

## SCHEDULE 3

(introduced by section 11)

### FURTHER PROVISION ABOUT RECOGNITION OF AWARDING BODIES

#### *Duration of recognition*

- 1 (1) The recognition of an awarding body has effect from whatever date is specified by Qualifications Wales on recognising the body.
- (2) It ceases to have effect on whichever is the earliest of—
  - (a) its surrender under paragraph 17;
  - (b) its withdrawal under paragraph 19;
  - (c) the awarding body (in the case of a body recognised under section 9) ceasing to be recognised under section 8.

#### *Standard conditions of recognition*

- 2 (1) Qualifications Wales must prepare and publish conditions (the “standard conditions”) to which (subject to sub-paragraphs (3) and (4)) each recognition of an awarding body is to be subject.
- (2) The standard conditions may, among other things, make provision about compliance with directions given to a recognised body by Qualifications Wales under this paragraph.
- (3) Different standard conditions may be set for different purposes, including among other things by reference to—
  - (a) different descriptions of awarding bodies;
  - (b) different qualifications or descriptions of qualification (including by reference to whether or not a qualification is an approved qualification or a qualification designated under section 29);
  - (c) different circumstances in which a qualification is awarded;
  - (d) different descriptions of person to whom a qualification is awarded.
- (4) Qualifications Wales may determine that, in a particular case, recognition of an awarding body is not to be subject to a standard condition specified in the determination which would otherwise apply.
- (5) A determination within sub-paragraph (4) may be made either at the time of granting the recognition concerned, or subsequently, and may be revoked by Qualifications Wales.
- (6) The standard conditions may not include—
  - (a) fee capping conditions (for which see paragraphs 6 to 11);
  - (b) transfer conditions (for which see paragraphs 12 to 16).
- 3 (1) Qualifications Wales may revise the standard conditions; and if it does so, each recognition (whether granted before or after the revisions come into effect) is to be subject to the conditions as revised.
- (2) Sub-paragraph (1) is subject to paragraph 2(3) and (4).
- (3) If Qualifications Wales revises the standard conditions, it must—
  - (a) publish the conditions as revised,

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- (b) notify each recognised body of the revisions, and of when they are to come into effect.
- (4) Qualifications Wales may provide that a revision to the conditions is to come into effect on different dates in relation to different bodies, or in relation to different descriptions of body.
- (5) A revision is not to be treated as coming into effect in relation to a body before the body has been notified of it.

*Special conditions to which recognition may be subject*

- 4 (1) The recognition of a body may, in addition, be made subject to any other conditions (“special conditions”) specified by Qualifications Wales, either at the time of recognising the body or subsequently.
- (2) The special conditions may include—
  - (a) fee capping conditions;
  - (b) transfer conditions;
  - (c) conditions making provision about compliance with directions given under this paragraph by Qualifications Wales.
- (3) Special conditions may make different provision for different purposes, including among other things by reference to—
  - (a) different qualifications or descriptions of qualification (including by reference to whether or not a qualification is an approved qualification or a qualification designated under section 29);
  - (b) different circumstances in which a qualification is awarded;
  - (c) different descriptions of person to whom a qualification is awarded.
- 5 (1) Qualifications Wales may revise or revoke a special condition.
- (2) If Qualifications Wales revises or revokes a special condition, it must—
  - (a) notify the body concerned of the revision or revocation, and
  - (b) specify when the revision or revocation is to come into effect.
- (3) The date specified under sub-paragraph (2)(b) must not precede the date of notification under sub-paragraph (2)(a).
- (4) This paragraph is subject to paragraph 11 (revision of a fee capping condition).

*Fee capping conditions*

- 6 (1) A fee capping condition is a special condition limiting the amount charged by a recognised body in connection with—
  - (a) the award by the body to a person of an approved qualification,
  - (b) the award by the body to a person of a form of a qualification that is designated under section 29, or
  - (c) the provision by the body of any other service or facility in respect of the award by the body to a person of an approved qualification or of a form of qualification designated under section 29, as the case may be,
 where the course of education or training leading to the qualification, and undertaken by the person concerned, is publicly funded.

