



Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 1

APPRENTICESHIPS, STUDY AND TRAINING

CHAPTER 1

APPRENTICESHIPS

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.

Status: This is the original version (as it was originally enacted).

- (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.

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).

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.

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.

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.