

Status: Point in time view as at 09/02/2018.

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Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 1 **E+W+S**

APPRENTICESHIPS, STUDY AND TRAINING

[^{F1}CHAPTER ZA1 **E+W+S**

THE INSTITUTE FOR APPRENTICESHIPS

Textual Amendments

F1 Pt. 1 Ch. ZA1 inserted (1.4.2017) by [Enterprise Act 2016 \(c. 12\), s. 44\(5\), Sch. 4 para. 2; S.I. 2017/346, reg. 2\(a\)](#)

Establishment

ZA1 The Institute for Apprenticeships **E+W+S**

- (1) A body corporate known as the Institute for Apprenticeships is established.
- (2) In this Act that body is referred to as “the IfA”.
- (3) Schedule A1 makes further provision about the IfA.

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General duties and functions

ZA2 General duties **E+W+S**

- (1) So far as relevant, and subject to any notice given by the Secretary of State under subsection (2), in performing its functions the IfA must have regard to—
 - (a) the reasonable requirements of industry, commerce, finance, the professions and other employers regarding education and training within the IfA's remit;
 - (b) the reasonable requirements of persons who may wish to undertake education and training within the IfA's remit;
 - (c) the need to ensure that education and training within the IfA's remit is of an appropriate quality;
 - (d) the need to ensure that education and training within the IfA's remit represents good value in relation to financial resources provided out of public funds;
 - (e) any information provided to it by any person designated by the Secretary of State for the purposes of this paragraph.
- (2) The Secretary of State may give a notice in writing to the IfA setting out other matters to which the IfA must have regard when performing its functions.
- ^{F2}(3)
- ^{F2}(4)
- (5) The IfA must perform its functions efficiently and effectively.
- (6) For the purposes of this section, education or training is within the IfA's remit if the education or training is or may be provided in the course of an approved English apprenticeship.
- (7) Subsection (1) and any notice under subsection (2) do not apply in relation to functions that are—
 - (a) delegated by directions under section ZA4, or
 - (b) conferred by regulations under section ZA5,
 unless the directions or regulations provide for them to apply in relation to the functions.
- (8) Where directions or regulations so provide, the directions or regulations—
 - (a) may provide for any education or training to which the functions relate to be treated as within the IfA's remit for the purposes of this section;
 - (b) may provide for subsection (1) and any notice under subsection (2) to apply in relation to the functions with such modifications as the Secretary of State thinks fit.
- (9) The Secretary of State must—
 - (a) publish in such manner as the Secretary of State thinks fit any notice under subsection (2), and
 - (b) lay a copy of it before Parliament.

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Textual Amendments

- F2** S. ZA2(3)(4) omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 2\(2\)](#); S.I. 2017/1055, reg. 2(b)(iii)

ZA3 Provision of advice and assistance to the Secretary of State etc **E+W+S**

- (1) The IfA may, if requested to do so by the Secretary of State, provide the Secretary of State with advice and assistance in connection with the Secretary of State's functions [^{F3}in relation to England relating to—
 - (a) apprenticeships, or
 - (b) other education or training.]
- (2) The Secretary of State's functions mentioned in subsection (1) include those under section 100(1A) or otherwise relating to the funding of apprenticeships in relation to England.

Textual Amendments

- F3** Words in s. ZA3(1) substituted (9.2.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 3\(2\)](#); S.I. 2018/140, reg. 2(b)(iii)

ZA4 Delegation of functions to the IfA by Secretary of State **E+W+S**

- (1) The Secretary of State may by direction delegate to the IfA any of the Secretary of State's functions relating to apprenticeships in relation to England.
- (2) The functions may be delegated—
 - (a) to any extent that the Secretary of State specifies in the direction, and
 - (b) subject to any conditions that the Secretary of State specifies in the direction.
- (3) The Secretary of State's functions mentioned in subsection (1) include those under section 100(1A) or otherwise relating to the funding of apprenticeships in relation to England.

ZA5 Conferral of further functions on the IfA by regulations **E+W+S**

- (1) The Secretary of State may by regulations confer on the IfA such functions relating to apprenticeships in relation to England as the Secretary of State considers appropriate.
- (2) A function conferred by regulations under subsection (1) may involve the exercise of a discretion.

ZA6 Annual and other reports **E+W+S**

- (1) As soon as reasonably practicable after the end of each financial year, the IfA must prepare an annual report.
- (2) An annual report is a report which includes—

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- (a) a description of what the IfA has done during the year, including a description of what the IfA has done as a result of any notice given by the Secretary of State under section ZA2(2),
 - (b) the statement of accounts prepared for that year under paragraph 11 of Schedule A1, and
 - (c) such other provision as the Secretary of State may direct.
- (3) The IfA must send the report to the Secretary of State as soon as reasonably practicable after it has been prepared.
- (4) The Secretary of State must lay a copy of the report before Parliament.
- (5) The Secretary of State may direct the IfA to prepare, and send to the Secretary of State, as soon as reasonably practicable a report on any matter relating to its functions.
- (6) In this section “financial year” means—
- (a) the period beginning with the day on which this section comes into force and ending with the following 31 March, and
 - (b) each successive period of 12 months.

Compliance

ZA7 Secretary of State directions where the IfA fails to discharge duties etc E+W+S

If the Secretary of State is satisfied that the IfA—

- (a) has failed to discharge a duty imposed on it by or under this Act, or
- (b) has acted or is proposing to act in an unreasonable way in exercising any function,

the Secretary of State may give the IfA such directions as the Secretary of State considers appropriate.

Directions

ZA8 General provision about directions under Chapters ZA1 and A1 E+W+S

- (1) This section applies to a direction given to the IfA by the Secretary of State under this Chapter or Chapter A1.
- (2) The IfA must comply with the direction.
- (3) The direction must be in writing.]

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[^{F4}CHAPTER A1 **E+W+S**

APPRENTICESHIPS: ENGLAND

Textual Amendments

- F4** 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](#))

[^{F5}Occupational categories and groups

Textual Amendments

- F5** Ss. ZA9-ZA11 and cross-headings inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 1 para. 7**; S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

ZA9 Occupational categories (sometimes referred to as “routes”) **E+W+S**

- (1) The Secretary of State may determine categories into which occupations may be placed for the purposes of this Chapter.
- (2) The Secretary of State must notify the Institute of any categories that are determined.

ZA10 Mapping of occupational groups **E+W+S**

- (1) The Institute must—
 - (a) determine occupations in relation to which it may be appropriate for people to undertake apprenticeships or obtain qualifications, and
 - (b) determine which of those occupations require similar knowledge, skills and behaviour.
- (2) Two or more occupations that require similar knowledge, skills and behaviour are referred to in this section as a “group”.
- (3) Where categories have been determined under section ZA9, the Institute must allocate each occupation or group to a category.
- (4) If the Institute considers that no category is appropriate it must nevertheless allocate the occupation or group to a category (and is not required to adjust its determinations under subsection (1)).
- (5) The Institute must publish information showing—
 - (a) the occupations,
 - (b) the groups, and
 - (c) any categories to which the occupations and groups have been allocated.

