



Qualifications Wales Act 2015

2015 anaw 5

PART 4

PRIORITY QUALIFICATIONS AND APPROVAL OF QUALIFICATIONS

Priority qualifications

13 Duty to prepare list of priority qualifications

- (1) Qualifications Wales and the Welsh Ministers must jointly prepare a list of qualifications, in respect of each of which the condition in subsection (2) is met.
- (2) The condition is that Qualifications Wales and the Welsh Ministers are satisfied that ensuring and maintaining public confidence in the qualification is a priority for Qualifications Wales, by reason of the significance of the qualification having regard to the needs of learners and employers in Wales.
- (3) The list may make provision by reference to qualifications, or descriptions of qualification.
- (4) The list must be published, in whatever way Qualifications Wales and the Welsh Ministers agree.
- (5) Qualifications Wales and the Welsh Ministers may jointly review the list and, if they consider it appropriate, revise it.
- (6) In this Act—
 - (a) references to a priority qualification are to a qualification included on the list, or to a qualification that is of a description included on the list;
 - (b) references to a restricted priority qualification are to a priority qualification in respect of which a determination under section 14 has effect;
 - (c) references to an unrestricted priority qualification are to a priority qualification in respect of which no determination under section 14 has effect.

14 Restricted priority qualifications

- (1) Qualifications Wales may make a determination under this section in respect of a priority qualification if the condition in subsection (3) is met.
- (2) A determination under this section is a determination specifying the maximum number (being either one or more) of forms of the qualification that are to be capable of being approved under this Part at any one time.
- (3) The condition is that Qualifications Wales is satisfied that, having regard to the principal aims of Qualifications Wales, and to the objectives in subsection (4), it is desirable to restrict the number of forms of the qualification that are approved by Qualifications Wales under this Part to the maximum number that is specified in the determination.
- (4) The objectives are to—
 - (a) avoid inconsistency between different forms of the same qualification (whether by reference to the level of attainment indicated by different forms of the same qualification, or otherwise), and
 - (b) enable Qualifications Wales to exercise choice between different awarding bodies, in entering into arrangements under section 15, and between different forms of a qualification, in granting approval under section 17.
- (5) Qualifications Wales must publish a determination under this section.
- (6) Qualifications Wales must exercise its functions under sections 15 to 17 so as to secure that the number of forms of a restricted priority qualification approved by it under this Part does not exceed the maximum number specified in the determination under this section in respect of the qualification.
- (7) If Qualifications Wales proposes to make a determination under this section in respect of a qualification, it must before doing so—
 - (a) notify each recognised body, and any other person that Qualifications Wales considers might reasonably be expected to have an interest in the proposed determination, of the proposal, and
 - (b) consider any representations made to it by those persons in respect of the proposal.
- (8) A determination under this section may be revoked or varied; and the preceding provisions of this section apply for the purposes of a variation of a determination as if it was the making of a determination.

15 Power to make arrangements for development of restricted priority qualification

- (1) Qualifications Wales may enter into arrangements with an awarding body the effect of which is to provide for the body to develop a new form of a restricted priority qualification, with a view to the prospective approval of that form of the qualification under section 16.
- (2) The arrangements may make provision about, among other things—
 - (a) criteria to be met by the form of the qualification to be developed;
 - (b) payments to be made by Qualifications Wales in respect of its development.
- (3) Qualifications Wales must prepare a scheme making provision about the making of arrangements under this section.

- (4) Qualifications Wales must exercise its functions in accordance with the scheme.
- (5) The scheme must provide for a procedure that is open, fair and transparent.
- (6) Qualifications Wales may revise the scheme.
- (7) The scheme must be published by Qualifications Wales.

