
WELSH STATUTORY INSTRUMENTS

2015 No. 1687

**The Qualifications Wales Act 2015 (Commencement
No. 2 and Transitional and Saving Provisions) Order 2015**

PART 1

Title and Interpretation

Title and interpretation

1.—(1) The title of this Order is the Qualifications Wales Act 2015 (Commencement No. 2 and Transitional and Saving Provisions) Order 2015.

(2) In this Order—

“the 1997 Act” (“*Deddf 1997*”) means the Education Act 1997⁽¹⁾;

“the Act” (“*y Ddeddf*”) means the Qualifications Wales Act 2015;

“the Database” (“*y Gronfa Ddata*”) means the database published online⁽²⁾ called “the Database of Approved Qualifications in Wales” and which is also known as “DAQW”;

“relevant qualification” (“*cymhwyster perthnasol*”) has the same meaning as in section 30 of the 1997 Act⁽³⁾ as that section is in force immediately before 21 September 2015.

PART 2

Commencement

Provisions coming into force on 21 September 2015

2. The provisions of the Act to the extent that they are not yet commenced, come into force on 21 September 2015.

⁽¹⁾ 1997 c. 44. There are many amendments to Part 5 of this Act.

⁽²⁾ As at 21 September 2015, this database is at www.daqw.org.uk.

⁽³⁾ Amendments to section 30 of the 1997 Act which are relevant to this Order are made by: the Learning and Skills Act 2000 (c. 21), section 103(1) and (4)(c) and Schedule 11; the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239) (W. 244), Schedule 1, paragraphs 6, 14, and 15(b) and (d); and the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 12, paragraphs 12 and 15 and Schedule 16, Part 4.

PART 3

Transitional provisions

Continuity: general

3.—(1) This article applies to the extent that a function, exercisable by Qualifications Wales from 21 September 2015 (“the new function”) corresponds to a function exercisable by the Welsh Ministers under Part 5 of the 1997 Act before that date (“the old function”).

(2) Anything done, or omitted to be done, before 21 September 2015 by or in relation to the Welsh Ministers in connection with the old function is to be treated, from that date, as done, or to be continued, or omitted to be done, by or in relation to Qualifications Wales in connection with the new function.

(3) From 21 September 2015, Qualifications Wales may take action in connection with the new function which relates to circumstances occurring before that date as if the new function had been in force when the circumstances giving rise to its exercise occurred and so from that date, the Welsh Ministers may not take action in connection with the old function.

(4) Accordingly, so far as necessary to give effect to paragraphs (1) to (3), references to the Welsh Ministers or the Welsh Government (however described) and the old function in a document relating to the old function, and references which take effect as references to the Welsh Ministers or the Welsh Government (however described) and the old function in such a document, are to be read, from 21 September 2015, as references to Qualifications Wales and the new function.

(5) Paragraphs (1) to (4) have effect subject to the following provisions of this Order.

(6) For the purposes of paragraph (1), the imposition of a monetary penalty under section 38(1) or (2) of the Act is not a function exercisable by Qualifications Wales from 21 September 2015.

Persons to be treated as recognised under section 8

4.—(1) This article applies where, immediately before 21 September 2015 a person is recognised under section 30(1)(e) of the 1997 Act⁽⁴⁾ in respect of the award or authentication of a specified relevant qualification or description of relevant qualification.

(2) From 21 September 2015, the person is to be treated as recognised under section 8 (general recognition of an awarding body) of the Act.

(3) But if the person has informed the Welsh Ministers in writing before that date that the person does not wish to be recognised under section 8 in respect of a qualification or description of qualification in respect of which the body is not recognised under section 30(1)(e) of the 1997 Act, the person is to be treated as having specified that qualification or description of qualification under section 8(2) of the Act.

General recognition criteria

5.—(1) From 21 September 2015, the criteria contained in the document described in paragraph (2), subject to the amendments to them provided for in the document described in paragraph (3), are to be treated as the general recognition criteria which have been set and published by Qualifications Wales under section 5 of the Act.

⁽⁴⁾ Section 30(1) was substituted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 12, paragraphs 12 and 15(1) and (2).

(2) The document is that with ISBN 978 0 7504 7250 2, titled “Criteria for Recognition March 2012”, published in March 2012 and published online in September 2015 with a title containing the reference QWRD0001(5).

