Curriculum Authority; and
- (b) the functions set out in paragraphs (e) and (f) of that subsection are exercisable solely by the Qualifications and Curriculum Authority.

(1D) Subsections (1B) and (1C) are subject to any exercise of the power conferred by subsection (2).]

[^{F79}(2) The National Assembly for Wales may by order prescribe that—

- (i) a function specified in subsection (1) which is for the time being exercisable solely by the Assembly shall be exercised concurrently by the Assembly and the Qualifications and Curriculum Authority;
- (ii) such a function which is for the time being exercisable solely by the Qualifications and Curriculum Authority shall be exercised either concurrently by that Authority and the Assembly or solely by the Assembly;
- (iii) such a function which is for the time being exercisable concurrently by the Qualifications and Curriculum Authority and the Assembly shall be exercised solely by the Assembly.]

[^{F80}(3) The Authority shall have, in relation to Wales, the following functions with respect to external qualifications, namely—

- (a) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
- (b) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.]

[^{F81}(4)

(5) In this section “external qualification” has the same meaning as in section 24.

[^{F82}(6) Subsection (7) of section 24 (interpretation of references to the award or authentication by outside persons of external qualifications or credits in respect of components of them) applies for the purposes of this section as it applies for the purposes of that section.]

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Textual Amendments

- F72** Words in s. 30 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 14** (with art. 7)
- F73** S. 30(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 15(a)** (with art. 7)
- F74** S. 30(1)(a)-(f): renumbered (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(3)(a)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F75** S. 30(1)(ca)-(d) substituted for s. 30(1)(d) (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(3)(b)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F76** S. 30(1)(ea) inserted (31.10.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(3)(c)**, 173(3)(4); S.I. 2009/784, art. 5(a)
- F77** S. 30(1A)-(1C) inserted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 15(b)** (with art. 7)
- F78** S. 30(1B)-(1D) substituted for s. 30(1B)(1C) (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(4)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F79** S. 30(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 15(c)** (with art. 7)
- F80** S. 30(3) repealed (1.4.2001 for W. and otherwise *prosp.*) by [2000 c. 21](#), ss. 103(4)(c), 153, 154, **Sch. 11**; S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F81** S. 30(4) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 15(d)** (with art. 7)
- F82** S. 30(6) inserted (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(5)**, 173(3)(4); S.I. 2009/784, art. 2(a)

Modifications etc. (not altering text)

- C9** S. 30(1) functions made exercisable (5.6.2009) by [The Functions in relation to External Qualifications \(Wales\) Order 2009 \(S.I. 2009/1220\)](#), **art. 1(3)2**

^{F83}31 Other functions of the Authority.

.....

Textual Amendments

- F83** S. 31 omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 16** (with art. 7)

32 Supplementary provisions relating to discharge by [^{F84}the National Assembly for Wales of its functions].

(1) In carrying out [^{F85}its functions] under this Part [^{F86}the National Assembly for Wales] shall—

^{F87}(a)

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- ^{F88}(b)
- (c) so far as relevant, have regard to—
- (i) the requirements of [^{F89}section 99 of the Education Act 2002] (general duties in respect of curriculum),
 - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
 - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions [^{F90}the National Assembly for Wales] shall in addition have regard to information supplied [^{F91}to it] by [^{F92}Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of [^{F93}its functions] under this Part [^{F94}the Assembly [^{F95}recognises any person or] accredits]^{F96}... any qualification, [^{F97}it may] do so on such terms (including terms as to payment) ^{F96}... as [^{F97}it may] determine.
- ^{F98}(3A) Where in carrying out those functions [^{F99}the National Assembly for Wales [^{F100}recognises any person or] accredits] any qualification, [^{F101}it may], at the time of [^{F102}recognition or of] accreditation or later, impose such conditions on [^{F103}recognition or] accreditation or continued [^{F104}recognition or] accreditation as [^{F101}it may] determine.]
- (4) Those conditions may in particular include conditions—
- (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
 - ^{F105}(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for [^{F106}the National Assembly for Wales] —
 - (i) to satisfy [^{F107}itself] that the appropriate standards are being [^{F108}maintained by the recognised person in question in relation to the award or authentication of qualifications generally or in relation to the award or authentication of the qualification in question], or
 - (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.]
- ^{F109}(4A) Where authorised to do so under paragraph 2(3) of Schedule 4, the National Assembly for Wales may act as agent for the Qualifications and Curriculum Authority in connection with the exercise of any of that Authority’s functions in relation to Wales.]
- ^{F110}(5)
- (6) In this section “persons with special learning needs” has the same meaning as in section 26.

Textual Amendments

- F84** Words in s. 32 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 17** (with art. 7)

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- F85** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(i)** (with art. 7)
- F86** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(ii)** (with art. 7)
- F87** S. 32(1)(a) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F88** S. 32(1)(b) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F89** Words in s. 32(1)(c)(i) substituted (19.12.2002 for W., 1.3.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 70 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 2
- F90** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(i)** (with art. 7)
- F91** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(ii)** (with art. 7)
- F92** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, **Sch.**
- F93** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(i)** (with art. 7)
- F94** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(ii)** (with art. 7)
- F95** Words in s. 32(3) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(7)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F96** Words in s. 32(3) repealed (19.12.2002) by Education Act 2002 (c. 32), ss. 189, 215(2), Sch. 17 para. 7(2), **Sch. 22 Pt. 2** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F97** Words in s. 32(3) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(c)(iii)** (with art. 7)
- F98** S. 32(3A) inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 7(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F99** Words in s. 32(3A) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(d)(i)** (with art. 7)
- F100** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(a)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F101** Words in s. 32(3A) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(d)(ii)** (with art. 7)
- F102** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(b)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F103** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(c)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F104** Words in s. 32(3A) inserted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(8)(d)**, 173(3)(4); S.I. 2009/784, art. 2(a)
- F105** S. 32(4)(b) substituted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 7(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

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- F106** Words in s. 32(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(e)(i)** (with art. 7)
- F107** Word in s. 32(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(e)(ii)** (with art. 7)
- F108** Words in s. 32(4)(b)(i) substituted (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(9), 173(3)(4)**; S.I. 2009/784, art. 2(a)
- F109** S. 32(4A) inserted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(f)** (with art. 7)
- F110** S. 32(5) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 18(g)** (with art. 7)

[^{F111}32A] Power of Welsh Ministers to give directions

- (1) If it appears to the Welsh Ministers—
 - (a) that any recognised person has failed or is likely to fail to comply with any condition subject to which the recognition has effect, and
 - (b) that the failure—
 - (i) prejudices or would be likely to prejudice the proper award or authentication by that person of any qualification accredited by them or by the Qualifications and Curriculum Authority, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain any such qualification awarded or authenticated by that person,

the Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the recognition has effect.
- (2) If it appears to the Welsh Ministers—
 - (a) that any recognised person who awards or authenticates any qualification accredited by them has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
 - (b) that the failure—
 - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
 - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,

the Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (3) It shall be the duty of the recognised person to comply with any direction under this section.
- (4) Any direction under this section is enforceable, on the application of the Welsh Ministers, by a mandatory order.
- (5) In this section “recognised person” means a person recognised by the Welsh Ministers.

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- (6) In this section any reference to the award or authentication of any qualification by any person is a reference to its award or authentication by any person alone or jointly with others.]

Textual Amendments

F111 S. 32A substituted (31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 162(10)**, 173(3)(4); [S.I. 2009/784](#), art. 2(a)

CHAPTER III

PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

Dissolution of existing bodies

^{F112}33 **Dissolution of existing bodies.**

.....

Textual Amendments

F112 S. 33 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

Transfer of property and staff

^{F113}34 **Transfer of property.**

.....

