

**2009 No. 1602**

**EDUCATION, ENGLAND**

**The Adult Skills (Specified Qualifications) Regulations 2009**

*Made* - - - - *29th June 2009*

*Laid before Parliament* *6th July 2009*

*Coming into force* - - *1st August 2009*

The Secretary of State for Business, Innovation and Skills, makes the following Regulations in exercise of the powers conferred by sections 4A, 4B, 4C, 152(5) of and paragraph 3 of Schedule 1A to the Learning and Skills Act 2000(a):

**Citation and commencement**

1. These Regulations may be cited as the Adult Skills (Specified Qualifications) Regulations 2009 and come into force on 1st August 2009.

**Interpretation and application**

2.—(1) In these Regulations—

“the Act” means the Learning and Skills Act 2000;

“an education or training provider” means any body which provides courses of study for qualifications specified in, or for the purposes of, these Regulations;

“the Schedule” means Schedule 1A to the Act.

(2) These Regulations apply in relation to England.

**Level 1 literacy qualifications**

3. For the purposes of paragraph 1(a) of the Schedule, a specified qualification in level 1 literacy is an external qualification, or description of an external qualification, which is assessed by the Council(b) to be at the level of attainment specified in paragraph 4 of the Schedule.

**Entry level 3 numeracy qualifications**

4. For the purposes of paragraph 1(b) of the Schedule, a specified qualification in entry level 3 numeracy is an external qualification, or description of an external qualification, which is assessed by the Council to be at the level of attainment specified in paragraph 5 of the Schedule.

---

(a) 2000 c. 21; sections 4A, 4B and 4C and Schedule 1A were inserted by section 86 of the Education and Skills Act 2008 (c.25).

(b) “The Council” is the Learning and Skills Council for England (see section 1 of the Act).

## **Vocational qualifications at level 2**

5. For the purposes of paragraph 1(c) of the Schedule, a specified vocational qualification at level 2 is an external vocational qualification, or description of an external vocational qualification, which is assessed by the Council to be at the level of attainment specified in paragraph 6 of the Schedule.

## **Qualifications at level 3**

6. For the purposes of paragraph 2 of the Schedule, a specified qualification at level 3 is an external qualification, or a description of an external qualification, which is assessed by the Council to be at the level of attainment specified in paragraph 7 of the Schedule.

## **Publication of lists**

7. The Council must make available to the public lists of the specified qualifications and specified vocational qualifications assessed, in exercise of its functions under regulations 3, 4, 5 and 6, as being at the relevant level of attainment(a).

## **Exclusion for apprentices**

8. For the purposes of sections 4A(3)(c), 4B(2)(c) and 4B(4)(c), it is a condition that a person should not be studying for a specified qualification as part of their engagement under the Government arrangements known, at 1st August 2009, as Apprenticeships, Advanced Apprenticeships or Programme Led Apprenticeships.

## **Persons to be treated as not having a specified qualification**

9.—(1) A person is to be treated for the purposes of sections 4A(1) or 4B(1) of the Act insofar as they are connected with the provision of a course of study for a qualification specified for the purposes of regulation 3, as not having that qualification or a qualification (including one awarded by a person outside England) which appears to the Council to be at a comparable or higher level if that person—

- (a) is assessed in accordance with regulation 10 as having literacy skills below the level of attainment described in paragraph 4 of the Schedule; and
- (b) has been awarded on a previous occasion either—
  - (i) a qualification specified for the purposes of regulation 3; or
  - (ii) a qualification (including one awarded by a person outside England) which appears to the Council to be at a comparable level to or higher level than a qualification specified for the purposes of regulation 3.