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Standards

ZA11 Standards E+W+S

- (1) The Institute must publish standards in relation to England for such occupations as the Institute considers appropriate.
- (2) Each standard must—
 - (a) describe the occupation to which it relates;
 - (b) set out the outcomes that persons seeking to achieve the standard are expected to attain in order to do so.
- (3) Each standard must have been prepared by a group of persons and approved by the Institute.
- (4) The group of persons that prepared a standard must have been approved by the Institute.
- (5) The Institute may provide advice or assistance to a group of persons in connection with the preparation of a standard.
- (6) The Institute may convene a group of persons to prepare a standard for an occupation only if the Institute considers—
 - (a) that there is a need for a standard for that occupation, and
 - (b) that the need will not be met unless a group is convened to prepare the standard.
- (7) The Institute must publish—
 - (a) information about matters that it takes into account when deciding whether or not to approve standards for the purposes of subsection (3);
 - (b) information about matters that it takes into account when deciding whether or not to approve groups of persons for the purposes of subsection (4).
- (8) When making a decision of the kind mentioned in subsection (7)(a) or (b) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question.
- (9) Information published under subsection (7) may be revised or replaced, and the Institute must publish under that subsection any revised or replacement information.
- (10) Where a standard is published, the Institute must publish, with the information published under section ZA10(5) in relation to the occupation, information indicating that there is a standard for the occupation.]

[^{F6}Meaning of “approved English apprenticeship” etc]

Textual Amendments

- F6** S. A1 cross-heading substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 8](#); S.I. 2017/1055, [reg. 2\(b\)\(iii\)](#)

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A1 Meaning of “approved English apprenticeship” etc **E+W+S**

- (1) This section applies for the purposes of this Chapter.
- (2) An approved English apprenticeship is an arrangement which—
 - (a) takes place under an approved English apprenticeship agreement, or
 - (b) is an alternative English apprenticeship,and, in either case, satisfies any conditions specified in regulations made by the Secretary of State.
- (3) An approved English apprenticeship agreement is an agreement which—
 - (a) provides for a person (“the apprentice”) to work for another person for reward in ^{F7}an occupation for which a ^{F8}standard has been published under section ^{F9}ZA11],
 - (b) provides for the apprentice to receive training in order to assist the apprentice to achieve the approved ^{F10}... standard in the work done under the agreement, and
 - (c) satisfies any other conditions specified in regulations made by the Secretary of State.
- (4) An alternative English apprenticeship is an arrangement, under which a person works, which is of a kind described in regulations made by the Secretary of State.
- (5) Regulations under subsection (4) 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.
- (6) A person completes an approved English apprenticeship if the person achieves the approved ^{F11}... standard while doing an approved English apprenticeship.
- (7) The “approved ^{F12}... standard”, in relation to an approved English apprenticeship, means the standard which applies in relation to the work to be done under the apprenticeship (see section ^{F13}ZA11]).

Textual Amendments

- F7** Words in s. A1(3)(a) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(a\)\(i\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F8** Words in s. A1(3)(a) substituted (1.4.2017) by [Enterprise Act 2016 \(c. 12\), s. 44\(5\), Sch. 4 para. 4](#); S.I. 2017/346, reg. 2(a)
- F9** Word in s. A1(3)(a) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(a\)\(ii\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F10** Word in s. A1(3)(b) omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(b\)\(i\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F11** Word in s. A1(6) omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(b\)\(ii\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F12** Word in s. A1(7) omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(b\)\(iii\)](#); S.I. 2017/1055, reg. 2(b)(iii)
- F13** Word in s. A1(7) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 9\(c\)](#); S.I. 2017/1055, reg. 2(b)(iii)

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[^{F14}^{F15}Apprenticeship assessment plans]

Textual Amendments

- F14** Ss. A2-A21 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)
- F15** S. A2 cross-heading substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 10](#); S.I. 2017/1055, reg. 2(b)(iii)

A2 [^{F16}Apprenticeship assessment plans] **E+W+S**

- ^{F17}(1) The Institute must publish apprenticeship assessment plans in respect of such standards published under section ZA11 as it considers appropriate.]
- ^{F18}(2)
- ^{F18}(3)
- (4) An [^{F19}apprenticeship] assessment plan in respect of a standard is a plan in accordance with which [^{F20}it is to be assessed whether a person seeking to complete an approved English apprenticeship has attained the outcomes set out in the standard].
- (5) Each [^{F21}apprenticeship] assessment plan must—
- specify the standard to which it relates, and
 - set out the proposed arrangements for evaluating the quality of any assessment provided for by the plan.
- ^{F22}(6) Each apprenticeship assessment plan must have been prepared by a group of persons and approved by the Institute.
- (7) The group of persons that prepared an apprenticeship assessment plan must have been approved by the Institute.
- (8) The Institute may provide advice or assistance to a group of persons in connection with the preparation of an apprenticeship assessment plan.
- (9) The Institute may convene a group of persons to prepare an apprenticeship assessment plan in respect of a standard only if the Institute considers—
- that there is a need for an apprenticeship assessment plan in respect of that standard, and
 - that the need will not be met unless a group is convened to prepare the plan.
- (10) The Institute must publish—
- information about matters that it takes into account when deciding whether or not to approve apprenticeship assessment plans for the purposes of subsection (6);
 - information about matters that it takes into account when deciding whether or not to approve groups of persons for the purposes of subsection (7).
- (11) When making a decision of the kind mentioned in subsection (10)(a) or (b) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question.

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- (12) Information published under subsection (10) may be revised or replaced, and the Institute must publish under that subsection any revised or replacement information.
- (13) Where an apprenticeship assessment plan is published, the Institute must publish, with the information published under section ZA10(5) in relation to the occupation, information indicating that there is an apprenticeship assessment plan in respect of the standard for the occupation.]

Textual Amendments

- F16** S. A2 heading substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(2\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F17** S. A2(1) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(3\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F18** S. A2(2)(3) omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(4\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F19** Word in s. A2(4) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(5\)\(a\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F20** Words in s. A2(4) substituted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(5\)\(b\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F21** Word in s. A2(5) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(6\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)
- F22** Ss. A2(6)-(13) substituted for s. A2(6) (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 11\(7\)](#); S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

^{F23}**A2A Preparation of apprenticeship standards and assessment plans** **E+W+S**

Textual Amendments

- F23** S. A2A omitted (8.11.2017) by virtue of [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 12](#); S.I. 2017/1055, reg. 2(b)(iii)

Quality assurance [^{F24}of apprenticeship assessments etc]

Textual Amendments

- F24** Words in s. A2B cross-heading inserted (16.8.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 13](#); S.I. 2017/844, reg. 2(b)(ii)

A2B Evaluation of quality of apprenticeship assessments **E+W+S**

- (1) The IfA must secure that evaluations are carried out of the quality of apprenticeship assessments provided by persons in relation to assessment plans published under section A2.

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- (2) “Apprenticeship assessment” means the assessment of a person's attainment of the outcomes set out in the standard to which the [F²⁵apprenticeship] assessment plan relates.
- (3) For the purposes of subsection (1) the IfA may [F²⁶carry out evaluations or] approve or make arrangements for other persons to carry out evaluations.
- [F²⁷(4) The Secretary of State may by regulations authorise the Institute (subject to any restrictions prescribed by the regulations) to charge fees for things done in connection with the carrying out by it of evaluations under subsection (1).]

