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STATUTORY INSTRUMENTS

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**2010 No. 1151**

The Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No. 3 and Transitional and Transitory Provisions) and (Commencement No. 2 (Amendment)) Order 2010

PART 1

Citation and interpretation

**Citation and interpretation**

1.—(1) This Order may be cited as the Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No. 3 and Transitional and Transitory Provisions) and (Commencement No. 2 (Amendment)) Order 2010.

(2) In this Order—

“the Act” means the Apprenticeships, Skills, Children and Learning Act 2009;

“the CCEA” means the Northern Ireland Council for the Curriculum, Examinations and Assessment;

“Ofqual” means the Office of Qualifications and Examinations Regulation;

“the QCA” means the Qualifications and Curriculum Authority;

“the 1997 Act” means the Education Act 1997<sup>(1)</sup>;

“the 1998 Order” means the Education (Northern Ireland) Order 1998<sup>(2)</sup>;

“the 2002 Act” means the Education Act 2002<sup>(3)</sup>.

(3) In this Order a reference to the award or authentication of a qualification includes a reference to—

- (a) the award or authentication of credits in respect of components of a qualification, and
- (b) the award or authentication of a qualification by a person either alone or jointly with others.

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<sup>(1)</sup> 1997 c. 44.

<sup>(2)</sup> S.I. 1998/1759 (N.I. 13).

<sup>(3)</sup> 2002 c. 32.

## PART 2

### Commencement

#### **Provisions coming into force on 1st April 2010**

2. The provisions of the Act specified in column 1 of Schedule 1 come into force on 1st April 2010 to the extent specified in column 2 of the Schedule.

#### **Provision coming into force on 1st July 2010**

3. Section 155 of the Act comes into force on 1st July 2010.

#### **Provisions coming into force on 1st September 2010**

4. The provisions of the Act specified in column 1 of Schedule 2 come into force on 1st September 2010, to the extent specified in column 2 of the Schedule.

## PART 3

### Transitional provisions: Office of Qualifications and Examinations Regulation

#### **Continuity: general**

5.—(1) This article applies to the extent that a function (“the new function”) exercisable by Ofqual on and after 1st April 2010 corresponds to a function (“the old function”) exercisable by the QCA before that date.

(2) Anything done before 1st April 2010 by or in relation to the QCA in connection with the old function is to be treated, on and after that date, as done, or to be continued, by or in relation to Ofqual in connection with the new function.

(3) Accordingly, references to the QCA and the old function in a document relating to the old function are to be read, on and after 1st April 2010, as references to Ofqual and the new function.

(4) Paragraphs (1) to (3) have effect subject to the following provisions of this Order.

#### **Persons to be treated as recognised under section 132 of the Act**

6.—(1) This article applies where, immediately before 1st April 2010, a person is recognised, or is treated by the QCA as recognised, under section 24(2)(eb) of the 1997 Act in respect of the award or authentication of a particular qualification or description of qualification.

(2) With effect from 1st April 2010, the person is to be treated as recognised by Ofqual under section 132 of the Act in respect of the award or authentication of that qualification or description of qualification.

7.—(1) This article applies where—

- (a) the CCEA requires a person, before submitting a form of a vocational qualification to it for accreditation under Article 75(1)(b) of the 1998 Order, to be recognised by it in respect of the award or authentication of that qualification or a description of vocational qualification which applies to that qualification, and

(b) immediately before 1st April 2010, a person is accordingly recognised by the CCEA in respect of the award or authentication of a particular vocational qualification or description of vocational qualification.

(2) With effect from 1st April 2010, the person is to be treated as recognised by Ofqual under section 132 of the Act in respect of the award or authentication of that vocational qualification or description of vocational qualification.

### **Applications for recognition**

**8.**—(1) This article applies where an application for recognition under section 24(2)(eb) of the 1997 Act in respect of the award or authentication of a particular qualification or description of qualification has been made to the QCA but not determined by it before 1st April 2010.

(2) With effect from 1st April 2010, the application is to be treated as an application for recognition under section 132 of the Act in respect of the award or authentication of that qualification or description of qualification.

**9.**—(1) This article applies where—

(a) the CCEA requires a person, before submitting a form of a vocational qualification to it for accreditation under Article 75(1)(b) of the 1998 Order, to be recognised by it in respect of the award or authentication of that qualification or a description of vocational qualification which applies to that qualification, and

(b) an application for recognition in respect of a vocational qualification or description of vocational qualification has accordingly been made to the CCEA but not determined by it before 1st April 2010.

