



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 7

#### THE OFFICE OF QUALIFICATIONS AND EXAMINATIONS REGULATION

### CHAPTER 3

#### FUNCTIONS IN RELATION TO ASSESSMENT ARRANGEMENTS

##### *Development etc. of regulated assessment arrangements*

#### **159 NC assessment arrangements: duty to consult Ofqual etc.**

(1) Section 87 of the Education Act 2002 (c. 32) (establishment of the National Curriculum for England by order) is amended as follows.

(2) Before subsection (7) insert—

“(6A) Before making an order under subsection (3)(c) the Secretary of State—

- (a) shall consult the Office of Qualifications and Examinations Regulation, and
- (b) may consult such other persons as the Secretary of State considers appropriate.”

(3) After subsection (8) insert—

“(8A) An order under subsection (3)(c) which includes provision made by virtue of subsection (8) shall provide that before making or revising the assessment arrangements the person specified in the order—

- (a) shall consult the Office of Qualifications and Examinations Regulation, and

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- (b) may consult such other persons as that person considers appropriate.”
- (4) After subsection (12) (as inserted by paragraph 35 of Schedule 12) insert—
- “(12A) An order under subsection (3)(c) which authorises a person to make delegated supplementary provisions shall provide that before making, amending or revoking any such provisions the person so authorised—
- (a) shall consult the Office of Qualifications and Examinations Regulation, and
- (b) may consult such other persons as that person considers appropriate.”

#### Commencement Information

- I1** S. 159(1)(2) in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)
- I2** S. 159(3)(4) in force at 1.4.2010 for specified purposes by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

#### 160 EYFS assessment arrangements: duty to consult Ofqual etc.

- (1) Section 42 of the Childcare Act 2006 (c. 21) (further provisions about assessment arrangements) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Before making a learning and development order specifying assessment arrangements the Secretary of State—
- (a) must consult the Office of Qualifications and Examinations Regulation, and
- (b) may consult such other persons as the Secretary of State considers appropriate.”
- (3) After subsection (3) insert—
- “(3A) A learning and development order which includes provision made by virtue of subsection (3) must provide that before making or revising the assessment arrangements the person specified in the order—
- (a) must consult the Office of Qualifications and Examinations Regulation, and
- (b) may consult such other persons as that person considers appropriate.”
- (4) After subsection (6A) (as inserted by paragraph 40 of Schedule 12) insert—
- “(6AA) A learning and development order which authorises a person to make delegated supplementary provisions must provide that before making, amending or revoking any such provisions the person so authorised—
- (a) must consult the Office of Qualifications and Examinations Regulation, and
- (b) may consult such other persons as that person considers appropriate.”

#### Commencement Information

- I3** S. 160(1)(2) in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)
- I4** S. 160(3)(4) in force at 1.4.2010 for specified purposes by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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### *Review etc. of regulated assessment arrangements*

## **161 Review of regulated assessment arrangements**

- (1) Ofqual must keep under review all aspects of NC assessment arrangements.
- (2) Ofqual must keep under review all aspects of EYFS assessment arrangements.

### **Commencement Information**

**I5** S. 161 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

## **162 Powers to require information**

- (1) Ofqual may at any time require a person falling within subsection (2) to provide it with any information which Ofqual considers it necessary or expedient to have for the purposes of, or in connection with, the performance by Ofqual of its function under section 161(1).
- (2) The persons are—
  - (a) the Secretary of State;
  - (b) an NC responsible body;
  - (c) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (d) any other person specified or of a description specified in regulations.
- (3) Ofqual may at any time require a person falling within subsection (4) to provide it with any information which Ofqual considers it necessary or expedient to have for the purposes of, or in connection with, the performance by Ofqual of its function under section 161(2).
- (4) The persons are—
  - (a) the Secretary of State;
  - (b) an EYFS responsible body;
  - (c) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (d) any other person specified or of a description specified in regulations.
- (5) In this Chapter—

“EYFS responsible body” means a person who under or by virtue of an order made under section 39(1)(a) of the Childcare Act 2006 (c. 21) has functions in relation to the development, implementation or monitoring of EYFS assessment arrangements;

“NC responsible body” means a person who under or by virtue of an order made under section 87(3)(c) of the Education Act 2002 (c. 32) has functions in relation to the development, implementation or monitoring of NC assessment arrangements.

### **Commencement Information**

**I6** S. 162 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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### **163 Duty to notify significant failings**

- (1) If it appears to Ofqual that there is or is likely to be a significant failing in NC assessment arrangements Ofqual must notify—
  - (a) the Secretary of State, and
  - (b) any NC responsible body whose act or omission appears to Ofqual to have contributed to the significant failing.
- (2) If it appears to Ofqual that there is or is likely to be a significant failing in EYFS assessment arrangements Ofqual must notify—
  - (a) the Secretary of State, and
  - (b) any EYFS responsible body whose act or omission appears to Ofqual to have contributed to the significant failing.
- (3) There is a significant failing in NC assessment arrangements or (as the case may be) EYFS assessment arrangements if, as a result of the way in which the arrangements are being developed or implemented, they fail in a significant way to achieve one or more of the specified purposes of the arrangements.

#### **Commencement Information**

**I7** S. 163 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

### *Regulatory frameworks*

### **164 NC assessments regulatory framework**

- (1) Ofqual must prepare and publish a document (“the NC assessments regulatory framework”) which—
  - (a) contains a description of how Ofqual intends to perform its function under section 161(1), and
  - (b) gives guidance to NC responsible bodies about the performance of their functions in relation to NC assessment arrangements.
- (2) Ofqual—
  - (a) may revise the NC assessments regulatory framework, and
  - (b) if it does so, it must publish the revised version.
- (3) Before publishing the NC assessments regulatory framework or a revised version of it, Ofqual must consult—
  - (a) the Secretary of State, and
  - (b) such NC responsible bodies and other persons as it considers appropriate.
- (4) An NC responsible body must have regard to the NC assessments regulatory framework in performing its functions in relation to NC assessment arrangements.

#### **Commencement Information**

**I8** S. 164 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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## 165 EYFS assessments regulatory framework

- (1) Ofqual must prepare and publish a document (“the EYFS assessments regulatory framework”) which—
  - (a) contains a description of how Ofqual intends to perform its function under section 161(2), and
  - (b) gives guidance to EYFS responsible bodies about the performance of their functions in relation to EYFS assessment arrangements.
- (2) Ofqual—
  - (a) may revise the EYFS assessments regulatory framework, and
  - (b) if it does so, it must publish the revised version.
- (3) Before publishing the EYFS assessments regulatory framework or a revised version of it, Ofqual must consult—
  - (a) the Secretary of State, and
  - (b) such EYFS responsible bodies and other persons as it considers appropriate.
- (4) An EYFS responsible body must have regard to the EYFS assessments regulatory framework in performing its functions in relation to EYFS assessment arrangements.

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### Commencement Information

**I9** S. 165 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

### General

## 166 Interpretation of Chapter

In this Chapter—

- “EYFS assessment arrangements” has the meaning given by section 131;
- “EYFS responsible body” has the meaning given by section 162;
- “NC assessment arrangements” has the meaning given by section 131;
- “NC responsible body” has the meaning given by section 162.

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### Commencement Information

**I10** S. 166 in force at 1.4.2010 by [S.I. 2010/1151](#), art. 2, [Sch. 1](#)

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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