Textual Amendments

- F25** Word in s. A2B(2) inserted (16.8.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 14\(2\)](#); S.I. 2017/844, reg. 2(b)(ii)
- F26** Words in s. A2B(3) inserted (16.8.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 14\(3\)](#); S.I. 2017/844, reg. 2(b)(ii)
- F27** S. A2B(4) inserted (16.8.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 14\(4\)](#); S.I. 2017/844, reg. 2(b)(ii) (with reg. 3)

A2C Unsatisfactory apprenticeship assessments **E+W+S**

- (1) If the IfA considers that the quality of any apprenticeship assessment provided by a person is or may become unsatisfactory, it may carry out a review of the assessment, or make arrangements with another person for the carrying out of such a review.
- (2) The IfA may, in consequence of a review, make arrangements for the purpose of improving the quality of the assessment to which the review relates.
- (3) If the IfA—
- (a) considers that the quality of any apprenticeship assessment provided by a person is or may become unsatisfactory, or
 - (b) that a person who provides an apprenticeship assessment has failed to cooperate with a review carried out under this section or with arrangements made under subsection (2),
- it may report the matter to the Secretary of State or such other person as the IfA considers appropriate.
- (4) A report under subsection (3) may contain recommendations as to the action to be taken by the person to whom the report is made.
- (5) The IfA may publish a report under subsection (3).

A2D Committee to advise on quality evaluations etc **E+W+S**

- (1) The IfA may establish a committee with—
- (a) the function of giving the IfA advice on the performance of its functions under sections A2B and A2C, and
 - (b) such other functions as may be conferred on the committee by the IfA.
- (2) A majority of the members of the committee—

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- (a) must be persons who appear to the IfA to have experience of the assessment of education or training, and
 - (b) must not be members of the IfA.
- (3) Subject to that, Schedule A1 applies to a committee established under this section as it applies to committees established under paragraph 7 of that Schedule.

Review, revision and withdrawal

A2E Regular reviews of published standards and assessment plans E+W+S

- (1) The IfA must maintain arrangements for the review at regular intervals of each standard or [^{F28}apprenticeship] assessment plan published under this Chapter, with a view to determining whether the standard or plan ought to be revised or withdrawn.
- (2) In respect of each standard or [^{F29}apprenticeship] assessment plan published under this Chapter, the IfA must publish information about the intervals at which those reviews are to be conducted.

Textual Amendments

- F28** Word in s. A2E(1) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 17; S.I. 2017/1055, reg. 2\(b\)\(iii\)](#)
- F29** Word in s. A2E(2) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 17; S.I. 2017/1055, reg. 2\(b\)\(iii\)](#)

A2F Revision or withdrawal of published standards and assessment plans E+W+S

- (1) The IfA may—
 - (a) publish a revised version of a standard or [^{F30}apprenticeship] assessment plan published under this Chapter, or
 - (b) withdraw a standard or [^{F31}apprenticeship] assessment plan published under this Chapter (with or without publishing another in its place).
- [^{F32}(2) Subsections (3) to (9) of section ZA11 apply in relation to a revised version of a standard published under this section as they do in relation to a standard published under that section.
- (3) Subsections (6) to (12) of section A2 apply in relation to a revised version of an apprenticeship assessment plan published under this section as they do in relation to an apprenticeship assessment plan published under that section.]

Textual Amendments

- F30** Word in s. A2F(1)(a) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 18\(2\); S.I. 2017/1055, reg. 2\(b\)\(iii\)](#)
- F31** Word in s. A2F(1)(b) inserted (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 18\(2\); S.I. 2017/1055, reg. 2\(b\)\(iii\)](#)
- F32** S. A2F(2)(3) substituted for s. A2F(2) (8.11.2017) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 18\(3\); S.I. 2017/1055, reg. 2\(b\)\(iii\)](#)

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F33

Textual Amendments

F33 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\(b\)\(iii\)](#)

A2G Examinations by independent third parties **E+W+S**

- (1) Before the IfA approves a standard or [^{F34}apprenticeship] assessment plan for the purposes of section [^{F35}ZA11(3) or section A2(6)] it must make arrangements for the carrying out of an examination of the standard or [^{F34}apprenticeship] plan by an independent third party.
- (2) The duty imposed by subsection (1) does not apply in relation to a revised version of a standard or [^{F34}apprenticeship] assessment plan, but the IfA 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 [^{F34}apprenticeship] assessment plan by an independent third party.
- (3) Where an examination of a standard or [^{F34}apprenticeship] assessment plan is carried out under this section, the IfA must take account of the finding of the examination in exercising its functions in relation to the standard or [^{F34}apprenticeship] plan under this Chapter.
- (4) Nothing in subsection (1) prevents the IfA deciding to reject a standard or [^{F34}apprenticeship] assessment plan without first making arrangements for the carrying out of an examination by an independent third party.

Textual Amendments

F34 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\(b\)\(iii\)](#)

F35 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 **E+W+S**

- (1) The IfA 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 IfA must secure that the list is available free of charge at all reasonable times.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

A2I Transfer of copyright in standards and assessment plans **E+W+S**

- (1) This section applies where—
- ^{F36}(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 IfA) 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 IfA at the time the approval is given.
- (3) The IfA must ensure that a standard or ^{F37} [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 IfA considers appropriate.]

Textual Amendments

- F36** 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](#))
- F37** 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](#))

A3 Power to issue apprenticeship certificate **E+W+S**

- (1) The Secretary of State may issue a certificate (“an apprenticeship certificate”) ^{F38} [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;
 - ^{F39}(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

- F38** 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\(a\)](#)
- F39** 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\(a\)](#)

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

A4 Delegation **E+W+S**

- (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 **E+W+S**

- (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 **E+W+S**

- (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 **E+W+S**

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

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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.]

[^{F40}A8 Progress reports **E+W+S**

- (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;
 - (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;

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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

F40 S. A8 inserted (16.5.2016) by [Welfare Reform and Work Act 2016 \(c. 7\)](#), ss. **2(1)**, 36(2)(a)

[^{F41}A9 Public sector apprenticeship targets **E+W+S**

- (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—
 - (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

Status: Point in time view as at 09/02/2018.

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- (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

F41 Ss. A9, A10 inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 24(1), 44(2)(c)**

[^{F41}**A10 Further provision about apprenticeship targets** **E+W+S**]

- (1) A public body for which an apprenticeship target is set must—
- publish and send to the Secretary of State the information specified in subsection (2), and
 - 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—
- the number of employees whose employment in England by the body began in the reporting period in question (“figure A”);
 - 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”);
 - figure B expressed as a percentage of figure A;
 - the number of employees employed in England that the body has at the end of that period (“figure C”);
 - the number of apprentices who work for the body at the end of that period (“figure D”);
 - figure D expressed as a percentage of figure C;
 - 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—
- information about action that the body has taken to meet an apprenticeship target set for it;
 - if the public body has failed to meet an apprenticeship target set for it, an explanation of why the target has not been met;
 - 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”);
 - 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—
- so much of the first financial year of the body to end in the target period as falls within that period,
 - each subsequent financial year of the body which falls wholly within the target period, and
 - if the target period ends during a financial year of the body, so much of that financial year as falls within that period.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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

F41 Ss. A9, A10 inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 24(1)**, 44(2)(c)

[^{F42}A11 Only statutory apprenticeships to be described as apprenticeships **E+W+S**

- (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,
 - (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.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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

F42 S. A11 inserted (1.4.2017) by [Enterprise Act 2016 \(c. 12\)](#), ss. 25(1), 44(5); S.I. 2017/346, reg. 2(c)

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER 1 **E+W**

[^{F43} APPRENTICESHIPS: WALES]

Textual Amendments

F43 Pt. 1 Ch. 1 heading substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 6](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

F44 ...