(3) The document is that titled “Amendments to Criteria for Recognition” and published online in September 2015 with a title containing the reference QWRD0002(6).

Applications for recognition

6.—(1) This article applies where an application has been made to the Welsh Ministers before 21 September 2015 by a person for recognition under section 30(1)(e) of the 1997 Act which has neither been withdrawn by the person nor determined by the Welsh Ministers, before that date.

(2) From 21 September 2015, the application is to be treated as an application to Qualifications Wales by the person for general recognition under section 8 of the Act.

(3) The person may, on or after 21 September 2015 but before Qualifications Wales determines whether or not to recognise the person, specify in writing to Qualifications Wales a qualification or description of qualification in respect of the award of which the person does not wish to be recognised and the person is to be treated as having specified the qualification or description of qualification under section 8(2) of the Act.

Conditions of recognition

7.—(1) From 21 September 2015, the conditions in the document described in paragraph (2), subject to the amendments to them provided for in the document described in paragraph (3), are to be treated as the standard conditions of recognition prepared and published by Qualifications Wales under paragraph 2(1) of Schedule 3 to the Act.

(2) The document is that titled “General conditions of Recognition March 2015”, published in March 2015(7) and published online in September 2015 with a title containing the reference QWRD0003(8).

(3) The document is that titled “Amendments to General Conditions of Recognition” and published online in September 2015 with a title containing the reference QWRD0004(9).

(4) From 21 September 2015, references in the documents described in paragraphs (2) and (3) to “regulatory documents” mean the documents listed in the document titled “Qualifications Wales Regulatory Documents List” and published online in September 2015 with a title containing the reference QWRD0005(10).

(5) From 21 September 2015, references in the document described in paragraph (2) to the “certificate requirements” mean the requirements set out in the document titled “Additional Certificate Requirements” and published online in September 2015 with a title containing the reference QWRD0006(11).

Applications for surrender of recognition

8.—(1) This article applies where before 21 September 2015—

(5) As at 21 September 2015, this document is available at www.qualificationswales.org.

(6) As at 21 September 2015, this document is available at www.qualificationswales.org.

(7) In March 2015, the Welsh Ministers sent copies of this document to the responsible officers of persons then recognised under section 30(1)(e) of the 1997 Act.

(8) As at 21 September 2015, this document is available at www.qualificationswales.org.

(9) As at 21 September 2015, this document is available at www.qualificationswales.org.

(10) As at 21 September 2015, this document is available at www.qualificationswales.org.

(11) As at 21 September 2015, this document is available at www.qualificationswales.org.

- (a) a person recognised under section 30(1)(e) of the 1997 Act has given notice to the Welsh Ministers under section 32C(1) (surrender of recognition) of that Act⁽¹²⁾ and that notice has not been withdrawn, and
 - (b) the Welsh Ministers have not given a notice under section 32C(2) of the date on which that person is to cease to be recognised in the respect in question.
- (2) If that person has given a notice which is within paragraph (4), the person is to be treated as having given a surrender notice under paragraph 17 of Schedule 3 to the Act which—
- (a) is received on the date that the notice within paragraph (4) is received by the Welsh Ministers or Qualifications Wales,
 - (b) is in respect of the same qualifications as the notice given under section 32C(1) of the 1997 Act, and
 - (c) specifies the date given in the notice within paragraph (4) as the date for the purposes of paragraph 17(2) of that Schedule.
- (3) If, before 21 September 2015, the person has not given a notice which is within paragraph (4), as soon as reasonably practicable Qualifications Wales must inform the person that it must give a notice to Qualifications Wales which is within paragraph (4) before Qualifications Wales can determine when recognition in the respect concerned is to cease to have effect.
- (4) A notice is within this paragraph if it is a notice in writing from the person stating the date with the expiry of which the person wishes to cease to be recognised and if given—
- (a) before 21 September 2015, is given to the Welsh Ministers, or
 - (b) on or after that date, is given to Qualifications Wales.

