

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Designation of Other Qualifications

65. In exercising its functions under this Part Qualifications Wales must have regard to the principles set out in section 54(2) (performance of regulatory activities). See also section 47 as to the requirement for Qualifications Wales to prepare a statement of its policy in relation to its functions under this Part.

Section 29: Designation of other qualifications

66. This section enables Qualifications Wales to designate a form of qualification so that the designated qualification is eligible to be provided on publicly funded courses of education or training for learners under the age of 19. A recognised body may apply for designation in respect of a form of qualification it offers and in respect of which it is recognised by Qualifications Wales. Qualifications Wales can only make a designation if it is satisfied that the conditions in subsection (4) are met. The conditions relate to the appropriateness of the form of qualification being used on a publicly funded course and to the appropriateness of the form of qualification being designated rather than approved. The ability to designate forms of qualifications is intended to assist in the transition of qualifications from the previous regulatory regime into that of Qualifications Wales, enabling Qualifications Wales itself to consider and judge which qualifications should be approved – other than any which may be transferred to it as approved (under powers to make transitional provision in Part 9). It will also enable Qualifications Wales to allow or continue to allow the public funding of courses leading to particular forms of qualification where appropriate, so as to avoid gaps in publicly funded provision arising should some qualifications not be submitted for approval. Qualifications Wales may designate forms of qualifications as being eligible for use on a specific course of education or training (for example, for use on certain apprenticeship programmes) or as being eligible for funding on courses for learners under the age of 19 more generally.

Section 30: Further provision about section 29 designations

67. This section requires designations under section 29 to be time limited: at the time it makes a designation Qualifications Wales is required to specify a start and end date to the designation. A designation will also cease to have effect earlier in the following circumstances (and in these cases Qualifications Wales must notify the awarding body of the date from which it ceases to have effect):
- a) if the awarding body's recognition ceases in respect of the form of qualification that has been designated (in which case the designation ceases to have effect at the same time as the recognition ceases to have effect);
 - b) if the form of designated qualification is approved under Part 4, from the date that it becomes an approved qualification – although Qualifications Wales may make transitional arrangements under section 31 to treat the qualification as approved

for specified purposes for an extended period of time in order to avoid prejudice to learners; and

- c) from the point that a form of the qualification becomes approved as a restricted priority qualification – although, again, Qualifications Wales may make transitional arrangements under section 31.

68. Qualifications Wales may specify the purpose for which a designation has effect, which could be by reference to the circumstances in which, or the persons to whom, a designated qualification may be awarded. This could enable Qualifications Wales to state, for example, that the qualification must not be offered to learners younger than any lower age limit placed on the qualification by Qualifications Wales (similar to, for example, an award limitation condition for approved qualifications - see section 34(3) and (4)). Where purposes have been specified, a course that leads to a form of qualification that is designated must be provided in a way that complies with those purposes in order for it to be publicly funded (section 34(5)(b)).

Section 31: Transitional provision in connection with section 29 designations

69. This section allows Qualifications Wales to provide for designations to continue to have effect for limited purposes after they have ceased, otherwise, to have effect (due either to the approval of the form of qualification taking effect, or to an approval of a restricted priority form of the qualification taking effect). Qualifications Wales may provide for the form of the qualification which was designated to continue to be treated as if it were designated for the purposes and until the end of the date specified by Qualifications Wales. This transitional provision may only be made where Qualifications Wales considers it appropriate to do so for the purpose of avoiding prejudice to learners seeking to obtain the form of the qualification – for example, to allow learners to complete a qualification for which they have started to prepare or to allow learners to resit a qualification.

Section 32: Revocation of section 29 designations

70. This section enables Qualifications Wales to revoke a designation. Before doing this, it must give notice of its intention to the relevant recognised body, explaining why it is proposing to revoke and stating when it is due to decide whether or not to revoke. Qualifications Wales must have regard to any representations made by the recognised body and, if it decides to revoke, must give notice to the recognised body of the decision and of when the revocation is to take effect. The revocation will apply from 1 September in the year following the decision to revoke and only applies in respect of learners starting a course on or after that date. The notice of revocation to the recognised body must be made promptly but in any case by (or on) 31 December of the year in which it is made. This means that recognised bodies (and consequently learning providers and learners) will have at least 8 months between knowing of the decision to revoke and the revocation coming into effect at the beginning of the next academic year. The notice of revocation must be published.

Section 33: Rules about applications for designation

71. This section requires Qualifications Wales to make and publish rules about how applications for designation must be made. The rules may address what such applications should contain and whether and how any fee must be paid (providing such a fee has been included in a published scheme approved by the Welsh Ministers under section 49). The rules may make different provisions for different purposes – for example there may be particular rules that apply to applications for the designation of qualifications used in apprenticeships.