Textual Amendments

F44 S. 1 and preceding crossheading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 7](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

^{F44}1 **Meaning of “completing an English apprenticeship” **E+W****

.....

2 **Meaning of “completing a Welsh apprenticeship” **E+W****

- (1) This section applies for the purposes of this Chapter.
- (2) A person completes a Welsh apprenticeship in relation to an apprenticeship framework if—
 - (a) the standard Welsh completion conditions are met, or
 - (b) the alternative Welsh completion conditions are met.
- (3) The standard Welsh completion conditions are—
 - (a) that the person has entered into an apprenticeship agreement in connection with the apprenticeship framework,
 - (b) that at the date of that agreement the framework was a recognised Welsh framework,
 - (c) that the person has completed a course of training for the competencies qualification identified in the framework,
 - (d) that, throughout the duration of the course, the person was working under the apprenticeship agreement, and
 - (e) that the person meets the requirements specified in the framework for the purpose of the issue of an apprenticeship certificate.
- (4) In subsection (3)(d)—
 - (a) the reference to the apprenticeship agreement mentioned in subsection (3) (a) includes a reference to any apprenticeship agreement which the person subsequently entered into in connection with the same apprenticeship framework;
 - (b) the reference to the course of training for the competencies qualification is to be read, in a case where the person has followed two or more courses of training for the competencies qualification, as a reference to both or all of them.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) The alternative Welsh completion conditions are conditions which—
 - (a) apply in cases where a person works otherwise than under an apprenticeship agreement, and
 - (b) are specified in regulations made by the Welsh Ministers.
- (6) The kinds of working in relation to which provision may be made under subsection (5) include—
 - (a) working as a self-employed person;
 - (b) working otherwise than for reward.

Commencement Information

II S. 2 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(a\)](#)

F45 ...

Textual Amendments

F45 Ss. 3-6 and preceding crossheading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 8](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

F45³ **Duty to issue: England** **E+W**
.....

F45⁴ **Power to issue: England** **E+W**
.....

F45⁵ **Issue by the English certifying authority: supplementary** **E+W**
.....

F45⁶ **The English certifying authority** **E+W**
.....

Apprenticeship certificates: Wales

- 7** **Duty to issue: Wales** **E+W**
 - (1) The Welsh certifying authority must issue a certificate relating to an apprenticeship framework to a person who applies to the authority in the prescribed manner if—
 - (a) it appears to the authority that the person has completed a Welsh apprenticeship in relation to the apprenticeship framework,
 - (b) in a case within section 2(2)(a), it appears to the authority that the condition in subsection (3)(e) of that section was met at the date of the person's application, and

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the person—
 - (i) provides the authority with such information and evidence as the authority requires the person to provide, and
 - (ii) pays any fee charged by the authority for the issue of the certificate (see section 9).
- (2) The “prescribed manner” is the manner prescribed by regulations made by the Welsh Ministers.

Commencement Information

I2 S. 7 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(b\)](#)

8 Power to issue: Wales **E+W**

- (1) The Welsh certifying authority may issue a certificate relating to an apprenticeship framework to a person who applies to the authority in the prescribed manner if—
 - (a) it appears to the authority that at the date of the application the person met the requirements specified in the framework for the purpose of the issue of an apprenticeship certificate,
 - (b) the framework is, or has been, a recognised Welsh framework,
 - (c) the person—
 - (i) provides the authority with such information and evidence as the authority requires the person to provide, and
 - (ii) pays any fee charged by the authority for the issue of the certificate (see section 9).
- (2) The “prescribed manner” for the purposes of subsection (1), is the manner prescribed by regulations made by the Welsh Ministers.

Commencement Information

I3 S. 8 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(c\)](#)

9 Issue by the Welsh certifying authority: supplementary **E+W**

- (1) The Welsh certifying authority may charge a fee for issuing an apprenticeship certificate only if, and to the extent that, it is authorised to do so by regulations made by the Welsh Ministers.
- (2) Regulations made by the Welsh Ministers may make provision about the supply of copies of apprenticeship certificates issued under section 7 or 8.
- (3) Regulations under subsection (2) may include provision authorising a person supplying a copy of an apprenticeship certificate to charge a fee for doing so.

Commencement Information

I4 S. 9 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(d\)](#)

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

10 The Welsh certifying authority **E+W**

- (1) In this Chapter, the “Welsh certifying authority”, in relation to an apprenticeship certificate of any description, means—
- (a) the person (if any) designated under this section to issue apprenticeship certificates of that description;
 - (b) if there is no-one within paragraph (a), the person (if any) designated under this section to issue apprenticeship certificates generally;
 - (c) if there is no-one within paragraph (a) or (b), the Welsh Ministers.
- (2) A person designated under this section to issue apprenticeship certificates must, in exercising functions under this Chapter—
- (a) comply with directions given by the Welsh Ministers, and
 - (b) have regard to guidance given by the Welsh Ministers.
- (3) “Designated” means designated by an order made by the Welsh Ministers.

Commencement Information

I5 S. 10 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(e\)](#)

Contents of apprenticeship certificate: ^{F46}...Wales

Textual Amendments

F46 Words in s. 11 cross-heading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 9\(c\)](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

11 Contents of apprenticeship certificate **E+W**

- (1) An apprenticeship certificate must state—
- (a) the name of the person to whom it is issued,
 - (b) the apprenticeship framework to which it relates,
 - (c) the level of that framework, and
 - (d) the apprenticeship sector to which that framework relates.
- (2) An apprenticeship certificate must also state such other matters as [^{F47}the Welsh Ministers] may by regulations require to be stated in a certificate of that description.
- ^{F48}(3)

Textual Amendments

F47 Words in s. 11(2) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 9\(a\)](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

F48 S. 11(3) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 9\(b\)](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

Commencement Information

I6 S. 11 in force at 6.4.2011 for E. by [S.I. 2011/200](#), [art. 3](#)

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

17 S. 11 in force at 10.5.2013 for W. by [S.I. 2013/1100](#), [art. 2\(2\)\(a\)](#)

Apprenticeship frameworks: ^{F49}... Wales

Textual Amendments

F49 Words in s. 12 cross-heading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 10\(b\)](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

12 Apprenticeship frameworks: interpretation **E+W**

- (1) In this Chapter, “apprenticeship framework” means a specification of requirements, for the purpose of the issue of apprenticeship certificates, that satisfies subsection (2).
- (2) The requirements specified must—
 - (a) be at a particular level stated in the specification, and
 - (b) relate to a particular skill, trade or occupation included in an apprenticeship sector stated in the specification.

