

# Qualifications Wales Bill: Summary of changes made at Stage 2

## Introduction

This document sets out the **main changes** made to the **Qualifications Wales Bill** (hereafter 'the Bill') **during Stage 2** proceedings. The Bill provides for the transfer of responsibility for the regulation of qualifications in Wales from the Welsh Government to a **new independent body**, 'Qualifications Wales'.

## Background

The Bill was introduced on **1 December 2014** by the Minister for Education and Skills who also made an **oral statement in Plenary** the following day. The Bill was subsequently remitted to the **Children, Young People and Education Committee** (hereafter 'the Committee') for Stage 1 scrutiny. The Committee published its **Stage 1 report** in March 2014. The Constitutional and Legislative Affairs Committee also scrutinised the Bill, publishing a **report** the same month.

The general principles of the Bill were debated and approved in Plenary on **24 March 2015**.

Stage 2 commenced on 25 March 2015. A total of 76 amendments were tabled, of which 55 were tabled by the Minister. The Committee met to consider and dispose of the amendments on **30 April 2015**.

Further information about the Bill (as introduced) is available in a **Bill Summary** produced by the Research Service in January 2015.

An **amended version of the Bill** following Stage 2 has been produced.

## Amendments at Stage 2

All of the **Welsh Government's 55 amendments** were **agreed by the Committee**.

However, **Opposition Members abstained** from the votes on a number of amendments relating to a **new Part** being added to the Bill, providing for '**designated qualifications**'.

Of the 21 **non-Government** amendments, **only one succeeded**. This amendment (Amendment 68) strengthened the requirement on Qualifications Wales to include in its annual report details of how it has consulted with stakeholders in the previous year. The words 'whether, and if so' were deleted so as to **oblige Qualifications Wales** to report on **how** it has consulted, **not just whether** it had, providing a firmer presumption such consultation would be undertaken.

The main changes made to the Bill are summarised below. Please note that section numbers refer to the Bill as introduced, except where a new part or section has been added.

### Designation of qualifications

One of the Minister's amendments (Amendment 26) inserted a **new part (Part 5) to the Bill** regarding a new category of qualifications to be known as '**designated qualifications**'. The Minister explained this was a means of facilitating **continuity in the early transitional phases** of Qualifications Wales. The change will enable the body to designate a form of a qualification so that it is **eligible for use on publicly funded courses** for learners aged under 19.

The Bill, as introduced, required a qualification to be approved by Qualifications Wales for it to be used on a publicly funded course for under 19s. According to the Welsh Government, this presented **practical problems** for Qualifications Wales who would not be able to spend the **necessary time** to undertake a **robust approval** process for all qualifications without disrupting learners.

The other option would have been for the Welsh Ministers themselves to use their fall-back power of



exemption for each individual course. The Minister believes it is preferable for Qualifications Wales to have this power of designation itself, as it is more in keeping with its status as an independent regulator.

The Minister explained to Committee the rationale for designated qualifications as follows:

'Being able to designate some qualifications rather than approve will strengthen Qualifications Wales's ability to **focus on priority qualifications**, and will mean that approval really does indicate that a **robust consideration** has been given to **qualifications that are approved**. It also means that [Qualifications Wales] would not need to devote resources to reviewing in detail the thousands of qualifications that are already in the system. It will be able to **start with a relatively clean sheet of paper**, so to speak, to build a bank of qualifications that will underpin the assessment of learners in Wales.'

Another of the Minister's amendments requires Qualifications Wales to specify a **fixed time period** when designating an individual qualification. This reflects the Welsh Government's intention that the new Part 5 of the Bill is designed to ease transition and allow for continuity in the short-term.

However, the Committee (upon the casting vote of the Chair) supported the Minister's argument in **rejecting amendments** (Amendments 27A and 73) requiring a **maximum timeframe** in which the **powers to designate may be used** by Qualifications Wales.

Other successful amendments by the Minister relating to the new Part 5 included further transitional provision where a qualification ceases to be designated because it is approved; provision for Qualifications Wales to revoke a designation; and a number of consequential amendments to other sections of the Bill.

**Opposition Members expressed concern** at the new Part 5 being added to the Bill at Stage 2. They argued this introduced a significant new element to the Bill which had not been subject to scrutiny at Stage 1 in the same way the remainder of the Bill had. However, they **abstained** from the votes on Amendment 26 and other consequential and related

amendments, rather than oppose them, **so as not to prevent the progress** of a Bill for which there is general cross-party support.

The **Committee has invited views on the new powers of designation** from those who responded to its original consultation during Stage 1, with a view to informing Members' considerations at Stage 3.

## Miscellaneous and Technical amendments

The second group of amendments considered at Stage 2 were technical in nature and concerned the drafting of the Bill. They therefore **did not introduce any change in policy or significantly alter the purpose and effect** of the Bill. They were all unanimously supported by the Committee.

This group included the **one successful opposition amendment** (Amendment 68), referred to above.

## Regulatory role of Qualifications Wales: recognition of awarding bodies

Amendment 35, tabled by the Minister, **extends the scope** of Qualifications Wales' regulatory remit to **any qualification offered by a recognised awarding body in Wales, even it has not been specifically approved or designated by Qualifications Wales**.

The Bill, as introduced, limited Qualifications Wales' remit to qualifications it had specifically approved. The Minister argued this **'limit[s] unduly the ability** of Qualifications Wales to ensure the effectiveness of the qualifications system for meeting the reasonable needs of learners in Wales' (one of its principal aims).

