



Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 7

THE OFFICE OF QUALIFICATIONS AND EXAMINATIONS REGULATION

CHAPTER 2

FUNCTIONS IN RELATION TO QUALIFICATIONS

Recognition of awarding bodies

132 Recognition

- (1) Ofqual must recognise an awarding body in respect of the award or authentication of a specified qualification, or description of qualification, to which this Part applies if—
 - (a) the awarding body has applied for recognition in the respect in question, and
 - (b) the body meets the applicable criteria for recognition most recently published under section 133.
- (2) Ofqual may not recognise an awarding body if the requirements set out in paragraphs (a) and (b) of subsection (1) are not met by the body.
- (3) A recognition—
 - (a) has effect from such date as Ofqual may specify,
 - (b) is subject to the general conditions,
 - (c) if in respect of a qualification subject to the accreditation requirement, is subject to an accreditation condition, and
 - (d) is subject to such other conditions that Ofqual may impose at the time of recognition or later.

Changes to legislation: *Apprenticeships, Skills, Children and Learning Act 2009, Cross Heading: Recognition of awarding bodies is up to date with all changes known to be in force on or before 19 April 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. (See end of Document for details) View outstanding changes*

- (4) But Ofqual may, at the time of recognition or later, determine that a specified recognition is not to be subject to a specified general condition.
- (5) An accreditation condition in respect of a qualification subject to the accreditation requirement is a condition requiring that the recognised body may award or authenticate a particular form of the qualification only if, at the time of the award or authentication, that form of the qualification is accredited under section 139.
- (6) Ofqual may not charge an awarding body in respect of recognition.
- (7) If Ofqual refuses an application for recognition it must provide the awarding body with a statement setting out the reasons for its decision.
- (8) In this section “the general conditions”, in respect of a recognition of an awarding body, means the general conditions for the time being in force under section 134 which are applicable to the recognition and the body.
- (9) In this Chapter—
 - “awarding body” means a person who awards or authenticates, or who proposes to award or authenticate, a qualification to which this Part applies;
 - “recognised body” means an awarding body recognised under this section;
 - a “recognition” means a recognition under this section.
- [^{F1}(10) See section 35 of the Qualifications Wales Act 2015 for provision about the effect of conditions imposed by or under this section, in respect of or for the purposes of the award in Wales by an awarding body of a form of a qualification awarded as an approved qualification (for which see section 22(4) of that Act).]

Textual Amendments

- F1** S. 132(10) inserted (E.W.) (21.9.2015) by [Qualifications Wales Act 2015 \(anaw 5\)](#), **ss. 35(2), 60(2)**; [S.I. 2015/1687](#), **art. 2** (with **arts. 3-12**)

Commencement Information

- II** S. 132 in force at 1.4.2010 by [S.I. 2010/1151](#), **art. 2**, **Sch. 1**

133 Criteria for recognition

- (1) Ofqual must set and publish the criteria for recognition under section 132.
- (2) Different criteria may be set for—
 - (a) recognition of different descriptions of awarding bodies;
 - (b) recognition in respect of different qualifications or different descriptions of qualifications;
 - (c) recognition in respect of credits in respect of different components of qualifications or different descriptions of components of qualifications.
- (3) Ofqual may revise the criteria.
- (4) If Ofqual revises the criteria it must publish them as revised.
- (5) Before setting or revising the criteria Ofqual must consult such persons as it considers appropriate.

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Commencement Information

I2 S. 133 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

134 General conditions of recognition

- (1) Ofqual must set and publish the general conditions to which a recognition is to be subject.
- (2) Different general conditions may be set for—
 - (a) recognition of different descriptions of awarding bodies;
 - (b) recognition in respect of different qualifications or different descriptions of qualifications;
 - (c) recognition in respect of credits in respect of different components of qualifications or different descriptions of components of qualifications.
- (3) Ofqual may revise the general conditions.
- (4) If Ofqual revises the general conditions it must publish them as revised.
- (5) Before setting or revising the general conditions Ofqual must consult such persons as it considers appropriate.

Commencement Information

I3 S. 134 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

135 Other conditions of recognition

- (1) The conditions of recognition that Ofqual may impose under section 132(3)(d) include in particular—
 - (a) fee capping conditions;
 - (b) entry and inspection conditions.
- (2) Fee capping conditions are conditions limiting the amount of a fee chargeable by a recognised body for—
 - (a) the award or authentication of a qualification in respect of which the body is recognised, or
 - (b) the provision of any other service in relation to such a qualification.
- (3) Entry and inspection conditions are conditions requiring permission to enter premises for the purposes of inspecting and copying documents so far as necessary for Ofqual—
 - (a) to satisfy itself that the appropriate standards are being maintained by a recognised body in relation to the award or authentication of any qualification in respect of which the body is recognised, or
 - (b) to determine whether to impose a fee capping condition and, if so, what that condition should be.

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Commencement Information

I4 S. 135 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

136 Fee capping conditions: supplementary

- (1) Ofqual may impose a fee capping condition limiting the amount of a particular fee only if satisfied that the limit is necessary in order to secure value for money.
- (2) Before imposing a fee capping condition in respect of a recognition Ofqual must give notice to the recognised body of its intention to do so.
- (3) The notice must—
 - (a) set out Ofqual's reasons for proposing to impose the fee capping condition, and
 - (b) specify the period during which, and the way in which, the recognised body may make representations about the proposal.
- (4) Ofqual must have regard to any representations made by the recognised body during the period specified in the notice in deciding whether to impose the fee capping condition.
- (5) Ofqual must establish arrangements (the “review arrangements”) for the review, at the request of a recognised body, of a decision to impose a fee capping condition.
- (6) The review arrangements must require the decision on review to be made by a person within subsection (7).
- (7) A person within this subsection is one who—
 - (a) appears to Ofqual to have skills likely to be relevant to decisions to impose fee capping conditions, and
 - (b) is independent of Ofqual.
- (8) A person is independent of Ofqual for the purposes of subsection (7) if the person is—
 - (a) an individual who is not a member of Ofqual or Ofqual's staff, or
 - (b) a body none of whose members is a member of Ofqual or Ofqual's staff.
- (9) A decision to impose a fee capping condition must not take effect before the later of—
 - (a) the expiry of the period during which a review can be requested under the review arrangements, and
 - (b) the completion of any review requested under those arrangements.
- (10) Ofqual must, in performing its functions in relation to fee capping conditions, have regard to any guidance given by the Secretary of State.
- (11) The Secretary of State must publish any guidance given under subsection (10).

Commencement Information

I5 S. 136 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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137 Entry and inspection conditions: supplementary

- (1) An entry and inspection condition requires permission to enter premises to be given only if—
 - (a) the premises in question are not used as a private dwelling,
 - (b) the entry is to be by an authorised person,
 - (c) reasonable notice has been given to the recognised body in question, and
 - (d) the entry is to be at a reasonable time.
- (2) “Authorised person” means a member of Ofqual's staff who is authorised (generally or specifically) for the purpose.
- (3) An entry and inspection condition may require an authorised person to be given permission to do anything that a person authorised by a provision of Part 1 of the Education Act 2005 (c. 18) to inspect documents could do by virtue of section 58 of that Act (computer records).

Commencement Information

I6 S. 137 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