EXPLANATORY MEMORANDUM TO

THE EDUCATION (REPEAL OF ARRANGEMENTS FOR VOCATIONAL QUALIFICATIONS AWARDED OR AUTHENTICATED IN NORTHERN IRELAND) ORDER 2016

2016 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 To repeal the provision that empowers the Office of Qualifications and Examinations Regulation (Ofqual) to act as the regulator of vocational qualifications for Northern Ireland.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Northern Ireland and is not a financial instrument that relates exclusively to England, Wales and Northern Ireland.

4. Legislative Context

4.1 The Northern Ireland Executive intends to expand the remit of the Council for Curriculum Examinations and Assessment (CCEA Regulation) to become the regulator of qualifications in Northern Ireland from 1 April 2016 (or as soon as possible) within the provisions of the Education Order (Northern Ireland) 1998.

4.2 The amendment to the legislation will result in a change to primary legislation so as to exclude vocational qualifications awarded or authenticated in Northern Ireland from Ofqual's remit. Ofqual will continue to regulate academic, vocational and other qualifications in England.

5. Extent and Territorial Application

5.1 The territorial extent of this Instrument is England, Wales and Northern Ireland.

5.2 The territorial application of this instrument is England and Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister for Schools Nick Gibb has made the following statement regarding Human Rights:

In my view the provisions of The Education (Repeal of Arrangements for Vocational Qualifications Awarded or Authenticated in Northern Ireland) Order 2016 are compatible with the Convention rights.

7. Policy background

7.1 The current position is that the Apprenticeships, Skills, Children and Learning (ASCL) Act 2009 Section 130(2)(b) provides Ofqual with the statutory responsibility for regulating vocational qualifications awarded or authenticated in Northern Ireland. CCEA Regulation regulates general and other qualifications in Northern Ireland. The structure of the Northern Ireland devolved administration results in the Department of Education (DE) having responsibility, inter alia, for all aspects of statutory education including the regulation of examinations and the Department for Employment and Learning (DELNI) having responsibility, inter alia, for further education and skills policy in Northern Ireland. DELNI also has responsibility for putting in place arrangements for the regulation of vocational qualifications. CCEA was previously the regulator of all qualifications in Northern Ireland. In 2007/08 legislation was being prepared for the establishment of a new Education and Skills Authority (ESA), which at that time would potentially have led to the dissolution of CCEA. In light of this, DELNI decided to remove responsibility for regulating vocational qualifications from CCEA and give it to Ofqual's predecessor, the Qualifications and Curriculum Authority (QCA). The regulatory responsibility subsequently transferred to Ofqual upon its establishment. In 2014, due to lack of political consensus, the Northern Ireland Executive abolished plans to implement the ESA. DELNI undertook a review of the regulatory arrangements and concluded it would be more appropriate to provide for a single regulatory authority for all qualifications, including professional and technical qualifications awarded or authenticated in NI.

7.2 It is hoped that from 1 April 2016 or as soon as possible after that date CCEA Regulation will be the single regulator of qualifications. CCEA Regulation will perform this duty by reverting to the powers set out in Article 75 of the Education Order (NI) 1998.

Consolidation

7.3 Not relevant.

8. Consultation outcome

8.1 As required under section 130(7) of the ASCL Act 2009 the Secretary of State for Education has consulted DELNI which first contacted the Department for Education in December 2015 with its intention to request this change. At the same time DELNI informed Ofqual of the proposed amendments to its legislation and discussed the impact and implications for Ofqual. The Minister for Employment and Learning (NI) formally wrote to the Secretary of State for Education on 19 January 2016 to request changes to the regulatory powers discharged by Ofqual in Northern Ireland.

9. Guidance

9.1 DELNI, Ofqual and CCEA Regulation have worked closely to ensure all policy, operational and technical aspects of the transfer of functions have been explored and articulated these via a series of joint meetings, bilateral discussions, correspondence and a webinar with the awarding organisations operating in Northern Ireland. The

awarding organisations and their representative bodies have also been provided with named contacts points in DELNI, Ofqual and CCEA Regulation to address any other matters arising. CCEA Regulation have committed to continuing the alignment of organisational returns to the Ofqual cycle to minimise the bureaucratic burden on awarding organisations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is a minimal impact on the public sector. The removal of Ofqual's regulatory role in Northern Ireland will mean that its office in Belfast will close and three Ofqual members of staff are at risk of being made redundant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Minister for Schools Nick Gibb has made the following statement regarding monitoring and review:

12.2 In my view the provision of The Education (Repeal of Arrangements for Vocational Qualifications Awarded or Authenticated in Northern Ireland) Order 2016 does not require review provision as it relates to primary legislation that is being repealed

13. Contact

13.1 Stephen Rogers at the Department for Education, telephone: 07825105186 or email: Stephen.rogers@education.gsi.gov.uk Stephen Rogers can answer any queries regarding the instrument.