

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Office of Qualifications and Examinations Regulation

Chapter 2: Functions in relation to qualifications

403. Under the Education Act 1997, which established the QCA as the regulator of qualifications, the QCA regulates at qualification level – in other words, it accredits individual qualifications. The Education and Skills Act 2008 amended the 1997 Act to give the QCA the additional function of recognising awarding bodies. Under the 1997 Act as so amended, only qualifications offered by recognised bodies are eligible to be accredited. Under the provisions in this Act, the general requirement to accredit individual forms of qualifications will be removed, so that the focus of Ofqual’s regulation will be at organisational level. Provided that a body has been recognised in respect of a specific qualification or description of qualification, it will not necessarily have to obtain accreditation for a form of the qualification which it awards or authenticates. But Ofqual will still be able to require accreditation of forms of qualifications, either where it judges that this is required in relation to a particular type of qualification, or where it is concerned about the performance of a specific awarding body.
404. The following table sets out the possible combinations of recognition and accreditation.

	<i>Awarding Body Recognised</i>	<i>Awarding Body Not Recognised</i>
Qualifications not Accredited	The default position for a qualification subject to regulation.	The awarding body may offer qualifications provided it does not claim they are regulated by Ofqual. It is unlikely that the Secretary of State would approve such qualifications for public funding.
Qualifications Accredited	Ofqual may decide to introduce an accreditation requirement for a qualification or a description of qualification (section 138). This could be because Ofqual: <ul style="list-style-type: none"> — had decided that a particular type of qualification needed particular scrutiny, if for example it was widely used, was new 	Not possible

	<i>Awarding Body Recognised</i>	<i>Awarding Body Not Recognised</i>
	<p>or was judged to be particularly high risk; or — was concerned about a specific awarding body and wished to check particularly closely that any new qualifications the body developed would comply with the terms of its recognition.</p>	

Recognition of awarding bodies

Section 132: Recognition

405. This section requires Ofqual to “recognise” awarding bodies in respect of specific qualifications or descriptions of qualification (or in respect of credits for components of qualifications). Ofqual could use a “description of qualification” in two ways. The first is to make more general provision (for example, to catch a class of qualifications, covering a number of different subject or sector areas. Examples would include ‘A-level’ or ‘National Vocational Qualification (NVQ)’). The second is to make more specific provision, for example, to limit what is caught to a particular form of a type of qualification. For example, ‘history GCSEs assessed 100% by course work’ is a description of a qualification.
406. By recognising a body Ofqual confirms that the body is fit to award or authenticate the qualifications or qualifications of a description for which it is recognised, in other words that it has the appropriate systems, expertise and organisational robustness to allow it to do so effectively. Ofqual must recognise a body to award or authenticate particular qualifications or categories of qualification (or credits in respect of components of qualifications) only where a body applies for recognition and meets Ofqual’s criteria for recognition. The terms “awarding body”, “recognised body” and “recognition” are defined at section 132(9).
407. Ofqual may not charge for recognition of an awarding body.
408. Recognition may be subject to three types of condition: general conditions, an accreditation condition, and other conditions imposed by Ofqual on individual recognitions. General conditions are dealt with in section 134 (see paragraphs 412 to 415 below). Accreditation conditions apply to recognition in respect of qualifications, or descriptions of qualifications, subject to the accreditation requirement – that is a requirement imposed by Ofqual that any form of the qualification or of qualifications of the relevant description is, or are, required to be accredited. An accreditation condition prohibits the recognised body from awarding a particular form of that qualification or of a qualification of that description, until accreditation for that form of qualification has been obtained. A recognition in respect of the award or authentication of a credit in respect of a component of a qualification cannot be subject to an accreditation condition.
409. Conditions may be imposed either when recognition is granted or at a later time. In the case of general conditions, these may be disapplied in individual cases, either at the time of recognition or later.

