WELSH STATUTORY INSTRUMENTS

2005 No. 3239 (W.244)

EDUCATION, WALES

The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005

Made - - - -	*22 November 2005*
Coming into force - -	*1 April 2006*

The National Assembly for Wales, in accordance with the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(**1**), makes the following Order:

Title, commencement and interpretation

1.—(1) The title of this Order is the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and it comes into force on 1 April 2006.

(2) In this Order:

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"ACCAC" means the Qualifications, Curriculum and Assessment Authority for Wales;

"transfer date" ("*dyddiad trosglwyddo*") means 1 April 2006.

Transfer of Functions of ACCAC to the National Assembly

2. Subject to article 9, on the transfer date all the functions of ACCAC are transferred to the National Assembly.

Transfer of staff

3. For the purposes of the Transfer of Undertaking (Protection of Employment) Regulations 1981(**2**)—

(a) the transfer of functions effected by Article 2 is to be treated as a transfer of an undertaking;

(**1**) 1998 c. 38.
(**2**) S.I.1981/1794: amended by S.I. 1987/442.

(b) each person who was, immediately before the transfer date, employed by ACCAC under a contract of employment is to be treated as employed in the undertaking immediately before the transfer date.

Transfer of property, rights and liabilities

4.—(1) On the transfer date, all property, rights and liabilities to which ACCAC was entitled or subject immediately before the transfer date are transferred to the National Assembly.

(2) A certificate issued by the National Assembly that any property, rights or liabilities has been transferred by paragraph (1) shall be conclusive evidence of the transfer.

(3) The reference in paragraph (1) to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of article 3.

(4) Paragraph (1) has effect in relation to property, rights and liabilities—

(a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer otherwise than by this order;

(b) without any instrument or other formality being required.

Provision for continuity in the exercise of functions

5. Anything done by or in relation to ACCAC which has effect immediately before the transfer date shall so far as it is required for continuing its effect on and after the transfer date have effect as if done by or in relation to the National Assembly.

Abolition of ACCAC

6. On the transfer date ACCAC ceases to exist.

Transitional provisions etc

7.—(1) Nothing in this Order affects the validity of anything done by or in relation to ACCAC before the transfer date.

(2) There may be continued by or in relation to the National Assembly anything (including legal proceedings) which is in the process of being done by or in relation to ACCAC before the transfer date.

(3) On or after the transfer date so far as is necessary or appropriate, references to ACCAC in any instruments, contracts or legal proceedings are to be treated as references to the National Assembly.

(4) Until the coming into force of section 189 of the Education Act 2002 to the extent that it relates to paragraph 5(5) of Schedule 17 to that Act, section 29 of the Education Act 1997 (functions of ACCAC in relation to curriculum and assessment) shall have effect as if for subsection (4) there was substituted—

"(4) The National Assembly for Wales may exercise any function of a designated body within the meaning of Chapter 1 of Part 4".

Accounts

8.—(1) The National Assembly must—

(a) prepare a statement of accounts for the period from the date of the last statement of accounts prepared by ACCAC to the transfer date;

(b) send a copy of the statement to the Auditor General for Wales before the end of the period of 6 months beginning with the transfer date;

(2) The Auditor General for Wales must—

(a) examine, certify and report on the statement received under this article;

(b) lay a copy of the report on the statement before the National Assembly.

Consequential amendments to Acts and other legislation

9.—(1) The Acts specified in Schedule 1 are amended in accordance with that Schedule.

(2) The subordinate legislation specified in Schedule 2 is amended in accordance with that Schedule.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**3**).

D. Elis-Thomas
22 November 2005 The Presiding Officer of the National Assembly

(**3**) 1998 c. 38.

SCHEDULE 1 Article (1)

Consequential Amendments to Primary Legislation

Superannuation Act 1972 (c. 11)

1. In Schedule 1 to the Superannuation Act 1972 (kinds of employment etc. referred to in Section 1 of that Act), in the list of other bodies omit "The Qualifications, Curriculum and Assessment Authority for Wales".

House of Common Disqualification Act 1975 (c. 24)

2. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) omit "Any member of the Qualifications, Curriculum and Assessment Authority for Wales constituted under section 27 of the Education Act 1997 in receipt of remuneration."

Race Relations Act 1976 (c. 74)

3. In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons added after commencement of general statutory duty) omit "The Qualifications, Curriculum and Assessment Authority for Wales."

Charities Act 1993 (c. 10)

4. In Schedule 2 to the Charities Act 1993 (exempt charities) omit paragraph (f).

Education Act 1996 (c. 56)

5. In section 391(10)(b) of the Education Act 1996, (functions of advisory councils) for "the Qualifications, Curriculum and Assessment Authority for Wales" substitute "the National Assembly for Wales".

Education Act 1997 (c. 44)

6. The Education Act 1997 is amended as follows.

7. In section 24 (functions of the Qualifications and Curriculum Authority in relation to external vocational and academic qualifications) omit subsection (3).

8. For the heading to Chapter 2, substitute "Functions of the National Assembly for Wales".

9. Omit section 27 (the Qualifications, Curriculum and Assessment Authority for Wales), and the cross-heading immediately before it.

10. In the cross-heading immediately preceding section 28 and in the heading to section 28 for "Authority" substitute "National Assembly for Wales".

11. In section 28 (general functions of Authority to advance education and training)—

(a) in subsection (1)—

(i) for "Qualifications, Curriculum and Assessment Authority for Wales" substitute "National Assembly for Wales";

(ii) for "the Authority" substitute "the National Assembly for Wales".

(b) in subsection (2)—

(i) for "The Authority" substitute "The National Assembly for Wales";

(ii) for "their functions" substitute "its functions";

(iii) for "they have" substitute "it has".

12. In the heading to section 29, for "Authority" substitute "National Assembly for Wales."

13. In section 29 (functions of the Authority in relation to curriculum and assessment)—

(a) in subsection (1) for "The Qualifications, Curriculum and Assessment Authority for Wales" substitute "The National Assembly for Wales.".

(b) in subsection (2)—

(i) omit paragraph (b);

(ii) omit paragraph (c).

14. In the heading to section 30, for "Authority" substitute "National Assembly for Wales".

15. In section 30 (functions of the Authority in relation to external vocational and academic qualifications)—

(a) for subsection (1) substitute—

"This section applies for the purposes of the following functions with respect to external qualifications in relation to Wales—

(i) to keep under review all aspects of such qualifications;

(ii) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;

(iii) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;

(iv) to develop and publish criteria for the accreditation of such qualifications;

(v) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;

(vi) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.";

(b) after subsection (1) insert—

"(1A) In subsection (1) (d)— "criteria" includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar functions is not excessive; and paragraph (e) of that subsection is to be construed accordingly.";

(1B) Subject to subsection (2), with respect to external qualifications other than National Vocational Qualifications, the functions set out in subsection (1) are exercisable solely by the National Assembly for Wales.

(1C) Subject to subsection (2), with respect to National Vocational Qualifications—

(i) the functions specified in subsections (1)(a) to (d) are exercisable concurrently by the National Assembly for Wales and the Qualifications and Curriculum Authority;

(ii) the functions specified in subsection 1(e) and (f) are exercisable solely by the Qualifications and Curriculum Authority."

(c) for subsection (2) substitute—