16 Approval of a restricted priority qualification developed in accordance with section 15 arrangements

- (1) This section applies where a form of a restricted priority qualification has been developed by an awarding body in accordance with arrangements under section 15.
- (2) If the awarding body is recognised in respect of the award of the qualification concerned, it may make an application to Qualifications Wales for approval of the form of the qualification under this section.
- (3) Qualifications Wales must consider whether to approve the form of the qualification for award in Wales by the body concerned.
- (4) Qualifications Wales may if it considers it appropriate to do so approve the form of the qualification for award in Wales by the body concerned.
- (5) But this is subject to section 21 (power to specify minimum requirements).
- (6) For the purposes of this Part, the award of a form of a qualification in Wales is its award to persons assessed in respect of the qualification wholly or mainly in Wales.

17 Approval of a restricted priority qualification in the absence of section 15 arrangements

- (1) This section applies for the purpose of the approval by Qualifications Wales of a form of a qualification that is a restricted priority qualification, but in respect of which Qualifications Wales does not propose to enter into arrangements under section 15.
- (2) Qualifications Wales may, on an application from a body that is recognised in respect of the award of the qualification concerned, if it considers it appropriate to do so approve a form of the qualification for award in Wales by the body concerned.
- (3) Qualifications Wales must prepare a scheme making provision about—
 - (a) the making of applications for approval under subsection (2);
 - (b) the consideration by Qualifications Wales of those applications.
- (4) Qualifications Wales must exercise its functions in accordance with the scheme.
- (5) The scheme must provide for a procedure that is open, fair and transparent.
- (6) Qualifications Wales may revise the scheme.
- (7) The scheme must be published by Qualifications Wales.
- (8) Subsection (2) is subject to section 21 (power to specify minimum requirements).

18 Approval of unrestricted priority qualifications

- (1) This section applies where an application is made to Qualifications Wales for approval of a form of an unrestricted priority qualification by an awarding body that is recognised in respect of the award of the qualification concerned.
- (2) Qualifications Wales must consider whether to approve the form of the qualification for award in Wales by the body concerned.
- (3) Qualifications Wales may if it considers it appropriate to do so approve the form of the qualification for award in Wales by the body concerned.
- (4) But this is subject to section 21 (power to specify minimum requirements).

Other qualifications

19 Approval of qualifications that are not priority qualifications

- (1) This section applies where—
 - (a) an application is made to Qualifications Wales, for approval of a form of a qualification, by an awarding body that is recognised in respect of the award of the qualification concerned, and
 - (b) Qualifications Wales is satisfied that the qualification concerned is not a priority qualification.
- (2) Qualifications Wales may at its discretion determine whether to consider the form of the qualification for approval.
- (3) If Qualifications Wales does consider the form of the qualification for approval it may approve the form of the qualification for award in Wales by the body concerned, if it considers it appropriate to do so.
- (4) But this is subject to section 21 (power to specify minimum requirements).
- (5) Qualifications Wales must prepare a scheme making provision about the making of determinations under subsection (2).
- (6) The scheme must, among other things, set out factors likely to be taken into account by Qualifications Wales in determining whether to consider a form of qualification for approval.
- (7) Qualifications Wales must exercise its functions in accordance with the scheme.
- (8) Qualifications Wales may revise the scheme.
- (9) The scheme must be published by Qualifications Wales.

Approval criteria

20 Approval criteria

- (1) Qualifications Wales must set and publish criteria to be applied by it in deciding whether to approve a form of a qualification under this Part.

Status: This is the original version (as it was originally enacted).

- (2) The criteria may make different provision by reference to different qualifications or different descriptions of qualification.
- (3) Qualifications Wales may revise the criteria.
- (4) If Qualifications Wales revises the criteria, it must publish the criteria as revised.

