STATUTORY INSTRUMENTS

2013 No. 1242

EDUCATION, ENGLAND

The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments to Part 1 of the Education and Skills Act 2008) Order 2013

Made - - - - 23rd May 2013

Coming into force in accordance with article 1

The Secretary of State for Education makes the following Order in exercise of the powers conferred by section 265(1) and (2) of the Apprenticeships, Skills, Children and Learning Act 2009(**1**).

In accordance with section 262(6) of that Act a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments to Part 1 of the Education and Skills Act 2008) Order 2013 and comes into force on the day after the day on which it is made.

Amendment of Part 1 of the Education and Skills Act 2008

2.—(1) Part 1 of the Education and Skills Act 2008(**2**) is amended as follows.

(2) In section 3 (meaning of "level 3 qualification")—

(a) in subsection (1)—

(i) omit "external", the first time it appears; and

(ii) for "an external qualification" substitute "a qualification";

(b) in subsection (3)—

(i) for "Qualifications and Curriculum Authority" substitute "Office of Qualifications and Examinations Regulation (in this Part referred to as "Ofqual")"; and

(ii) for "the Authority" substitute "Ofqual"; and

(c) omit subsection (4).

(**1**) 2009 c. 22.
(**2**) 2008 c. 25.

(3) In section 6 (meaning of "relevant training or education")—

(a) in subsection (1) for "an accredited qualification" substitute "a regulated qualification"; and

(b) for subsection (2) substitute—

"(2) "Regulated qualification" has the same meaning as in Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 (see section 130 of that Act).".

(4) In section 8 (meaning of "sufficient relevant training or education")—

(a) in subsection (2)(b) for the words from "an accredited qualification" to the end substitute "a form of a regulated qualification to which that number of hours of guided learning has been assigned."; and

(b) in subsection (3)—

(i) omit the definition of "accredited qualification";

(ii) for the definition of "assigned" substitute—

""assigned" means assigned by a recognised body in accordance with section 145 of the Apprenticeships, Skills, Children and Learning Act 2009;"; and

(iii) after the definition of "assigned" insert—

""regulated qualification" has the same meaning as in Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 (see section 130 of that Act).".

Matthew Hancock
Parliamentary Under Secretary of State
Department for Education

23rd May 2013

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) and makes amendments to Part 1 of the Education and Skills Act 2008 in consequence of the provisions made by Part 7 of the 2009 Act. Part 1 of the 2008 Act applies to persons in England who have ceased to be of compulsory school age but who are under the age of 18 and who have not attained a level 3 qualification (within the meaning of section 3 of the 2008 Act). Section 2 of that Act requires them to participate in education or training.

Article 2(2) amends section 3 of the 2008 Act (meaning of "level 3 qualification") so as to amend the reference to prescribed external qualifications and external qualifications of a prescribed description to instead refer to prescribed qualifications and qualifications of a prescribed description. This is because the 2009 Act repealed section 24 of the Education Act 1997, which defined external qualifications.

Article 2(3) amends section 6 of the 2008 Act (meaning of "relevant training or education") so that it refers to regulated qualifications rather than accredited qualifications. This is because under the 2009 Act, providing a body has been recognised under the Act in respect of a specific qualification or description of qualification, it may not necessarily have to obtain accreditation for a form of the qualification it awards. Whether it does or not is a matter for the Office of Qualifications and Examinations Regulation (Ofqual), which is established under the 2009 Act. Prior to the 2009 Act the position was different since the Education Act 1997 required all forms of qualifications to be accredited. The 2008 Act applies to qualifications awarded or authenticated by a body recognised by Ofqual, irrespective of whether those qualifications are accredited.

Article 2(4) amends section 8 of the 2008 Act (meaning of "sufficient relevant training or education") again to refer to regulated qualifications rather than accredited qualifications. Under section 145 of the 2009 Act a recognised body is required to assign hours of guided learning to forms of qualifications if it considers that there are, or may reasonably be expected to be, persons seeking to obtain the qualification in order to meet the duty under section 2 of the 2008 Act. Section 8 is amended to cross-refer to section 145 of the 2009 Act.

An impact assessment has not been produced for this instrument as it has no impact on businesses, the public sector or civil society organisations.