Textual Amendments

F113 S. 34 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

35 **Transfer of staff.**

- (1) This section applies to any person who—
- (a) is employed by the National Council for Vocational Qualifications (“the NCVQ”) or the School Curriculum and Assessment Authority (“the SCAA”) immediately before section 21 comes into force, and
 - (b) is designated as respects the Qualifications and Curriculum Authority ^{F114}... by order of the Secretary of State;
- and in this section “the relevant Authority” means, in relation to any such person, [^{F115}the Qualifications and Curriculum Authority].
- (2) A contract of employment between a person to whom this section applies and the NCVQ or the SCAA shall have effect, from the day on which the order under

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subsection (1)(b) comes into force, as if originally made between him and the relevant Authority.

- (3) Without prejudice to subsection (2)—
- (a) all the rights, powers, duties and liabilities of the NCVQ or the SCAA under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and
 - (b) anything done before that day by or in relation to the NCVQ or the SCAA in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the relevant Authority.
- (4) Subsections (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by subsection (2).
- (5) In subsection (4) the reference to an employee's working conditions includes a reference to any rights (whether accrued or contingent) under any pension or superannuation scheme of which he was a member by virtue of his employment with the NCVQ or the SCAA (as the case may be).
- (6) An order under subsection (1)(b) may designate a person either individually or as falling within a class or description of employee.
- (7) No order under subsection (1)(b) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (8) Any order under subsection (1)(b) made before the day on which section 21 comes into force shall come into force on that day.
- (9) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (7) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

Textual Amendments

F114 Words in s. 35(1)(b) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 21(a)** (with art. 7)

F115 Words in s. 35(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 21(b)** (with art. 7)

Levy on bodies awarding accredited qualifications

36 Levy on bodies awarding qualifications accredited by relevant ^{F116}body .

- (1) The Secretary of State may by regulations provide for a levy to be payable to the relevant ^{F117}body] by persons who award vocational qualifications accredited by that ^{F117}body] .
- (2) Regulations under this section shall—

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- (a) specify the rate of the levy or the method by which it is to be calculated (and, without prejudice to the generality of section 54(3), may make different provision in relation to different cases);
 - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy;
 - (c) provide for the relevant [^{F118}body] to withdraw their accreditation of a qualification in cases of non-payment of the levy.
- (3) Any sums received by [^{F119}the relevant body] in respect of the levy shall be applied by them in giving such financial assistance to other bodies as the Secretary of State may specify with a view to assisting [^{F120}that relevant body] to secure the development and improvement of standards in relation to vocational qualifications.
- (4) In this section “the [^{F121}relevant body]” means—
- (a) the Qualifications and Curriculum Authority in the case of a qualification accredited by that Authority; and
 - (b) [^{F122}the National Assembly for Wales] in the case of a qualification accredited by [^{F123}the Assembly] .

Textual Amendments

- F116** Word in s. 36 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 22** (with art. 7)
- F117** Word in s. 36(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(a)** (with art. 7)
- F118** Word in s. 36(2)(c) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(b)** (with art. 7)
- F119** Words in s. 36(3) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(c)(i)** (with art. 7)
- F120** Words in s. 36(3) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(c)(ii)** (with art. 7)
- F121** Words in s. 36(4) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(d)(i)** (with art. 7)
- F122** Words in s. 36(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(d)(ii)** (with art. 7)
- F123** Words in s. 36(4)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 23(d)(iii)** (with art. 7)

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CHAPTER IV

CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

^{F124}**37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.**

.....

Textual Amendments
F124 S. 37 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

PART VI

INSPECTION OF LOCAL EDUCATION AUTHORITIES AND SCHOOL INSPECTIONS

CHAPTER I

INSPECTION OF LOCAL EDUCATION AUTHORITIES

38 Inspection of LEAs.

- (1) The Chief Inspector—
 - (a) may, and
 - (b) if requested to do so by the Secretary of State, shall, arrange for any local education authority to be inspected under this section.

^{F125}(2)

[^{F126}(2A) An inspection of a local education authority in Wales under this section shall consist of a review of the way in which the authority are performing—

- (a) any function conferred on them in their capacity as a local education authority; and
- (b) the functions conferred on them under sections 25 and 26 [^{F127}of the Children Act 2004] so far as relating to education, training or youth support services (within the meaning of section 123 of the Learning and Skills Act 2000).]

(3) A request by the Secretary of State under this section may relate to one or more local education authorities, and shall specify both—

- (a) the local education authority or authorities concerned, and
- (b) the functions of theirs to which the inspection is to relate.

(4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).

(5) Any inspection under this section shall be conducted—

- (a) by one of Her Majesty’s Inspectors of Schools in ^{F128}... Wales, or
- (b) by any additional inspector authorised under ^{F129}... [^{F130}paragraph 2 of Schedule 2 to [^{F131}the Education Act 2005]];

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but he may be assisted by such other persons (whether or not members of the Chief Inspector’s staff) as the Chief Inspector thinks fit.

(6) For the purposes of this section a local education authority shall provide the Chief Inspector with such information as may be prescribed, and shall do so in such form and—

(a) within such period following a request made by the Chief Inspector in any prescribed circumstances, or

(b) at such other times,

as regulations may provide.

(7) In this section and sections 39 to ^{F132}41A] “the Chief Inspector” means—

^{F133}(a)

(b) in relation to a local education authority in Wales, ^{F134}Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru];

and in those sections references to “the inspector” in relation to an inspection under this section are references to the person conducting the inspection.

Textual Amendments

- F125** S. 38(2) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(2\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F126** S. 38(2)(2A) substituted for s. 38(2) (1.4.2005 for E., 31.7.2008 for W.) by [Children Act 2004 \(c. 31\)](#), [ss. 51, 67\(7\)\(e\)](#); S.I. 2005/394, [art. 2\(2\)\(e\)](#); S.I. 2008/1904, [art. 2](#)
- F127** Words in s. 38(2A)(b) inserted (1.4.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 28](#); S.I. 2008/17, [art. 3\(b\)](#)
- F128** Words in s. 38(5)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(3\)\(a\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F129** Words in s. 38(5)(b) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(3\)\(b\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F130** Words in s. 38(5)(b) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 9 para. 11](#); S.I. 2005/2034, [art. 4](#); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)
- F131** Words in s. 38(5)(b) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(3\)\(b\)](#); S.I. 2007/935, art. 5(gg)
- F132** Word in s. 38(7) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(4\)\(a\)](#); S.I. 2007/935, art. 5(gg)
- F133** S. 38(7)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 22\(4\)\(b\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F134** Words in s. 38(7)(a) substituted (1.1.2001) by [2000 c. 21](#), [s. 73\(a\)](#); S.I. 2000/3230, [art. 2](#), [Sch.](#)

Modifications etc. (not altering text)

- C10** S. 38 modified (31.8.2008) by [Childcare Act 2006 \(c. 21\)](#), [ss. 28, 109\(2\)](#); S.I. 2008/17, [art. 2\(a\)](#)
- C11** S. 38(5) applied (E.) (1.9.2005) by [Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 1\(1\)](#), [Sch. para. 2\(a\)](#)

39 Reports of inspections under s. 38 and action plan by LEA.

(1) Where an inspection under section 38 has been completed, the inspector shall make a written report on the matters reviewed in the course of the inspection, and shall send copies of the report to—

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- (a) any local education authority to which the inspection relates; and
 - (b) the Secretary of State.
- (2) Where a local education authority receive a copy of a report under this section, they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (3) The authority shall publish—
- (a) the report, and
 - (b) the statement prepared under subsection (2),
- within such period, and in such manner, as may be prescribed.
- (4) The Chief Inspector may arrange for any report under this section to be published in such manner as he considers appropriate^[F135]; and ^{F136}... ^[F137]section 29(2) to (4) of ^[F138]the Education Act 2005[]] shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in ^{F139}... ^[F140]section 29(2).[]]

