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# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 1

#### APPRENTICESHIPS, STUDY AND TRAINING

#### [<sup>F2</sup>CHAPTER A1

#### APPRENTICESHIPS [<sup>F1</sup>AND TECHNICAL EDUCATION]: ENGLAND

<sup>F1</sup><sup>F2</sup><sup>F3</sup> .....

#### Textual Amendments

- F1** S. A2G cross-heading omitted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 19](#); S.I. 2017/1055, [reg. 2\(b\)\(iii\)](#)
- F2** Pt. 1 Ch. A1 inserted (26.3.2015 for specified purposes, 26.5.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 1 para. 1](#) (with [Sch. 1 para. 28](#)); S.I. 2015/994, art. 6(a) (with [Sch. Pt. 2](#))
- F3** Ss. A2-A2I and cross-headings substituted for s. A2 (1.4.2017) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(5), [Sch. 4 para. 5](#); S.I. 2017/346, [reg. 2\(a\)](#)

#### A2G Examinations by independent third parties

- (1) Before the [<sup>F4</sup>Institute] approves a standard or [<sup>F5</sup>apprenticeship] assessment plan for the purposes of section [<sup>F6</sup>ZA11(3) or section A2(6)] it must make arrangements for the carrying out of an examination of the standard or [<sup>F5</sup>apprenticeship] plan by an independent third party.

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- (2) The duty imposed by subsection (1) does not apply in relation to a revised version of a standard or [<sup>F5</sup>apprenticeship] assessment plan, but the [<sup>F4</sup>Institute] may, for the purposes of a review under section A2E or at any other time, make arrangements for the carrying out of an examination of a standard or [<sup>F5</sup>apprenticeship] assessment plan by an independent third party.
- (3) Where an examination of a standard or [<sup>F5</sup>apprenticeship] assessment plan is carried out under this section, the [<sup>F4</sup>Institute] must take account of the finding of the examination in exercising its functions in relation to the standard or [<sup>F5</sup>apprenticeship] plan under this Chapter.
- (4) Nothing in subsection (1) prevents the [<sup>F4</sup>Institute] deciding to reject a standard or [<sup>F5</sup>apprenticeship] assessment plan without first making arrangements for the carrying out of an examination by an independent third party.

#### Textual Amendments

- F4** Word in Pt. 1 substituted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), ss. 1\(2\)\(d\), 47\(2\)](#); S.I. 2019/61, reg. 2(a)
- F5** Words in s. A2G inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 20\(a\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F6** Words in s. A2G(1) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 20\(b\)](#); S.I. 2017/1055, reg. 2(b)(iii)

## A2H List of published standards and assessment plans

- (1) The [<sup>F4</sup>Institute] must maintain a list of the standards and assessment plans published by it under this Chapter.
- (2) In respect of each standard and plan listed (including any revised version), the list must include details of when it comes into force.
- (3) Where a revised version is listed, the list must include a general description of the cases to which the revised version applies.
- (4) Where a standard or plan has been withdrawn, the list must include details of when the withdrawal comes into force and a general description of the cases to which it applies.
- (5) The [<sup>F4</sup>Institute] must secure that the list is available free of charge at all reasonable times.

#### Textual Amendments

- F4** Word in Pt. 1 substituted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), ss. 1\(2\)\(d\), 47\(2\)](#); S.I. 2019/61, reg. 2(a)

## [<sup>F7</sup>A2H] List of technical education qualifications

- (1) The Institute must maintain a list of approved technical education qualifications.
- (2) The list must include information for the purpose of enabling people to refer, in relation to each qualification, to—

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- (a) the standards published under section ZA11 for the occupations in respect of which the qualification is approved, and
  - (b) any statement of steps published under section A2DB in relation to those occupations.
- (3) The Institute must ensure that the list is available free of charge.]

#### Textual Amendments

- F7** S. A2HA inserted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 21](#); S.I. 2019/61, reg. 2(b)

## A2I Transfer of copyright in standards and assessment plans

- (1) This section applies where—
- <sup>F8</sup>(a) a standard is approved by the Institute under section ZA11 or an apprenticeship assessment plan is approved by the Institute under section A2, and]
  - (b) a person (other than the <sup>F4</sup>Institute]) is entitled, immediately before the time the approval is given, to any right or interest in any copyright in the standard or plan.
- (2) The right or interest is, by virtue of this section, transferred from that person to the <sup>F4</sup>Institute] at the time the approval is given.
- (3) The <sup>F4</sup>Institute] must ensure that a standard or <sup>F9</sup>apprenticeship] assessment plan in relation to which a right or interest has transferred by virtue of subsection (2) is made available to the public, subject to any conditions that the <sup>F4</sup>Institute] considers appropriate.]

