



# Education Act 1997

## 1997 CHAPTER 44

### PART V

#### SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

#### CHAPTER I

#### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

##### *Establishment of the Authority*

#### **21 The Qualifications and Curriculum Authority.**

- (1) There shall be a body corporate known as the Qualifications and Curriculum Authority.
- (2) The Authority shall consist of not less than 8 nor more than 13 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
  - (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority—
  - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of education, or to have held, and to have shown capacity in, any position carrying responsibility for the provision of education;
  - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of training or to have held, and to have shown capacity in, any position carrying responsibility for the provision of training; and
  - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.

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- (5) Schedule 4 has effect in relation to the Authority.

### *Functions of the Authority*

## **22 General function of Authority to advance education and training.**

- (1) The functions conferred on the Qualifications and Curriculum Authority by this Part shall be exercised by the Authority for the purpose of advancing education and training in England and (so far as such functions are exercisable there) in Wales and in Northern Ireland.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

## **23 Functions of the Authority in relation to curriculum and assessment.**

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in England.
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 24(2)(h) and (i).
- (3) The Authority shall have, in relation to England, the function of developing learning goals and related materials for children who are receiving nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the <sup>M1</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (4) The Authority shall have, in relation to England, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
  - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
  - (b) any other function which may be conferred on the Authority by the Secretary of State.

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(5) In this section—

“assessment” includes examination and test; and

“maintained school” means—

- (a) any county or voluntary school;
- (b) any grant-maintained school; and
- (c) any maintained or grant-maintained special school.

**Marginal Citations**

**M1** 1996 c. 50.

**24 Functions of the Authority in relation to external vocational and academic qualifications.**

(1) The Qualifications and Curriculum Authority shall have, in relation to England, the functions set out in subsection (2) with respect to external qualifications.

(2) The functions are—

- (a) to keep under review all aspects of such qualifications;
- (b) to advise the Secretary of State on such matters concerned with such qualifications as he may refer to them or as they may see fit;
- (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with such qualifications;
- (d) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
- (e) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
- (f) to develop and publish criteria for the accreditation of such qualifications;
- (g) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
- (h) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
- (i) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.

(3) Except to the extent that, by virtue of an order under section 30(1), they are for the time being exercisable with respect to such qualifications solely by the Qualifications, Curriculum and Assessment Authority for Wales, the functions set out in subsection (2)(a) to (g) shall be so exercisable in relation to Wales by the Qualifications and Curriculum Authority, and shall be so exercisable either—

- (a) solely by the Authority, or
- (b) if an order under section 30(1) so provides, by the Authority concurrently with the Qualifications, Curriculum and Assessment Authority for Wales.

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- (4) The functions set out in subsection (2)(a) to (g) shall also be exercisable by the Qualifications and Curriculum Authority in relation to Northern Ireland but only with respect to National Vocational Qualifications.
- (5) Subsection (2)(a) to (e) do not apply to qualifications awarded or authenticated by institutions within the higher education sector other than those which have been submitted for accreditation under subsection (2)(g).
- (6) In this section “external qualification” means—
  - (a) any academic or vocational qualification authenticated or awarded by an outside person, except an academic qualification at first degree level or any comparable or higher level; or
  - (b) (whether within paragraph (a) or not) any National Vocational Qualification.
- (7) For the purposes of this section—
  - (a) a qualification is awarded by an outside person if the course of education or training leading to the qualification is provided by an institution or an employer and it is awarded by a person other than the institution or employer or a member of its or his staff; and
  - (b) a qualification is authenticated by an outside person if it is awarded by an institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.

## **25 Other functions of the Authority.**

- (1) The Qualifications and Curriculum Authority shall advise the Secretary of State on such matters connected with the provision of education or training in England as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.

## **26 Supplementary provisions relating to discharge by Authority of their functions.**

- (1) In carrying out their functions under this Part the Qualifications and Curriculum Authority shall—
  - (a) comply with any directions given by the Secretary of State; and
  - (b) act in accordance with any plans approved by him; and
  - (c) so far as relevant, have regard to—
    - (i) the requirements of section 351 of the <sup>M2</sup>Education Act 1996 (general duties in respect of curriculum),

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- (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
  - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty’s Chief Inspector of Schools in England or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
  - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation or approval.
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” means—
  - (a) children with special educational needs (as defined in section 312 of the <sup>M3</sup>Education Act 1996); or
  - (b) persons (other than children as so defined) who—
    - (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
    - (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

**Marginal Citations**

**M2** 1996 c. 56.

**M3** 1996 c. 56.

VALID FROM 01/10/2002

**[<sup>F1</sup>26A Power of Authority to give directions**

- (1) If it appears to the Qualifications and Curriculum Authority—
  - (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
  - (b) that the failure—

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- (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
  - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
- the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications and Curriculum Authority—
- (a) in England and Wales, by a mandatory order, or
  - (b) in Northern Ireland, by an order of mandamus.]