Textual Amendments

- F135** Words in s. 39(4) inserted (1.10.1998) by 1998 c. 31, s. 134(3) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch.1 Pt. 1**
- F136** Words in s. 39(4) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 23(a), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F137** Words in s. 39(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 12(a)**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F138** Words in s. 39(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 23(b)**; S.I. 2007/935, art. 5(gg)
- F139** Words in s. 39(4) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 23(c), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F140** Words in s. 39(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 12(b)**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

Modifications etc. (not altering text)

- C12** S. 39: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by Contracting Out (Local Education Authority Functions) (England) Order 2002 (S.I. 2002/928), art. 3, **Sch. 3(j)**

^[F141]**40 Inspector's rights of entry etc.**

- (1) This section applies where a local education authority are inspected under section 38.
- (2) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to—
 - (a) the premises of the local education authority,
 - (b) the premises of any school maintained by the authority, and
 - (c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.
- (3) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of—

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- (a) any records kept by, and any other documents containing information relating to, the local education authority or any school maintained by the authority, and
- (b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates;

which he considers relevant to the exercise of his functions.

- (4) [^{F142}Section 58 of the Education Act 2005] (inspection of computer records) shall apply for the purposes of subsection (3) as it applies for the purposes of Part 1 of that Act.
- (5) Without prejudice to subsections (2) and (3), the local education authority and the governing body of any school maintained by the authority—
 - (a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and
 - (b) shall secure that all such assistance is also given by persons who work at the school.
- (6) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In this section—
 - “document” and “records” each include information recorded in any form; and
 - “relevant section 19 education” means education provided to a child by virtue of arrangements made by the local education authority under section 19 of the Education Act 1996 (exceptional provision of education at schools or otherwise).]

Textual Amendments

F141 S. 40 substituted (1.10.2002 except in relation to W. and 19.12.2002 otherwise) by [Education Act 2002 \(c. 32\)](#), [ss. 180, 216](#), (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2002/3185](#), [art. 4](#)

F142 Words in s. 40(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 9 para. 13](#); [S.I. 2005/2034](#), [art. 4](#); [S.I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

Modifications etc. (not altering text)

C13 S. 40(2)(3)(5)-(7) applied (E.) (1.9.2005) by [Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 1\(1\)](#), [Sch. para. 2\(a\)](#)

^{F143}**41 Inspections involving collaboration of Audit Commission.**

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Textual Amendments

F143 S. 41 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 24](#), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5\(gg\)\(ii\)](#)

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Education Act 1997 is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F144}41A Inspections involving collaboration of Auditor General for Wales

- (1) If requested to do so by the Chief Inspector, the Auditor General for Wales may assist with any inspection under section 38 of a local education authority in Wales; and subsections (2) to (5) below have effect where the Auditor General for Wales assists with any such inspection.
- (2) Section 40 shall apply to the Auditor General for Wales and to any authorised person as it applies to the inspector.
- (3) Any information obtained by virtue of section 40 by a person falling within one of the categories mentioned in subsection (4) may be disclosed for the purposes of the inspection, or the preparation or making of the report under section 39(1), to a person falling within the other category.
- (4) Those categories are—
 - (a) the Auditor General for Wales and any authorised person; and
 - (b) the inspector and any person assisting him.
- (5) Any report prepared under section 39(1) shall be prepared by the inspector acting in conjunction with the Auditor General for Wales.
- (6) The Auditor General for Wales shall not provide assistance under this section unless, before he does so, the Chief Inspector has agreed to pay the Auditor General for Wales an amount equal to the full costs incurred by the Auditor General for Wales in providing the assistance.
- (7) In this section “authorised person” means a person authorised by the Auditor General for Wales for the purposes of this section.]

Textual Amendments

F144 S. 41A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 19](#); S.I. 2005/558, art. 2, [Sch. 1](#)

CHAPTER II

SCHOOL INSPECTIONS

[^{F145}42 Miscellaneous amendments relating to school inspections.

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Textual Amendments

F145 S. 42 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 1](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, [Sch. 1](#) (with [Sch. 4 para. 6](#))

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Education Act 1997 is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART VII

CAREERS EDUCATION AND GUIDANCE

43 Provision of careers education in schools.

- (1) All registered pupils at a school to which this section applies must be provided, during the relevant phase of their education, with a programme of careers education.
- (2) This section applies to—
 - [^{F146}(a) community, foundation and voluntary schools;]
 - [^{F147}(b)
 - [^{F148}(c) community or foundation special schools (other than those established in hospitals);]
 - (d) city technology colleges [^{F149}, city colleges for the technology of the arts and [^{F150}Academies]]; and
 - (e) pupil referral units.
- [^{F151}(2A) Subsection (2B) applies where, in the course of a programme of careers education provided, in pursuance of subsection (1), to registered pupils at a school in England falling within subsection (2)(a), (c) or (e), information or advice is given which—
 - (a) relates to any options available in respect of 16-18 education or training, or otherwise relates to the pursuit of particular careers (at any age), or
 - (b) relates to decisions or other steps to be taken in connection with any such options or careers.
- (2B) Any such information must be presented in an impartial manner, and—
 - (a) any such advice must be advice which the person giving it considers will promote the best interests of the pupils concerned, and
 - (b) accordingly, in giving the advice, that person must not seek to promote, contrary to the pupils' best interests, the interests or aspirations of the school or of other persons or institutions.]
- (3) It is the duty of each of the following to secure that subsection (1) [^{F152}(and, where applicable, subsection (2B))] is complied with, namely—
 - (a) in the case of a school falling within subsection (2)(a) to (c), the governing body of the school and its head teacher,
 - (b) in the case of a school falling within subsection (2)(d), the proprietors of the school and its head teacher, and
 - (c) in the case of a pupil referral unit, the local education authority maintaining the unit and the teacher in charge of it.
- (4) Each of sections 496 and 497 of the ^{M3}Education Act 1996 (default powers of Secretary of State) shall, in relation to the duty imposed by subsection (3) above, have effect as if any reference to a body to which that section applies included a reference to the proprietors of a school falling within subsection (2)(d) above.
- (5) For the purposes of this section the relevant phase of a pupil's education is the period—
 - (a) beginning at the same time as the school year in which the majority of pupils in his class attain the age of 14; and
 - (b) ending with the expiry of the school year in which the majority of pupils in his class attain the age of 16.

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(6) In this section—

“career” includes the undertaking of any training, employment or occupation or any course of education;

“careers education” means education designed to prepare persons for taking decisions about their careers and to help them implement such decisions;

“class”, in relation to a particular pupil, means—

- (a) the teaching group in which he is regularly taught, or
- (b) if he is taught in different groups for different subjects, such one of those groups as is designated by the head teacher of the school or, in the case of a pupil at a pupil referral unit, by the teacher in charge of the unit.

[^{F153}“16-18 education or training” means education or training suitable to the requirements of persons who have ceased to be of compulsory school age but have not attained the age of 18;

“training”, in connection with registered pupils at schools in England, includes a voluntary or other placement apt to enable the development of any skill or competency (whether or not taking place at a time when the person concerned is still such a pupil).]