^{F50}(3)

- (4) In this Chapter, “recognised Welsh framework” means an apprenticeship framework issued under section 19(1) from which recognition has not been withdrawn under section 19(2).
- (5) For the purposes of this Chapter—
 - (a) an apprenticeship framework is at the level of the requirements stated in it;
 - (b) an apprenticeship framework relates to the apprenticeship sector stated in it.

Textual Amendments

F50 S. 12(3) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 10\(a\)](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

Commencement Information

- I8** S. 12 in force at 1.3.2011 for E. by [S.I. 2011/200](#), [art. 2](#)
- I9** S. 12 in force at 10.5.2013 for W. by [S.I. 2013/1100](#), [art. 2\(2\)\(b\)](#)

^{F51} ...

Textual Amendments

F51 Ss. 13-17 and preceding crossheading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 11](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

^{F51}**13 English issuing authority** **E+W**

.....

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F51} **14 Issue: England** **E+W**

.....

^{F51} **15 Recognised English frameworks: notification and publication** **E+W**

.....

^{F51} **16 Submission of draft framework for issue: England** **E+W**

.....

^{F51} **17 Transitional provision: England** **E+W**

.....

Apprenticeship frameworks: Wales

18 Welsh issuing authority **E+W**

- (1) The Welsh Ministers may designate a person to issue apprenticeship frameworks relating to a particular apprenticeship sector.
- (2) The power conferred by this section must be exercised so as to secure that, at any time, only one person is designated by the Welsh Ministers to issue apprenticeship frameworks relating to a particular apprenticeship sector.
- (3) A person designated under this section must, in exercising functions under this Chapter—
 - (a) comply with directions given by the Welsh Ministers;
 - (b) have regard to guidance given by the Welsh Ministers.
- (4) A designation under this section may be amended or revoked by the Welsh Ministers.
- (5) In this Chapter the “Welsh issuing authority”, in relation to an apprenticeship framework, means the person designated under this section to issue frameworks of that description.

Commencement Information

I10 S. 18 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(f\)](#)

19 Issue: Wales **E+W**

- (1) The Welsh issuing authority may issue an apprenticeship framework only if the authority is satisfied that the framework meets the requirements specified, by the specification of apprenticeship standards for Wales, for recognised Welsh frameworks of that description.
- (2) Recognition of a recognised Welsh framework may be withdrawn—
 - (a) by the Welsh issuing authority, or

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) if there is no Welsh issuing authority in relation to the framework, by the Welsh Ministers.

Commencement Information

I11 S. 19 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(g\)](#)

20 Recognised Welsh frameworks: notification and publication **E+W**

- (1) On issuing an apprenticeship framework under section 19(1), the Welsh issuing authority must—
- (a) publish the framework;
 - (b) notify the Welsh Ministers of the issue of the framework.
- (2) A notice given under subsection (1)(b) must be accompanied by a copy of the framework.
- (3) A person who withdraws recognition of an apprenticeship framework under section 19(2) must—
- (a) publish a notice stating that recognition of the framework has been withdrawn;
 - (b) in the case of withdrawal otherwise than by the Welsh Ministers, notify the Welsh Ministers of the withdrawal.
- (4) Where this section imposes a duty on a person to publish a framework or notice, the publication may be in such manner as the person thinks fit.

Commencement Information

I12 S. 20 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(h\)](#)

21 Submission of draft framework for issue: Wales **E+W**

- (1) This section applies if a person—
- (a) submits a draft of an apprenticeship framework to the Welsh issuing authority, and
 - (b) requests that the authority issue a framework in the form of the draft.
- (2) The authority may require the person to provide such information and evidence in connection with the draft as the authority thinks appropriate.
- (3) If the authority decides not to issue a framework in the form of the draft, it must give the person reasons for its decision.

Commencement Information

I13 S. 21 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(i\)](#)

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

22 Transitional provision: Wales **E+W**

- (1) The Welsh Ministers may by order provide for an existing vocational specification to be treated, for all purposes or for purposes specified in the order, as if it were an apprenticeship framework issued under section 19(1) that specified requirements for the purpose of the issue of apprenticeship certificates.
- (2) For the purposes of its application in relation to an existing vocational specification that, by virtue of an order under subsection (1), is treated as an apprenticeship framework issued under section 19(1), this Chapter has effect subject to any modifications specified in the order.
- (3) An order under subsection (1) must—
 - (a) specify a date on which the deemed framework is to be treated as being issued under section 19(1);
 - (b) specify a date on which recognition of the deemed framework is to be treated as having been withdrawn under section 19(2);
 - (c) specify a qualification that the deemed framework is to be treated as identifying as the competencies qualification;
 - (d) specify the level and apprenticeship sector that are to be treated as being stated in the deemed framework.
- (4) The date specified under subsection (3)(b) in an order under subsection (1) must be no later than the day after the day that is the school leaving date for 2013.
- (5) In this section—

“the deemed framework”, in relation to an order under subsection (1), means an existing vocational specification that, by virtue of the order, is treated as being an apprenticeship framework issued under section 19(1);

“existing vocational specification” means a specification, prepared before the coming into force of section 19, of training, qualifications and skills appropriate for persons engaging in a particular trade, skill or occupation.
- (6) Nothing in this section limits the powers conferred by section 262.

Commencement Information

I14 S. 22 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(j\)](#)

F52
...

Textual Amendments

F52 Ss. 23-27 and preceding crossheading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), [s. 115\(7\)](#), [Sch. 1 para. 12](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

^{F52}23 Duty to prepare and submit draft specification: England **E+W**

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Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F52}**24** **Order bringing specification into effect** **E+W**

.....

^{F52}**25** **Modification: England** **E+W**

.....

^{F52}**26** **Replacement or modification: recognised English frameworks** **E+W**

.....

^{F52}**27** **Contents of specification of apprenticeship standards for England** **E+W**

.....

Specification of apprenticeship standards: Wales

28 **Specification of apprenticeship standards for Wales** **E+W**

- (1) The Welsh Ministers may prepare a draft specification of apprenticeship standards.
- (2) In preparing the draft, the Welsh Ministers must consult such persons as they think appropriate.
- (3) Having prepared a draft, the Welsh Ministers may by order provide that a specification of apprenticeship standards (“the specification of apprenticeship standards for Wales”) is to have effect—
 - (a) in the form of the draft, or
 - (b) in that form with such modifications as the Welsh Ministers think appropriate.
- (4) Subsection (2) does not apply in relation to the first draft specification to be prepared by the Welsh Ministers after the commencement of this section.
- (5) The Welsh Ministers may not make an order under subsection (3) unless satisfied that the specification of apprenticeship standards given effect to by the order complies with section 31.
- (6) The power conferred by subsection (3) is to be exercised so as to secure that at any time only one specification of apprenticeship standards has effect as the specification of apprenticeship standards for Wales.