#### Textual Amendments

- F1** S. 26A inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 4](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 2](#)

## CHAPTER II

### THE QUALIFICATIONS, CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES

#### *Renaming of the Authority*

#### **27 The Qualifications, Curriculum and Assessment Authority for Wales.**

- (1) The body corporate known as Awdurdod Cwricwlwm ac Asesu Cymru shall continue in existence but, as from the commencement of this section, shall be known as Awdurdod Cymwysterau, Cwricwlwm ac Asesu Cymru or the Qualifications, Curriculum and Assessment Authority for Wales.
- (2) The Authority shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
- (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State—
- (a) shall include among the members of the Authority—
    - (i) persons who appear to him to have relevant knowledge or experience in education, and
    - (ii) persons who appear to him to have relevant knowledge or experience in training; and

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- (b) may include among those members persons who appear to him to have experience of occupations, trades or professions having an interest in education or training.
- (5) Schedule 5 to this Act, which replaces Schedule 30 to the Education Act 1996, has effect in relation to the Authority.

### *Functions of the Authority*

## **28 General function of Authority to advance education and training.**

- (1) The functions conferred on the Qualifications, Curriculum and Assessment Authority for Wales by this Part shall be exercised by the Authority for the purpose of advancing education and training in Wales.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

## **29 Functions of the Authority in relation to curriculum and assessment.**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in Wales.
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 30(3).
- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are receiving nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the <sup>M44</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
  - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and

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(b) any other function which may be conferred on the Authority by the Secretary of State.

(5) In this section “assessment” and “maintained school” have the same meaning as in section 23.

#### **Marginal Citations**

**M4** 1996 c. 50.

### **30 Functions of the Authority in relation to external vocational and academic qualifications.**

(1) The Qualifications, Curriculum and Assessment Authority for Wales shall have, in relation to Wales, such functions with respect to external qualifications as are for the time being conferred on the Authority by an order made by the Secretary of State under this subsection or by subsection (3).

(2) The functions with respect to external qualifications which may be conferred on the Authority by an order under subsection (1) are functions falling within paragraphs (a) to (g) of section 24(2), and the functions in question may be so conferred so as to be exercisable either—

- (a) solely by the Authority, or
- (b) by the Authority concurrently with the Qualifications and Curriculum Authority.

(3) The Authority shall have, in relation to Wales, the following functions with respect to external qualifications, namely—

- (a) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
- (b) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.

(4) Where an order under subsection (1) is made so as to come into force at any time after the day on which that subsection comes into force, the order may include provisions—

- (a) for the transfer of staff, and
- (b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with any function which, as a result of the order, is to be exercisable by the Authority (whether solely or concurrently).

(5) In this section “external qualification” has the same meaning as in section 24.

### **31 Other functions of the Authority.**

(1) The Qualifications, Curriculum and Assessment Authority for Wales shall advise the Secretary of State on such matters connected with the provision of education or training in Wales as the Secretary of State may specify by order.

(2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.



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- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.

### **32 Supplementary provisions relating to discharge by Authority of their functions.**

- (1) In carrying out their functions under this Part the Qualifications, Curriculum and Assessment Authority for Wales shall—
  - (a) comply with any directions given by the Secretary of State; and
  - (b) act in accordance with any plans approved by him; and
  - (c) so far as relevant, have regard to—
    - (i) the requirements of section 351 of the <sup>M5</sup>Education Act 1996 (general duties in respect of curriculum),
    - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty’s Chief Inspector of Schools in Wales or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
  - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation or approval.
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” has the same meaning as in section 26.

#### **Marginal Citations**

**M5** 1996 c. 56.

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VALID FROM 19/12/2002

### **[<sup>F2</sup>32A Power of Authority to give directions**

- (1) If it appears to the Qualifications, Curriculum and Assessment Authority for Wales—
  - (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
  - (b) that the failure—
    - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
    - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
 the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications, Curriculum and Assessment Authority for Wales, by a mandatory order.]

#### **Textual Amendments**

- F2** S. 32A inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 8** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

## **CHAPTER III**

### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

VALID FROM 01/03/1998

#### *Dissolution of existing bodies*

### **33 Dissolution of existing bodies.**

The National Council for Vocational Qualifications and the School Curriculum and Assessment Authority are hereby dissolved.