- (2) A course of education or training is publicly funded, for the purposes of this paragraph, if it is—
    - (a) funded by the Welsh Ministers or a local authority in Wales, or
    - (b) provided by or on behalf of a maintained school in Wales.
  - (3) In this paragraph, “maintained school” means—
    - (a) a community, foundation or voluntary school;
    - (b) a community special school.
- 7 Qualifications Wales may impose a fee capping condition only if satisfied that it is appropriate to do so to secure value for money.

#### *Procedure for imposing fee capping conditions*

- 8 (1) Before imposing a fee capping condition, Qualifications Wales must give the body concerned notice of its intention to do so.
- (2) The notice must—
  - (a) set out the fee capping condition Qualifications Wales proposes to impose;
  - (b) explain why Qualifications Wales proposes to impose the condition;
  - (c) specify when Qualifications Wales proposes to decide whether to impose it.
- (3) In deciding whether to impose the condition, Qualifications Wales must have regard to any representations made by the recognised body.
- 9 (1) If Qualifications Wales decides to impose the fee capping condition, it must give notice to the recognised body of the decision.
- (2) The notice must—
  - (a) inform the body of its right under arrangements made under paragraph 10 to request a review of the decision,
  - (b) state the latest date on which any request for review may be made, and
  - (c) specify the date on which, in the absence of a request for review, the condition is to take effect.
- (3) The date specified under sub-paragraph (2)(c) must be a date after the latest date on which a review may be requested under arrangements made under paragraph 10.

#### *Review of fee capping conditions*

- 10 (1) Qualifications Wales must make arrangements for a decision under paragraph 9 to impose a fee capping condition to be subject to review at the request of the recognised body concerned.
- (2) The arrangements must—
  - (a) specify the period within which a review may be requested,
  - (b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the fee capping condition concerned,
  - (c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to impose the condition, or to alter the condition concerned, and

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- (d) require Qualifications Wales to notify the body concerned of the outcome of the review.
- (3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.
- (4) A person is independent of Qualifications Wales, for this purpose—
  - (a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;
  - (b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.
- (5) If following a review Qualifications Wales confirms its decision to impose a condition, or alters the condition concerned, it must give notice to the body concerned—
  - (a) setting out the condition, as confirmed or altered,
  - (b) giving reasons for the confirmation or alteration, and
  - (c) stating the date on which the condition, or the condition as altered, will take effect.

#### *Revision of fee capping conditions*

- 11 Paragraphs 8 to 10 apply in respect of a revision of a fee capping condition under paragraph 5 as if the revision constituted the imposition of a fee capping condition.

#### *Transfer conditions*

- 12 (1) A transfer condition is a special condition requiring an awarding body, on the occurrence of an event specified in the condition, and on being so directed by Qualifications Wales, to make arrangements specified in the direction for the purpose of securing that a form of a qualification which is or has been awarded by the body may be awarded by another awarding body where—
  - (a) the form of qualification has been approved by Qualifications Wales, or
  - (b) the form of qualification has been designated by Qualifications Wales under section 29.
- (2) The arrangements may include, among other things, provision for the transfer of property and rights and for the making of payments.
- (3) Qualifications Wales may give a direction to an awarding body in accordance with a transfer condition only if it is satisfied that it is necessary to do so in order to avoid significant adverse effects on persons who are seeking, or might reasonably be expected to seek, to obtain the form of a qualification to which the direction relates.
- 13 (1) If Qualifications Wales proposes to give a direction to an awarding body in accordance with a transfer condition, it must give the body concerned notice of the proposal.
- (2) The notice must—
  - (a) set out the proposed direction;
  - (b) explain why Qualifications Wales proposes to give the direction;
  - (c) specify when it proposes to decide whether to give the direction.

- (3) In deciding whether to give the direction, Qualifications Wales must have regard to any representations made by the awarding body.
- 14 (1) If Qualifications Wales decides to give the direction, it must give notice to the awarding body of the decision, setting out the direction.
- (2) The notice must—
- (a) inform the body of its right to request a review of the decision,
  - (b) state the latest date on which any request for review may be made, and
  - (c) specify the date by which, in the absence of a request for review, the direction is to come into effect.
- (3) The date specified under sub-paragraph (2)(c) must be a date after the latest date on which a review may be requested under arrangements made under paragraph 16.
- 15 If Qualifications Wales gives a direction to an awarding body in accordance with a transfer condition, it may, if it considers it reasonable and appropriate to do so in the circumstances, pay compensation to the body in respect of loss sustained by the body by reason of compliance with the direction.