Section 133: Criteria for recognition

410. Ofqual will have discretion to set the criteria it will use to decide whether to recognise an awarding body. It must consult with such persons as it considers appropriate before setting or revising the criteria and must publish those criteria.
411. In exercising this function, Ofqual is to be able to set different criteria for recognition of different descriptions of awarding bodies, for recognition in respect of different qualifications (or credits in respect of different components of qualifications) or different descriptions of qualifications (or credits in respect of different descriptions of components of qualifications). Examples of criteria may include requirements as to the evidence to be provided to give adequate assurance of organisational stability; the existence of adequate processes for quality assurance; financial soundness of the organisation concerned; and the appropriateness of the processes of the awarding body for developing the qualifications for which recognition has been sought. Criteria may also cover factors such as the previous history of an awarding body prior to any application.

Section 134: General conditions of recognition

412. This section allows Ofqual to impose general conditions on recognition. Conditions are general in the sense that they are able to apply to all recognised bodies or particular descriptions of recognised body. Under *subsections (3), (4) and (5)*, these conditions may be changed at any time, provided Ofqual publishes them following consultation with such persons that it considers appropriate.
413. The conditions in section 134 will be central to Ofqual's regulatory role – it is through the setting of conditions (and where necessary enforcing compliance with those conditions) that Ofqual will be able to achieve its objectives in relation to qualifications.
414. Under the current regime, the QCA can impose conditions on accreditation and recognition. Under the provisions of the Act conditions will be imposed only on recognition, but in doing so Ofqual will be able to impose conditions which relate to particular qualifications or even to specific versions of a particular qualification, including conditions that flow from the accreditation process where it applies.
415. Examples of the general conditions Ofqual might impose under this power include:
- conditions requiring those awarding bodies offering GCSEs and A-levels to work together to ensure consistency of standards, to notify Ofqual by a specified date where there are problems with agreeing the standard and to accept Ofqual's judgment about that standard in that event;
 - broad regulatory principles, such as a condition that awarding bodies must deal with Ofqual in an open and cooperative way, including for example an obligation to disclose any information about changes to the awarding body of which Ofqual could reasonably expect notice; or
 - the specific requirements that apply in relation to the award of a particular qualification or class of qualifications – for example that vocational qualifications must meet the requirements of the relevant Sector Skills Council.

Section 135: Other conditions of recognition

416. Ofqual has a broad power to impose other conditions in relation to a recognition (see section 132(3)(d)). This section makes provision about two such types of condition:
- conditions limiting the amount a recognised body may charge for the award or authentication of a qualification in respect of which the body is recognised or for a service provided in connection with such a qualification (a “fee capping condition”). This is one of the main mechanisms by which Ofqual may pursue its

efficiency objective. A fee capping condition may in the circumstances described in section 136, be applied to any charge levied in relation to the award or authentication of a qualification or any other service provided in relation to such a qualification. It might include, for example, fees charged by the recognised body to recognise a school or college wishing to offer the qualification;

- conditions requiring a recognised body to permit Ofqual to enter the body's premises so far as is necessary for the purposes of inspecting and copying documents (an "entry and inspection condition"). However such a condition may be imposed only to enable Ofqual to investigate the maintenance of standards in relation to the award by a recognised body of a qualification in respect of which the body is recognised or the need for a fee capping condition.

417. Further provisions about these conditions are in sections 136 and 137.

Section 136: Fee capping conditions: supplementary

418. This section sets out the test that must be met before Ofqual can impose a fee capping condition, and the process that must be used where Ofqual proposes to do so. Ofqual can only impose such a condition limiting the amount of a particular fee if this is necessary for securing value for money. Before doing so Ofqual must give notice of its intention to impose a fee capping condition, and it must take account of any representations made by the recognised body in question before reaching a decision. Where Ofqual decides to impose a fee capping condition it must establish arrangements for an independent review of the decision if requested to do so by the relevant recognised body. In performing its functions in relation to fee capping conditions, Ofqual must have regard to any guidance from the Secretary of State, guidance that has to have been published. This provision over guidance reflects the fact that a significant proportion of the bodies which will be paying fees for many qualifications will be publicly funded. The current legislation gives the QCA a power to impose a fee capping condition, but the exercise of the power is subject to the consent of the Secretary of State.