Power for Welsh Ministers to specify minimum requirements

21 Power to specify minimum requirements

- (1) The Welsh Ministers may by regulations specify minimum requirements, in relation to a qualification, that are to be met by any form of that qualification approved under this Part.
- (2) The requirements must relate to the knowledge, skills or understanding required to be demonstrated for the purpose of determining whether a person is to be awarded the qualification.
- (3) But a requirement may be specified in relation to a qualification only if the Welsh Ministers are satisfied that it is necessary to specify that requirement in order to ensure that the curriculum pursued by persons taking a course leading to the qualification is appropriate for the reasonable needs of those persons.
- (4) Before making regulations under this section specifying minimum requirements, the Welsh Ministers must consult Qualifications Wales and such other persons (if any) as they consider appropriate, specifying—
 - (a) the proposed minimum requirements, and
 - (b) their reasons for proposing them.
- (5) Where requirements have been specified in relation to a qualification by regulations under this section, Qualifications Wales may not approve a form of that qualification under this Part unless satisfied that form of the qualification complies with those requirements.

Supplementary provision relevant to all approvals

22 Conditions of approval

- (1) Approval of a form of a qualification—
 - (a) must be subject to a condition within subsection (2), and
 - (b) is to be subject to any other conditions Qualifications Wales may impose either at the time of granting approval or subsequently.
- (2) A condition within this subsection is a condition requiring a form of a qualification that is to be awarded as an approved qualification to be identified by an approval number.
- (3) An approval number is a number (with or without letters or symbols) allocated to a qualification by Qualifications Wales.
- (4) A form of a qualification is awarded as an approved qualification only if it is awarded with its approval number in accordance with the condition mentioned within subsection (2).

- (5) The conditions that may be imposed by Qualifications Wales may make different provision, in respect of the award of the same qualification, for different purposes (including among other things by reference to the circumstances in which, or the persons or descriptions of persons to whom, a qualification is awarded).
- (6) If after approving a form of a qualification for award by a recognised body Qualifications Wales—
 - (a) imposes new conditions to which the approval is to be subject, or
 - (b) varies the conditions to which the approval is to be subject,
 it must give notice to the awarding body of the new (or varied) conditions.
- (7) The notice must—
 - (a) specify the date on which the new conditions (or the conditions as varied) will come into effect, and
 - (b) give reasons for the change.

23 Duration of approval

- (1) Approval under section 16 or 17—
 - (a) has effect from whatever date is specified by Qualifications Wales, and
 - (b) is to be granted for a limited period specified by Qualifications Wales on granting approval.
- (2) Approval under section 18 or 19—
 - (a) has effect from whatever date is specified by Qualifications Wales, and
 - (b) may be granted indefinitely or for a limited period specified by Qualifications Wales on granting approval.

24 Rules about applications for approval

- (1) Qualifications Wales must make rules about the making of applications to it under this Part.
- (2) The rules may make different provision for different purposes.
- (3) The rules may make provision about—
 - (a) the form and contents of applications;
 - (b) the way in which applications are to be made (including as to any fee payable in respect of an application).
- (4) The rules made under this section must be published by Qualifications Wales.

Surrender and withdrawal of approval

25 Surrender of approval

- (1) An awarding body may give notice to Qualifications Wales that it wishes approval of a form of a qualification awarded by it to cease to have effect (a “surrender notice”).
- (2) A surrender notice must specify the date with the expiry of which the body wishes the approval to cease to have effect.

- (3) As soon as reasonably practicable after receipt of a surrender notice, Qualifications Wales must give notice to the awarding body (an “acknowledgement of surrender”) providing that the approval is to cease to have effect with the expiry of the date specified in the surrender notice or, if Qualifications Wales thinks appropriate, with the expiry of a different date.
- (4) If the acknowledgement of surrender specifies that the approval is to cease to have effect with the expiry of a different date from that specified in the surrender notice, the acknowledgement of surrender must give reasons for this.
- (5) The approval ceases to have effect with the expiry of the date specified in the acknowledgement of surrender.
- (6) In determining whether the approval is to cease to have effect with the expiry of the date specified in the surrender notice, or with the expiry of a different date, Qualifications Wales is to have regard to—
 - (a) the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the form of the qualification concerned;
 - (b) the body’s wish that approval should cease to have effect with the expiry of the date specified in the surrender notice.