Textual Amendments

- F146** S. 43(2)(a) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F147** S. 43(2)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 217(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F148** S. 43(2)(c) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F149** Words in s. 43(2)(d) substituted (28.7.2000 and 1.9.2001 for E. for specified purposes and otherwise prosp.) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 71**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F150** Words in s. 43(2)(d) substituted (26.7.2002) by Education Act 2002 (c. 32), s. 65(3), **Sch. 7 Pt. 2 para. 8** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 2**
- F151** S. 43(2A)(2B) inserted (1.9.2009) by Education and Skills Act 2008 (c. 25), **ss. 81(2)(a)**, 173(4); S.I. 2009/1513, art. 3
- F152** Words in s. 43(3) inserted (1.9.2009) by Education and Skills Act 2008 (c. 25), **ss. 81(2)(b)**, 173(4); S.I. 2009/1513, art. 3
- F153** Words in s. 43(6) inserted (1.9.2009) by Education and Skills Act 2008 (c. 25), **ss. 81(2)(c)**, 173(4); S.I. 2009/1513, art. 3

Modifications etc. (not altering text)

- C14** Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, **reg. 2**
- C15** S. 43: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by Contracting Out (Local Education Authority Functions) (England) Order 2002 (S.I. 2002/928) art. 3, {Sch. 3(k)}
- C16** S. 43 extended (E.) (1.9.2004) by Education (Extension of Careers Education) (England) Regulations 2003 (S.I. 2003/2645), regs. 1(1), **2**

Marginal Citations

- M3** 1996 c. 56.

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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44 Schools and other institutions to co-operate with careers advisers.

- (1) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be provided with—
 - (a) the name and address of every relevant pupil or student at the institution; and
 - (b) any information in the institution's possession about any such pupil or student which the careers adviser needs in order to be able to provide him with advice and guidance on decisions about his career or with other information relevant to such decisions.
- (2) If the registered address of a parent of any such pupil is different from the pupil's registered address, subsection (1)(a) requires the parent's address to be provided as well.
- (3) Paragraph (a) or (as the case may be) paragraph (b) of subsection (1) does not, however, apply to any pupil or student to the extent that—
 - (a) (where he is under [^{F154}the age of 16]) a parent of his, or
 - (b) (where he has attained that age) he himself,has indicated that any information falling within that paragraph should not be provided to the careers adviser.
- (4) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any relevant pupil or student specified by him, access to that person—
 - (a) on the institution's premises, and
 - (b) at a reasonable time agreed by or on behalf of the head teacher, principal or other head of the institution,for the purpose of enabling him to provide that person with advice and guidance on decisions about his career and with any other information relevant to such decisions.
- (5) Such access shall include an opportunity for the careers adviser to interview that person about his career, if he agrees to be so interviewed.
- (6) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any group of relevant pupils or students specified by him, access—
 - (a) to that group of persons in the manner specified in subsection (4)(a) and (b), and
 - (b) to such of the institution's facilities as can conveniently be made available for his use,for the purpose of enabling him to provide those persons with group sessions on any matters relating to careers or to advice or guidance about careers.
- (7) Any request made for the purposes of subsection (1), (4) or (6) must be made in writing to the head teacher, principal or other head of the institution in question.
- (8) This section applies to—
 - (a) the schools listed in section 43(2)(a) to (d); and
 - (b) institutions within the further education sector.

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- (9) It is the duty of each of the following to secure that subsections (1), (4) and (6) are complied with, namely—
- (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
 - (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;
- and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).
- (10) For the purposes of this section—
- (a) a pupil at a school is a relevant pupil—
 - (i) at any time during the period which is the relevant phase of his education for the purposes of section 43, or
 - (ii) if he is over compulsory school age and receiving secondary education; and
 - (b) a person is a relevant student at an institution within the further education sector if he is receiving at the institution either—
 - (i) full-time education, or
 - (ii) part-time education of a description commonly undergone by persons in order to fit them for employment.
- (11) For the purposes of this section—
- (a) “careers adviser” means a person who is employed by a body providing services in pursuance of arrangements made or directions given under section 10 of the ^{M4}Employment and Training Act 1973 and who is acting, in the course of his employment by that body, for the purposes of the provision of any such services; and
 - (b) a careers adviser has responsibilities for any persons if his employment by that body includes the provision of any such services for them.
- (12) In this section “career” has the same meaning as in section 43.

Textual Amendments

F154 Words in s. 43(3)(a) substituted (in force for specified purposes on 28.7.2000 and 1.4.2001 for E. and W.) by 2000 c. 21, s. 149, **Sch. 9 para. 72**; S.I. 2001/654, art. 2, **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

Modifications etc. (not altering text)

C17 Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, **reg. 2**

Marginal Citations

M4 1973 c. 35.

45 Provision of careers information at schools and other institutions.

- (1) Persons attending an educational institution to which this section applies must be provided with access to both—
- (a) guidance materials, and

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- (b) a wide range of up-to-date reference materials, relating to careers education and career opportunities.
- (2) This section applies to—
- (a) the schools listed in section 43(2)(a) to (d); and
 - (b) institutions within the further education sector
- [^{F155}and, in the case of any such school in England, the reference in subsection (1) to persons attending it is a reference to persons who are registered pupils there.]
- [^{F156}(2A) Subsection (2B) applies where registered pupils at a school in England falling within section 43(2)(a) or (c) are provided, in pursuance of subsection (1), with access to materials of the kinds mentioned in that subsection.
- (2B) The materials, taken as a whole, must present the pupils with (so far as relevant to them) a full range of—
- (a) options available in respect of 16-18 education or training, and
 - (b) other options available to them (at any age) in terms of career opportunities, and must not unduly promote any particular options over any others.]

(3) It is the duty of each of the following to secure that subsection (1) [^{F157}(and, where applicable, subsection (2B))] is complied with, namely—

 - (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
 - (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;

and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).

(4) The persons who under subsection (3) above are responsible for discharging that duty in relation to an institution shall seek assistance with discharging it from a body providing services in pursuance of arrangements made or directions given under section 10 of the ^{M5}Employment and Training Act 1973.

(5) In this section “career” [^{F158c}“careers education” and “16-18 education or training”] have the same meaning as in section 43.

(6) Nothing in this section applies to any primary school.

Textual Amendments

F155 Words in s. 45(2) inserted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(3)(a)**, 173(4); [S.I. 2009/1513](#), art. 3

F156 S. 45(2A)(2B) inserted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(3)(b)**, 173(4); [S.I. 2009/1513](#), art. 3

F157 Words in s. 45(3) inserted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(3)(c)**, 173(4); [S.I. 2009/1513](#), art. 3

F158 Words in s. 45(5) substituted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(3)(d)**, 173(4); [S.I. 2009/1513](#), art. 3

Marginal Citations

M5 1973 c. 35.

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

Changes to legislation: Education Act 1997 is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F159}**45A Guidance as to discharge of duties**

- (1) The persons responsible for discharging a relevant duty in relation to a school in England falling within section 43(2)(a), (c) or (e) must, in discharging the duty, have regard to any guidance given from time to time by the Secretary of State.
- (2) A “relevant duty” means a duty under any of sections 43(3), 44(9) and 45(3).]