Section 137: Entry and inspection conditions: supplementary

419. This section limits what Ofqual may require under an entry and inspection condition. Under the current legislation the QCA has a power to set a similar condition, but in the context of this legislation the safeguards in *subsection (1)* have been added. *Subsection (3)* refers to Ofqual having the power to do anything mentioned in section 58 of the Education Act 2005 in relation to the inspection of documents by an authorised person. In summary, this provision enables such a person to inspect records or other documents to which they are entitled at any reasonable time to have access, including checking the operation of any computer and associated apparatus or material relating to these records or documents. Subsection (3) will also enable an entry and inspection condition to require the user or person in charge of the computer, apparatus or material to give Ofqual any assistance that it may reasonably require.

Accreditation of certain qualifications

Section 138: Qualifications subject to the accreditation requirement

420. Under this section Ofqual may decide that a certain qualification, or qualifications falling within a certain description, is or are subject to the accreditation requirement. The effect of this is that a recognised body cannot award or authenticate any form of such a qualification unless the particular form is individually accredited. This requirement may be applied to a qualification in relation to all recognised bodies or only in relation to a specific recognised body. The requirement cannot be applied to a component of a qualification.

421. Before deciding to apply the accreditation requirement to a qualification in relation to all recognised bodies, Ofqual must consult such persons as it considers appropriate.

Where the requirement it is to be applied to a qualification in relation to an individual recognised body it is that body alone that Ofqual must consult. Any decision reached by Ofqual to impose the requirement in respect of a qualification in relation to all recognised bodies must be published. Ofqual is able to revise any determination made under this section.

Section 139: Accreditation

422. This section provides for the process of accrediting particular forms of qualifications. Where a form of a qualification is submitted to Ofqual for accreditation it must be accredited if it meets the criteria for accreditation. An awarding body may award or authenticate a particular type of qualification, such as an English GCSE, in different forms. For example a version with material suitable for pre-16 students and one suitable for older students. Each form must be accredited if the qualification as a whole is subject to the accreditation requirement.
423. Ofqual may not charge for accreditation. (In contrast, the QCA currently has a power to charge for accreditation.)

Section 140: Criteria for accreditation

424. This section requires Ofqual to publish the criteria for accreditation or any subsequent revisions of those criteria. Ofqual must consult before setting or changing these criteria.
425. The criteria for accreditation are a threshold requirement – a recognised body must meet these criteria before it may award or authenticate a qualification that is subject to the accreditation requirement. Once that threshold requirement is met, satisfying the criteria is not as such an ongoing requirement of the recognised body. However, Ofqual will be able to mirror all relevant criteria in general or specific conditions in order to ensure continued compliance by the recognised body with the criteria. For example, if the initial criteria relating to a particular qualification specified that the awarding body would have to have certain quality assurance processes in place, Ofqual could make it an ongoing requirement that those processes were maintained and used through the imposition of conditions to that effect.
426. If Ofqual revises accreditation criteria relating to a particular qualification, the accreditation under the old criteria of any forms of that qualification will cease to have effect on a date specified by Ofqual. This will allow Ofqual to ensure that all qualifications that are awarded are kept up to date with changes to curriculum and other requirements, and that there is no confusion created by old versions of a qualification being available. Ofqual may determine that accreditation need not cease in these circumstances (for example if a change was relatively minor, Ofqual may decide to require that qualifications already accredited be amended through imposing conditions rather than requiring the awarding bodies to seek reaccreditation). Ofqual may make saving or transitional provision about a form of a qualification ceasing to be accredited: for example, where students are already studying for qualifications under the old criteria. Ofqual may allow the accreditation temporarily to continue for those purposes only.