#### Textual Amendments

- F4** Word in Pt. 1 substituted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\), ss. 1\(2\)\(d\), 47\(2\)](#); S.I. 2019/61, reg. 2(a)
- F8** S. A2I(1)(a) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 22\(2\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F9** Word in s. A2I(3) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 22\(3\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

## <sup>F10</sup>A2IA Transfer of copyright relating to technical education qualifications

- (1) This section applies where a technical education qualification is approved under section A2DA.
- (2) The right or interest in any copyright in a relevant course document is, by virtue of this section, transferred from the person to the Institute at the time the approval is given.
- (3) The Institute may assign to another person, or grant a licence to another person in respect of, any right or interest transferred to the Institute by virtue of this section.
- (4) In this section “relevant course document” means a document in relation to which the Institute has made a determination under section A2DA(4)(a).]

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### Textual Amendments

**F10** S. A21A inserted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 23](#); S.I. 2019/61, reg. 2(b)

## A3 Power to issue apprenticeship certificate

- (1) The Secretary of State may issue a certificate (“an apprenticeship certificate”) [<sup>F11</sup>in respect of] a person who applies for it if it appears to the Secretary of State that the person has completed an approved English apprenticeship.
- (2) The Secretary of State may by regulations make provision about—
  - (a) the manner in which applications under subsection (1) must be made;
  - [<sup>F12</sup>(b) the supply by the Secretary of State of apprenticeship certificates issued under that subsection, and copies of those certificates, to—
    - (i) persons in respect of whom they were issued;
    - (ii) persons for whom those persons work or have worked under approved English apprenticeship agreements to which the certificates relate.]
- (3) The Secretary of State may charge a fee for issuing an apprenticeship certificate or supplying a copy only if, and to the extent that, the charging of the fee is authorised by regulations.

### Textual Amendments

**F11** Words in s. A3(1) substituted (1.4.2017) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(5), [Sch. 4 para. 6\(2\)](#); S.I. 2017/346, reg. 2(a)

**F12** S. A3(2)(b) substituted (1.4.2017) by [Enterprise Act 2016 \(c. 12\)](#), s. 44(5), [Sch. 4 para. 6\(3\)](#); S.I. 2017/346, reg. 2(a)

## [<sup>F13</sup>A3A Power to issue technical education certificate

- (1) The Secretary of State may issue a certificate (a “technical education certificate”) to a person if it appears to the Secretary of State that the person has—
  - (a) obtained an approved technical education qualification, and
  - (b) taken any other steps determined under section A2DB in relation to the occupations in respect of which the qualification is approved.
- (2) The Secretary of State may by regulations make provision—
  - (a) requiring an application to be made in a prescribed manner before a certificate is issued;
  - (b) about the supply by the Secretary of State of copies of technical education certificates to persons to whom they were issued;
  - (c) authorising the Secretary of State (subject to any restrictions prescribed by the regulations) to charge a fee for issuing a technical education certificate or supplying a copy.]

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### **Textual Amendments**

**F13** S. A3A inserted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 24](#); [S.I. 2019/61](#), reg. 2(b)

## **A4 Delegation**

- (1) Any function of the Secretary of State under this Chapter may be carried out by a person designated by the Secretary of State.
- (2) Subsection (1) does not apply to any power of the Secretary of State to make regulations.
- (3) A person designated under this section must—
  - (a) comply with directions given by the Secretary of State, and
  - (b) have regard to guidance given by the Secretary of State.
- (4) A designation under this section may be revoked.

## **A5 English apprenticeship agreements: status**

- (1) To the extent that it would otherwise be treated as being a contract of apprenticeship, an approved English 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 English 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.

## **A6 English apprenticeship agreements: supplementary provision**

- (1) If an agreement—
  - (a) contains provision which satisfies the conditions mentioned in section A1(3)(a) to (c), but
  - (b) also contains other provision which is inconsistent with those conditions, the other provision is to be treated as having no effect.
- (2) Before an agreement which satisfies the conditions mentioned in section A1(3)(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 written notice.
- (3) The written notice must explain that, if the variation takes effect, the agreement will cease to be an approved English apprenticeship agreement.
- (4) If an agreement is varied in breach of the requirement under subsection (2), the variation has no effect.