*Review of decision to give direction*

- 16 (1) Qualifications Wales must make arrangements for its decision to give the direction referred to in paragraph 14 to be subject to review at the request of the awarding body concerned.
- (2) The arrangements must—
- (a) specify the period within which a review may be requested,
  - (b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the direction,
  - (c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to give the direction, or to alter the direction, and
  - (d) require Qualifications Wales to notify the body concerned of the outcome of the review.
- (3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.
- (4) A person is independent of Qualifications Wales, for this purpose—
- (a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;
  - (b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.
- (5) If following a review Qualifications Wales confirms its decision to give a direction, or alters the direction concerned, it must give notice to the body concerned—
- (a) setting out the direction, as confirmed or altered,
  - (b) giving reasons for the confirmation or alteration, and
  - (c) stating the date on which the direction, or the direction as altered, will take effect.

### *Surrender of recognition*

- 17 (1) A recognised body may give notice (a “surrender notice”) to Qualifications Wales that it wishes to cease to be recognised in respect of—
- (a) the award of a specified qualification or description of qualification, or
  - (b) every qualification in respect of which it is recognised.
- (2) A surrender notice must specify the date with the expiry of which the body wishes to cease to be recognised in the respect concerned.
- (3) As soon as reasonably practicable after receipt of a surrender notice, Qualifications Wales must give notice to the recognised body (an “acknowledgement of surrender”) providing that the body is to cease to be recognised in that respect with the expiry of the date specified in the surrender notice or, if Qualifications Wales thinks appropriate, with the expiry of a different date.
- (4) If the acknowledgement of surrender specifies that the body is to cease to be recognised in that respect with the expiry of a different date from that specified in the surrender notice, the acknowledgement of surrender must give reasons for this.
- (5) Recognition in the respect concerned ceases to have effect with the expiry of the date specified in the acknowledgement of surrender.
- (6) In determining whether a body’s recognition is to cease to have effect with the expiry of the date specified in the surrender notice, or with the expiry of a different date, Qualifications Wales is to have regard to—
- (a) the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the qualification, or a qualification of the description, specified in the surrender notice, and
  - (b) the body’s wish that recognition should cease to have effect with the expiry of the date specified in the surrender notice.

### *Transitional provision in respect of surrender*

- 18 (1) Qualifications Wales may, if it considers it appropriate to do so for the purpose of avoiding prejudice to persons who are seeking or might reasonably be expected to seek to obtain the qualification concerned, or a qualification of the description concerned, make provision in an acknowledgement of surrender under paragraph 17(3) that is within sub-paragraph (2).
- (2) Provision within this sub-paragraph is provision to the effect that, from the expiry of the surrender date until the expiry of the extension date, the body is to be treated for purposes specified by Qualifications Wales in the acknowledgement of surrender as being recognised in respect of the award of the qualification or description of qualification concerned.
- (3) If Qualifications Wales makes provision within sub-paragraph (2)—
- (a) it must give reasons for this in the acknowledgement of surrender, and
  - (b) the body is to be treated, from the expiry of the surrender date, for the purposes specified in the acknowledgement of surrender, and until the expiry of the extension date, as being recognised in respect of the award of the qualification or description of qualification concerned.
- (4) In this paragraph—

“extension date” (“*dyddiad estyn*”) means a date specified by Qualifications Wales in the acknowledgement of surrender for the purposes of this paragraph;

“surrender date” (“*dyddiad ildio*”) means the date specified by Qualifications Wales in the acknowledgement of surrender as being that from the expiry of which the body is to cease to be recognised.

### *Withdrawal of recognition*

- 19 (1) If a recognised body fails to comply with any condition to which recognition in respect of the award of a qualification or description of qualification is subject, Qualifications Wales may withdraw its recognition of the body in respect of the award of—
- (a) a specified qualification or description of qualification, or
  - (b) every qualification in respect of the award of which the body is recognised.
- (2) If a recognised body that awards an approved qualification fails to comply with any condition to which the approval is subject, Qualifications Wales may withdraw its recognition of the body in respect of the award of—
- (a) a specified qualification or description of qualification, or
  - (b) every qualification in respect of the award of which the body is recognised.