Textual Amendments

F159 S. 45A inserted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(4)**, 173(4); [S.I. 2009/1513](#), [art. 3](#)

[^{F160}**45B Provision of curriculum information**

- (1) Subject to subsections (2) and (3), a service provider may demand from a person mentioned in subsection (6) such curriculum information as is specified in the demand.
- (2) A service provider must not demand any curriculum information unless the provider reasonably considers that the information would assist it in providing its services.
- (3) A service provider must not demand any curriculum information which identifies, or allows to be identified, any pupil or student.
- (4) A person mentioned in subsection (6) must comply with a demand made under subsection (1) by providing the service provider with the information demanded.
- (5) A service provider may publish in whatever form it sees fit any curriculum information provided under subsection (4).
- (6) The persons referred to in subsection (1) are—
 - (a) the governing body and head teacher of a school in Wales falling within section 43(2)(a); and
 - (b) the governing body and principal of an institution within the further education sector in Wales.
- (7) In this section—
 - “curriculum information” means—
 - (a) in relation to a school mentioned in subsection (6)(a), information about the curriculum for registered pupils at the school during the relevant phase of their education; and
 - (b) in relation to an institution within the further education sector, information about the courses of study and other education and training available at the institution;
 - “pupil” means, in relation to a school mentioned in subsection (6)(a), a person receiving education at the school;
 - “relevant phase” has the same meaning as in section 43(5);
 - “service provider” means a person providing services in pursuance of arrangements made with, or directions given by, the Welsh Ministers under section 10 of the Employment and Training Act 1973, and “services” shall be construed accordingly; and
 - “student” means, in relation to an institution within the further education sector, a person receiving education at the institution.]

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.
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Textual Amendments

F160 S. 45B inserted (7.12.2009) by [Learning and Skills \(Wales\) Measure 2009 \(nawm 1\)](#), **ss. 45(2)**, 49(2); [S.I. 2009/3174](#), art. 2(1)(p)

46 Extension or modification of provisions of ss. 43 to 45.

- (1) The Secretary of State may by regulations extend the scope of operation of section 43 or section 44 by substituting for the period specified in section 43(5) or section 44(10) (a)(i) such other period as is specified.
- (2) The Secretary of State may by regulations make provision for extending the scope of operation of section 43, 44 or 45 to primary schools or to any specified description of such schools.
- (3) The Secretary of State may by regulations make provision for requiring—
 - (a) the governing bodies of institutions within the further education sector, and
 - (b) the principals or other heads of such institutions,to secure that a programme of careers education is provided for any specified description of persons attending such institutions.
- (4) The Secretary of State may by regulations amend the definition of “careers adviser” set out in section 44(11)(a).
- (5) In this section—
 - “careers education” has the same meaning as in section 43;
 - “specified” means specified in the regulations in question.

PART VIII

MISCELLANEOUS AND GENERAL

Exceptional educational provision

47 Functions of LEAs as regards exceptional educational provision.

- (1) Section 19 of the ^{M6}Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) shall be amended as follows.
- (2) In subsection (1) (duty of local education authority to make arrangements for provision of suitable full-time or part-time education, at school or otherwise, for excluded children etc.), the words “full-time or part-time” shall be omitted.
- (3) In subsection (4) (power of local education authority to make arrangements for provision of suitable full-time or part-time education, otherwise than at school, for excluded young persons etc.), the words “full-time or part-time” shall be omitted.
- (4) After that subsection there shall be inserted—
 - “(4A) In determining what arrangements to make under subsection (1) or (4) in the case of any child or young person a local education authority shall have regard to any guidance given from time to time by the Secretary of State.”

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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Marginal Citations

M6 1996 c. 56.

Management committees for pupil referral units

48 Management committees for pupil referral units.

At the end of Schedule 1 to the Education Act 1996 (pupil referral units) there shall be added—

Management committees

“15 (1) Regulations may make provision—

- (a) for requiring any local education authority who maintain a pupil referral unit to establish a committee to act as the management committee for the unit; and
- (b) for that committee to discharge on behalf of the authority such of their functions in connection with the unit as are delegated by them to the committee in accordance with the regulations.

(2) Regulations under this paragraph may in particular make provision—

- (a) for enabling a local education authority to establish a joint committee to act as the management committee for two or more pupil referral units maintained by the authority;
- (b) for requiring the approval of the Secretary of State to be obtained before any such joint committee is established;
- (c) as to the composition of a management committee established under the regulations and—
 - (i) the appointment and removal of its members, and
 - (ii) their terms of office,

and in particular for requiring such a committee to include persons representing schools (including grant-maintained schools) situated in the area from which the unit or units in question may be expected to draw pupils;

- (d) for requiring or (as the case may be) prohibiting the delegation by a local education authority to a management committee of such functions in connection with pupil referral units as are specified in the regulations;
- (e) for authorising a management committee to establish sub-committees;
- (f) for enabling (subject to any provisions of the regulations) a local education authority or a management committee to determine to any extent the committee’s procedure and that of any sub-committee;
- (g) for limiting the personal liability of members of any such committee or sub-committee in respect of their acts or omissions as such members;

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- (h) for applying to any such committee or sub-committee, with or without modification—
 - (i) any provision of the Education Acts, or
 - (ii) any provision made by or under any other enactment and relating to committees or (as the case may be) sub-committees of a local authority.”

Teachers not under contract of employment and persons having access to those under 19

F161 49 Power to make regulations: teachers not under contract of employment and persons having access to those under 19.

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Textual Amendments

F161 S. 49 repealed (31.3.2003 for W. for specified purposes, 1.6.2003 for E., 2.1.2008 for W. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 71](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, [Sch. Pt. II](#); S.I. 2003/1115, art. 3; S.I. 2007/3611, art. 4(1), [Sch. Pt. 1](#)

Costs of teachers’ premature retirement

F162 50

Textual Amendments

F162 S. 50 repealed (1.4.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para.218](#), [Sch. 31](#) (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), [Sch.1](#)

Definition of “school”

51 Definition of “school”.

In section 4 of the Education Act 1996 (definition of “school”), for subsection (1) there shall be substituted—

- “(1) In this Act “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—
- (a) primary education,
 - (b) secondary education, or
 - (c) both primary and secondary education,
- whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.”

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Compulsory school age

52 Commencement of compulsory school age.

(1) Section 8 of the ^{M7}Education Act 1996 (compulsory school age) shall be amended in accordance with subsections (2) and (3).

(2) For subsection (2) there shall be substituted—

“(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.”

(3) For subsection (4) there shall be substituted—

“(4) The Secretary of State may by order—

- (a) provide that such days in the year as are specified in the order shall be, for each calendar year, prescribed days for the purposes of subsection (2);
- (b) determine the day in any calendar year which is to be the school leaving date for that year.”

^{F163}(4)

^{F163}(5)

Textual Amendments

F163 S. 52(4)(5) repealed (1.10.1998) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para.218, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch.1**, Pt. I

Commencement Information

I4 S. 52, as partially repealed, wholly in force at 1.10.1998; s. 52 not in force at Royal Assent see s. 58(3); s. 52(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**; s. 52(1)-(3) in force at 1.8.1998 by S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

Marginal Citations

M7 1996 c. 56.

General provisions

53 Stamp duty.

(1) Subject to subsection (2), stamp duty shall not be chargeable in respect of any transfer effected by virtue of section 30 or 34.

(2) No instrument (other than a statutory instrument) made or executed in pursuance of either of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the ^{M8}Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the ^{M9}Stamp Act 1891, been stamped with a

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particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

Marginal Citations

M8 1982 c. 39.
M9 1891 c. 39.

[^{F164}**53A. Stamp duty land tax**

- (1) For the purposes of stamp duty land tax, a land transaction effected by virtue of section 30 is exempt from charge.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—
 - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

Textual Amendments

F164 S. 53A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, [Sch. para. 26](#)

54 Orders and regulations.

- (1) Any power of the Secretary of State to make orders or regulations under this Act, except an order under section 25 or 31, shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Act, except an order under section 58, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any order or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (4) Without prejudice to the generality of subsection (3), any order or regulations under this Act may make in relation to Wales provision different from that made in relation to England.

Subordinate Legislation Made

P1 S. 54(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)
s. 54(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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S. 54(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)

55 Financial provisions.

There shall be paid out of money provided by Parliament—

- (a) any sums required for the payment by the Secretary of State of grants under this Act;
- (b) any administrative expenses incurred by the Secretary of State in consequence of this Act; and
- (c) any increase attributable to this Act in the sums so payable under any other Act.

