



Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 7

THE OFFICE OF QUALIFICATIONS AND EXAMINATIONS REGULATION

CHAPTER 1

ESTABLISHMENT, OBJECTIVES AND GENERAL DUTIES

Establishment

127 The Office of Qualifications and Examinations Regulation

- (1) There is to be a body corporate known as the Office of Qualifications and Examinations Regulation.
- (2) In this Part that body is referred to as “Ofqual”.
- (3) Schedule 9 makes further provision about Ofqual.

Commencement Information

II S. 127 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

Objectives and general duties

128 Objectives

- (1) Ofqual's objectives are—

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- (a) the qualifications standards objective,
- (b) the assessments standards objective,
- (c) the public confidence objective,
- (d) the awareness objective, and
- (e) the efficiency objective.

[^{F1}(2) The qualifications standards objective is to secure that—

- (a) regulated qualifications give a reliable indication of knowledge, skills and understanding, and
- (b) regulated qualifications indicate —
 - (i) a consistent level of attainment (including over time) between comparable regulated qualifications, and
 - (ii) a consistent level of attainment (but not over time) between regulated qualifications and comparable qualifications (including those awarded outside the United Kingdom) which are not qualifications to which this Part applies.]

(3) The assessments standards objective is to promote the development and implementation of regulated assessment arrangements which—

- (a) give a reliable indication of achievement, and
- (b) indicate a consistent level of attainment (including over time) between comparable assessments.

(4) The public confidence objective is to promote public confidence in regulated qualifications and regulated assessment arrangements.

(5) The awareness objective is to promote awareness and understanding of—

- (a) the range of regulated qualifications available,
- (b) the benefits of regulated qualifications to learners, employers and institutions within the higher education sector, and
- (c) the benefits of recognition under section 132 to bodies awarding or authenticating qualifications to which this Part applies.

(6) The efficiency objective is to secure that regulated qualifications are provided efficiently and in particular that any relevant sums payable to a body awarding or authenticating a qualification in respect of which the body is recognised under section 132 represent value for money.

(7) For the purposes of subsection (6) a sum is relevant if it is payable in respect of the award or authentication of the qualification in question.

Textual Amendments

F1 S. 128(2) substituted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), ss. 22, 82(3); S.I. 2012/84, art. 3

Commencement Information

I2 S. 128 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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129 General duties

- (1) So far as reasonably practicable, in performing its functions Ofqual must act in a way—
 - (a) which is compatible with its objectives, and
 - (b) which it considers most appropriate for the purpose of meeting its objectives.
- (2) So far as relevant, in performing its functions Ofqual must have regard to—
 - (a) the need to ensure that the number of regulated qualifications available for award or authentication is appropriate;
 - (b) the other reasonable requirements of relevant learners, including persons with [F²special educational needs][F³or additional learning needs];
 - (c) the reasonable requirements of pupils and children, including persons with [F⁴special educational needs][F⁵or additional learning needs], in relation to regulated assessment arrangements;
 - (d) the reasonable requirements of industry, commerce, finance, the professions and other employers regarding education and training (including required standards of practical competence);
 - (e) the reasonable requirements of institutions within the higher education sector;
 - (f) information provided to Ofqual by a person falling within subsection (4);
 - (g) the desirability of facilitating innovation in connection with the provision of regulated qualifications;
 - (h) the specified purposes of regulated assessment arrangements.
- (3) For the purposes of subsection (2)(a) the number of regulated qualifications available for award or authentication is appropriate if the number is such that—
 - (a) there is a reasonable level of choice for learners, in terms of both the number of different regulated qualifications and the number of different forms of such qualifications, but
 - (b) the number of different regulated qualifications in similar subject areas or serving similar functions is not excessive.
- (4) The persons falling within this subsection are—
 - ^{F6}(a)
 - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
 - (c) such other relevant persons, or relevant persons of such a description, as the Secretary of State may direct.
- (5) In subsection (4)(c) “relevant person” means a person who appears to the Secretary of State to have knowledge of, or expertise in, requirements of a kind mentioned in subsection (2)(d).
- (6) In performing its functions Ofqual must also have regard to such aspects of government policy as the Secretary of State may direct.
- (7) The Secretary of State must publish a direction given under subsection (6).
- (8) Ofqual must perform its functions efficiently and effectively.
- ^{F7}(9)
- ^{F8}(10)

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- (11) “Relevant learner” means a person seeking to obtain, or who may reasonably be expected to seek to obtain, a regulated qualification.

