

# SCHEDULES

## SCHEDULE 1

Section 3

### APPROVED ENGLISH APPRENTICESHIPS

#### PART 1

##### MAIN AMENDMENTS

- 1 In Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships, study and training), before Chapter 1 insert—

#### “CHAPTER A1

##### APPRENTICESHIPS: ENGLAND

#### **A1 Meaning of “approved English apprenticeship” etc**

- (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 a sector for which the Secretary of State has published an approved apprenticeship standard under section A2,
  - (b) provides for the apprentice to receive training in order to assist the apprentice to achieve the approved apprenticeship 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.

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- (6) A person completes an approved English apprenticeship if the person achieves the approved apprenticeship standard while doing an approved English apprenticeship.
- (7) The “approved apprenticeship 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 A2).

### **A2 Approved apprenticeship standards**

- (1) The Secretary of State must publish standards for such sectors of work as the Secretary of State thinks appropriate for the purposes of this Chapter.
- (2) Each standard must be—
  - (a) prepared by the Secretary of State, or
  - (b) prepared by another person and approved by the Secretary of State.
- (3) Each standard must—
  - (a) describe the sector of work to which it relates, and
  - (b) if there is more than one standard for that sector, describe the kind of work within that sector to which it relates.
- (4) Each standard must set out the outcomes that persons seeking to complete an approved English apprenticeship are expected to achieve.
- (5) The Secretary of State may—
  - (a) publish a revised version of a standard, or
  - (b) withdraw a standard (with or without publishing another in its place).
- (6) Revisions of a standard may be—
  - (a) prepared by the Secretary of State, or
  - (b) prepared by another person and approved by the Secretary of State.

### **A3 Power to issue apprenticeship certificate**

- (1) The Secretary of State may issue a certificate (“an apprenticeship certificate”) to 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;
  - (b) the supply by the Secretary of State of copies of apprenticeship certificates issued under that subsection to persons to whom they were issued.
- (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.

#### **A4 Delegation**

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

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

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

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

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

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

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

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- (i) a relevant member of the House of Lords staff, or
  - (ii) a relevant member of the House of Commons staff,
- as it applies in relation to any other agreement under which a person is to work for another (and this Chapter applies accordingly).
- (2) Subsection (1) is subject to subsection (3) and to any modifications which may be prescribed under subsection (5).
  - (3) Section A5(2) does not apply in relation to an approved English apprenticeship agreement that is an agreement within paragraph (a), (b) or (c) of subsection (1).
  - (4) Without prejudice to section 262(3), the power conferred by section A1(3)(c) may be exercised, in particular, to make provision in relation to an agreement within any of paragraphs (a), (b) and (c) of subsection (1) that differs from provision made in relation to other agreements under which a person is to work for another.
  - (5) The Secretary of State may by regulations provide for any provision of this Chapter to apply with modifications in relation to—
    - (a) an agreement within paragraph (a), (b) or (c) of subsection (1), or
    - (b) a person working, or proposing to work, under such an agreement.
  - (6) In subsection (1)—
    - “Crown employment” means employment under or for the purposes of a government department or an officer or body exercising on behalf of the Crown functions conferred by a statutory provision (but does not include service as a member of the naval, military or air forces of the Crown);
    - “relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996;
    - “relevant member of the House of Lords staff” has the meaning given by section 194(6) of that Act.”
- 2 (1) Section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 (provision of financial resources) is amended as follows.
- (2) In subsection (1), after “financial resources” insert “under this subsection”.
  - (3) After subsection (1) insert—
    - “(1A) The Secretary of State may secure the provision of financial resources to any person under this subsection (whether or not the resources could be secured under subsection (1))—
      - (a) for the purpose of encouraging the provision of opportunities for individuals to complete approved English apprenticeships or to undertake work following the completion of such apprenticeships, or
      - (b) otherwise in connection with approved English apprenticeships.”
  - (4) In subsection (3), after “subsection (1)” insert “or (1A)”.
  - (5) In subsection (4), after “subsection (1)(c)” insert “or (1A)”.

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- 3 (1) Section 101 of that Act (financial resources: conditions) is amended as follows.
- (2) In subsection (2)—
- (a) after “may” insert “(among other things)”;
  - (b) omit paragraph (b).
- (3) Omit subsections (4) and (5).
- 4 In section 103 of that Act (means tests), in subsection (1) (as amended by paragraph 16 of Schedule 14), after “section 100(1)(c), (d) or (e)” insert “or (1A)”.

## PART 2

### CONSEQUENTIAL AMENDMENTS

- 5 In consequence of the amendments made by Part 1 of this Schedule, the Apprenticeships, Skills, Children and Learning Act 2009 is further amended as follows.