56 Construction.

(1) In this Act—

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Secretary of State under this Act.

(2) This Act shall be construed as one with the ^{M10}Education Act 1996.

(3) Where, however, an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of that Act, the meaning given for the purposes of that provision shall apply instead of the one given for the purposes of that Act.

Marginal Citations

M10 [1996 c. 56](#).

57 Minor and consequential amendments, repeals etc.

(1) The minor and consequential amendments set out in Schedule 7 shall have effect.

^{F165}(2)

^{F166}(3)

(4) The enactments specified in Schedule 8 are repealed to the extent specified.

Textual Amendments

F165 S. 57(2) repealed (1.9.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para.220](#), [Sch. 31](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch.3](#)

F166 S. 57(3) repealed (1.9.1999) by [1998 c. 31](#), s. 140(1)(3), [Sch. 30 para.220](#), [Sch. 31](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch.3](#)

Commencement Information

I5 S. 57 partly in force; S. 57(1) partly in force at Royal Assent see s. 58(4); s. 57(4) in force for certain purposes at 4.4.1997 by [S.I. 1997/1153](#), [art. 2](#); s. 57(1)(4) in force for certain purposes at 14.6.1997,

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1.9.1997 and 1.10.1997 and s. 57(2)(3) in force at 1.9.1997 by [S.I. 1997/1468, art. 2, Sch. 1, Pts. I, II, III](#); s. 57(1)(4) in force for certain purposes at 1.9.2001 by [S.I. 2001/1215, art. 2](#)

58 Short title, commencement and extent etc.

- (1) This Act may be cited as the Education Act 1997.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the ^{M11}Education Act 1996.
- (3) Subject to subsection (4), this Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.
- (4) The following provisions come into force on the day on which this Act is passed—
^{F167}
...
section 54,
paragraph 48(2) of Schedule 7 and section 57(1) so far as relating thereto, and this section.
- (5) Subject to subsections (6) and (7), this Act extends to England and Wales only.
- (6) The following provisions extend to Northern Ireland—
sections 21 and 22,
section 24(4),
[^{F168}sections 26 and 26A],
sections 34 to 36,
section 53,
section 54,
this section, and
Schedule 4.
- (7) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Subordinate Legislation Made

- P2** S. 58(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)
S. 58(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)
S. 58(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)
- P3** S. 58(3) power partly exercised (26.3.2001): 1.9.2001 appointed for specified provisions by [S.I. 2001/1215, art. 2](#)

Textual Amendments

- F167** Words in s. 58(4) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para.221, Sch. 31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#)
- F168** Words in s. 58(6) substituted (1.10.2002) by [Education Act 2002 \(c. 32\), s. 189, Sch. 17 para. 9](#) (with ss. [210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 2](#)

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Marginal Citations

M11 1996 c. 56.

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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SCHEDULES

F169 SCHEDULE 1

Textual Amendments

F169 Sch. 1 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch. 31** (with ss. 138(9), 144(6); S.I. 1999/2323, art. 2(1), **Sch.1**

F170 SCHEDULE 2

Textual Amendments

F170 Sch. 2 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

F171 SCHEDULE 3

Textual Amendments

F171 Sch. 3 repealed (1.2.1999) to the extent that it relates to the repeal of paragraphs 1 and 2 of the Schedule inserted as Schedule 33B to the 1996 Act set out in Sch. 3, and wholly repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch.1 Pt. III** and S.I. 1999/2323, art. 2(1), **Sch.1**

SCHEDULE 4

Section 21.

THE QUALIFICATIONS AND CURRICULUM AUTHORITY

Status

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

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Powers

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
 - (a) acquire or dispose of land or other property,
 - (b) enter into contracts,
 - (c) form bodies corporate or associated or other bodies which are not bodies corporate,
 - (d) enter into joint ventures with other persons,
 - (e) subscribe for shares or stock,
 - (f) invest any sums not immediately required for the purpose of carrying out their functions,
 - (g) accept gifts of money, land or other property, and
 - (h) borrow money.
- (3) The Authority may authorise [^{F172}the National Assembly for Wales] to act as agent for the Authority in connection with the exercise of any of the Authority's functions in relation to Wales.
- (4) The consent of the Secretary of State is required for the exercise of any power conferred by sub-paragraph (2)(c) or (d) or sub-paragraph (3).

Textual Amendments

F172 Words in [Sch. 4 para. 2\(3\)](#) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), [art. 1\(1\)](#), [Sch. 1 para. 24\(a\)](#) (with [art. 7](#))

- 3 (1) The Authority may give to any person or body (whether or not in the United Kingdom) such assistance as they may determine.
- (2) Assistance may be provided on such terms and subject to such conditions (if any) as the Authority may determine.
- (3) In particular, assistance may be provided free of charge or on such terms as to payment as the Authority may determine.
- (4) The power conferred by this paragraph does not extend to the giving of financial assistance; and the consent of the Secretary of State is required for any exercise of that power.

Chief officer

- 4 (1) The Authority shall have a chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as the Secretary of State may determine.
- (3) Each subsequent chief officer shall be appointed by the Authority with the approval of the Secretary of State on such terms and conditions as the Authority may with the approval of the Secretary of State determine.

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- (4) The chief officer shall be an ex officio member of the Authority.

Chairman and chief officer: division of functions

- 5 (1) The Secretary of State may, on appointing a person to be the chairman of the Authority, confer on him such additional functions in relation to the Authority as may be specified in the appointment.
- (2) The functions for the time being conferred by virtue of appointment as chief officer of the Authority shall not include any function for the time being conferred under sub-paragraph (1) on the chairman of the Authority.

Tenure of office

- 6 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 7 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
- (b) is unable or unfit to discharge the functions of a member,
- remove him from office by giving him notice in writing and thereupon the office shall become vacant.
- 8 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

Payments to members

- 9 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.
- (2) The Authority shall, as regards any member in whose case the Secretary of State may so determine, pay, or make provision for the payment of, such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) If a person ceases to be a member of the Authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Authority to make to that person a payment of such amount as the Secretary of State may determine.

Staff

- 10 Subject to the approval of the Secretary of State, the Authority—
- (a) may appoint such number of employees, on such terms and conditions, as they may determine; and
- (b) shall pay to their employees such remuneration and allowances as they may determine.

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- 11 (1) Employment with the Authority shall be included among the kinds of employment to which a scheme under section 1 of the ^{M12}Superannuation Act 1972 can apply.
- (2) The Authority shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (3) Where an employee of the Authority is (by reference to that employment) a participant in a scheme under section 1 of that Act and is also a member of the Authority, the Secretary of State may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the Authority (whether or not any benefits are payable to or in respect of him by virtue of paragraph 9).

Marginal Citations

M12 1972 c. 11.

Finance

- 12 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.
- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.
- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

Committees

- 13 (1) The Authority—
- (a) may establish a committee for any purpose; and
 - (b) if so directed by the Secretary of State, shall establish a committee for such purpose as is specified in the direction.
- (2) The Authority shall determine the number of members which a committee established under this paragraph shall have, and the terms on which they are to hold and vacate office.
- (3) Subject to such conditions as the Secretary of State may determine, a committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Delegation of functions

- 14 (1) The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 13 to carry out such of the Authority's functions as the Authority may determine.

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- (2) The Secretary of State may authorise any committee established under paragraph 13(1)(b) to carry out such of the Authority's functions as are specified in the direction given under that provision.
- (3) Sub-paragraph (1) has effect without prejudice to any power to authorise an employee of the Authority to carry out any of the Authority's activities on behalf of the Authority.

