

These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Office of Qualifications and Examinations Regulation

Chapter 2: Functions in relation to qualifications

Recognition of awarding bodies

Section 136: Fee capping conditions: supplementary

418. This section sets out the test that must be met before Ofqual can impose a fee capping condition, and the process that must be used where Ofqual proposes to do so. Ofqual can only impose such a condition limiting the amount of a particular fee if this is necessary for securing value for money. Before doing so Ofqual must give notice of its intention to impose a fee capping condition, and it must take account of any representations made by the recognised body in question before reaching a decision. Where Ofqual decides to impose a fee capping condition it must establish arrangements for an independent review of the decision if requested to do so by the relevant recognised body. In performing its functions in relation to fee capping conditions, Ofqual must have regard to any guidance from the Secretary of State, guidance that has to have been published. This provision over guidance reflects the fact that a significant proportion of the bodies which will be paying fees for many qualifications will be publicly funded. The current legislation gives the QCA a power to impose a fee capping condition, but the exercise of the power is subject to the consent of the Secretary of State.