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# Education Act 1997

## 1997 CHAPTER 44

### PART V

#### SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

### CHAPTER I

#### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

##### *Establishment of the Authority*

#### **<sup>F1</sup>21 The Qualifications and Curriculum Authority.**

.....

##### **Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

##### **Modifications etc. (not altering text)**

**C1** S. 21 modified (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 175(1)**, 269(4); S.I. 2010/1151, art. 2, Sch. 1

##### *Functions of the Authority*

#### **<sup>F1</sup>22 General function of Authority to advance education and training.**

.....

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**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 23 Functions of the Authority in relation to curriculum and assessment.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 24 Functions of the Authority in relation to external vocational and academic qualifications.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 25 Other functions of the Authority.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F1 26 Supplementary provisions relating to discharge by Authority of their functions.**

.....

**Textual Amendments**

**F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by **Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)**, s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

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<sup>F1</sup><sup>F2</sup>**26A Power of Authority to give directions**

.....

**Textual Amendments**

- F1** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F2** 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**

<sup>F3</sup>**FUNCTIONS OF THE NATIONAL ASSEMBLY FOR WALES**

**Textual Amendments**

- F3** 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)

<sup>F4</sup> ...

**Textual Amendments**

- F4** 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)

<sup>F5</sup>**27 The Qualifications, Curriculum and Assessment Authority for Wales.**

.....

**Textual Amendments**

- F5** 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 <sup>F6</sup>National Assembly for Wales*

**Textual Amendments**

- F6** 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)

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**28 General function of [F7National Assembly for Wales] to advance education and training.**

- (1) The functions conferred on the [F8National Assembly for Wales] by this Part shall be exercised by [F9the National Assembly for Wales] for the purpose of advancing education and training in Wales.
- (2) [F10The National Assembly for Wales] shall exercise [F11its functions] under this Part with a view to promoting quality and coherence in education and training in relation to which [F12it has] functions under this Part.

**Textual Amendments**

- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)

**29 Functions of the [F13National Assembly for Wales] in relation to curriculum and assessment.**

- (1) [F14The National Assembly for Wales] shall have the functions set out in subsection (2) [F15 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 [F16maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
  - [F17](b) .....
  - [F18](c) .....

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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; <sup>F19</sup> . . .
- (f) <sup>F19</sup> . . . . .

[<sup>F20</sup>(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 [<sup>F21</sup>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 [<sup>F22</sup>; and “funded nursery education” has the meaning given by section 98 of the Education Act 2002;]

#### Textual Amendments

- F13** 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)
- F14** 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)
- F15** 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
- F16** 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
- F17** 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)
- F18** 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)
- F19** 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
- F20** 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
- F21** 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**
- F22** 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

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**Modifications etc. (not altering text)**

- C2** 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 [<sup>F23</sup>National Assembly for Wales] in relation to external vocational and academic qualifications.**

[<sup>F24</sup>(1) This section applies for the purposes of the following functions with respect to external qualifications in relation to Wales—

- <sup>F25</sup>(a) to keep under review all aspects of such qualifications;
- <sup>F25</sup>(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;
- <sup>F25</sup>(c) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
- [<sup>F26</sup>(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);]
- <sup>F25</sup>(e) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- [<sup>F27</sup>(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;]
- <sup>F25</sup>(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 a view to obtaining such qualifications and which fall within a prescribed description.]

[<sup>F28</sup>(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.]

[<sup>F29</sup>(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 Vocations 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

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- (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).]

[<sup>F30</sup>(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.]

[<sup>F31</sup>(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.]

<sup>F32</sup>(4) . . . . .

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

[<sup>F33</sup>(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.]

#### Textual Amendments

- F23** 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)
- F24** 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)
- F25** 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)
- F26** 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)
- F27** 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)
- F28** 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)
- F29** 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)

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- F30** 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)
- F31** 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](#)
- F32** 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)
- F33** 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)**

- C3** 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**

**F34 31 Other functions of the Authority.**

.....

**Textual Amendments**

- F34** 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 [F35 the National Assembly for Wales of its functions] .**

- (1) In carrying out [F36 its functions] under this Part [F37 the National Assembly for Wales] shall—
  - F38 (a) .....
  - F39 (b) .....
  - (c) so far as relevant, have regard to—
    - (i) the requirements of [F40 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 [F41 the National Assembly for Wales] shall in addition have regard to information supplied [F42 to it] by [F43 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 [F44 its functions] under this Part [F45 the Assembly [F46 recognises any person or] accredits] F47 ... any qualification, [F48 it may] do so on such terms (including terms as to payment) F47 ... as [F48 it may] determine.



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[<sup>F49</sup>(3A) Where in carrying out those functions [<sup>F50</sup>the National Assembly for Wales [<sup>F51</sup>recognises any person or] accredits] any qualification, [<sup>F52</sup>it may], at the time of [<sup>F53</sup>recognition or of] accreditation or later, impose such conditions on [<sup>F54</sup>recognition or] accreditation or continued [<sup>F55</sup>recognition or] accreditation as [<sup>F52</sup>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

[<sup>F56</sup>(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for [<sup>F57</sup>the National Assembly for Wales] —

(i) to satisfy [<sup>F58</sup>itself] that the appropriate standards are being [<sup>F59</sup>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.]

[<sup>F60</sup>(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.]

<sup>F61</sup>(5) .....

(6) In this section “persons with special learning needs” has the same meaning as in section 26.

#### Textual Amendments

- F35** 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)
- F36** 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)
- F37** 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)
- F38** 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)
- F39** 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)
- F40** 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
- F41** 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)
- F42** 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)

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- F43** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, Sch.
- F44** 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)
- F45** 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)
- F46** 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)
- F47** 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
- F48** 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)
- F49** 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
- F50** 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)
- F51** 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)
- F52** 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)
- F53** 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)
- F54** 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)
- F55** 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)
- F56** 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
- F57** 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)
- F58** 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)
- F59** 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)
- F60** 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)
- F61** 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)

## **[<sup>F62</sup>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

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- (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.
- (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**

**F62** 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*

**F63** **33** **Dissolution of existing bodies.**

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**Textual Amendments**

**F63** S. 33 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 7](#)

*Transfer of property and staff*

**F64** **34** **Transfer of property.**

.....

**Textual Amendments**

**F64** 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<sup>F65</sup> ... by order of the Secretary of State;
 and in this section “the relevant Authority” means, in relation to any such person, [<sup>F66</sup>the Qualifications and Curriculum Authority]<sup>F67</sup>, known instead as the Qualifications and Curriculum Development Agency from the day on which section 175 of the Apprenticeships, Skills, Children and Learning Act 2009 comes into force].
- (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 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

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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

- F65** 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)
- F66** 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)
- F67** Words in s. 35(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 12 para. 20**; S.I. 2010/1151, art. 2, Sch. 1

#### *Levy on bodies awarding accredited qualifications*

### **F68** 36 Levy on bodies awarding qualifications accredited by relevant body.

#### Textual Amendments

- F68** S. 36 repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 12 para. 21**, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1

## CHAPTER IV

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

### **F69** 37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.

#### Textual Amendments

- F69** S. 37 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

**Status:**

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