Proceedings

- 15 (1) The following persons, namely—
 - (a) a representative of the Secretary of State,
 - ^[F173](b) a representative of the National Assembly for Wales,
 - (c) a representative of such other body as the Secretary of State may designate, and
 - (d) ^[F174]Her Majesty's Chief Inspector of Education, Children's Services and Skills], or a representative of his,shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the Secretary of State, ^[F175]the National Assembly for Wales], any person falling within sub-paragraph (1)(c) and ^[F176]Her Majesty's Chief Inspector of Education, Children's Services and Skills] with such copies of any documents distributed to members of the Authority or of any such committee as each of those persons may require.

Textual Amendments

- F173** Sch. 4 para. 15(1)(b) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 24(b)** (with art. 7)
- F174** Words in Sch. 4 para. 15(1)(d) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 25**; S.I. 2007/935, art. 5(gg)
- F175** Words in Sch. 4 para. 15(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 24(c)** (with art. 7)
- F176** Words in Sch. 4 para. 15(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 25**; S.I. 2007/935, art. 5(gg)

- 16 The validity of the Authority's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 17 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

Accounts

- 18 (1) The Authority shall—
 - (a) keep proper accounts and proper records in relation to the accounts;
 - (b) prepare a statement of accounts in respect of each financial year of the Authority; and

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- (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it;
 - (b) the manner in which the information contained in it is to be presented; or
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.

Documents

- 19 The application of the seal of the Authority shall be authenticated by the signature—
- (a) of the chairman or some other person authorised either generally or specially by the Authority to act for that purpose, and
 - (b) of one other member.
- 20 Any document purporting to be an instrument made or issued by or on behalf of the Authority, and to be duly executed by a person authorised by the Authority in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

F177 SCHEDULE 5

Section 27.

Textual Amendments

F177 Sch. 5 omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 25** (with art. 7)

F178 SCHEDULE 6

Section 42.

Textual Amendments

F178 Sch. 6 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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SCHEDULE 7

Section 57(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In Part II of the Table at the end of paragraph 3 of Schedule 1 to the Public Records Act 1958 (organisations whose records are public records), insert at the appropriate places—

“Qualifications, Curriculum and Assessment Authority for Wales”,

“Qualifications and Curriculum Authority”.

Local Authorities (Goods and Services) Act 1970 (c. 39)

- 2 (1) Subject to sub-paragraph (2), in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies), “public body”—
- (a) shall include the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales; and
 - (b) shall cease to include the School Curriculum and Assessment Authority and the Curriculum and Assessment Authority for Wales.
- (2) The provision in sub-paragraph (1) shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person shall be a public body for the purposes of the Act).

Commencement Information

- 16** Sch 7 para. 2 wholly in force at 1.3.1998; Sch. 7 para. 2 not in force at Royal Assent see s. 58(3); Sch. 7 para. 2 in force at 1.10.1997 except so far as sub-paragraph (1) provides that the definition of “public body” shall cease to include SCAA by S.I. 1997/1468, art. 2 Sch. 1 Pt. III; Sch. 7 para. 2(1) in force at 1.3.1998 insofar as not already in force by S.I. 1998/386, art. 2, Sch. 1 Pt. I

Superannuation Act 1972 (c. 11)

- 3 (1) In Schedule 1 to the Superannuation Act 1972, in the list of Other Bodies (bodies in respect of which there are superannuation schemes)—
- (a) omit the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority; and
 - (b) insert at the appropriate places—
- “the Qualifications, Curriculum and Assessment Authority for Wales”,
- “the Qualifications and Curriculum Authority”.
- (2) Section 1 of that Act (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons who at any time before the coming into force of section 21 of this Act have ceased to serve in employment with the National Council for Vocational Qualifications.

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Commencement Information
I7 Sch 7 para. 3 wholly in force at 1.3.1998; Sch. 7 para. 3 not in force at Royal Assent see s. 58(3); Sch. 7 para. 3(1) in force at 1.10.1997 except so far as it omits the entry relating to SCAA by [S.I. 1997/1468, art. 2 Sch. 1 Pt. III](#); Sch. 7 para. 3(1) in force at 1.3.1998 insofar as not already in force and Sch. 7 para. 3(2) in force at 1.3.1998 by [S.I. 1998/386, art. 2, Sch. 1 Pt. I](#)

House of Commons Disqualification Act 1975 (c. 24)

- 4 (1) Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) shall be amended as follows.
- (2) Omit the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority.
- (3) Insert at the appropriate places—
“Any member of the Qualifications, Curriculum and Assessment Authority for Wales constituted under section 27 of the Education Act 1997 in receipt of remuneration.”
“Any member of the Qualifications and Curriculum Authority constituted under section 21 of the Education Act 1997 in receipt of remuneration.”
- (4) Omit the entry relating to the National Council for Vocational Qualifications.

Commencement Information
I8 Sch 7 para. 4 wholly in force at 1.3.1998; Sch. 7 para. 4 not in force at Royal Assent see s. 58(3); Sch. 7 para. 4 in force at 1.10.1997 except so far as it omits the entry relating to SCAA by [S.I. 1997/1468, art. 2 Sch. 1 Pt. III](#); Sch. 7 para. 4 in force at 1.3.1998 insofar as not already in force by [S.I. 1998/386, art. 2, Sch. 1 Pt. I](#)

Local Government Finance Act 1982 (c. 32)

F179⁵

Textual Amendments
F179 Sch. 7 para. 5 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), [Sch.5](#)

Finance Act 1991 (c. 31)

F180⁶

Textual Amendments
F180 Sch. 7 para. 6 repealed (27.7.1999 with effect as mentioned in s. 59(3)(b) of the repealing Act) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(15\)](#)

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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Charities Act 1993 (c. 10)

- 7 In Schedule 2 to the Charities Act 1993 (exempt charities)—
- (a) for paragraph (da) substitute—
“(da) the Qualifications and Curriculum Authority;”; and
 - (b) for paragraph (f) substitute—
“(f) the Qualifications, Curriculum and Assessment Authority for Wales;”.

Commencement Information

- I9** Sch. 7 para. 7 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, Sch. 2 Pts. I, II (subject to transitional provisions in Sch. 2 Pts. I, II)

Nursery Education and Grant-Maintained Schools Act 1996 (c. 50)

F181g

Textual Amendments

- F181** Sch. 7 para. 8 repealed (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

Education Act 1996 (c. 56)

- 9 (1) Section 3 of the Education Act 1996 (definition of pupil etc.) shall be amended as follows.
- (2) At the end of subsection (1) insert—
- “and references to pupils in the context of the admission of pupils to, or the exclusion of pupils from, a school are references to persons who following their admission will be, or (as the case may be) before their exclusion were, pupils as defined by this subsection.”
- (3) **F182**

Textual Amendments

- F182** Sch. 7 para. 9(3) repealed (1.10.2002 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 5, Sch. Pt. II

- 10 In section 4(2) of that Act (schools: general)—
- (a) for “For” substitute “ Nothing in subsection (1) shall be taken to preclude the making of arrangements under section 19(1) (exceptional educational provision) under which part-time education is to be provided at a school; and for ”; and
 - (b) omit “(pupil referral units)”.
- 11 In section 6(1) of that Act (nursery schools), for “the age of five” substitute “ compulsory school age ”.

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.
Changes to legislation: Education Act 1997 is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

12 In section 14(4) of that Act (functions of LEA in respect of provision of primary and secondary schools), for “the age of five” substitute “ compulsory school age ”.

13 In section 17(2) of that Act (powers of LEA in respect of nursery education), for “the age of five”, in both places, substitute “ compulsory school age ”.