(2) With effect from 1st April 2010, the application is to be treated as an application for recognition under section 132 of the Act in respect of the award or authentication of that vocational qualification or description of vocational qualification.

### **Criteria for recognition**

**10.**—(1) This article applies in relation to any criteria published by the QCA (“the transitional criteria”) which, immediately before 1st April 2010, are treated by the QCA as recognition criteria in respect of the award or authentication of a particular qualification or description of qualification.

(2) For the purposes of paragraph (1) “recognition criteria” are criteria developed and published by the QCA under section 24(2)(ea) of the 1997 Act for the recognition of persons under section 24(2)(eb) of that Act.

(3) With effect from 1st April 2010, the transitional criteria are to be treated as criteria set and published by Ofqual under section 133 of the Act for the recognition of persons under section 132 of that Act in respect of the award or authentication of the qualification or description of qualification mentioned in paragraph (1).

(4) With effect from 1st April 2010, any consultation carried out by the QCA for the purpose of developing the transitional criteria is to be treated as if it had been carried out by Ofqual under section 133(5) of the Act before setting the criteria.

**11.**—(1) This article applies in relation to—

(a) the consultation carried out by the QCA in the document published in December 2009 and called “Regulating for confidence in standards: consultation on the regulation of qualifications, examinations and assessments”;

(b) the consultation carried out by the QCA in the document published in March 2010 and called “Regulatory arrangements for component and Diploma awarding bodies: Recognition requirements and operating rules”.

(2) With effect from 1st April 2010, so far as relating to proposed recognition criteria, those consultations are to be treated as if they had been carried out by Ofqual under section 133(5) of the Act.

(3) For the purposes of paragraph (2) “recognition criteria” are criteria set by Ofqual under section 133 of the Act.

### **General conditions of recognition**

**12.**—(1) This article applies in relation to the document published by the QCA in March 2010 and called “General conditions of recognition on awarding organisations”.

(2) With effect from 1st April 2010, the proposed general conditions included in that document are to be treated as the general conditions set and published by Ofqual under section 134 of the Act.

**13.**—(1) This article applies in relation to the consultation carried out by the QCA in the document published in December 2009 and called “Regulating for confidence in standards: consultation on the regulation of qualifications, examinations and assessments”.

(2) With effect from 1st April 2010, so far as relating to proposed general conditions, that consultation is to be treated as if it had been carried out by Ofqual under section 134(5) of the Act.

(3) For the purposes of paragraph (2) “general conditions” are conditions set by Ofqual under section 134 of the Act.

### **Qualifications subject to accreditation requirement**

**14.**—(1) With effect from 1st April 2010, Ofqual is to be treated as if it had made a determination under section 138(1) of the Act in the following terms.

(2) The terms are that a qualification or description of qualification is subject to the accreditation requirement for the purposes of award or authentication by a person who is treated by article 6 or 7 as recognised under section 132 of the Act in respect of the award or authentication of the qualification or description of qualification.

### **Accredited qualifications**

**15.**—(1) This article applies in relation to a form of a qualification which, immediately before 1st April 2010—

(a) is accredited by the QCA under section 24(2)(g) of the 1997 Act, or

(b) is a vocational qualification accredited by the CCEA under Article 75(1)(b) of the 1998 Order.

(2) With effect from 1st April 2010, that form of the qualification is to be treated as accredited by Ofqual under section 139 of the Act.

### **Qualifications submitted for accreditation**

**16.**—(1) This article applies where, before 1st April 2010—

(a) a form of a qualification has been submitted to the QCA for accreditation under section 24(2)(g) of the 1997 Act, or

(b) a form of a vocational qualification has been submitted to the CCEA for accreditation under Article 75(1)(b) of the 1998 Order,

and the QCA or (as the case may be) the CCEA has not reached a decision before that date on whether to accredit the form of the qualification.

(2) With effect from 1st April 2010, the form of the qualification is to be treated as having been submitted to Ofqual for accreditation under section 139 of the Act by a body which is recognised under section 132 of that Act in respect of the award or authentication of the qualification, or of a description of qualification which applies to the qualification.

### **Criteria for accreditation**

**17.**—(1) This article applies in relation to any criteria (“the transitional criteria”) which—

- (a) are developed and published by the QCA under section 24(2)(f) of the 1997 Act for the accreditation of a qualification or description of qualification, and
- (b) have effect immediately before 1st April 2010.

(2) With effect from 1st April 2010, the transitional criteria are to be treated as criteria for accreditation under section 139 of the Act which are—

- (a) set and published by Ofqual under section 140 of the Act, and
- (b) applicable to that qualification or description of qualification.