Minimum requirements

Section 141: Power to determine minimum requirements

427. This section allows the Secretary of State to make an order specifying the minimum requirements in respect of knowledge, skills or understanding that someone must be able to demonstrate to gain a particular qualification or a qualification of a particular description (a term explained in paragraph 405 above). This reflects the fact that, in relation to young people's learning, the Secretary of State is accountable for the curriculum, or knowledge, skills and understanding, assessed through qualifications; but it is specified at least in part through Ofqual's qualifications criteria. These

provisions therefore establish that Ofqual is not accountable for any parts of its criteria which, in effect, specify curriculum. An order could be used, for example, to ensure that the content of GCSEs properly reflects the NC Key Stage 4 Programmes of Study, which they are intended to assess. The Secretary of State cannot specify features of the qualification other than minimum knowledge, skills or understanding, such as grading or assessment. And an order cannot remove a requirement over knowledge, skills or understanding from a qualification.

428. The Government intends that the power to specify minimum requirements will be used only in exceptional circumstances. Normally any policy requirements relating to the content of a qualification would be reflected in the recognition or accreditation criteria, without any need for an order: we would expect the criteria to be drafted by the QCDA, reflecting the Secretary of State's policy, and adopted by Ofqual provided that it was content that the criteria were appropriate and enabled standards to be maintained. An order would only be needed where that process had failed to reach agreement about some aspects of the criteria.
429. Reflecting this, the Secretary of State may only specify minimum requirements in relation to qualifications which are, or are likely to be, approved for public funding for people under 19, under section 98 of the Learning and Skills Act 2000 (*subsection (4)*).
430. Additionally, the Secretary of State may make an order only if satisfied that it is necessary to do so in order to ensure that the curriculum is appropriate for the ages of the people likely to be studying for the qualification (*subsection 141(2)*). For qualifications likely to be taken by people under 16 (for example, GCSEs), the curriculum leading to a qualification is likely to be "appropriate" if it is consistent with the National Curriculum. If, for example, Ofqual was proposing not to adopt draft GCSE criteria that reflected a particular aspect of the National Curriculum, then that may mean that young people studying for that GCSE will not study the full National Curriculum. In that case, an order may be appropriate.
431. For qualifications likely to be studied by people between the ages of 16 and 19, where there is no National Curriculum, the curriculum leading to a qualification is likely to be appropriate if it is consistent with the Secretary of State's policies for learning in that age group. For example, the Secretary of State may have decided that all people of that age should seek to attain functional skills (core skills in English, maths and ICT), and an order could be made were it necessary to do so to secure that.
432. The Secretary of State intends to put in place and consult on a Memorandum of Understanding with Ofqual about the use of this power, setting out a clear process to ensure that the regulator's independence and ability to maintain standards are not compromised.

Section 142: Consultation before making determination of minimum requirements

433. Before making an order, under this section the Secretary of State must consult with Ofqual and with others as appropriate (*subsection (1)*). We might expect him or her to consult, for example, with awarding bodies and with subject associations and professional bodies with an interest in the subject of the qualification. The requirement to consult with Ofqual reflects the expectation that an order will only be made where it has previously been discussed with Ofqual, usually following the development of draft criteria by QCDA.
434. For the purposes of the consultation, the Secretary of State must publish a document (*subsection (2)*) setting out:
- a) why he or she believes that making an order is necessary to ensure that the curriculum is appropriate;
 - b) the minimum requirements he or she proposes to specify; and

c) the reasons for proposing these minimum requirements.

435. An order is subject to affirmative resolution. This means that, once the consultation has been completed, the Secretary of State must seek approval from both Houses of Parliament for the order before making it. There is no opportunity for Parliament to amend the order: it can only either approve or reject the order as proposed by the Secretary of State.

