



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 1

#### APPRENTICESHIPS, STUDY AND TRAINING

#### CHAPTER 1

#### APPRENTICESHIPS

#### *Completing an apprenticeship*

### **1 Meaning of “completing an English apprenticeship”**

- (1) This section applies for the purposes of this Chapter.
- (2) A person completes an English apprenticeship in relation to an apprenticeship framework if—
  - (a) the standard English completion conditions are met, or
  - (b) the alternative English completion conditions are met.
- (3) The standard English 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 English 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

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- (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.
- (5) The alternative English 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.
- (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. 1 in force at 6.4.2011 by S.I. 2011/200, art. 3

VALID FROM 10/05/2013

## 2 Meaning of “completing a Welsh apprenticeship”

- (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.

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- (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.
- (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.

### *Apprenticeship certificates: England*

## **3 Duty to issue: England**

The English 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 an English apprenticeship in relation to the apprenticeship framework,
- (b) in a case within section 1(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
- (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 5).

### **Commencement Information**

**I2** S. 3 in force at 6.4.2011 by S.I. 2011/200, art. 3

## **4 Power to issue: England**

The English 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,

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- (b) the framework is, or has been, a recognised English framework, and
- (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 5).

#### Commencement Information

**I3** S. 4 in force at 6.4.2011 by [S.I. 2011/200](#), [art. 3](#)

### 5 Issue by the English certifying authority: supplementary

- (1) The English 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.
- (2) Regulations may make provision about the supply of copies of apprenticeship certificates issued under section 3 or 4.
- (3) Regulations under subsection (2) may include provision authorising [<sup>F1</sup>a person supplying a copy of an apprenticeship certificate to charge a fee for doing so.]

#### Textual Amendments

**F1** Words in [s. 5\(3\)](#) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), [ss. 71\(2\)](#), [82\(3\)](#); [S.I. 2012/924](#), [art. 2](#)

#### Commencement Information

**I4** S. 5 in force at 6.4.2011 by [S.I. 2011/200](#), [art. 3](#)

### [<sup>F26</sup> The English certifying authority

- (1) In this Chapter, the “English certifying authority”, in relation to an apprenticeship certificate of any description, means—
  - (a) the person (if any) designated by the Secretary of State under this section to issue apprenticeship certificates of that description;
  - (b) if there is no-one within paragraph (a), the person (if any) designated by the Secretary of State under this section to issue apprenticeship certificates generally;
  - (c) if there is no-one within paragraph (a) or (b), the Secretary of State.
- (2) The power conferred by subsection (1)(a) must be exercised so as to secure that, at any time, only one person is designated to issue apprenticeship certificates relating to a particular apprenticeship sector.
- (3) A person designated under this section to issue apprenticeship certificates must, in exercising functions under this Chapter—
  - (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 amended or revoked by the Secretary of State.]

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### Textual Amendments

**F2** S. 6 substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 71(3), 82(3)**; [S.I. 2012/924](#), **art. 2**

### Commencement Information

**I5** S. 6 in force at 6.4.2011 by [S.I. 2011/200](#), **art. 3**

VALID FROM 10/05/2013

## *Apprenticeship certificates: Wales*

### **7 Duty to issue: Wales**

- (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
  - (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.

### **8 Power to issue: Wales**

- (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.

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## **9 Issue by the Welsh certifying authority: supplementary**

- (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.

## **10 The Welsh certifying authority**

- (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.

### *Contents of apprenticeship certificate: England and Wales*

## **11 Contents of apprenticeship certificate**

- (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 the appropriate national authority may by regulations require to be stated in a certificate of that description.
- (3) The appropriate national authority, for the purposes of subsection (2), is—
  - (a) in relation to a certificate issued under section 3 or 4, the Secretary of State;
  - (b) in relation to a certificate issued under section 7 or 8, the Welsh Ministers.

### **Commencement Information**

**I6** S. 11 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3

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### *Apprenticeship frameworks: England and Wales*

## **12 Apprenticeship frameworks: interpretation**

- (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.
- (3) In this Chapter, “recognised English framework” means an apprenticeship framework issued under section 14(1) from which recognition has not been withdrawn under section 14(2).
- (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.

#### **Commencement Information**

**I7** S. 12 in force at 1.3.2011 for E. by S.I. 2011/200, art. 2

### *Apprenticeship frameworks: England*

## **13 English issuing authority**

- (1) The Secretary of State 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 Secretary of State 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 Secretary of State;
  - (b) have regard to guidance given by the Secretary of State.
- (4) A designation under this section may be amended or revoked by the Secretary of State.
- (5) In this Chapter the “English issuing authority”, in relation to an apprenticeship framework, means the person designated under this section to issue frameworks of that description.

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#### Commencement Information

**I8** S. 13 in force at 1.3.2011 by S.I. 2011/200, art. 2

### 14 Issue: England

- (1) The English 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 England, for recognised English frameworks of that description.
- (2) Recognition of a recognised English framework may be withdrawn—
  - (a) by the English issuing authority, or
  - (b) if there is no English issuing authority in relation to the framework, by the Secretary of State.