Approval of qualifications and surrender of approval

- 9.—(1) This article applies in relation to the forms of qualification listed in the Schedule.
- (2) From 21 September 2015, the forms of qualification are to be treated as having been approved under section 19 of the Act for award in Wales by the awarding body identified in the title of the form of qualification concerned.
- (3) Each approval by virtue of paragraph (2) is to be treated as if Qualifications Wales had under section 22(3) of the Act allocated the number in the corresponding entry for the form of qualification in the “Rhif / Number” column.
- (4) Except in relation to the qualification referred to in paragraph (5), each approval by virtue of paragraph (2) is to be treated as if Qualifications Wales had under section 23(2) of the Act, specified the period from 21 September 2015 until the expiry of 31 August 2020 as the period for which the approval has effect.
- (5) The approval by virtue of paragraph (2) of the qualification allocated the number 601/7663/5 (WJEC Level 1/2 GCSE in Geography) is to be treated as if Qualifications Wales had under section 23(2) of the Act specified the period from 1 September 2016 until the expiry of 31 August 2021 as the period for which the approval has effect.
- (6) Any notice within paragraph (7) which is given before 21 September 2015 to the Welsh Ministers in respect of a form of a qualification by the awarding body concerned and has not been withdrawn before that date, is, from that date, to be treated as a surrender notice under section 25 of the Act.

(12) Section 32C was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 12, paragraphs 12 and 19.

(7) The notice is a notice of the awarding body's anticipated withdrawal of the form of qualification under condition D7.3 of the conditions of recognition imposed by the Welsh Ministers under section 32(3A) of the 1997 Act⁽¹³⁾.

Designation of qualifications

10.—(1) This article applies in respect of the forms of qualification which, on 21 September 2015, are listed on the Database as “live” (in the “Status” field) except those which are listed in the Schedule.

(2) From 21 September 2015, the forms of qualification are to be treated as though they have been designated by Qualifications Wales under section 29 of the Act.

(3) Each section 29 designation by virtue of paragraph (2) is to be treated as if Qualifications Wales had under section 30(1) specified—

- (a) 21 September 2015 as the date from which the designation is to have effect, and
- (b) the earlier of the following dates as the date with the expiry of which the designation ceases to have effect—
 - (i) the review date indicated for the form of qualification on the Database on 21 September 2015;
 - (ii) 31 August 2018.

Applications for designation of qualifications

11.—(1) This article applies where before 21 September 2015—

- (a) a person has submitted to the Welsh Ministers a form of a relevant qualification, in respect of which the person is recognised under section 30(1)(e) of the 1997 Act, for accreditation under section 30(1)(h) of that Act and has not withdrawn the submission,
- (b) in submitting the form of qualification for accreditation, the person indicated a wish for the form of qualification to be funded in Wales, and
- (c) the Welsh Ministers have not determined whether or not to accredit the form of qualification.

(2) From 21 September 2015, the submission of the form of qualification is to be treated as an application by the person under section 29(2) of the Act to Qualifications Wales for the form of qualification to be designated under that section.

Complaints

12.—(1) This article applies where, before 21 September 2015, a complaint has been made to the Welsh Ministers in relation to a matter described in paragraph (2) and the Welsh Ministers have not completed their consideration of it.

(2) The matters are—

- (a) the award or authentication of a form of qualification by a person in respect of which the person is recognised under section 30(1)(e) of the 1997 Act;
- (b) any other activities of a person recognised under section 30(1)(e) of the 1997 Act which are relevant to that recognition.

⁽¹³⁾ Section 32(3A) was inserted by the Education Act 2002 (c. 32), Schedule 17, paragraph 7(1) and (3) and amended by: the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239) (W. 244), Schedule 1, paragraphs 6 and 18(d); and the Education and Skills Act 2008 (c. 25), section 162(1), (6) and (8).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) From 21 September 2015, the complaint is to be treated for the purposes of section 48 of the Act as a complaint made to Qualifications Wales.

PART 4

Saving provision

Accredited qualifications for the purposes of the National Minimum Wage Regulations 2015

13. Despite the repeal of section 30 of the 1997 Act by the Act, a qualification accredited by the Welsh Ministers pursuant to that section is to continue to be treated as an accredited qualification for the purposes of the definition of “further education course” in regulation 3 of the National Minimum Wage Regulations 2015⁽¹⁴⁾.

16 September 2015

Huw Lewis
Minister for Education and Skills, one of the
Welsh Ministers

⁽¹⁴⁾ S.I. 2015/621. There are amendments to regulation 3 which are not relevant to this instrument.