Section 143: Effect of determination of minimum requirements

436. Where an order is made specifying minimum requirements, Ofqual must then (*subsection (2)*) set recognition criteria, recognition conditions, and/or accreditation criteria for the qualification or description of qualification so that the minimum requirements set out in the order are met. It would then be for awarding bodies recognised to award the qualification or description of qualification to develop qualifications that met the criteria or conditions.
437. Where such an order has been made, there is an expectation that the QCDA would support the development of the criteria associated with the qualification (see section 180), which is why there is a duty on the QCDA to assist Ofqual in these circumstances where requested to do so.
438. Ofqual does not have to comply with the order if it would mean (section 143(3)) that doing so would result in the depth, or level, of knowledge, skills or understanding of the qualification or description of qualification not being consistent with comparable qualifications – i.e. those qualifications which were supposed to be at the same level. So if, in seeking to set criteria, Ofqual discovered that the content specified in the order was at a level that was inappropriate for the qualification, and therefore Ofqual could not maintain standards, it would not be required to implement the order.

Section 144: Revocation and amendment of orders specifying minimum requirements

439. The Secretary of State may by order revoke an order specifying minimum requirements, including where the qualification is no longer approved under section 98 of the Learning and Skills Act 2000 for use in a publicly funded setting. An order revoking an order containing a determination, or an order removing a qualification from the scope of such an order, is not subject to affirmative resolution and needs only to be laid before Parliament.

Guided Learning

Section 145: Assignment of numbers of hours of guided learning

440. This section is for the purposes of the Education and Skills Act 2008, which imposes a duty on people under 18 to participate in education or training, unless they have attained a level 3 qualification (the level of attainment demonstrated by obtaining A-levels in two subjects). The Government's intention is to commence the duty in 2013.
441. Where people are in full time employment, the 2008 Act duty means they need to be undertaking sufficient relevant education or training, which is defined as the equivalent of 280 hours in a year. This section requires a recognised body which is offering a form of a relevant qualification to assign to it a number of hours of guided learning, for the purposes of determining whether a person studying for the qualification (whether or not in combination with other qualifications) is able to meet this requirement. The duty on a recognised body applies in relation to a qualification if the body considers that there are, or may reasonably be expected to be, persons seeking to obtain it for the purposes of discharging their duty under section 2(1)(c) of the 2008 Act to participate in sufficient relevant education and training (see *subsection (9)*). Ofqual may review

any determination made by an awarding body as to whether a qualification needs to have guided learning hours assigned to it and, if necessary, require it to revise the determination. Ofqual may also review, and require a recognised body to revise, any determination of the number of hours of guided learning to be assigned to a particular form of qualification. This will allow Ofqual to ensure, for example, that there is consistency between awarding bodies in how they assign guided learning hours to comparable forms of qualifications.

442. The duty on awarding bodies to assign guided learning hours does not extend to qualifications that are “Northern Ireland-only qualifications”, as defined in section 158(1).

Section 146: Criteria for assignment of number of hours of guided learning

443. This section requires Ofqual to publish the criteria which recognised bodies must apply in order to determine whether they need to assign guided learning hours to a qualification, and if so the number of hours they should assign to a form of the qualification. The section allows Ofqual to revise its criteria and so to take account of changing circumstances. The duty of recognised bodies under section 145 is to apply the criteria then in force in deciding whether a qualification is relevant for the purposes of the duty under section 2(1)(c) of the 2008 Act and, if so, the number of hours of guided learning to be assigned to a particular form of the qualification. Recognised bodies are obliged to review their determinations under section 145 when Ofqual revises the criteria set under this section.

Surrender

Section 147: Surrender of recognition

444. This section allows a recognised body to surrender recognition by giving notice to Ofqual. There are no explicit arrangements for such surrender in the current legislation. Ofqual has the power to decide the date on which surrender takes effect (acting in accordance with the requirements of *subsections (2) and (3)*) and may make saving or transitional provision (such as allowing a qualification to continue to be treated as regulated where students are taking resits of exams beyond the date on which recognition has otherwise expired). In determining the surrender date, Ofqual must aim to ensure that those learners seeking or who might reasonably be expected to be seeking the qualification are not prejudiced.