26 Transitional provision in connection with surrender of approval

- (1) This section applies for the purposes of an acknowledgement of surrender under section 25.
- (2) If Qualifications Wales considers it appropriate to do so for the purpose of avoiding prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the form of the qualification concerned, it may make provision in the acknowledgement of surrender that is within subsection (3).
- (3) Provision within this subsection is provision to the effect that, from the expiry of the surrender date until the expiry of the extension date, the form of the qualification is to be treated, for purposes specified by Qualifications Wales in the acknowledgement of surrender, as being approved under this Part by Qualifications Wales for award by the body concerned.
- (4) If Qualifications Wales makes provision within subsection (3)—
 - (a) it must give reasons for this in the acknowledgement of surrender, and
 - (b) the form of the qualification is to be treated, from the expiry of the surrender date, for the purposes specified in the acknowledgement of surrender, and until the expiry of the extension date, as being approved under this Part for award by the body concerned.
- (5) In this section—

“extension date” (*“dyddiad estyn”*) means a date specified by Qualifications Wales in the acknowledgement of surrender for the purposes of this section;

“surrender date” (*“dyddiad ildio”*) means the date specified by Qualifications Wales in the acknowledgement of surrender as being the date from the expiry of which the approval is to cease to have effect.

27 Withdrawal of approval

- (1) Qualifications Wales may withdraw approval under this Part of a form of a qualification if it is satisfied that—
 - (a) a condition to which the approval is subject has not been complied with,
 - (b) the body by which the form of the qualification is awarded has ceased to be recognised in respect of the award of the qualification concerned, or
 - (c) in the case of an approval of a form of a qualification granted under section 18 or 19, the qualification concerned has become a restricted priority qualification.
- (2) Before withdrawing approval, Qualifications Wales must give the awarding body concerned notice of its intention to do so.
- (3) The notice must—
 - (a) explain why Qualifications Wales proposes to withdraw approval, and
 - (b) specify when Qualifications Wales proposes to decide whether to withdraw approval.
- (4) In deciding whether to withdraw approval, Qualifications Wales must have regard to any representations made by the awarding body.
- (5) If Qualifications Wales decides to withdraw approval, it must give notice to the awarding body of the decision, specifying the date with the expiry of which withdrawal of approval will take effect (the “withdrawal date”).
- (6) At any time before the withdrawal date, Qualifications Wales may, with the agreement of the awarding body concerned, give notice to the body varying the date on which withdrawal is to take effect.
- (7) Where notice under subsection (6) is given, the date specified in the notice as the withdrawal date is to be treated, as from the date on which the notice is given, as being the withdrawal date for the purposes of any further notice under that subsection.
- (8) In determining a date for the purposes of this section, Qualifications Wales is to have regard to the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the form of the qualification.

28 Transitional provision in connection with withdrawal of approval

- (1) This section applies for the purposes of notice under section 27(5).
- (2) If Qualifications Wales considers it appropriate to do so for the purpose of avoiding prejudice to persons who are seeking, or might reasonably be expected to seek, to obtain the form of the qualification concerned, it may make provision in the notice that is within subsection (3).
- (3) Provision within this subsection is provision to the effect that, from the expiry of the withdrawal date until the expiry of the extension date, the form of the qualification is to be treated, for purposes specified by Qualifications Wales in the notice, as being approved under this Part by Qualifications Wales for award by the body concerned.
- (4) If Qualifications Wales makes provision within subsection (3)—
 - (a) it must give reasons for this in the notice, and

- (b) the form of the qualification is to be treated, from the expiry of the withdrawal date, for the purposes specified in the notice, and until the expiry of the extension date, as being approved under this Part for award by the body concerned.

(5) In this section—

“extension date” (*“dyddiad estyn”*) means a date specified by Qualifications Wales in the notice for the purposes of this section;

“withdrawal date” (*“dyddiad tynnu’n ôl”*) means the date specified by Qualifications Wales in the notice as being the date from the expiry of which withdrawal of approval is to take effect.