



# Education Act 1997

## 1997 CHAPTER 44

### PART V

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

### CHAPTER III

#### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

#### *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.

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*Status: This is the original version (as it was originally enacted).*

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- (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
  - (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.