Register

Section 148: Register

445. This section sets out Ofqual’s obligation to maintain a register of recognised bodies, the details of the qualifications in respect of which they are recognised and forms of those qualifications that they offer, including the number of guided learning hours assigned to the forms of qualification where appropriate. The register may include other information that Ofqual considers appropriate, so it could for example choose to include details of qualifications that are regulated in other parts of the UK should the authorities there decide to work alongside Ofqual in this way.

Recognised bodies: monitoring and enforcement

Section 149: Review of activities of recognised bodies

446. This section allows Ofqual to keep under review any “connected” activities of a recognised awarding body as defined in *subsection (2)* of the section. This will allow it to keep under review any activities which may, for example, impact on the credibility of the qualifications offered or the effective or fair operation of the

qualifications system. This may include, for example, any awarding activities overseas in relation to qualifications that are similar to those that Ofqual is regulating, or any arrangements made for the publication of textbooks relating to an Ofqual-regulated qualification. Ofqual must exercise this function in a way that is compatible with, and most appropriate for achieving, its objectives. It would also need to have regard to its general duties in performing this function. This will necessarily affect the scope of what Ofqual can do in reviewing the activities of recognised bodies.

Section 150: Investigation of complaints

447. Ofqual may investigate complaints in respect of the award or authentication of a regulated qualification, or arrange for an independent party to do so.
448. Ofqual's complaint mechanisms will replace those that are currently in place through the Examinations Appeals Board (in relation to GCSEs and A-levels for example) and the QCA (in relation to vocational qualifications).
449. Ofqual will be free to work jointly with its counterparts in other parts of the UK in relation to the investigation of complaints should it and they so wish.
450. Ofqual's powers of redress in the event of its upholding a complaint are those that it has generally. Where the complaint led to a finding that the recognised body had acted in breach of a condition of recognition it would be for Ofqual to consider what action to take to ensure compliance with the condition. As under the existing arrangements of the Examinations Appeals Board, the Government would expect any complaints that are upheld about, for example, the marking of an exam, to be referred in the first instance back to the awarding body concerned for review.

Ofqual's enforcement powers

451. Ofqual has the ability to safeguard standards through the imposition of recognition and accreditation criteria (the "hurdle" that awarding bodies must initially clear). It may then impose general and specific conditions to ensure continued compliance with these requirements. Underpinning the conditions are the enforcement powers conferred by the Act: the power to direct compliance with a condition and ultimately a power to withdraw recognition for breach of a condition.

Section 151: Power to give directions

452. This section confers power on Ofqual to direct a recognised body in order to secure compliance with a condition imposed on its recognition. There are however limits on the circumstances in which this power may be exercised. *Subsection (1)* specifies the circumstances in which a direction may be made. These are that the recognised body has not complied (or is likely to fail to comply) with a condition, and that this would or would be likely to prejudice either the proper award or authentication of a qualification or someone who might reasonably be expected to seek to obtain such a qualification. In these circumstances, Ofqual may give a formal direction to the awarding body. The direction may specify steps the body must or must not take.
453. An example of when a direction might be given is where an awarding body had failed to comply with a condition requiring those awarding bodies offering a specified type of qualification to take a particular approach to setting and maintaining standards, and to seek to work together with other such awarding bodies to ensure consistency of standards between them. In such cases, Ofqual would be able to direct the awarding body to comply with the condition, if it considered the failure would compromise the comparability of standards between similar qualifications offered by different awarding bodies and in this way prejudice the proper award of the qualification or someone seeking to obtain the qualification.

454. *Subsections (3) to (5)* set out the steps that Ofqual must take before giving or revising a direction, including giving notice of its intention to do so and taking account of representations from the recognised body. The length of the notice period is not specified, and could vary depending on the urgency of the need to address the non-compliance. An awarding body is required to comply with the direction. *Subsection (7)* sets out the means by which Ofqual may enforce its directions through the courts.
455. The QCA currently has a similar power, but without the explicit requirements over process set out in subsections (3) to (5).

