



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 4

APPRENTICESHIPS

Introductory

111 Meaning of “approved Welsh apprenticeship”

- (1) An approved Welsh apprenticeship is an arrangement that falls within subsections (2), (3) and (4).
- (2) The arrangement—
 - (a) takes place under an approved Welsh apprenticeship agreement, or
 - (b) is an alternative Welsh apprenticeship.
- (3) The work undertaken by virtue of the arrangement takes place wholly or mainly in Wales.
- (4) The arrangement satisfies any conditions specified in regulations made by the Welsh Ministers.
- (5) This section applies for the purposes of this Part.

112 Meaning of “approved Welsh apprenticeship agreement”

- (1) An approved Welsh apprenticeship agreement is an agreement which—
 - (a) provides for a person (“the apprentice”) to work for another person for reward in an occupation for which an apprenticeship framework published under section 117 is in force at the time the agreement is made,
 - (b) provides for the apprentice to receive training in order to assist the apprentice to meet the requirements specified in the apprenticeship framework, and

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- (c) satisfies any other conditions specified in regulations made by the Welsh Ministers.
- (2) This section applies for the purposes of this Part.

113 Meaning of “alternative Welsh apprenticeship”

- (1) An alternative Welsh apprenticeship is an arrangement, under which a person works, which is of a kind described in regulations made by the Welsh Ministers.
- (2) Regulations under subsection (1) may, for example, describe arrangements which relate to cases where a person—
 - (a) works otherwise than for another person;
 - (b) works otherwise than for reward.
- (3) This section applies for the purposes of this Part.

114 Meaning of “apprenticeship framework”

- (1) An apprenticeship framework is a document that specifies requirements for the completion of approved Welsh apprenticeships in an occupation or a group of occupations, which may include (but are not limited to) requirements relating to—
 - (a) standards of attainment;
 - (b) qualifications;
 - (c) the type or amount of training undertaken.
- (2) This section applies for the purposes of this Part.

Functions of the Welsh Ministers

115 Specification of requirements in relation to approved Welsh apprenticeship

- (1) The Welsh Ministers may specify requirements in relation to approved Welsh apprenticeships for the purposes of this Part.
- (2) A requirement may relate to the content of apprenticeship frameworks, including (but not limited to)—
 - (a) specification of the occupational sectors to which the occupation or group of occupations covered by an apprenticeship framework must relate;
 - (b) general standards of attainment needed for completion of approved Welsh apprenticeships;
 - (c) the type of qualifications needed for completion of approved Welsh apprenticeships;
 - (d) the type or amount of training needed for completion of approved Welsh apprenticeships.
- (3) A requirement may relate to the preparation, revision, withdrawal or publication of an apprenticeship framework, including (but not limited to)—
 - (a) the way in which an apprenticeship framework is prepared, revised, withdrawn or published;
 - (b) the matters that must be taken into account in preparing, revising or withdrawing an apprenticeship framework.

- (4) A requirement may relate to approved Welsh apprenticeships generally or approved Welsh apprenticeships in one or more occupations.
- (5) The Welsh Ministers may—
 - (a) revise or withdraw a requirement by further specification of a requirement;
 - (b) withdraw a requirement by publishing a notice of its withdrawal.
- (6) A requirement specified under this section (including a revision and a specification that includes a withdrawal) must be published.
- (7) A requirement specified under this section (including a revision) and the withdrawal of a requirement (whether by notice or further specification of a requirement) must state the date on which it comes into force.

116 Consultation by Welsh Ministers about specifications

- (1) Before taking any action mentioned in subsection (2), the Welsh Ministers must consult—
 - (a) the Commission, and
 - (b) such other persons as they consider appropriate.
- (2) The actions are—
 - (a) specifying a requirement under section 115 (including revised requirements);
 - (b) withdrawing a requirement under section 115.

Functions of the Commission

117 Preparation and publication of apprenticeship frameworks

- (1) The Commission may prepare or secure the preparation of apprenticeship frameworks.
- (2) The Commission may publish apprenticeship frameworks prepared by itself or by other persons (whether or not the Commission secured their preparation).
- (3) An apprenticeship framework published under this section must comply with any requirements specified under section 115.
- (4) An apprenticeship framework may specify requirements at different levels of attainment for the same occupation or group of occupations, either within the same apprenticeship framework or in separate frameworks.
- (5) An apprenticeship framework may include any material relevant to an approved Welsh apprenticeship in the occupation or group of occupations to which the framework relates or to approved Welsh apprenticeships generally.
- (6) The Commission must make arrangements to keep under review each published apprenticeship framework with a view to determining whether the framework ought to be revised or withdrawn.
- (7) The Commission may—
 - (a) publish a revised version of an apprenticeship framework, or
 - (b) withdraw an apprenticeship framework (with or without publishing another in its place).

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- (8) An apprenticeship framework published under this section must state the date on which it comes into force.
- (9) References to an apprenticeship framework in this section include a revised framework.