## **A7 Crown servants and parliamentary staff**

- (1) Section A1(3) applies in relation to—
  - (a) an agreement under which a person undertakes Crown employment,

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- (b) an agreement under which a person undertakes service as a member of the naval, military or air forces of the Crown, and
- (c) an agreement under which a person undertakes employment as—
  - (i) a relevant member of the House of Lords staff, or
  - (ii) a relevant member of the House of Commons staff,
 as it applies in relation to any other agreement under which a person is to work for another (and this Chapter applies accordingly).
- (2) Subsection (1) is subject to subsection (3) and to any modifications which may be prescribed under subsection (5).
- (3) Section A5(2) does not apply in relation to an approved English apprenticeship agreement that is an agreement within paragraph (a), (b) or (c) of subsection (1).
- (4) Without prejudice to section 262(3), the power conferred by section A1(3)(c) may be exercised, in particular, to make provision in relation to an agreement within any of paragraphs (a), (b) and (c) of subsection (1) that differs from provision made in relation to other agreements under which a person is to work for another.
- (5) The Secretary of State may by regulations provide for any provision of this Chapter to apply with modifications in relation to—
  - (a) an agreement within paragraph (a), (b) or (c) of 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 a government department or an 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);
  - “relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996;
  - “relevant member of the House of Lords staff” has the meaning given by section 194(6) of that Act.]

## **[<sup>F14</sup>A8 Progress reports**

- (1) No later than nine months after the end of each reporting period the Secretary of State must publish—
  - (a) information about the progress made in the reporting period towards the apprenticeships target, and
  - (b) any other information about apprenticeships that the Secretary of State considers appropriate,
 and must lay before Parliament a report setting out the information or indicating how it may be accessed.
- (2) “The apprenticeships target” is that three million apprenticeships are entered into in England during the period beginning with 1 May 2015 and ending with 31 March 2020.
- (3) The reporting periods are—
  - (a) the period beginning with 1 May 2015 and ending with 31 July 2016;
  - (b) the period beginning with 1 August 2016 and ending with 31 July 2017;

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- (c) the period beginning with 1 August 2017 and ending with 31 July 2018;
  - (d) the period beginning with 1 August 2018 and ending with 31 July 2019;
  - (e) the period beginning with 1 August 2019 and ending with 31 March 2020.
- (4) In this section “apprenticeships” means—
- (a) approved English apprenticeships;
  - (b) apprenticeship agreements within the meaning given in section 32;
  - (c) arrangements to undertake any other kind of working—
    - (i) in relation to which alternative English completion conditions apply under section 1(5), and
    - (ii) in connection with which training is to be provided in accordance with an apprenticeship framework within the meaning given in section 12.

A reference to a section in paragraph (b) or (c) is to the section as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015.]

#### Textual Amendments

**F14** S. A8 inserted (16.5.2016) by [Welfare Reform and Work Act 2016 \(c. 7\)](#), ss. **2(1)**, 36(2)(a)

#### [<sup>F15</sup>A9] Public sector apprenticeship targets

- (1) The Secretary of State may by regulations set apprenticeship targets for prescribed public bodies.
- (2) An “apprenticeship target”, in relation to a public body, is a target relating to the number of persons (“apprentices”) who work for the body under an apprenticeship agreement.
- (3) Public bodies for which apprenticeship targets are set under this section must have regard to—
  - (a) the targets, and
  - (b) any applicable guidance issued by the Secretary of State in relation to the targets.
- (4) The Secretary of State may require a public body to provide any information that the Secretary of State needs for the purpose of exercising functions under this section.
- (5) Regulations under this section may set apprenticeship targets for—
  - (a) a prescribed public body,
  - (b) a prescribed part of a public body,
  - (c) a prescribed group of public bodies, or
  - (d) public bodies of a prescribed description.

A reference in this section to a public body includes a reference to a prescribed part of a public body or a prescribed group of public bodies.

- (6) The regulations must specify the period to which each apprenticeship target relates.
- (7) In this section—

“apprenticeship agreement” means—

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- (a) an approved English apprenticeship agreement;
  - (b) an apprenticeship agreement within the meaning given in section 32 as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015;
- “public body” means—
- (a) a public authority, or
  - (b) a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds.]

#### Textual Amendments

**F15** Ss. A9, A10 inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 24(1), 44(2)(c)**

### [<sup>F15</sup>A10 Further provision about apprenticeship targets

- (1) A public body for which an apprenticeship target is set must—
  - (a) publish and send to the Secretary of State the information specified in subsection (2), and
  - (b) send to the Secretary of State any other prescribed information, within six months after the end of each reporting period of the body in the target period.
- (2) The information referred to in subsection (1)(a) is—
  - (a) the number of employees whose employment in England by the body began in the reporting period in question (“figure A”);
  - (b) the number of apprentices who began to work for the body in that period and whose apprenticeship agreements also began in that period (“figure B”);
  - (c) figure B expressed as a percentage of figure A;
  - (d) the number of employees employed in England that the body has at the end of that period (“figure C”);
  - (e) the number of apprentices who work for the body at the end of that period (“figure D”);
  - (f) figure D expressed as a percentage of figure C;
  - (g) if that reporting period is the first reporting period in the target period, the number of apprentices who worked for the body immediately before that period.
- (3) The information that may be prescribed under subsection (1)(b) includes—
  - (a) information about action that the body has taken to meet an apprenticeship target set for it;
  - (b) if the public body has failed to meet an apprenticeship target set for it, an explanation of why the target has not been met;
  - (c) information about action that the body proposes to take to meet an apprenticeship target set for the body for a period that has not yet expired (“a future target”);
  - (d) if the body considers that a future target is not likely to be met, an explanation of why that is so.
- (4) Regulations may specify how the information is to be published or sent.
- (5) A body's “reporting periods” in the target period are—