Commencement Information

I15 S. 28 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(k\)](#)

29 **Modification: Wales** **E+W**

- (1) The Welsh Ministers may by order provide that the specification of apprenticeship standards for Wales is to have effect subject to modifications specified in the order.
- (2) The Welsh Ministers may not make an order under this section unless satisfied that the specification, as so modified, complies with section 31.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I16 S. 29 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(l\)](#)

30 Replacement or modification: recognised Welsh frameworks **E+W**

- (1) Subject to subsection (2), a recognised Welsh framework does not cease to be a recognised Welsh framework if, by virtue of an order under section 28 or 29, it ceases to meet the requirements specified for frameworks of its description by the specification of apprenticeship standards for Wales.
- (2) An order under section 28 may provide for an apprenticeship framework which—
 - (a) immediately before the making of the order is a recognised Welsh framework, but
 - (b) does not meet the requirements specified for frameworks of its description by the specification of apprenticeship standards for Wales to which the order gives effect,to cease to have effect as a recognised Welsh framework.

Commencement Information

I17 S. 30 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(m\)](#)

31 Contents of specification of apprenticeship standards for Wales **E+W**

- (1) The specification of apprenticeship standards for Wales—
 - (a) must specify requirements to be met by recognised Welsh frameworks,
 - (b) may specify different requirements in relation to recognised Welsh frameworks at different levels.
- (2) The requirements specified by the specification of apprenticeship standards for Wales must include—
 - (a) requirements as to Welsh certificate requirements, including requirements as to standards of attainment to be required by them,
 - (b) requirements for a recognised Welsh framework to include, as a Welsh certificate requirement, the requirement that an apprenticeship certificate relating to the framework may be issued to a person only if the person has received both on-the-job training and off-the-job training, and
 - (c) requirements for a recognised Welsh framework to—
 - (i) include, as a Welsh certificate requirement, the requirement that one or more qualifications be held,
 - (ii) include, as a Welsh certificate requirement, the requirement that the qualification, or the qualifications taken together, demonstrate the relevant occupational competencies and the relevant technical knowledge, and
 - (iii) identify the qualification that demonstrates the relevant occupational competencies as the competencies qualification in relation to the framework.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) Requirements as to standards of attainment may be specified by reference, in particular, to descriptions of qualifications or training.

(4) In this section—

“off-the-job training” in relation to a recognised Welsh framework, is training which—

- (a) is received for the purposes of the skill, trade or occupation to which the framework relates, and
- (b) is not on-the-job training;

“on-the-job training” in relation to a recognised Welsh framework, is training received in the course of carrying on the skill, trade or occupation to which the framework relates;

“the relevant occupational competencies”, in relation to a recognised Welsh framework, means the competencies required to perform the skill, trade or occupation to which the framework relates at the level required in the framework;

“the relevant technical knowledge”, in relation to a recognised Welsh framework, means the technical knowledge required to perform the skill, trade or occupation to which the framework relates at the level required in the framework;

“Welsh certificate requirement” means a requirement specified in a recognised Welsh framework for the purpose of the issue of apprenticeship certificates relating to that framework by the Welsh certifying authority.

Commencement Information

I18 S. 31 in force at 10.5.2013 by [S.I. 2013/1100](#), [art. 2\(1\)\(n\)](#)

Apprenticeship agreements: ^{F53} ... Wales

Textual Amendments

F53 Words in s. 32 cross-heading omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 13](#); [S.I. 2015/994](#), [art. 6\(a\)](#) (with [Sch. Pt. 2](#))

32 Meaning of “apprenticeship agreement” **E+W**

(1) In this Chapter, “apprenticeship agreement” means an agreement in relation to which each of the conditions in subsection (2) is satisfied.

(2) The conditions are—

- (a) that a person (the “apprentice”) undertakes to work for another (the “employer”) under the agreement;
- (b) that the agreement is in the prescribed form;
- (c) that the agreement states that it is governed by the law of England and Wales;
- (d) that the agreement states that it is entered into in connection with a qualifying apprenticeship framework.

(3) The power conferred by subsection (2)(b) may be exercised, in particular—

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) to specify provisions that must be included in an apprenticeship agreement;
 - (b) to specify provisions that must not be included in an apprenticeship agreement;
 - (c) to specify all or part of the wording of provisions that must be included in an apprenticeship agreement.
- (4) Where an agreement states that it is entered into in connection with an apprenticeship framework (“the relevant framework”) that is not a qualifying apprenticeship framework, subsection (2)(d) is to be taken to be satisfied in relation to the agreement if—
- (a) at a time within the period of three years ending with the date of the agreement, the relevant framework was a qualifying apprenticeship framework;
 - (b) at the date of the agreement, the apprentice has not completed the whole of a course of training for the competencies qualification identified in the relevant framework,
 - (c) before the date of the agreement, the apprentice entered into an apprenticeship agreement (“the earlier agreement”) which stated that it was entered into in connection with the relevant framework, and
 - (d) at the date of the earlier agreement, the relevant framework was a qualifying apprenticeship framework.
- (5) In subsection (4)(b), the reference to a course of training for the competencies qualification is to be read, in a case where the person follows two or more courses of training for the competencies qualification, as a reference to both or all of them.
- (6) An apprenticeship framework is a “qualifying apprenticeship framework”, for the purposes of this section, if it is—
- ^{F54}(a)
 - (b) a recognised Welsh framework.

Textual Amendments

F54 S. 32(6)(a) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 14](#); [S.I. 2015/994](#), art. 6(a) (with [Sch. Pt. 2](#))

Commencement Information

I19 S. 32 in force at 6.4.2011 for E. by [S.I. 2011/200](#), art. 3

I20 S. 32 in force at 1.8.2011 for W. by [S.I. 2011/200](#), art. 4

33 Ineffective provisions **E+W**

- (1) To the extent that provision included in an apprenticeship agreement conflicts with the prescribed apprenticeship provisions, it has no effect.
- (2) In this section, the “prescribed apprenticeship provisions”, in relation to an apprenticeship agreement, means those provisions—
 - (a) that are included in the agreement, and
 - (b) without the inclusion of which the agreement would not satisfy section 32(2)(b).

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

- I21** S. 33 in force at 6.4.2011 for E. by [S.I. 2011/200, art. 3](#)
I22 S. 33 in force at 1.8.2011 for W. by [S.I. 2011/200, art. 4](#)

34 Variation **E+W**

- (1) If a variation to an apprenticeship agreement is within subsection (2), it has effect only if, before it was made, the employer complied with the requirement in subsection (3).
- (2) A variation to an apprenticeship agreement is within this subsection if its nature is such that, were it to take effect, the agreement would cease to be an apprenticeship agreement.
- (3) The employer must give the apprentice written notice stating that, if the variation takes effect, the agreement will cease to be an apprenticeship agreement.

