

QUALIFICATIONS WALES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Supplementary

Section 45: Provision of services etc by Qualifications Wales

99. Qualifications Wales has the power under this section to provide consultancy and other services on a commercial basis and to charge fees for these. Qualifications Wales may develop expertise in relation to qualifications that could be of value commercially. Unlike the position with any charges to be made in connection with its regulatory functions (the scheme for which requires the prior approval of the Welsh Ministers under section 49), Qualifications Wales will be able to determine its own scale of charges for commercial activities without reference to the Welsh Ministers.
100. Qualifications Wales may for example think it expedient to provide such services through a company. This section allows Qualifications Wales to provide the services through a wholly owned company, subject to the Welsh Ministers' approval. Under section 47, Qualifications Wales must set out a statement of its policy on the exercise of this function.

Section 46: Review and research

101. In exercising its functions under this section, 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 to prepare a statement of its policy in relation to its functions under this Part.
102. This section enables Qualifications Wales to review the awarding of approved and designated qualifications and other activities of recognised bodies relevant to their recognition, on an ongoing basis, as well as to conduct any other reviews related to any aspect of qualifications ("qualification" is defined in section 56). For example, Qualifications Wales may conduct a review of an individual recognised body's quality assurance processes, or it may decide to review the processes for delivering online assessment of all awarding bodies that it recognises. In relation to approved or designated qualifications, Qualifications Wales may, for example, decide to review one awarding body's form of GCSE Biology, or it may decide, for example, to review all approved and/or designated qualifications at a given level. Qualifications Wales may also, for example, wish to review qualifications awarded by bodies that are not recognised by it or qualifications that recognised bodies have decided to exclude from recognition.
103. The section also requires Qualifications Wales to keep its own role and that of awarding bodies under review. This duty may, for example, encompass consideration of whether and in what way, in time, Qualifications Wales should become an awarding body. This would require further legislation (see paragraphs 6 and 7 above).

104. The section also gives Qualifications Wales the power to undertake or commission research, about any matter connected with qualifications. Qualifications Wales may use its own staff to carry out this research, or it may ask others to carry it out on its behalf.

Section 47: Policy statement and statement about consultation

105. This section requires Qualifications Wales to publish information that sets out the approach it intends to take to performing its key functions. The purpose of the policy statement is to make Qualification Wales's likely approach to its functions transparent to those potentially affected by them and the public generally. The statement must include information on the matters listed in subsection (2), as these matters could impact significantly on awarding bodies and how they conduct their business.
106. In addition, subsection (3) requires Qualifications Wales to prepare a statement about the circumstances and the manner in which it proposes to consult. This is not confined to written consultations, and would also cover other forms of interaction with others with a view to getting their views.
107. These statements must be kept under review and if appropriate revised. Both the first statement and any subsequent revised statements must be published.

Section 48: Complaints

108. This section requires Qualifications Wales to publish information that sets out the ways in which it will deal with complaints that it receives, whether they are about the exercise of its own functions, specifically relate to the award of an approved or designated qualification, or are about any other activities of a recognised body which are relevant to its recognition. This section requires Qualifications Wales to decide what arrangements it will follow in respect of any of these types of complaints, and to publish these arrangements. The arrangements may be different according to the type of complaint. Qualifications Wales may consider that, once it has handled a complaint to a certain point, there is a need to refer the complaint to an independent third party and these published arrangements may make provision for this. Subsection (4) defines a person as being 'independent' for this purpose where the person is neither a member of Qualifications Wales nor a member of its staff (or, in the case of the independent person being a body, if none of its members is a member of Qualifications Wales or a member of Qualifications Wales's staff).

Section 49: Charging scheme

109. This section sets out Qualifications Wales's powers to charge fees. If Qualifications Wales wishes to charge awarding bodies in connection with its regulatory activities listed in subsection (1), it must first produce a list of the proposed fees relating to Qualification Wales's costs in a scheme which is to be approved by the Welsh Ministers. This does not include enforcement functions in Part 7 (there is a specific power in section 41 for Qualifications Wales to recover costs in connection with imposing sanctions). Qualifications Wales can only charge fees in accordance with the scheme (or the scheme as revised), which must have been approved by the Welsh Ministers and published.

Section 52: Joint working

110. This section enables Qualifications Wales to work with others, providing it considers it appropriate to do so in connection with its own functions. For example, Qualifications Wales may wish to work jointly with other UK qualifications regulators in relation to reviewing – or investigating complaints about - designated forms of qualification which are also regulated by the other regulators.