118 Register of apprenticeship frameworks

- (1) The Commission must maintain a register of the apprenticeship frameworks published under section 117.
- (2) In respect of each apprenticeship framework (including any revised framework), the register must include details of when it comes into force.
- (3) Where a revised framework is included in the register, the register must include a general description of the cases to which the revised framework applies.
- (4) Where an apprenticeship framework has been withdrawn, the register must include details of when the withdrawal comes into force and a general description of the cases to which the withdrawal applies.
- (5) The Commission must publish the register.
- (6) The Welsh Ministers may, by regulations, require the Commission to include other information in the register relating to approved Welsh apprenticeships.

119 Power to issue apprenticeship certificates

- (1) The Commission may issue a certificate (“an apprenticeship certificate”) in respect of a person who applies for it, if it appears to the Commission that the person has completed an approved Welsh apprenticeship.
- (2) The Commission may, following an application, supply a copy of an apprenticeship certificate to a person in respect of whom the certificate was issued.
- (3) The Commission may determine—
 - (a) the way in which applications for certificates or copies of certificates must be made;
 - (b) the contents of certificates.
- (4) The Commission may charge a fee for issuing an apprenticeship certificate or supplying a copy of it only if, and to the extent that, the charging of the fee is authorised by regulations made by the Welsh Ministers.

120 Delegation of Commission functions

- (1) The functions of the Commission under section 117(2) or 119 may be exercised by a person designated by the Commission.
- (2) A designation under this section may be for some or all purposes of the function.
- (3) A person designated under this section must—
 - (a) comply with directions given by the Commission, and
 - (b) have regard to guidance given by the Commission.

- (4) A designation under this section may be revoked.
- (5) The delegation of a function does not affect—
 - (a) the Commission’s ability to exercise the function, or
 - (b) the Commission’s responsibility for the exercise of the function.
- (6) The Commission may pay to any person by whom any function is exercisable by virtue of subsection (1)—
 - (a) amounts it considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person in, or in connection with, the exercise of that function;
 - (b) such remuneration as it may determine.

Supplementary provisions about apprenticeship agreements

121 Ineffective provisions of approved Welsh apprenticeship agreements

- (1) If an agreement—
 - (a) contains provision that satisfies the conditions mentioned in section 112(1)(a) to (c), but
 - (b) also contains provision that is inconsistent with those conditions, the other provision is to be treated as having no effect.
- (2) Before an agreement that satisfies the conditions mentioned in section 112(1)(a) to (c) is varied in such a way that it no longer satisfies one or more of those conditions, the person for whom the apprentice is working must give the apprentice a notice.
- (3) The notice must explain that if the variation takes effect the agreement will cease to be an approved Welsh apprenticeship agreement.
- (4) If an agreement is varied in breach of the requirement in subsection (2), the variation has no effect.

122 Status of approved Welsh apprenticeship agreements

- (1) To the extent that it would otherwise be treated as being a contract of apprenticeship, an approved Welsh apprenticeship agreement is to be treated as not being a contract of apprenticeship.
- (2) To the extent that it would not otherwise be treated as being a contract of service, an approved Welsh apprenticeship agreement is to be treated as being a contract of service.
- (3) This section applies for the purposes of any enactment or rule of law.

123 Transfer of copyright in apprenticeship frameworks

- (1) This section applies where an apprenticeship framework is—
 - (a) prepared by a person other than the Commission, and
 - (b) published by the Commission under section 117(2) with the agreement of the person who, immediately before publication, is entitled to any right or interest in any copyright in the framework.

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- (2) The right or interest is, by virtue of this section, transferred from that person to the Commission on publication.

124 Crown servants

- (1) This Part applies in relation to an agreement under which a person undertakes Crown employment as it applies in relation to any other agreement under which a person undertakes to work for another.
- (2) Subsection (1) is subject to subsection (3) and to any modifications which may be provided for under subsection (5).
- (3) Section 122(2) does not apply in relation to an approved Welsh apprenticeship agreement that is an agreement within subsection (1).
- (4) Without prejudice to section 143(2), the power conferred by section 112(1)(c) may be exercised, in particular, to make provision in relation to an apprenticeship agreement which is an agreement within subsection (1) that differs from provision made in relation to other agreements under which a person is to work for another.
- (5) The Welsh Ministers may, by regulations, provide for any provision of this Part to apply with modifications in relation to—
- (a) an agreement within subsection (1), or
 - (b) a person working, or proposing to work, under such an agreement.
- (6) In subsection (1), “Crown employment” means employment under or for the purposes of the Welsh Government, a United Kingdom Government department or any officer or body exercising on behalf of the Crown functions conferred by a statutory provision (but does not include service as a member of the naval, military or air forces of the Crown).

General

125 Interpretation of Part 4

In this Part—

“apprenticeship certificate” (“*tystysgrif brentisiaeth*”) means a certificate issued section 119;

“apprenticeship framework” (“*fframwaith prentisiaeth*”) has the meaning given by section 114;

“approved Welsh apprenticeship” (“*prentisiaeth Gymreig gymeradwy*”) has the meaning given by section 111;

“approved Welsh apprenticeship agreement” (“*cytundeb prentisiaeth Gymreig gymeradwy*”) has the meaning given by section 112.