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- (a) so much of the first financial year of the body to end in the target period as falls within that period,
  - (b) each subsequent financial year of the body which falls wholly within the target period, and
  - (c) if the target period ends during a financial year of the body, so much of that financial year as falls within that period.
- (6) But, where the target period in relation to a body does not exceed 12 months, the Secretary of State may direct in writing that for the purposes of this section the body is to be treated as having one reporting period which coincides with the target period.
- (7) Where, by virtue of section A9(5)(c) or (d) a target is set for more than one public body, regulations may specify which body's financial year is to be used to determine the reporting periods under subsection (5).
- (8) In this section—
- “apprenticeship agreement” has the meaning given by section A9(7);
  - “apprenticeship target” has the meaning given by section A9(2);
  - “public body” has the meaning given by section A9(7);
  - “target period”, in relation to an apprenticeship target, means the period specified under section A9(6) as the period to which the target relates.

#### Textual Amendments

F15 Ss. A9, A10 inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), ss. 24(1), 44(2)(c)

### <sup>F16</sup> **Only statutory apprenticeships to be described as apprenticeships**

**A11**

- (1) A person (“P”) providing or offering any course or training that is, or is to be, undertaken (wholly or partly) in England commits an offence if—
- (a) in the course of business P describes the course or training as an apprenticeship, and
  - (b) the course or training is not a statutory apprenticeship.
- (2) No offence is committed under subsection (1) where the course or training is, or is to be, provided to an individual under or in pursuance of a contract of employment between the individual and P.
- (3) In subsection (1) “statutory apprenticeship” means any course or training that is, or is to be, provided under—
- (a) an approved English apprenticeship;
  - (b) an apprenticeship agreement within the meaning given in section 32;
  - (c) an arrangement to undertake any other kind of working—
    - (i) in relation to which alternative English completion conditions apply under section 1(5), and
    - (ii) in connection with which training is to be provided in accordance with an apprenticeship framework within the meaning given in section 12; or
  - (d) arrangements made under—
    - (i) section 2 of the Employment and Training Act 1973,
    - (ii) section 17B(1)(a) of the Jobseekers Act 1995,

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- (iii) section 2(3) of the Enterprise and New Towns (Scotland) Act 1990, or  
 (iv) section 1 of the Employment and Training Act (Northern Ireland) 1950,  
 that are identified by the person making the arrangements as arrangements for the provision of apprenticeships.
- (4) The reference to section 32 in subsection (3)(b) includes a reference to that section as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015; and a reference to a section in subsection (3)(c) is a reference to the section as it so applies.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (6) Where an offence under this section committed by a body corporate—
- (a) is committed with the consent or connivance of an officer of the body corporate, or
  - (b) is attributable to neglect on the part of an officer of the body corporate, the officer also commits the offence and is liable to be proceeded against and punished accordingly.
- (7) Every local weights and measures authority in England—
- (a) has a duty to enforce the provisions of this section within their area;
  - (b) must make to the Secretary of State, whenever he or she so directs, a report on the exercise of the authority's functions under this section.
- A report under paragraph (b) must be in such form, and contain such particulars, as the Secretary of State may direct.
- (8) Proceedings for an offence under this section may be instituted only—
- (a) by or on behalf of a local weights and measures authority in England,
  - (b) by or on behalf of the Secretary of State, or
  - (c) with the consent of the Director of Public Prosecutions.
- (9) In this section—
- “contract of employment” has the same meaning as in the Employment Rights Act 1996 (see section 230(2) of that Act);
- “offering”, in relation to any course or training, includes offering or marketing it to the public generally or to any section of the public;
- “officer”, in relation to a body corporate, means—
- (a) a director, manager, secretary or similar officer of the body, or a person purporting to act in such capacity;
  - (b) a governor of an educational institution conducted by the body.
- (10) The reference in subsection (1) to describing any course or training as an apprenticeship includes a reference to describing an individual who undertakes it as an apprentice.]]

#### Textual Amendments

**F15** Ss. A9, A10 inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 24(1)**, 44(2)(c)

**F16** S. A11 inserted (1.4.2017) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 25(1)**, 44(5); [S.I. 2017/346](#), reg. 2(c)

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