

# APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 7: Office of Qualifications and Examinations Regulation**

##### *Chapter 1: Establishment, objectives and general duties*

##### *Schedule 9: The Office of Qualifications and Examinations Regulation*

365. This Schedule makes provision about the constitution and governance of Ofqual.

#### **Status**

366. Ofqual is to perform its functions on behalf of the Crown (paragraph 1). This provision makes Ofqual a Non-Ministerial Department.

#### **Membership**

367. The Chair of Ofqual is appointed by the Crown. The Chair will be known as the Chief Regulator of Qualifications and Examinations. The Government does not intend this title to imply that the Chair has any statutory functions in his or her own right – all the functions in Part 7 are functions of Ofqual itself – but in practice the Chief Regulator is likely to be the public face of Ofqual.

368. The “ordinary members” are appointed by the Secretary of State following consultation (in all usual circumstances) with the Chief Regulator. Paragraphs 2(5) and (6) set out the procedures to be followed if it is not practicable for the Secretary of State to consult the Chief Regulator (because, for example, there is a vacancy) and it is necessary to make the appointment before it would be practicable to do so. Ofqual may appoint one of its ordinary members as the deputy chair. One of the ordinary members must be appointed following consultation with the Department for Employment and Learning in Northern Ireland, reflecting Ofqual’s responsibilities there. The procedures relating to the removal of members or the removal of the deputy from that office are set out in paragraph 4.

369. [Paragraphs 2 to 5](#) set out the arrangements for appointing the Chief Regulator and ordinary members, the terms of appointments, and the responsibility of the Secretary of State for determining their remuneration, allowances and expenses.

#### **Chief executive and other staff**

370. The chief executive of Ofqual is an ex-officio member of Ofqual. Paragraph 6 provides that the first chief executive will be appointed by the Secretary of State (because Ofqual will not exist at that stage, it may not appoint); thereafter the appointment will be for Ofqual. Ofqual may appoint staff; the numbers of staff and their conditions of service are to be agreed with the Secretary of State.

## **Committees**

371. Paragraphs 7 to 11 set out the arrangements for Ofqual establishing and delegating to committees and sub-committees, and give Ofqual the power to establish a committee jointly with another body. (The latter power would, for example, allow Ofqual to set up a joint committee with other qualifications regulators in the United Kingdom.) Joint committees are allowed to regulate their own procedure. Paragraph 10 also allows Ofqual to delegate functions to a member of Ofqual or of its staff.

## **Supplementary powers**

372. Under paragraph 14, Ofqual may do anything that it considers necessary or appropriate for the purposes of, or in connection with, its functions, but may not lend money.