

# EDUCATION ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4: Qualifications and the Curriculum**

#### **Abolition of the Qualifications and Curriculum Development Agency**

#### *Section 25: Abolition of the Qualifications and Curriculum Development Agency*

147. *Section 25* repeals sections 175 to 191 of, and Schedule 11 to, ASCLA 2009. This will abolish the body established as the Qualifications and Curriculum Authority (“QCA”), and continued in existence as the Qualifications and Curriculum Development Agency (“QCDA”) under that Act.

#### *Section 26: Abolition of the QCDA: consequential amendments*

148. *Section 26* gives effect to Schedule 8, which removes references to the QCDA from other legislation, and enables the Secretary of State to make changes to subordinate legislation by order in consequence of section 24.

#### *Schedule 8*

149. *Paragraphs 1, 2, 3, 4, 9 and 10* all remove references to the QCDA from other legislation.
150. *Paragraph 6* amends EA 1996 to remove the requirement for Standing Advisory Councils on Religious Education (“SACREs”) for an area in England to send the QCDA a copy of their annual report.
151. The amendment to EA 1996 made by *paragraph 7* removes the power of the Secretary of State to make regulations requiring a local authority or head teacher to provide information relevant for the purposes of provisions in ASCLA 2009 relating to the QCDA.
152. *Paragraphs 12 and 20(a)* amend section 85 of EA 2002, in its current form and as substituted by section 74 of EIA 2006, which is not yet in force. Section 85 makes provision about curriculum requirements for the fourth key stage (in other words, for pupils aged 14 to 16) and subsection (9) imposes a duty on local authorities, governing bodies and head teachers to have regard to guidance issued by the QCDA. The amendments make provision for such guidance to be issued by the Secretary of State rather than the QCDA. *Paragraph 20(b)* amends section 85A of EA 2002, as it is inserted by section 74 of EIA 2006, which makes provision about entitlement areas for the fourth key stage and imposes a duty on local authorities, governing bodies and head teachers to have regard to guidance issued by the QCDA or the Secretary of State. The reference to the QCDA is omitted.
153. *Paragraphs 13 and 17* respectively amend provisions in EA 2002 relating to National Curriculum assessment arrangements and CA 2006 relating to Early Years Foundation

Stage assessment arrangements. In each case, the amendment removes the QCDA from the bodies subject to the powers of the Secretary of State to confer or impose functions in an order specifying assessment arrangements.

154. *Paragraph 14* amends section 90 of EA 2002, which gives the Secretary of State the power to direct in respect of a particular maintained school that, for a specified period, the National Curriculum does not apply or applies with modifications. The amendments have the effect that the QCDA is no longer able to make, or agree to make, an application for a direction from the Secretary of State, and is no longer able to act as a reviewing body where such a direction has been given.
155. *Paragraph 15* replaces section 96 of EA 2002 so as to change the way in which persons must be consulted before the Secretary of State makes certain orders or regulations relating to the National Curriculum. Under section 96 as substituted, the Secretary of State must give notice of the proposal to specified persons and other persons whom the Secretary of State thinks it is desirable to consult. The Secretary of State must give the bodies and persons consulted an opportunity to submit evidence and representations which the Secretary of State must consider before publishing a summary of the views expressed in the consultation and a draft of the proposed order or regulations. The Secretary of State must allow at least one month for further evidence and representations and may then make the order or regulations with or without modifications.
156. Section 46 of CA 2006 provides for regulations to be made allowing the Secretary of State to direct in respect of one or more early years providers that, for a specified period, the Early Years Foundation Stage does not apply or applies with modifications. The amendments in *paragraph 18* will mean that the QCDA is no longer a reviewing body where such a direction has been given.
157. *Paragraph 21* amends the Safeguarding Vulnerable Groups Act 2006 so that work carried out for or on behalf of the QCDA will no longer be a controlled activity relating to children for the purposes of that Act.
158. *Paragraph 23* amends ASCLA 2009 to remove reference to the QCDA as a person who may provide information to which Ofqual is required to have regard.
159. *Paragraph 25* amends Schedule 5 to ASCLA 2009 (learning aims for persons aged 19 or over) to remove the reference to the QCDA providing advice or information relating to qualifications to which the Secretary of State may have regard in forming an opinion for the purposes of that Schedule.

### ***Section 27: Abolition of the QCDA: transfer schemes***

160. *Section 27* gives effect to Schedule 9, giving power to the Secretary of State to make a scheme to enable the transfer of staff, property, rights and liabilities from the QCDA to Ofqual and the Secretary of State (to provide, for example, for any transfers to the Department for Education).