Commencement Information

- I23** S. 34 in force at 6.4.2011 for E. by [S.I. 2011/200, art. 3](#)
I24 S. 34 in force at 1.8.2011 for W. by [S.I. 2011/200, art. 4](#)

35 Status **E+W**

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

Commencement Information

- I25** S. 35 in force at 6.4.2011 for E. by [S.I. 2011/200, art. 3](#)
I26 S. 35 in force at 1.8.2011 for W. by [S.I. 2011/200, art. 4](#)

36 Crown servants and Parliamentary staff **E+W**

- (1) Sections 32 to 35 apply in relation to—
 - (a) an agreement under which a person undertakes Crown employment,
 - (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 they apply in relation to any other agreement under which a person undertakes to work for another.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subsection (1) is subject to subsection (3) and to any modifications which may be prescribed under subsection (5).
- (3) Section 35(2) does not apply in relation to an 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 32(2)(b) may be exercised, in particular, to make provision in relation to an apprenticeship agreement which is an agreement within any of paragraphs (a), (b) and (c) of subsection (1) that differs from provision made in relation to other apprenticeship agreements.
- (5) Regulations may provide for any provision of this Chapter ^{F55}... 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 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);

“relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996 (c. 18);

“relevant member of the House of Lords staff” has the meaning given by section 194(6) of that Act.

Textual Amendments

F55 Words in s. 36(5) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 18 para. 3](#); [S.I. 2012/1087](#), art. 3

Commencement Information

I27 S. 36 in force at 6.4.2011 for E. by [S.I. 2011/200](#), art. 3
I28 S. 36 in force at 1.8.2011 for W. by [S.I. 2011/200](#), art. 4

Duty to participate in education or training: England

37 **Duty to participate in education or training: apprenticeship agreements** E+W

- (1) Part 1 of the Education and Skills Act 2008 (c. 25) (duty to participate in education or training: England) is amended as follows.
- (2) In section 2 (duty to participate), in subsection (1)(b) after “contract of apprenticeship” insert “ or an apprenticeship agreement ”.
- (3) In section 66 (interpretation of Part 1), in subsection (1)—
 - (a) at the appropriate place insert—

“ “apprenticeship agreement” has the meaning given in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009;”;
 - (b) in the definition of “contract of employment” after “contract of apprenticeship” insert “ or an apprenticeship agreement ”.

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I29 S. 37 in force at 6.4.2011 by [S.I. 2011/200, art. 3](#)

General

38 Apprenticeship sectors **E+W**

- (1) [^{F56}The Welsh Ministers] must by order specify sectors of skill, trade or occupation for the purposes of this Chapter.
- (2) The sectors specified under subsection (1) must in the opinion of [^{F57}the Welsh Ministers] encompass the full range of skills, trades and occupations.

Textual Amendments

F56 Words in s. 38(1) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 1 para. 15\(a\)](#); [S.I. 2015/994, art. 6\(a\)](#) (with [Sch. Pt. 2](#))

F57 Words in s. 38(2) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 1 para. 15\(b\)](#); [S.I. 2015/994, art. 6\(a\)](#) (with [Sch. Pt. 2](#))

Commencement Information

I30 S. 38 in force at 1.3.2011 by [S.I. 2011/200, art. 2](#)

39 Interpretation of Chapter **E+W**

- (1) In this Chapter—
 - “apprenticeship agreement” has the meaning given by section 32(1);
 - “apprenticeship certificate” means a certificate issued under section ^{F58}... 7 or 8;
 - “apprenticeship framework” has the meaning given by section 12(1);
 - “apprenticeship sector” means a sector specified under section 38;
 - “the competencies qualification”, in relation to an apprenticeship framework, means the qualification identified in the framework as being the competencies qualification;
 - ^{F59} ...
 - ^{F59} ...
 - ^{F59} ...
 - “recognised Welsh framework” has the meaning given by section 12(4);
 - ^{F59} ...
 - “the specification of apprenticeship standards for Wales” means the specification of apprenticeship standards having effect for the time being by virtue of an order made by the Welsh Ministers under section 28 or 29;
 - “Welsh certifying authority”, in relation to an apprenticeship certificate of any description, has the meaning given by section 10(1);
 - “Welsh issuing authority”, in relation to an apprenticeship framework, has the meaning given by section 18(5).

Status: Point in time view as at 09/02/2018.

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) References in this Chapter—
 - (a) to the level of an apprenticeship framework, or
 - (b) to the apprenticeship sector to which an apprenticeship framework relates, are to be construed in accordance with section 12(5).
- (3) References in this Chapter to an employer and an apprentice, in relation to an apprenticeship agreement, are to be construed in accordance with section 32.

Textual Amendments

- F58** Words in s. 39(1) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 16\(a\)](#); S.I. 2015/994, art. 6(a) (with Sch. Pt. 2)
- F59** Words in s. 39(1) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 1 para. 16\(b\)](#); S.I. 2015/994, art. 6(a) (with Sch. Pt. 2)

Commencement Information

- I31** S. 39 in force at 6.4.2011 for E. by [S.I. 2011/200](#), art. 3
- I32** S. 39 in force at 10.5.2013 for W. by [S.I. 2013/1100](#), art. 2(2)(c)

CHAPTER 2 **E+W+S**

STUDY AND TRAINING

40 **Employer support for employee study and training** **E+W+S**

- (1) The Employment Rights Act 1996 (c. 18) is amended as follows.
- (2) After Part 6 (time off work) insert—

“PART 6A **E+W+S**

STUDY AND TRAINING

63D **Statutory right to make request in relation to study or training**

- (1) A qualifying employee may make an application under this section to his or her employer.
- (2) An application under this section (a “section 63D application”) is an application that meets—
 - (a) the conditions in subsections (3) to (5), and
 - (b) any further conditions specified by the Secretary of State in regulations.
- (3) The application must be made for the purpose of enabling the employee to undertake study or training (or both) within subsection (4).
- (4) Study or training is within this subsection if its purpose is to improve—
 - (a) the employee's effectiveness in the employer's business, and

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- (b) the performance of the employer's business.
- (5) The application must state that it is an application under this section.
- (6) An employee is a qualifying employee for the purposes of this section if the employee—
 - (a) satisfies any conditions about duration of employment specified by the Secretary of State in regulations, and
 - (b) is not a person within subsection (7).
- (7) The following persons are within this subsection—
 - (a) a person of compulsory school age (or, in Scotland, school age);
 - (b) a person to whom Part 1 of the Education and Skills Act 2008 (duty to participate in education or training for 16 and 17 year olds) applies;
 - (c) a person who, by virtue of section 29 of that Act, is treated as a person to whom that Part applies for the purposes specified in that section (extension for person reaching 18);
 - (d) a person to whom section 63A of this Act (right to time off for young person for study or training) applies;
 - (e) an agency worker;
 - (f) a person of a description specified by the Secretary of State in regulations.
- (8) Nothing in this Part prevents an employee and an employer from making any other arrangements in relation to study or training.
- (9) In this section—
 - “agency worker” means a worker supplied by a person (the “agent”) to do work for another person (the “principal”) under a contract or other arrangement between the agent and principal;
 - “compulsory school age” has the meaning given in section 8 of the Education Act 1996;
 - “school age” has the meaning given in section 31 of the Education (Scotland) Act 1980.

63E Section 63D application: supplementary

- (1) A section 63D application may—
 - (a) be made in relation to study or training of any description (subject to section 63D(3) and (4) and regulations under section 63D(2));
 - (b) relate to more than one description of study or training.
- (2) The study or training may (in particular) be study or training that (if undertaken)—
 - (a) would be undertaken on the employer's premises or elsewhere (including at the employee's home);
 - (b) would be undertaken by the employee while performing the duties of the employee's employment or separately;
 - (c) would be provided or supervised by the employer or by someone else;
 - (d) would be undertaken without supervision;
 - (e) would be undertaken within or outside the United Kingdom.