(3) With effect from 1st April 2010, any consultation carried out by the QCA for the purpose of developing the transitional criteria is to be treated as if it had been carried out by Ofqual under section 140(5) of the Act before setting the criteria.

**18.**—(1) This article applies in relation to the consultation carried out by the QCA in the document published in March 2010 and called “Criteria for the Diploma qualifications in science at Advanced level: Principal Learning”.

(2) With effect from 1st April 2010, so far as relating to proposed accreditation criteria, that consultation is to be treated as if it had been carried out by Ofqual under section 140(5) of the Act.

(3) For the purposes of paragraph (2) “accreditation criteria” are criteria set by Ofqual under section 140 of the Act.

### **Complaints**

**19.**—(1) This article applies where, immediately before 1st April 2010, the QCA are investigating a complaint in relation to the award or authentication of a qualification by a person who is recognised, or is treated by the QCA as recognised, under section 24(2)(eb) of the 1997 Act in respect of the award or authentication of the qualification, or a description of qualification which applies to the qualification.

(2) With effect from 1st April 2010, the complaint is to be treated for the purposes of section 150 of the Act as a complaint made to Ofqual in relation to the award or authentication of a regulated qualification.

### **NC assessments regulatory framework and EYFS assessments regulatory framework**

**20.**—(1) This article applies in relation to the following documents (“the assessments guidance”)

- (a) the document published by the QCA in March 2010 and called “National Curriculum assessments: regulatory framework”, and
- (b) the document published by the QCA in March 2010 and called “National Curriculum assessments: code of practice”.

(2) With effect from 1st April 2010, the assessments guidance, so far as relating to NC assessment arrangements, is to be treated as—

- (a) forming part of the NC assessments regulatory framework, and
- (b) constituting the guidance required by section 164(1)(b) of the Act to be included in that framework.

(3) With effect from 1st April 2010, the assessments guidance, so far as relating to EYFS assessment arrangements, is to be treated as—

- (a) forming part of the EYFS assessments regulatory framework, and
- (b) constituting the guidance required by section 165(1)(b) of the Act to be included in that framework.

## PART 4

Transitory provisions: paragraph 33 of Schedule 12 to the Act

### Paragraph 33 of Schedule 12 to the Act

**21.** Until section 74(1) of the Education and Inspections Act 2006<sup>(4)</sup> comes into force the reference in paragraph 33 of Schedule 12 to section 85(6) of the 2002 Act is to be read as a reference to section 85(9) of that Act.

## PART 5

Amendment of the Apprenticeships, Skills, Children and Learning Act 2009  
(Commencement No. 2 and Transitional and Savings Provisions) Order 2010

### Amendment of the Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No.2 and Transitional and Saving Provisions) Order 2010

**22.**—(1) The Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No.2 and Transitional and Saving Provisions) Order 2010 <sup>(5)</sup> is amended as follows.

(2) After article 12 insert—

“**13.** Despite the coming into force of section 123 of and paragraphs 14, 15, 41 and 50 of Schedule 6 to, and section 266 of and Part 2 of Schedule 16 to the Act (which repeal sections 1 and 28 of, and Schedule 1 to, the Learning and Skills Act 2000<sup>(6)</sup>), in accordance with article 3, section 28 and paragraph 14 of Schedule 1 to the Learning and Skills Act 2000 continue to have effect in respect of the financial year beginning on 1st April 2009 only, save that the first reference to the Council is to be read as a reference to the Chief Executive of Skills Funding.

**14.**—(1) Despite the coming into force of section 123 of and paragraphs 14 and 16 of Schedule 6 to, and section 266 of and Part 2 of Schedule 16 to the Act (which repeal section 2 of the Learning and Skills Act 2000), in accordance with article 3, section 2 of the Learning and Skills Act 2000 continues to have effect in accordance with paragraph (2) until the earliest date on which regulations under section 1(5)(b) of the Act come into force.

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<sup>(4)</sup> 2006 c. 40.

<sup>(5)</sup> S.I. 2010/303.

<sup>(6)</sup> 2000. c.21.

(2) As continued in effect by paragraph (1), section 2 of the Learning and Skills Act 2000 has effect with the following modifications—

- (a) in subsection (1), for “The Council must” substitute “In connection with working otherwise than under a contract of employment, the Chief Executive of Skills Funding may”;
- (b) in subsection (3), for “performing the duty” substitute “exercising the power” and for “Council’s” substitute “Chief Executive’s”;
- (c) in subsection (3)(e), omit “and in particular avoid provision which might give rise to disproportionate expenditure”;
- (d) omit subsection (4).”

30th March 2010

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