For the Minister, extending Qualifications Wales' scope to 'protect the interests of learners in Wales taking other qualifications awarded by recognised bodies', **for example those that may be regulated by the English regulator, Ofqual**, 'will provide a valuable layer of protection for learners in Wales'.

Amendment 35 and several other consequential amendments were **unanimously supported** by the Committee.

Another of the Minister's amendments in this group (Amendment 20) **enables awarding bodies** who are



recognised by Qualifications Wales to **'opt out' of regulation** for some of their qualifications. As the Minister explained to Committee, 'this is because – as is presently the case – the regulation of qualifications will remain a **voluntary system**'. Any qualifications which an awarding body chooses to exclude from Qualifications Wales' regulation would then not be eligible for public funded courses for learners under 19. However, the amendment recognises that an awarding body should be able to submit to regulation for qualifications it wishes to be eligible for public funding, whilst keeping other qualifications it offers outside the regulatory system. Amendment 20 and other consequential and related amendments were supported unanimously by the Committee.

### Funding of courses leading to qualifications

Amendments 31 and 33 followed the Minister's undertaking to look closely at one of the Committee's recommendations at Stage 1. This was that he reconsider the wording of section 29(3) of the Bill, and the reference to a **'Welsh version of the qualification'** for the purposes of determining the **eligibility for qualifications to be used on publicly funded courses** for learners aged under 19.

The Committee had received evidence that this **definition was ambiguous** and should be clarified to instead make clear that the criteria was a qualification must be approved [or designated according to the new additional process] by Qualifications Wales.

The **Minister** told the Committee he was **pleased to accept the Committee's recommendation** and confirmed the term 'Welsh version of the qualification' was meant to be a **'label to describe a qualifications that has been approved by Qualification Wales for award in Wales'**.

Amendments 31 and 33, along with several consequential and related amendments were supported by the Committee. The **term 'Welsh version of the qualification' was removed from the Bill** and replaced with wording reflecting that

the important factor was approval or designation by Qualifications Wales under the Bill.

Amendment 51 **dis-applied aspects of the Learning and Skills Act 2000 to Wales**, in recognition that requirements for publicly funded qualifications in Wales would now be set out by this Bill. A number of consequential and related amendments were also supported.

A further amendment (**Amendment 8**) **corrected an anomaly** in the Bill as originally drafted. This provides that where qualifications/courses for learners with learning difficulties are eligible for public funding, this only applies to those particular learners and not all of those taking the course.

### Defeated amendments

Of the 21 amendments tabled by Opposition Members on the Committee, 20 were defeated. The **defeated amendments** included:

- An **overall duty on the Welsh Ministers** to promote the qualifications system in Wales;
- Explicit requirements on Qualifications Wales to: **promote a parity of esteem** between vocational and academic qualifications; and to **promote the compatibility** of qualifications in Wales with their European counterparts;
- A duty on the Welsh Ministers to **publish the framework document** and annual **remit letter**;
- A duty on the Minister to report on whether Qualifications Wales will become an issuing authority for **apprenticeships**;
- A duty on Qualifications Wales to **consult stakeholders** when deciding to prioritise or restrict a qualification, and to **publish details of its rationale** for the approach towards vocational and academic qualifications respectively;

- A requirement for Qualifications Wales to **assess the impact of any restriction** of priority qualifications;
- A duty on the Welsh Ministers to specify a **maximum time period** during which Qualifications Wales may use its powers to **designate** qualifications;
- Adding, to the list of **rules** that Qualifications Wales may make about applications, the circumstances in which it may give **pre-application advice** to an awarding body;
- A duty on the Welsh Ministers to prepare a **protocol** to which Qualifications Wales must have regard when undertaking **commercial** activities;
- A requirement on Qualifications Wales to **review annually the effect of any charges** it makes to awarding bodies for applications;
- Adding **Access to Higher Education Diplomas** to the list of qualifications excluded from Qualifications Wales' remit;
- Requiring the **commencement Order**, which will bring the provisions of the Act into effect, to be subject to oversight (negative resolution) of the Assembly.

## Commitments by the Minister

Responding to concerns about the transparency of the **framework document** and annual remit letter (to be known as a '**grant allocation letter**'), in the Stage 1 debate **the Minister committed to publishing both** of these when the Welsh Government issues them to Qualifications Wales. However, as stated above, the Minister rejected an amendment at Stage 2 to make this an explicit duty in the Bill. He said this was not necessary as it is already 'standard administrative practice'.

The Minister informed the Committee at Stage 2 that **transfer schemes**, giving details of transfer of property and staff from the Welsh Government to Qualifications Wales, would need to be **laid before the Assembly**.

The Minister also told the Committee that he had already undertaken to consider **what role Qualifications Wales may have regarding apprenticeships**. He will do this after considering the outcome of the review of the apprenticeship framework in Wales, adding it was part of this wider work on apprenticeships. Whilst **not a matter specifically for this Bill**, the Minister assured the Committee 'there is **no scenario** whereby this question [of Qualifications' Wales' role towards apprenticeships] could **fall off the radar**'.

## Next steps

An **amended version of the Bill** following Stage 2 has been produced.

Stage 3 commenced on 1 May 2015 (the day after Stage 2 proceedings were completed).

The **Stage 3 debate** is scheduled for **Tuesday 9 June 2015**.

Members may table **amendments up to 6.00pm Tuesday 2 June 2015** by e-mailing Policy and Legislation Committee Service at [legislation@wales.gov.uk](mailto:legislation@wales.gov.uk)

## Further information

For further information on the *Qualifications Wales Bill*, please contact any of the following Assembly Commission staff:

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