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- (3) The study or training need not be intended to lead to the award of a qualification to the employee.
- (4) A section 63D application must—
 - (a) give the following details of the proposed study or training—
 - (i) its subject matter;
 - (ii) where and when it would take place;
 - (iii) who would provide or supervise it;
 - (iv) what qualification (if any) it would lead to;
 - (b) explain how the employee thinks the proposed study or training would improve—
 - (i) the employee's effectiveness in the employer's business, and
 - (ii) the performance of the employer's business;
 - (c) contain information of any other description specified by the Secretary of State in regulations.
- (5) The Secretary of State may make regulations about—
 - (a) the form of a section 63D application;
 - (b) when a section 63D application is to be taken to be received for the purposes of this Part.

63F Employer's duties in relation to application

- (1) Subsections (4) to (7) apply if—
 - (a) an employer receives a section 63D application (the “current application”) from an employee, and
 - (b) during the relevant 12 month period the employer has not received another section 63D application (an “earlier application”) from the employee.
- (2) The “relevant 12 month period” is the 12 month period ending with the day on which the employer receives the current application.
- (3) The Secretary of State may make regulations about circumstances in which, at an employee's request, an employer is to be required to ignore an earlier application for the purposes of subsection (1).
- (4) The employer must deal with the application in accordance with regulations made by the Secretary of State.
- (5) The employer may refuse a section 63D application only if the employer thinks that one or more of the permissible grounds for refusal applies in relation to the application.
- (6) The employer may refuse part of a section 63D application only if the employer thinks that one or more of the permissible grounds for refusal applies in relation to that part.
- (7) The permissible grounds for refusal are—
 - (a) that the proposed study or training to which the application, or the part in question, relates would not improve—
 - (i) the employee's effectiveness in the employer's business, or

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- (ii) the performance of the employer's business;
- (b) the burden of additional costs;
- (c) detrimental effect on ability to meet customer demand;
- (d) inability to re-organise work among existing staff;
- (e) inability to recruit additional staff;
- (f) detrimental impact on quality;
- (g) detrimental impact on performance;
- (h) insufficiency of work during the periods the employee proposes to work;
- (i) planned structural changes;
- (j) any other grounds specified by the Secretary of State in regulations.

63G Regulations about dealing with applications

- (1) Regulations under section 63F(4) may, in particular, include provision—
 - (a) for the employee to have a right to be accompanied by a person of a specified description when attending meetings held in relation to a section 63D application in accordance with any such regulations;
 - (b) for the postponement of such a meeting if the employee's companion under paragraph (a) is not available to attend it;
 - (c) in relation to companions under paragraph (a), corresponding to section 10(6) and (7) of the Employment Relations Act 1999 (right to paid time off to act as companion, etc.);
 - (d) in relation to the rights under paragraphs (a) to (c), for rights to complain to an employment tribunal and not to be subjected to a detriment, and about unfair dismissal;
 - (e) for section 63D applications to be treated as withdrawn in specified circumstances.
- (2) In this section “specified” means specified in the regulations.

63H Employee's duties in relation to agreed study or training

- (1) This section applies if an employer has agreed to a section 63D application, or part of a section 63D application, made by an employee in relation to particular study or training (the “agreed study or training”).
- (2) The employee must inform the employer if the employee—
 - (a) fails to start the agreed study or training;
 - (b) fails to complete the agreed study or training;
 - (c) undertakes, or proposes to undertake, study or training that differs from the agreed study or training in any respect (including those specified in section 63E(4)(a)).
- (3) The Secretary of State may make regulations about the way in which the employee is to comply with the duty under subsection (2).

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63I Complaints to employment tribunals

- (1) An employee who makes a section 63D application may present a complaint to an employment tribunal that—
 - (a) the employer has failed to comply with section 63F(4), (5) or (6), or
 - (b) the employer's decision to refuse the application, or part of it, is based on incorrect facts.

This is subject to the following provisions of this section.

- (2) No complaint under this section may be made in respect of a section 63D application which has been disposed of by agreement or withdrawn.
- (3) In the case of a section 63D application that has not been disposed of by agreement or withdrawn, a complaint under this section may only be made if the employer—
 - (a) notifies the employee of a decision to refuse the application (or part of it) on appeal, or
 - (b) commits a breach of regulations under section 63F(4), where the breach is of a description specified by the Secretary of State in regulations.
- (4) No complaint under this section may be made in respect of failure to comply with provision included in regulations under section 63F(4) because of—
 - (a) section 63G(1)(a) or (b), if provision is included in regulations under section 63F(4) by virtue of section 63G(1)(d), or
 - (b) section 63G(1)(c).
- (5) An employment tribunal may not consider a complaint under this section unless the complaint is presented—
 - (a) before the end of the period of three months beginning with the relevant date, or
 - (b) within any further period that the tribunal considers reasonable, if the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.
- (6) The relevant date is—
 - (a) in the case of a complaint permitted by subsection (3)(a), the date on which the employee is notified of the decision on the appeal;
 - (b) in the case of a complaint permitted by subsection (3)(b), the date on which the breach was committed.

63J Remedies

- (1) If an employment tribunal finds a complaint under section 63I well-founded it must make a declaration to that effect and may—
 - (a) make an order for reconsideration of the section 63D application;
 - (b) make an award of compensation to be paid by the employer to the employee.

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- (2) The amount of any compensation must be the amount the tribunal considers just and equitable in all the circumstances, but must not exceed the permitted maximum.
- (3) The permitted maximum is the number of weeks' pay specified by the Secretary of State in regulations.
- (4) If an employment tribunal makes an order under subsection (1)(a), section 63F and regulations under that section apply as if the application had been received on the date of the order (instead of on the date it was actually received).

63K Supplementary

Regulations under this Part may make different provision for different cases.”

- (3) After section 47E (protection from suffering detriment in employment: flexible working) insert—

“Study and training

- (1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the employee's employer done on the ground that the employee—
 - (a) made (or proposed to make) a section 63D application,
 - (b) exercised (or proposed to exercise) a right conferred on the employee under section 63F,
 - (c) brought proceedings against the employer under section 63I, or
 - (d) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.
- (2) This section does not apply if the detriment in question amounts to dismissal within the meaning of Part 10.”

- (4) After section 104D (unfair dismissal: pension enrolment) insert—

“Study and training

An employee who is dismissed is to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—

- (a) made (or proposed to make) a section 63D application,
 - (b) exercised (or proposed to exercise) a right conferred on the employee under section 63F,
 - (c) brought proceedings against the employer under section 63I, or
 - (d) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.”
- (5) Schedule 1 makes amendments to employment legislation relating to the provision made by this section.]

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Commencement Information

I33 S. 40 in force at 6.4.2010 for specified purposes by [S.I. 2010/303](#), [art. 4](#), [Sch. 3](#) (with [arts. 9-11](#))

Status:

Point in time view as at 09/02/2018.

Changes to legislation:

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