#### Commencement Information

**I9** S. 14 in force at 1.3.2011 by S.I. 2011/200, art. 2

### 15 Recognised English frameworks: notification and publication

- (1) On issuing an apprenticeship framework under section 14(1), the English issuing authority must—
  - (a) publish the framework;
  - (b) notify the Chief Executive of Skills Funding 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 14(2) must—
  - (a) publish a notice stating that recognition of the framework has been withdrawn;
  - (b) notify the Chief Executive of Skills Funding 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

**I10** S. 15 in force at 1.3.2011 by S.I. 2011/200, art. 2

### 16 Submission of draft framework for issue: England

- (1) This section applies if a person—
  - (a) submits a draft of an apprenticeship framework to the English issuing authority, and
  - (b) requests that the authority issue a framework in the form of the draft.



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- (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

**I11** S. 16 in force at 1.3.2011 by S.I. 2011/200, art. 2

### 17 Transitional provision: England

- (1) The Secretary of State 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 14(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 14(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 14(1);
  - (b) specify a date on which recognition of the deemed framework is to be treated as having been withdrawn under section 14(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 an apprenticeship framework issued under section 14(1);

“existing vocational specification” means a specification, prepared before the coming into force of section 14, 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 sections 262 and 265.

#### Commencement Information

**I12** S. 17 in force at 6.4.2011 by S.I. 2011/200, art. 3

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### *Apprenticeship frameworks: Wales*

#### **18 Welsh issuing authority**

- (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.

#### **19 Issue: Wales**

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

#### **20 Recognised Welsh frameworks: notification and publication**

- (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.

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- (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.

## **21 Submission of draft framework for issue: Wales**

- (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.

## **22 Transitional provision: Wales**

- (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.

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### *Specification of apprenticeship standards: England*

## **23 Duty to prepare and submit draft specification: England**

- (1) If the Secretary of State so directs, the Chief Executive of Skills Funding must—
  - (a) prepare a draft specification of apprenticeship standards, and
  - (b) submit it to the Secretary of State.
- (2) In preparing the draft, the Chief Executive must consult—
  - (a) each person designated under section 13,
  - (b) persons who appear to the Chief Executive to represent—
    - (i) employers,
    - (ii) institutions within the further education sector,<sup>F3</sup>...
    - [<sup>F4</sup>(ia) 16 to 19 Academies, and]
    - (iii) any other providers of training,
  - (c) any other persons or descriptions of persons specified in regulations, and
  - (d) such other persons as the Chief Executive thinks appropriate.
- (3) A direction under subsection (1) may specify the date by which a draft must be submitted to the Secretary of State.
- (4) Subsection (2) does not apply in relation to the first draft specification to be prepared by the Chief Executive after the commencement of this section.
- (5) “Institution within the further education sector” has the same meaning as in the Education Act 1996 (c. 56) (see section 4(3) of that Act).

#### **Textual Amendments**

- F3** Word in s. 23(2)(b) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 13 para. 19](#); [S.I. 2012/924](#), art. 2
- F4** [S. 23\(2\)\(b\)\(ia\)](#) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 13 para. 19](#); [S.I. 2012/924](#), art. 2

#### **Commencement Information**

- I13** S. 23 in force at 30.9.2010 by [S.I. 2010/2374](#), art. 2

## **24 Order bringing specification into effect**

- (1) Where a draft specification of apprenticeship standards has been submitted under section 23, the Secretary of State may by order provide that a specification of apprenticeship standards (“the specification of apprenticeship standards for England”) is to have effect—
  - (a) in the form of the draft, or
  - (b) in that form with such modifications as the Secretary of State thinks appropriate.
- (2) The Secretary of State may not make an order under subsection (1) unless satisfied that the specification of apprenticeship standards given effect to by the order complies with section 27.

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- (3) The power conferred by subsection (1) 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 England.

**Commencement Information**

**I14** S. 24 in force at 30.9.2010 by S.I. 2010/2374, art. 2

**25 Modification: England**

- (1) If the Secretary of State so directs, the Chief Executive of Skills Funding must—
- prepare draft modifications to the specification of apprenticeship standards for England, and
  - submit the modifications to the Secretary of State.
- (2) A direction given under subsection (1) may specify the date by which the draft modifications must be submitted to the Secretary of State.
- (3) Where draft modifications to a specification of apprenticeship standards have been submitted under subsection (1), the Secretary of State may by order provide that the specification of apprenticeship standards for England is to have effect with those modifications.
- (4) The Secretary of State may not make an order under subsection (3) providing that the specification of apprenticeship standards for England is to have effect with modifications unless satisfied that the specification, as so modified, complies with section 27.

