

# APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8: the Qualifications and Curriculum Development Agency**

##### *Chapter 1: The QCDA, objective and general duties*

#### **The QCDA**

##### *Section 175: The Qualifications and Curriculum Development Agency*

489. This section provides for the renaming of the QCA, which was established under the Education Act 1997 and will now be known as the Qualifications and Curriculum Development Agency. The section also gives effect to Schedule 11, which contains detailed provisions with respect to the constitution and proceedings of the QCDA. The QCDA will remain a Non-Departmental Public Body (NDPB), accountable to Ministers.
490. The QCDA will retain the QCA's non-regulatory functions, including supporting Ministers on developing the curriculum and related qualifications and delivering National Curriculum assessments. Regulatory functions will instead be exercised by Ofqual, established under Part 7.

##### *Schedule 11: The Qualifications and Curriculum Development Agency*

491. This Schedule makes detailed provisions relating to the QCDA, particularly in relation to its constitution and proceedings.

(1)

#### **Status**

492. [Paragraph 1](#) provides that the QCDA is not to be regarded as a servant or agent of the Crown, and that its property is not to be regarded as property of the Crown. There is no change in this regard to the status of the QCA.

(2)

#### **Membership**

493. [Paragraph 2](#) sets out the membership of the QCDA. Members are appointed by the Secretary of State, who must appoint one as the chair and may appoint another as the deputy chair. [Paragraph 5](#) makes provision for the tenure of office of the members, and how they may be removed from membership. [Paragraph 6](#) allows the Secretary to require that members be remunerated and that expenses and allowances be paid, with the amounts to be determined by the Secretary of State.

494. [Paragraph 3](#) provides for a chief officer who is appointed by the QCDA subject to the approval of the Secretary of State. The chief officer is an ex-officio member of the QCDA. Under paragraph 4, the Secretary of State may confer functions on the chair, but any such functions must not duplicate functions conferred on the chief officer.

(3)

### **Staff**

495. [Paragraphs 7 and 8](#) provide for the QCDA to have staff, and for their continued membership of the relevant pension scheme.

(4)

### **Committees and proceedings**

496. [Paragraph 9](#) allows the QCDA to establish committees, and for the committees to establish sub-committees. It also allows the Secretary of State to direct the QCDA to set up a committee for a specified purpose. The committee structure must be reviewed by the QCDA at least once every five years. A committee must include at least one member of the QCDA or its staff. Paragraph 10 allows the QCDA to establish joint committees with other bodies.

497. [Paragraphs 11 and 12](#) provide for the QCDA to regulate its own proceedings and for the Secretary of State or his representative, Ofsted and any other body directed by the Secretary of State to attend meetings of the QCDA.

498. Under paragraph 13, the QCDA may delegate any of its functions to a committee or a member of the QCDA or its staff.

499. [Paragraphs 14 and 15](#) provide respectively for a committee to delegate its functions to a sub-committee, and for the Secretary of State to authorise a committee established under a direction to perform functions of the QCDA.

(5)

### **Reports and accounts**

500. [Paragraph 16](#) requires the QCDA to prepare an annual report for each financial year, setting out how it has performed its functions in that year. The QCDA must publish the report and the Secretary of State must lay a copy before Parliament. There is no equivalent requirement currently for the QCA.

501. [Paragraph 17](#) requires the QCDA to keep and prepare accounts in line with any directions of the Secretary of State.

(6)

### **Documents**

502. [Paragraph 18](#) makes provision about the application of the QCDA's seal.

(7)

### **Funding**

503. [Paragraph 20](#) allows the Secretary of State to make grants to the QCDA and to attach conditions to those grants. This will be central to the relationship between the QCDA and the Secretary of State — it is the way in which the Secretary of State will give a remit to the QCDA over particular pieces of work he requires it do.

(8)

### **Supplementary powers**

504. [Paragraph 21](#) of the Schedule confers on the QCDA wide supplementary powers to do anything that it considers necessary or appropriate for the purposes of, or in connection

with, its functions. But the QCDA may not form companies or other bodies or enter into joint ventures without the Secretary of State's consent. The powers are also subject to restrictions provided for elsewhere in the sections (for example, the QCDA may not lend money).

## **Objective and general duties**

### ***Section 176: Objective***

505. This section sets out the QCDA's objective: to promote quality and coherence in education and training in England. For the purposes of the QCDA's functions, education includes learning by, and development of, young children pursuant to the Early Years Foundation Stage, which was established under the Childcare Act 2006.
506. The QCA has somewhat broader objectives and has roles in Wales and Northern Ireland. The QCDA will have no responsibilities outside England.

### ***Section 177: General duties***

507. This section sets out the matters to which the QCDA must have regard in exercising its functions and pursuing its overall objective. There is some equivalent material in section 26 of the Education Act 1997 setting out requirements to which the QCA must have regard. The duties under section 177 differ in some respects to those under the 1997 Act as described below.
508. The QCDA must have regard to the reasonable requirements of all learners, as defined in *subsection (6)* (this includes young children). The 1997 Act specified a duty to have regard to learners with special learning needs, but there was no equivalent statutory requirement in relation to other learners.
509. The section adopts a new definition of "persons with learning difficulties" (as defined in section 129) to replace the concept of "learners with special learning needs" in the 1997 Act. The only difference of substance is that the new definition provides that a person is not to be taken to have a learning difficulty solely because of a difference in the language in which he or she is to be taught and the language which he or she speaks at home.
510. The QCDA must have regard to the reasonable requirements of all employers (rather than just to those of various sectors thereof, as is the case with the QCA) and of higher education institutions.
511. The QCDA must have regard to the desirability of facilitating innovation.
512. There is an explicit requirement for the QCDA to perform its functions efficiently and effectively.
513. The QCDA must also have regard to such aspects of Government policy as the Secretary of State may direct.
514. As is the case with the QCA at present, the QCDA will also have to have regard to information provided by Ofsted and any other bodies specified by the Secretary of State. The QCDA must also have regard to information provided by Ofqual.
515. The QCDA must also (like the QCA) have regard to the requirements of section 78 of the Education Act 2002. That section provides—
- “The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
- (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and

*These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009*

- (b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life.”