#### *Amendments of Part 1*

- 6 For the title of Chapter 1, substitute “Apprenticeships: Wales”.
- 7 Omit section 1, and the italic cross-heading before it.
- 8 Omit sections 3 to 6, and the italic cross-heading before them.
- 9 In section 11—
- (a) in subsection (2), for “the appropriate national authority” substitute “the Welsh Ministers”;
  - (b) omit subsection (3);
  - (c) in the italic cross-heading before that section, omit “England and”.
- 10 In section 12—
- (a) omit subsection (3);
  - (b) in the italic cross-heading before that section, omit “England and”.
- 11 Omit sections 13 to 17, and the italic cross-heading before them.
- 12 Omit sections 23 to 27, and the italic cross-heading before them.
- 13 In the italic cross-heading before section 32, omit “England and”.
- 14 In section 32, omit subsection (6)(a), and the “or” following it.
- 15 In section 38—
- (a) in subsection (1), for “The Secretary of State” substitute “The Welsh Ministers”;
  - (b) in subsection (2), for “the Secretary of State” substitute “the Welsh Ministers”.
- 16 In section 39, in subsection (1)—
- (a) in the definition of “apprenticeship certificate”, omit “3, 4,”;
  - (b) omit the definitions of “English certifying authority”, “English issuing authority”, “recognised English framework” and “the specification of apprenticeship standards for England”.

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*Other amendments of the 2009 Act*

- 17 In section 83, in subsection (5), for paragraphs (a) to (c) substitute—  
 “(a) an approved English apprenticeship, or  
 (b) any contract of service (other than an approved English apprenticeship agreement) or contract of apprenticeship.”
- 18 In section 83A—  
 (a) in subsection (3), for the words from “opportunity to” to the end of the subsection substitute “opportunity to enter into an approved English apprenticeship.”;  
 (b) omit subsection (11).
- 19 (1) Section 83B is amended as follows.  
 (2) In subsection (1), for the words from “at a particular level” to the end of the subsection substitute “for the purpose of assisting a person to achieve a particular approved apprenticeship standard if the person—  
 (a) has already completed an approved English apprenticeship by achieving that standard,  
 (b) has already completed an approved English apprenticeship by achieving another standard and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work), or  
 (c) has worked under another arrangement and, in doing so, appears to the Secretary of State to have demonstrated a comparable level of achievement (whether or not in the same sector of work).”  
 (3) After that subsection insert—  
 “(1A) Section A1(6) and (7) (which make provision about when a person completes an approved English apprenticeship and about the meaning of “approved apprenticeship standard”) apply for the purposes of subsection (1).”  
 (4) Omit subsections (2) to (5).
- 20 In section 90, in subsection (2), for paragraphs (a) and (b) substitute—  
 “(a) an approved English apprenticeship, or  
 (b) any contract of employment (other than an approved English apprenticeship agreement) in connection with which training is provided.”
- 21 Omit section 105.
- 22 In section 121, in subsection (1)—  
 (a) omit the definition of “apprenticeship agreement”;  
 (b) after the definition of “apprenticeship training” insert—  
 ““approved English apprenticeship” has the meaning given by section A1(2);”.
- 23 In section 267, in subsection (2), for “Chapter 1” substitute “Chapter A1”.

### PART 3

#### APPRENTICESHIPS: WALES

- 24 Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- 25 (1) Section 18 (Welsh issuing authority) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The power to designate conferred by this section may not be exercised in such a way that there is at any time more than one person designated to issue apprenticeship frameworks relating to a particular apprenticeship sector.”
- (3) For subsection (5) substitute—
- “(5) In this Chapter, the “Welsh issuing authority”, in relation to an apprenticeship framework, means—
- (a) the person (if any) designated under this section to issue frameworks of that description;
- (b) if there is no-one so designated, the Welsh Ministers.”
- 26 In section 19 (issue: Wales), in subsection (2)—
- (a) after “withdrawn” insert “by the Welsh issuing authority”;
- (b) omit paragraphs (a) and (b).
- 27 (1) Section 20 (recognised Welsh frameworks: notification and publication) is amended as follows.
- (2) In subsection (1)(b), at the beginning insert “if the issuing authority is not the Welsh Ministers,”.
- (3) In subsection (3)—
- (a) for “A person who” substitute “A Welsh issuing authority which”;
- (b) in paragraph (b), for “in the case of withdrawal otherwise than by the Welsh Ministers,” substitute “in the case where the issuing authority are not the Welsh Ministers,”.

### PART 4

#### TRANSITIONAL PROVISION

- 28 The provision that may be included in an order under section 115(9) in connection with the coming into force of paragraph 1 of this Schedule includes provision—
- (a) for work done by a person under an arrangement described in the order to be treated as work done under an approved English apprenticeship within the meaning of the Apprenticeships, Skills, Children and Learning Act 2009, where the person begins to work under the arrangement before the paragraph comes into force and continues to do so (for any period) afterwards;
- (b) for a standard published by the Secretary of State before the paragraph comes into force, in connection with work that by virtue of provision made under paragraph (a) is treated as work done under an approved English apprenticeship, to be treated as if it were an approved apprenticeship

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standard published under section A2 of the 2009 Act in relation to the approved English apprenticeship.