

*Status: Point in time view as at 01/09/2003.*

*Changes to legislation: Education Act 2002, SCHEDULE 17 is up to date with all changes known to be in force on or before 26 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)*

## SCHEDULES

### SCHEDULE 17

Section 189

#### AMENDMENTS OF PART 5 OF EDUCATION ACT 1997

##### *The Qualifications and Curriculum Authority*

- 1 (1) Section 23 of the Education Act 1997 (c. 44) (functions of the Qualifications and Curriculum Authority in relation to curriculum and assessment) is amended as follows.
  - (2) In subsection (1) for the words from “with respect to” to the end there is substituted “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, and
    - (c) children for whom funded nursery education is provided in England otherwise than at a maintained school or maintained nursery school.”
  - (3) In subsection (2)—
    - (a) in paragraph (a), for “such schools” there is substituted “maintained schools or maintained nursery schools”, and
    - (b) paragraph (f) and the word “and” immediately preceding it are omitted.
  - (4) After subsection (2) there is inserted—

“(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.”
  - (5) Subsections (3) and (4) are omitted.
  - (6) In subsection (5), after “test;” there is inserted—

““funded nursery education” has the meaning given by section 77 of the Education Act 2002;”.
- 2 In section 24 of the Education Act 1997 (functions of Qualifications and Curriculum Authority in relation to external vocational and academic qualifications), after subsection (2) there is inserted—

“(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.”

*Status: Point in time view as at 01/09/2003.*

*Changes to legislation: Education Act 2002, SCHEDULE 17 is up to date with all changes known to be in force on or before 26 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)*

- 3 (1) Section 26 of the Education Act 1997 (supplementary provisions relating to discharge by Authority of their functions) is amended as follows.
- (2) In subsection (3), the words “or approve” and the words “and subject to such conditions” are omitted.
- (3) After that subsection there is inserted—
- “(3A) Where in carrying out those functions the Authority accredit any qualification, they may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as they may determine.”
- (4) In subsection (4), for paragraph (b) there is substituted—
- “(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 maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or
- (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.”
- 4 After section 26 of the Education Act 1997 (c. 44) there is inserted—

**“26A Power of Authority to give directions**

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

*Status: Point in time view as at 01/09/2003.*

*Changes to legislation: Education Act 2002, SCHEDULE 17 is up to date with all changes known to be in force on or before 26 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)*

*The Qualifications, Curriculum and Assessment Authority for Wales*

- 5 (1) Section 29 of the Education Act 1997 (functions of the Qualifications, Curriculum and Assessment Authority for Wales in relation to curriculum and assessment) is amended as follows.
- (2) In subsection (1) for the words from “with respect to” to the end there is substituted “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.”
- (3) In subsection (2)—
- (a) in paragraph (a), for “such schools” there is substituted “maintained schools or maintained nursery schools”, and
  - (b) paragraph (f) and the word “and” immediately preceding it are omitted.
- (4) After subsection (2) there is inserted—
- “(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.”
- (5) Subsections (3) and (4) are omitted.
- (6) At the end of subsection (5) there is inserted “; and “funded nursery education” has the meaning given by section 98 of the Education Act 2002;”.

**Commencement Information**

**II** Sch. 17 para. 5 partly in force; Sch. 17 para. 5 not in force at Royal Assent, see s. 216; Sch. 17 para. 5(1)-(4)(6) in force at 19.12.2002 by S.I. 2002/3185, art. 4, Sch. Pt. I

- 6 In any order made before the commencement of this paragraph under section 30(1) of the Education Act 1997 (c. 44) (power to confer functions on Qualifications, Curriculum and Assessment Authority for Wales) any reference to functions falling within paragraph (f) of section 24(2) of that Act is to be taken to be a reference to those functions as extended by virtue of paragraph 2 of this Schedule.
- 7 (1) Section 32 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications, Curriculum and Assessment Authority for Wales of their functions) is amended as follows.
- (2) In subsection (3), the words “or approve” and the words “and subject to such conditions” are omitted.
- (3) After that subsection there is inserted—
- “(3A) Where in carrying out those functions the Authority accredit any qualification, they may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as they may determine.”

*Status: Point in time view as at 01/09/2003.*

*Changes to legislation: Education Act 2002, SCHEDULE 17 is up to date with all changes known to be in force on or before 26 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)*

- (4) In subsection (4), for paragraph (b) there is substituted—
- “(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 maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or
- (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.”
- 8           After section 32 of the Education Act 1997 there is inserted—

**“32A Power of Authority to give directions**

- (1) If it appears to the Qualifications, Curriculum and Assessment Authority for Wales—
- (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, Curriculum and Assessment Authority for Wales, by a mandatory order.”

*Provisions extending to Northern Ireland*

- 9           In section 58(6) of the Education Act 1997 (c. 44) (provisions extending to Northern Ireland), for “section 26” there is substituted “ sections 26 and 26A ”.

**Status:**

Point in time view as at 01/09/2003.

**Changes to legislation:**

Education Act 2002, SCHEDULE 17 is up to date with all changes known to be in force on or before 26 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.