(2) A person is to be treated for the purposes of sections 4A(1) or 4B(1) of the Act insofar as they are connected with the provision of a course of study for a qualification specified for the purposes of regulation 4, as not having that qualification or a qualification (including one awarded by a person outside England) which appears to the Council to be at a comparable or higher level if that person—

- (a) is assessed in accordance with regulation 10 as having numeracy skills below the level of attainment described in paragraph 4 of the Schedule; and
- (b) has been awarded on a previous occasion either—
  - (i) a qualification specified for the purposes of regulation 4; or
  - (ii) a qualification (including one awarded by a person outside England) which appears to the Council to be at a comparable level to or higher level than a qualification specified for the purposes of regulation 4.

---

(a) The Council's lists of specified qualifications are available on the Council's website at [www.lsc.gov.uk/adultentitlement](http://www.lsc.gov.uk/adultentitlement)

### **Assessment of skill level**

**10.**—(1) For the purposes of regulation 9, an education or training provider may assess whether a person has a skill level below the level of attainment demonstrated by paragraphs 3 and 4 of the Schedule.

(2) For the purposes of performing the function in subparagraph (1), an education or training provider may select a test or assessment.

### **Tuition fees**

**11.** For the purposes of section 4B(8) of the Act, “tuition fees” include—

- (a) the costs of any examination for a qualification specified in regulations 3 and 4;
- (b) the costs of any assessment under regulation 10.

*Kevin Brennan*  
Minister of State

29th June 2009

Department for Business, Innovation and Skills

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are the first to be made under sections 4A, 4B, 4C and Schedule 1A to the Learning and Skills Act 2000 (“the 2000 Act”). These sections were inserted by section 86 of the Education and Skills Act 2008.

Paragraph 3(1) of Schedule 1A to the 2000 Act (“the Schedule”) contains a regulation-making power for the Secretary of State to specify external qualifications, or descriptions of such qualifications, for the purposes of paragraphs 1 and 2 of the Schedule. The LSC is under a duty to secure the provision of proper facilities for eligible persons undertaking a course of study for a specified qualification to which paragraph 1 of the Schedule applies and to ensure that courses of study for specified qualifications to which paragraph 1 or 2 of the Schedule applies are free to eligible persons. Regulations 3, 4, 5 and 6 confer functions on the Learning and Skills Council (“the LSC”) to determine specified qualifications and specified vocational qualifications. Regulation 7 requires the Council to make lists of these qualifications available to the public.

Regulation 8 ensures that a person who is undertaking a specified qualification as part of an apprenticeship programme will not be someone in respect of whom the LSC is under duties under section 4A or 4B of the 2000 Act. This regulation is made in exercise of the powers at sections 4A(3)(c), 4B(2)(c) and 4B(4)(c) to specify conditions which persons must satisfy in order to fall within sections 4A(3), 4B(2) and 4B(4) respectively.

Section 4C(1) to the 2000 Act contains a power for the Secretary of State to specify circumstances in which, despite having a specified qualification, a person is to be treated for the purposes of sections 4A and 4B as not having that qualification. Regulation 9 sets out persons who are to be treated as not having a specified qualification. This enables persons who have obtained a specified level 1 literacy or specified entry level 3 numeracy qualification, but who have since lost the skills at the relevant level, to take a further course of study to obtain the qualification again.

Section 4C(4) of the 2000 Act contains a power, for the Secretary of State to confer a function on a specified person, or description of persons, concerning the administration of an assessment. This power is exercised in regulation 10. For the purposes of assessing whether a person has a skill

level below that specified for level 1 literacy and entry level 3 numeracy, education or training providers are given a discretion as to the means by which they assess skill levels.

For the purposes of the duties in respect of tuition fees in section 4B of the 2000 Act , “tuition fees” in relation to a course means the fees charged in respect of the course by the person providing it. However, under section 4B(8)(b), the Secretary of State may specify fees in respect of other matters relating to the course which will also constitute “tuition fees” for these purposes. Regulation 11 provides that the cost of an examination for a specified level 1 literacy qualification and specified entry level 3 numeracy qualification will also be “tuition fees” for these purposes.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET.

---

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.00