### *Procedure for withdrawal of recognition*

- 20 (1) Before withdrawing recognition from a recognised body under paragraph 19, Qualifications Wales must give the body notice of its intention to do so.
- (2) The notice must—
- (a) explain why Qualifications Wales proposes to withdraw recognition in the respect concerned, and
  - (b) specify when Qualifications Wales proposes to decide whether to withdraw recognition.
- (3) In deciding whether to withdraw recognition as specified in the notice, Qualifications Wales must have regard to any representations made by the recognised body.
- 21 (1) If Qualifications Wales decides to withdraw recognition, it must give notice to the recognised body of the decision.
- (2) The notice must—
- (a) inform the body of its right under arrangements made under paragraph 22 to request a review of the decision,
  - (b) state the date by which any request for review must be made, and
  - (c) specify the date with the expiry of which, in the absence of a request for review, the withdrawal is to take effect (the “withdrawal date”).
- (3) The withdrawal date must be a date after the last date on which a review may be requested under arrangements made under paragraph 22.
- (4) At any time before the withdrawal date, Qualifications Wales may decide not to withdraw the body’s recognition; and if it does so, must give the body notice to this effect.

- (5) In determining the withdrawal date, Qualifications Wales is to have regard to the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain a qualification, or a qualification of the description, in respect of the award of which recognition is to be withdrawn.

*Review of decision to withdraw recognition*

- 22 (1) Qualifications Wales must make arrangements for a decision to withdraw recognition from a body to be subject to review at the request of the body concerned.
- (2) The arrangements must—
- (a) specify the period within which a review may be requested,
  - (b) make provision for recommendations to be made by the person carrying out the review to Qualifications Wales in respect of the withdrawal,
  - (c) make provision for Qualifications Wales, having considered those recommendations, either to confirm or reverse its decision to withdraw recognition, and
  - (d) require Qualifications Wales to notify the body concerned of the outcome of the review.
- (3) The arrangements must require a review to be carried out by a person who is independent of Qualifications Wales.
- (4) A person is independent of Qualifications Wales, for this purpose—
- (a) in the case of an individual, if he or she is neither a member of Qualifications Wales nor a member of Qualifications Wales' staff;
  - (b) in the case of a body, if none of the body's members is a member of Qualifications Wales nor a member of Qualifications Wales' staff.
- (5) If following a review Qualifications Wales confirms its decision to withdraw recognition, it must give notice to the body concerned—
- (a) giving reasons for the confirmation, and
  - (b) stating the date with the expiry of which the withdrawal will take effect.

*Transitional provision in respect of withdrawal*

- 23 (1) Notice under paragraph 21 or 22 may include provision within sub-paragraph (2), if Qualifications Wales considers that provision appropriate for the purpose of avoiding prejudice to persons who are seeking or might reasonably be expected to seek to obtain the qualification, or a qualification of the description, in respect of the award of which recognition is to be withdrawn.
- (2) Provision within this sub-paragraph is provision to the effect that, from the expiry of the withdrawal date until the expiry of the extension date, the body is to be treated for purposes specified by Qualifications Wales in the notice as being recognised in respect of the award of the qualification or description of qualification concerned.
- (3) If Qualifications Wales makes provision in a notice within sub-paragraph (2)—
- (a) it must give reasons for this in the notice, and
  - (b) the body is to be treated from the expiry of the withdrawal date, for the purposes specified in the notice, and until the expiry of the extension date, as



being recognised in respect of the award of the qualification or description of qualification concerned.

(4) Sub-paragraph (5) applies if—

- (a) notice under paragraph 21 contains provision within sub-paragraph (2) (the “original extension provision”), and
- (b) a review of the decision to withdraw recognition is carried out under paragraph 22.

(5) The original extension provision has no effect, for the purposes of sub-paragraph (3) (b), unless it is confirmed in notice under paragraph 22 confirming the decision to withdraw recognition.

(6) In this paragraph—

“extension date” (“*dyddiad estyn*”) means a date specified by Qualifications Wales in the notice for the purposes of this paragraph;

“withdrawal date” (“*dyddiad tynnu’n ôl*”) means the date specified by Qualifications Wales in the notice as being that from the expiry of which recognition is to be withdrawn.