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### *Transfer of property and staff*

#### **34 Transfer of property.**

- (1) The Secretary of State may by order provide for the transfer to the Qualifications and Curriculum Authority, or (as the case may be) to the Qualifications, Curriculum and Assessment Authority for Wales, of—
  - (a) such of the land or other property of the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, and
  - (b) such of the rights and liabilities of either of those bodies (other than rights and liabilities arising under contracts of employment),as, in his opinion, need to be transferred to enable the transferee Authority to carry out their functions properly.
- (2) No order under subsection (1) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (3) Any order under subsection (1) made before the day on which section 21 comes into force shall come into force on that day.
- (4) Where, immediately after the end of the period within which an order under subsection (1) may be made, any property, rights or liabilities remain vested in the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, they shall forthwith vest in the Secretary of State.
- (5) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (2) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

#### **35 Transfer of staff.**

- (1) This section applies to any person who—
  - (a) is employed by the National Council for Vocational Qualifications (“the NCVQ”) or the School Curriculum and Assessment Authority (“the SCAA”) immediately before section 21 comes into force, and
  - (b) is designated as respects the Qualifications and Curriculum Authority, or (as the case may be) the Qualifications, Curriculum and Assessment Authority for Wales, by order of the Secretary of State;and in this section “the relevant Authority” means, in relation to any such person, the Authority as respects which he is designated by the order.
- (2) A contract of employment between a person to whom this section applies and the NCVQ or the SCAA shall have effect, from the day on which the order under subsection (1)(b) comes into force, as if originally made between him and the relevant Authority.
- (3) Without prejudice to subsection (2)—
  - (a) all the rights, powers, duties and liabilities of the NCVQ or the SCAA under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and

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- (b) anything done before that day by or in relation to the NCVQ or the SCAA in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the relevant Authority.
- (4) Subsections (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by subsection (2).
- (5) In subsection (4) the reference to an employee's working conditions includes a reference to any rights (whether accrued or contingent) under any pension or superannuation scheme of which he was a member by virtue of his employment with the NCVQ or the SCAA (as the case may be).
- (6) An order under subsection (1)(b) may designate a person either individually or as falling within a class or description of employee.
- (7) No order under subsection (1)(b) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (8) Any order under subsection (1)(b) made before the day on which section 21 comes into force shall come into force on that day.
- (9) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (7) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

*Levy on bodies awarding accredited qualifications*

**36 Levy on bodies awarding qualifications accredited by relevant Authority.**

- (1) The Secretary of State may by regulations provide for a levy to be payable to the relevant Authority by persons who award vocational qualifications accredited by that Authority.
- (2) Regulations under this section shall—
  - (a) specify the rate of the levy or the method by which it is to be calculated (and, without prejudice to the generality of section 54(3), may make different provision in relation to different cases);
  - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy;
  - (c) provide for the relevant Authority to withdraw their accreditation of a qualification in cases of non-payment of the levy.
- (3) Any sums received by the relevant Authority in respect of the levy shall be applied by them in giving such financial assistance to other bodies as the Secretary of State may specify with a view to assisting that Authority to secure the development and improvement of standards in relation to vocational qualifications.
- (4) In this section “the relevant Authority” means—
  - (a) the Qualifications and Curriculum Authority in the case of a qualification accredited by that Authority; and
  - (b) the Qualifications, Curriculum and Assessment Authority for Wales in the case of a qualification accredited by that Authority.

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## CHAPTER IV

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

#### 37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.

- (1) The Secretary of State may by regulations provide—
- (a) that no course of study leading to an external qualification is to be provided with the use of any specified public funding, and
  - (b) that no course of study leading to an external qualification is to be provided for pupils of compulsory school age by or on behalf of a maintained school, unless (in each case) the qualification is for the time being approved by the Secretary of State or a designated body in accordance with the regulations.
- (2) Regulations under this section may in particular make provision—
- (a) prescribing the conditions required to be satisfied before any qualification may be so approved and the circumstances in which any approval may be withdrawn;
  - (b) conferring functions on a designated body in relation to any such conditions; and
  - (c) imposing duties on governing bodies of institutions providing courses of study to which the regulations apply, and on head teachers, principals and other heads of such institutions, to secure compliance with the regulations.
- (3) Regulations under this section shall not apply to—
- (a) any course of study provided at an institution within the higher education sector; or
  - (b) any course of study leading to a qualification awarded or authenticated by any such institution.
- (4) In this section—
- “designated” means designated by the Secretary of State;
  - “external qualification” has the same meaning as in section 24;
  - “maintained school” has the same meaning as in section 23; and
  - “specified public funding” means public funding of such description as is specified in or determined in accordance with regulations under this section.
- (5) Sections 400 and 401 of the <sup>M6</sup>Education Act 1996 (courses leading to external qualifications provided at schools and further education institutions), which are superseded by this section, shall cease to have effect.

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#### Commencement Information

**II** S. 37 partly in force; s. 37 not in force at Royal Assent see s. 58(3); s. 37(1)-(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, Sch. 1

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#### Marginal Citations

**M6** 1996 c. 56.

**Status:**

Point in time view as at 01/12/1997. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Education Act 1997, Part V is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.