

Explanatory Memorandum to the Functions in relation to External Qualifications (Wales) Order 2009

This Explanatory Memorandum has been prepared by the Department for Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) This statutory instrument will give the Welsh Ministers sole exercise of certain of the functions listed in section 30(1) of the Education Act 1997 with respect to national vocational qualifications (NVQs) in relation to Wales, including the function of accreditation. Currently the function of accrediting NVQs in relation to Wales is exercisable solely by the Qualifications and Curriculum Authority (QCA). If passed, the Apprenticeships, Skills, Children and Learning Bill 2009 will remove functions relating to the accreditation of qualifications from the QCA and establish an Office of Qualifications and Examinations Regulation (proposed to be known as Ofqual). It is not intended that either the QCA (to be renamed the Qualifications and Curriculum Development Agency) or Ofqual will have any functions in Wales.
- (ii) There are no matters of special interest to the Subordinate Legislation Committee
- (iii) The power under which Welsh Ministers are making the order is contained in section 30(2) of the Education Act 1997. The Statutory Instrument follows the negative resolution procedure.
- (iv) The effect of the order will be to give Welsh Ministers sole exercise of certain functions listed in section 30(1) of the Education Act 1997 in respect of NVQs in relation to Wales, including the function of accrediting NVQs.
- (v) Should the order be annulled, the effect would be that functions in respect of NVQs in relation to Wales would remain exercisable either concurrently by the QCA and the Welsh Ministers or solely by the QCA. There would be an anomaly in that the equivalent functions in relation to qualifications in relation to England will be exercisable by Ofqual if the Apprenticeships, Skills, Children and Learning Bill 2009 receives Royal Assent.
- (vi) No consultation on this issue has taken place as in practice the functions of the QCA have been exercised in relation to Wales by the Welsh Ministers, under agency arrangements permitted by section 32(4A) of the Education Act 1997.
- (vii) A Regulatory Impact Assessment has not been prepared as the order gives effect to current practice, described above, whereby the Welsh Ministers have been acting as the QCA's agent.