F183 14

Textual Amendments
F183 Sch. 7 para. 14 repealed (1.9.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4

F184 15

Textual Amendments
F184 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F185 16

Textual Amendments
F185 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F186 17

Textual Amendments
F186 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F187 18

Textual Amendments
F187 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F188 19

Textual Amendments
F188 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F189 20

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Textual Amendments

F189 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

^{F190}21

Textual Amendments

F190 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

^{F191}22

Textual Amendments

F191 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

23 In section 312(2)(c) of that Act (meaning of “learning difficulty” for the purposes of the Act)—
(a) for “the age of five” substitute “ compulsory school age ”, and
(b) omit “or over”.

24 In section 332(1) of that Act (duty of Health Authority or National Health Service Trust to notify parent where child has special educational needs), for “the age of five” substitute “ compulsory school age ”.

^{F192}25

Textual Amendments

F192 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

26 Omit sections 358 to 361 of that Act (provisions about Curriculum Authorities).

Commencement Information

I10 Sch. 7 para. 26 wholly in force at 11.3.1998; Sch.7 para. 26 not in force at Royal Assent see s. 58(3); Sch. 7 para. 26 in force at 1.10.1997 insofar as it omits ss. 360, 361 by S.I. 1997/1468, art.2, Sch. 1 Pt. III and in force at 1.3.1998 insofar as not already in force by S.I. 1998/386, art. 2, Sch. 1 Pt. I

27 [^{F193}In section 362(7) of that Act (development work and experiments)—
(a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and
(b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.]

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Textual Amendments

F193 Sch. 7 paras. 27, 28 repealed (1.10.2002 for E. for specified purposes, 20.1.2003 for E in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/2952, art. 2

Commencement Information

I11 Sch. 7 paras. 27, 28 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, [Sch. 2 Pt. II](#) (subject to transitional provisions in [Sch. 2 Pt. II](#))

28 ^{F194}In section 368(10) of that Act (procedure for making certain orders and regulations)—

- (a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and
- (b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.]

Textual Amendments

F194 Sch. 7 paras. 27, 28 repealed (1.10.2002 for E. for specified purposes, 20.1.2003 for E in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/2952, art. 2

Commencement Information

I12 Sch. 7 paras. 27, 28 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, [Sch. 2 Pt. II](#) (subject to transitional provisions in [Sch. 2 Pt. II](#))

29 In section 391(10) of that Act (functions of advisory councils)—

- (a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and
- (b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.

30 In section 408 of that Act (provision of information)—

- (a) in subsection (1)(a), after “this Part” insert “ or Part V of the Education Act 1997 ”; and
- (b) in subsection (4)(f), omit “, 400, 401”.

Commencement Information

I13 [Sch. 7 para. 30](#) wholly in force; [Sch. 7 para. 30](#) not in force at Royal Assent see s. 58(3); [Sch. 7 para. 30\(a\)](#) in force at 1.10.1997 by S.I. 1997/1468, art. 2, [Sch. 1 Pt. III](#); [Sch. 7 para. 30\(b\)](#) in force at 1.9.2001 by S.I. 2001/1215, [art. 2](#)

^{F195}31

Status: Point in time view as at 07/12/2009. This version of this Act contains provisions that are prospective.

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Textual Amendments

F195 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F196³²

Textual Amendments

F196 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F197³³

Textual Amendments

F197 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F198³⁴

Textual Amendments

F198 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

F199³⁵

Textual Amendments

F199 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F200³⁶

Textual Amendments

F200 Sch. 7 para. 36 repealed (1.4.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2003/2961, art. 7, Sch. Pt. IV

37 In section 537(4) of that Act (power of Secretary of State to require information from governing bodies etc.), at the end add “ ; and regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary of State is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement of such regulations relating to the provision of information to the Secretary of State. ”

38 For the cross-heading “CORPORAL PUNISHMENT” preceding section 548 of that Act substitute—

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“ PUNISHMENT AND RESTRAINT OF PUPILS

Corporal punishment”.

- 39 In section 551 of that Act (regulations as to the duration of the school day, etc.), after subsection (1) insert—
 - “(1A) In subsection (1) the reference to the duration of the school year at any such schools is a reference to the number of school sessions that must be held during any such year.”

F20140

Textual Amendments
F201 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

- 41 In section 571 of that Act (publication of guidance)—
 - (a) in subsection (1) for “of the provisions mentioned in subsection (2) below” substitute “ provision of this Act ”; and
 - (b) omit subsection (2).
- 42 At the end of section 578 of that Act (“the Education Acts”) add—

“the Education Act 1997.”
- 43 In section 579(1) of that Act (general interpretation), after the definition of “school day” insert—

““school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July;”.
- 44 In section 580 of that Act (the index) at the appropriate places insert—

(in the entry relating to “child”)

“(in Chapter I of Part VI except sections section 411(8)”.
431 to 433)

“school year section 579(1)”.

“wholly based on selection by reference section 411(9)”.
to ability or aptitude (in Chapter I of
Part VI)

Commencement Information
I14 Sch. 7 para. 44 wholly in force at 1.9.1997; Sch. 7 para. 44 not in force at Royal Assent see s. 58(3); Sch. 7 para. 44 in force at 14.6.1997 to the extent that it inserts the reference to “school year” into section 580

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of the 1996 Act and in force at 1.9.1997 insofar as not already in force by S.I. 1997/1468, art. 2, Sch.1 Pts. I, II

F202⁴⁵

Textual Amendments

F202 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F203⁴⁶

Textual Amendments

F203 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F204⁴⁷

Textual Amendments

F204 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F205⁴⁸

Textual Amendments

F205 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F206⁴⁹

Textual Amendments

F206 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F207⁵⁰

Textual Amendments

F207 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

School Inspections Act 1996 (c. 57)

F208⁵¹

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Textual Amendments

F208 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

SCHEDULE 8

Section 57(4).

REPEALS

Commencement Information

I15 Sch. 8 in force for specified repeals; at 4.4.1997 by S.I. 1997/1153, art. 2 ; at 14.6.1997, 1.9.1997 and 1.10.1997 by S.I. 1997/1468, art. 2, Sch. 1 Pts. I, II ; at 1.3.1998, 1.8.1998 and 1.9.1998 by S.I. 1998/386, art. 2, Sch. 1 Pts. I, III, IV; at 1.9.2001 by S.I. 2001/1215, art. 2

Chapter	Short title	Extent of repeal
1972 c.11.	Superannuation Act 1972.	In Schedule 1, in the list of Other Bodies, the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority.
1975 c.24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entries relating to the Curriculum and Assessment Authority for Wales, the National Council for Vocational Qualifications and the School Curriculum and Assessment Authority.
1996 c.56.	Education Act 1996.	In section 4(2), the words “(pupil referral units)”. In section 19(1) and (4), the words “full-time or part-time”. In section 312(2)(c), the words “or over”. In section 355(5), the definition of “school year” and the “and” preceding it. Sections 358 to 361. Sections 400 and 401.

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In section 408(4)(f), “, 400, 401”.

Section 423(6).

In section 479(2), the words “providing secondary education”.

Section 571(2).

In Schedule 16, in paragraph 15(1), the words from “,including” to “brought,”.

In Schedule 23, in paragraph 4(1) “, 400”.

Schedules 29 and 30.

In Schedule 37, paragraph 17, in paragraph 21 the words in sub-paragraph (1)(a) from “the entry” to “1993) and” and sub-paragraph (1)(b) and the “and” preceding it and sub-paragraph (2), in paragraph 30 sub-paragraphs (1)(a), (2) and (3), and paragraph 120.

Status:

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