Textual Amendments

- F2** Words in s. 129(2)(b) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 94(a)**; S.I. 2014/889, art. 7(a)
- F3** Words in s. 129(2)(b) inserted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 17(a)**; S.I. 2021/373, art. 8(j)(xxx)
- F4** Words in s. 129(2)(c) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 94(a)**; S.I. 2014/889, art. 7(a)
- F5** Words in s. 129(2)(c) inserted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 17(b)**; S.I. 2021/373, art. 8(j)(xxx)
- F6** S. 129(4)(a) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 8 para. 23**; S.I. 2012/924, art. 2
- F7** S. 129(9) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 94(b)**; S.I. 2014/889, art. 7(a)
- F8** S. 129(10) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 94(b)**; S.I. 2014/889, art. 7(a)

Commencement Information

- I3** S. 129 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, **Sch. 1**

Regulated qualifications and regulated assessment arrangements

130 Meaning of “regulated qualifications” etc.

- (1) In this Part a “regulated qualification” means a qualification to which this Part applies which is awarded or authenticated by a body which is recognised under section 132 in respect of the qualification.
- (2) This Part applies to any of the following qualifications which is not an excluded qualification—
- (a) an academic or vocational qualification awarded or authenticated in England;
 - ^{F9}(b)
- (3) An excluded qualification is any of the following—
- (a) a foundation degree;
 - (b) a first degree;
 - (c) a degree at a higher level.
- (4) For the purposes of subsection (2) a qualification is awarded or authenticated in England ^{F10}... if there are, or may reasonably be expected to be, persons seeking to obtain the qualification who are, will be or may reasonably be expected to be assessed for those purposes wholly or mainly in England ^{F10}....
- (5) The Secretary of State may by order repeal subsection (2)(b).
- (6) An order under subsection (5) may make amendments and repeals to a provision of, or in an instrument made under, this or any other Act (including any Act passed after this Act) in consequence of the repeal of subsection (2)(b).

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- (7) Before making an order under subsection (5) the Secretary of State must consult the Department for Employment and Learning in Northern Ireland.

Textual Amendments

- F9** S. 130(2)(b) omitted (14.6.2016) by virtue of [The Education \(Repeal of Arrangements for Vocational Qualifications Awarded or Authenticated in Northern Ireland\) Order 2016 \(S.I. 2016/642\)](#), arts. 1, 2
- F10** Words in s. 130(4) repealed (14.6.2016) by [The Education \(Repeal of Arrangements for Vocational Qualifications Awarded or Authenticated in Northern Ireland\) Order 2016 \(S.I. 2016/642\)](#), art. 1, [Sch. Table 1](#)

Commencement Information

- I4** S. 130 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

131 Meaning of “regulated assessment arrangements” etc.

- (1) This section applies for the purposes of this Part.
- (2) “Regulated assessment arrangements” means—
- (a) NC assessment arrangements, and
 - (b) EYFS assessment arrangements.
- (3) “NC assessment arrangements” means arrangements made under or by virtue of an order made under section 87(3)(c) of the Education Act 2002 (c. 32) for assessing pupils in England in respect of each key stage for the specified purposes.
- (4) In subsection (3)—
- “assessing” includes testing;
 - “key stage” has the same meaning as in Part 6 of the Education Act 2002 (c. 32) (see section 76 of that Act).
- (5) “EYFS assessment arrangements” means arrangements made under or by virtue of an order made under section 39(1)(a) of the Childcare Act 2006 (c. 21) for assessing children in England for the specified purposes.
- (6) “The specified purposes” in relation to regulated assessment arrangements—
- (a) if the arrangements are NC assessment arrangements, has the same meaning as in section 76(1) of the Education Act 2002;
 - (b) if the arrangements are EYFS assessment arrangements, has the same meaning as in section 41(2)(c) of the Childcare Act 2006.

Commencement Information

- I5** S. 131 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

Changes to legislation:

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Commencement Orders yet to be applied to the Apprenticeships, Skills, Children and Learning Act 2009

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/3341 art. 2](#) commences (2009 c. 22)
- [S.I. 2010/2413 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/829 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/882 art. 2](#) amendment to earlier commencing SI 2010/303 art. 7 Sch. 6