

**Criteria for Determining Whether a
Qualification is Relevant for the Purposes of
the Education and Skills Act 2008**

For All Awarding Organisations



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1 Introduction

About this document

- 1.1 This document sets out criteria which awarding organisations must apply when determining whether a qualification could be used by young people when discharging their statutory duty to participate in education and training.

About these criteria

- 1.2 These criteria are set and published by Ofqual under section 146(1)(a) of the Apprenticeships, Skills, Children and Learning Act 2009¹ ('the 2009 Act').
- 1.3 In order to meet the requirements of section 145 of the 2009 Act with respect to a regulated qualification, an awarding organisation must –
- (a) determine whether that qualification is a relevant qualification for the purposes of the Education and Skills Act 2008² ('the 2008 Act'),³ and
 - (b) if it is relevant, determine a number of hours for guided learning⁴ to be assigned to that qualification.
- 1.4 Section 145(5)(a) of the 2009 Act requires an awarding organisation to apply the criteria in this document when making the determination in paragraph 1.3(a).
- 1.5 The criteria which an awarding organisation must apply in making a determination in paragraph 1.3(b) are contained in Ofqual's Total Qualification Time Criteria.⁵

¹ www.legislation.gov.uk/ukpga/2009/22/contents

² www.legislation.gov.uk/ukpga/2008/25/contents

³ Under section 145(9) of the 2009 Act, a qualification will be relevant for 2008 Act purposes if there are, or may reasonably be expected to be, persons seeking to obtain the qualification for the purposes of discharging the duty under section 2(1)(c) of the 2008 Act (the duty to participate in education or training).

⁴ Under section 145(10) of the 2009 Act, a 'number of hours for guided learning' in relation to a form of a qualification, means a number of notional hours representing an estimate of the amount of actual guided learning which could reasonably be expected to be required in order for persons to achieve the standard required to obtain that form of the qualification.

⁵ www.gov.uk/government/publications/total-qualification-time-criteria

2 Criteria for determining whether a qualification is relevant for 2008 Act purposes

- 2.1 This section sets out the criteria that must be applied by an awarding organisation in determining, under sections 145(2) and 145(3)(a) of the 2009 Act, whether each of its qualifications is relevant for 2008 Act purposes.
- 2.2 In making such a determination, an awarding organisation must apply each of the criteria in paragraphs 2.3 to 2.7.

The criteria

Information gathering

- 2.3 An awarding organisation must take reasonable steps to ascertain whether any Learner is, or may reasonably be expected to be, seeking to obtain the qualification for the purposes of discharging the duty under section 2(1)(c) of the 2008 Act (the duty to participate in education or training).
- 2.4 In particular, an awarding organisation must take reasonable steps to ascertain whether any of the factors listed in paragraphs 2.5 and 2.6 apply to a qualification.

Relevant factors

- 2.5 A qualification is likely to be relevant for 2008 purposes if any Learner aged 16 or 17 years old –
- (a) has previously taken the qualification while at the same time being in full-time occupation⁶, or
 - (b) is, at the time of the determination, participating in training or education towards the qualification, provided by a course or courses, while at the same time being in full-time occupation.
- 2.6 A qualification is unlikely to be relevant for 2008 Act purposes if:

⁶ The term 'full-time occupation' is defined in section 5 of the 2008 Act as working for 20 hours or more per week under a contract of employment or in any other way which may be prescribed in regulations. At the date of publication of this document, alternative ways of working which have been prescribed by regulations are working (i) as a self-employed person, (ii) otherwise than for reward, and (iii) as the holder of an office (Duty to Participate in Education or Training (Alternative Ways of Working) Regulations 2013).

- (a) the qualification requires the use or demonstration of skills where the use of such skills by a person under the age of 18 years old would be undesirable for health and safety reasons,
- (b) for any other reason the awarding organisation will not accept registration for the qualification by a person under the age of 18 years old,
- (c) the size of the qualification is such that it would be difficult for a Learner to take that qualification while at the same time being in full-time occupation,
- (d) the qualification requires prior achievement (such as the completion of another qualification or work experience) that a Learner under the age of 18 years old is unlikely to have, or
- (e) the qualification is at a higher level than GCE A level or equivalent.

Making a determination

- 2.7 In determining whether a qualification is relevant for 2008 Act purposes, an awarding organisation must have due regard to all of the relevant information available to it and any applicable factors in paragraphs 2.5 and 2.6.

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