Section 152: Power to withdraw recognition

456. This section confers a power on Ofqual to withdraw recognition in respect of some or all of the qualifications in respect of which a body is recognised, if the body has breached a condition of recognition. The power may be exercised only if the recognised body has actually failed to comply with a condition and if this failure prejudices or would be likely to prejudice either the proper award or authentication of a qualification or someone who might reasonably be expected to seek to obtain such a qualification.
457. *Subsections (3) to (9)* set out the steps that Ofqual must take before withdrawing recognition, including giving notice of its intentions, taking account of representations from the awarding body, and arranging for the decision to be reviewed.
458. If it withdraws a recognition, Ofqual may make saving or transitional provision to deal with the impact of the withdrawal. For example, it may be appropriate to provide for the qualification not to be recognised other than to the extent that it is taken by those who began studying for the qualification before the decision to withdraw recognition was made. In deciding whether to make such provision, Ofqual will need to comply with its general duties, including the need to have regard to the reasonable requirements of relevant learners.
459. The power for the QCA to withdraw accreditation or recognition is currently implicit in the Education Act 1997 as amended by the Education and Skills Act 2008.

Section 153: Qualifications regulatory framework

460. This section requires Ofqual to publish:
- a statement on how it will perform its monitoring and enforcement functions (including its functions in relation to the setting of conditions), and
 - guidance to recognised bodies in relation to the award and authentication of qualifications.
461. Together these are known as the qualifications regulatory framework. Ofqual must consult on, and may revise, the framework.
462. *Subsections (3) and (4)* set out in more detail what the guidance must include. In particular, it must include guidance which helps determine whether or not particular behaviour complies with the general conditions of recognition. Recognised bodies are obliged to have regard to the guidance given by Ofqual when they award or authenticate qualifications in respect of which they are recognised.

Other

Section 154: Review of qualifications to which Part applies

463. A “regulated qualification” is a qualification awarded or authenticated by a body which is recognised in respect of that qualification. This section gives Ofqual the power to keep under review all aspects of qualifications to which Part 7 applies irrespective of whether or not they are regulated qualifications. This would allow Ofqual, for example,

to review why some awarding bodies were choosing not to seek recognition for their qualifications and whether that was detrimental to the interests of learners.

Section 155: Review of system for allocating values to qualifications

464. This section requires Ofqual to keep under review any system used by the Secretary of State which is:
- a) for allocating values to qualifications to which this Part applies by reference to the level of attainment indicated by the qualifications; and
 - b) for the purposes of a qualifications-based performance management system.
465. For example, the Secretary of State's Achievement and Attainment Tables currently measure the performance of schools with reference to qualifications obtained by pupils at the schools. In future, the School Report Card will provide similar information. The preparation of these reporting mechanisms requires the allocation of values to the qualifications to which they refer, so that the qualifications can be compared fairly and accurately. Ofqual will need to keep under review whether these values accurately reflect the level of attainment indicated by the qualifications – which includes both the depth of the knowledge etc. that needs to be demonstrated to attain each qualification, and how much study would typically be required to attain it. Ofqual is also given powers to collect from the Secretary of State the information it needs to discharge this duty. It will be able to use its powers under section 171(7) to publish a report on its findings (and if it wishes lay this before Parliament), notably whether it thinks that the allocation of values is appropriate.

Section 156: Co-operation and joint working

466. This section allows Ofqual to co-operate or work jointly with another public authority where it is appropriate to do so for the efficient and effective performance of any of its functions in connection with qualifications. This would allow it, for example, to work with other UK regulators of qualifications or with the UK Commission for Employment and Skills on the arrangements for overseeing Sector Skills Councils' work on vocational qualifications, or with the competition authorities if it had concerns about the effective operation of the qualifications market.

Section 157: Power to provide information to qualifications regulators

467. This section allows Ofqual to provide information to qualifications regulators elsewhere in the UK to support the qualifications functions of the other regulator. This will enable the continued operation of the three-country framework, whereby the qualifications regulators in England, Wales and Northern Ireland work together on the regulation of qualifications across the three countries. Such co-operation will remain subject to restrictions in other legislation relating to the sharing of information, such as the Data Protection Act 1998.