**Commencement Information**

**I15** S. 25 in force at 30.9.2010 by S.I. 2010/2374, art. 2

**26 Replacement or modification: recognised English frameworks**

- (1) Subject to subsection (2), a recognised English framework does not cease to be a recognised English framework if, by virtue of an order under section 24 or 25, it ceases to meet the requirements specified for frameworks of its description by the specification of apprenticeship standards for England.
- (2) An order under section 24 may provide for an apprenticeship framework which—
- immediately before the making of the order is a recognised English framework, but
  - does not meet the requirements specified for frameworks of its description by the specification of apprenticeship standards for England to which the order gives effect,
- to cease to have effect as a recognised English framework.

**Commencement Information**

**I16** S. 26 in force at 30.9.2010 by S.I. 2010/2374, art. 2

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*Status: Point in time view as at 01/04/2012. This version of this chapter contains provisions that are not valid for this point in time.*

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## 27 Contents of specification of apprenticeship standards for England

- (1) The specification of apprenticeship standards for England—
  - (a) must specify requirements to be met by recognised English frameworks,
  - (b) may specify different requirements in relation to recognised English frameworks at different levels, and
  - (c) must, in particular, specify requirements in relation to—
    - (i) recognised English frameworks at level 2, and
    - (ii) recognised English frameworks at level 3.
- (2) The requirements specified by the specification of apprenticeship standards for England must include—
  - (a) requirements as to English certificate requirements, including requirements as to standards of attainment to be required by them,
  - (b) requirements for a recognised English framework to include, as an English 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 English framework to—
    - (i) include, as an English certificate requirement, the requirement that one or more qualifications be held,
    - (ii) include, as an English 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.
- (3) Requirements as to standards of attainment may be specified by reference, in particular, to descriptions of qualifications or training.

### (4) In this section—

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

“off-the-job training” in relation to a recognised English 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 English 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 English 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 English framework, means the technical knowledge required to perform the skill, trade

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or occupation to which the framework relates at the level required in the framework.

#### Commencement Information

I17 S. 27 in force at 30.9.2010 by S.I. 2010/2374, art. 2

VALID FROM 10/05/2013

#### *Specification of apprenticeship standards: Wales*

#### **28 Specification of apprenticeship standards for Wales**

- (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.

#### **29 Modification: Wales**

- (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.

#### **30 Replacement or modification: recognised Welsh frameworks**

- (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—



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- (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.

### **31 Contents of specification of apprenticeship standards for Wales**

- (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.
- (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,



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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.

### *Apprenticeship agreements: England and Wales*

## **32 Meaning of “apprenticeship agreement”**

- (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—
  - (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—
  - (a) a recognised English framework, or
  - (b) a recognised Welsh framework.

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#### Commencement Information

- I18** S. 32 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3  
**I19** S. 32 in force at 1.8.2011 for W. by S.I. 2011/200, art. 4

### 33 Ineffective provisions

- (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).

#### Commencement Information

- I20** S. 33 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3  
**I21** S. 33 in force at 1.8.2011 for W. by S.I. 2011/200, art. 4

### 34 Variation

- (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

- I22** S. 34 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3  
**I23** S. 34 in force at 1.8.2011 for W. by S.I. 2011/200, art. 4

### 35 Status

- (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.

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#### Commencement Information

- I24** S. 35 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3  
**I25** S. 35 in force at 1.8.2011 for W. by S.I. 2011/200, art. 4

### 36 Crown servants and Parliamentary staff

- (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.
- (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, or any of sections 91 to 99, 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.

#### Commencement Information

- I26** S. 36 in force at 6.4.2011 for E. by S.I. 2011/200, art. 3  
**I27** S. 36 in force at 1.8.2011 for W. by S.I. 2011/200, art. 4

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### *Duty to participate in education or training: England*

## **37 Duty to participate in education or training: apprenticeship agreements**

- (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 ”.

#### **Commencement Information**

**I28** S. 37 in force at 6.4.2011 by [S.I. 2011/200](#), [art. 3](#)

### *General*

## **38 Apprenticeship sectors**

- (1) The Secretary of State 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 the Secretary of State encompass the full range of skills, trades and occupations.

#### **Commencement Information**

**I29** S. 38 in force at 1.3.2011 by [S.I. 2011/200](#), [art. 2](#)

## **39 Interpretation of Chapter**

- (1) In this Chapter—
  - “apprenticeship agreement” has the meaning given by section 32(1);
  - “apprenticeship certificate” means a certificate issued under section 3, 4, 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;
  - [<sup>F5</sup>“English certifying authority”, in relation to an apprenticeship certificate of any description, has the meaning given by section 6(1);]
  - “English issuing authority”, in relation to an apprenticeship framework, has the meaning given by section 13(5);

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“recognised English framework” has the meaning given by section 12(3);

“recognised Welsh framework” has the meaning given by section 12(4);

“the specification of apprenticeship standards for England” means the specification of apprenticeship standards having effect for the time being by virtue of an order made by the Secretary of State under section 24 or 25;

“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).

(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.

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#### Textual Amendments

**F5** Words in s. 39(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 71\(4\), 82\(3\); S.I. 2012/924, art. 2](#)

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#### Commencement Information

**I30** S. 39 in force at 6.4.2011 for E. by [S.I. 2011/200, art. 3](#)

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