

Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 4

THE CHIEF EXECUTIVE OF SKILLS FUNDING

CHAPTER 1

ESTABLISHMENT AND MAIN DUTIES

The Chief Executive

81 The Chief Executive of Skills Funding

- (1) There is to be a Chief Executive of Skills Funding.
- (2) In this Part that person is referred to as "the Chief Executive".
- (3) The Chief Executive is to be appointed by the Secretary of State.
- (4) Except as provided for in section 107, 108 or 109, the Chief Executive is to perform the functions of the office in relation to England only.
- (5) Schedule 4 makes further provision about the Chief Executive.

Commencement Information

II S. 81 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

Apprenticeship functions

82 Apprenticeship functions

- (1) The Secretary of State may direct the Chief Executive to arrange for apprenticeship functions specified in the direction to be carried out on behalf of the Chief Executive by a person designated by the Chief Executive.
- (2) The Secretary of State may give directions to the Chief Executive—
 - (a) as to the performance of apprenticeship functions;
 - (b) as to the description or identity of the person to be designated under subsection (1);
 - (c) as to the terms of arrangements under that subsection;
 - (d) requiring the Chief Executive to secure that the person designated under subsection (1) reports to the Secretary of State, in such form and at such times as may be specified in the direction, on the performance of apprenticeship functions which are the subject of arrangements under subsection (1).
- (3) A designation of a person under subsection (1) may be made only with the person's consent.
- (4) Arrangements made by virtue of subsection (1) may be made on terms that permit sub-delegation; and the power conferred by subsection (2)(c) includes power to give directions as to—
 - (a) the arrangements for any such sub-delegation;
 - (b) functions which may be sub-delegated;
 - (c) the description or identity of persons to whom functions may be subdelegated.
- (5) In this section, "apprenticeship functions" means functions of the office which relate to—
 - (a) apprenticeship certificates;
 - (b) recognised English frameworks and the specification of apprenticeship standards for England;
 - - (e) the provision of advice and assistance to the Secretary of State under section 106.
- (6) Terms used in subsection (5)(a) and (b) have the same meanings as in Chapter 1 of Part 1.
- (7) Regulations may provide—
 - (a) for any provision relating to a function of the office made by or under any Act—
 - (i) not to apply, or
 - (ii) to apply subject to prescribed modifications,

in relation to the function where the function is the subject of arrangements under subsection (1);

- (b) for references to the Chief Executive in any such provisions to be construed in prescribed circumstances as, or as including, references—
 - (i) to a person designated under subsection (1), or

Chapter 1 – Establishment and main duties

Document Generated: 2024-04-09

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(ii) to a person to whom functions are sub-delegated under subsection (4), subject to such exceptions or modifications as may be prescribed.

Textual Amendments

F1 S. 82(5)(d) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 4; S.I. 2012/1087, art. 3

Commencement Information

I2 S. 82 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

Apprenticeship training for persons aged 16 to 18 and certain young adults

83 [F2Power to secure provision of apprenticeship training]

- (1) The Chief Executive may secure the provision of facilities for suitable apprenticeship training for persons—
 - (a) who are over compulsory school age but under 19, or
 - (b) who are aged 19 or over but under 25 and [F3 for whom an EHC plan is maintained].
- (2) In deciding for the purposes of subsection (1) whether apprenticeship training is suitable for persons for whom facilities are provided, the Chief Executive must have regard (in particular) to—
 - (a) the persons' ages, abilities and aptitudes,
 - (b) any [F4 special educational needs] the persons may have,
 - (c) the quality of the training,
 - (d) the locations and times at which the training is provided.
- (3) In exercising the power conferred by subsection (1), the Chief Executive must have regard (in particular) to the desirability of—
 - (a) encouraging diversity of apprenticeship training available to persons;
 - (b) increasing opportunities for persons to exercise choice;
 - (c) enabling persons to whom Part 1 of the Education and Skills Act 2008 (c. 25) applies to fulfil the duty imposed by section 2 of that Act (duty to participate in education or training).

F5(4)		_					_			_							_			_									_		_	
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- (5) In this Part "apprenticeship training" means training provided in connection with—
 - (a) an apprenticeship agreement,
 - (b) any other contract of employment, or
 - (c) any other kind of working in relation to which alternative English completion conditions apply under section 1(5).

Textual Amendments

F2 S. 83 heading substituted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 5**; S.I. 2012/1087, art. 3

- F3 Words in s. 83(1)(b) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 89(a); S.I. 2014/889, art. 7(a)
- **F4** Words in s. 83(2)(b) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3** para. 89(b); S.I. 2014/889, art. 7(a)
- F5 S. 83(4) omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para.** 89(c); S.I. 2014/889, art. 7(a)

Commencement Information

I3 S. 83 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

[F683A The apprenticeship offer

- (1) The Chief Executive must secure the provision of proper facilities for apprenticeship training that is suitable to the requirements of persons who—
 - (a) are within subsection (4), (5) or (6), and
 - (b) have an apprenticeship opportunity.

This is subject to section 83B (limit on scope of apprenticeship offer).

- (2) The duty imposed by subsection (1) is referred to in this section and section 83B as "the apprenticeship offer".
- (3) An apprenticeship opportunity is an opportunity to—
 - (a) enter into an apprenticeship agreement,
 - (b) enter into any other contract of employment in connection with which training will be provided in accordance with an apprenticeship framework, or
 - (c) 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 will be provided in accordance with an apprenticeship framework.
- (4) A person within this subsection is one who is over compulsory school age but under 19
- (5) A person within this subsection is one who is not within subsection (4) and—
 - (a) is a person aged under 21 towards whom a local authority in England has the duties provided for in section 23C of the Children Act 1989 (continuing functions in relation to certain formerly looked after children), or
 - (b) is a person to whom section 23CA of that Act applies (further assistance for certain formerly looked after children aged under 25), in relation to whom a local authority in England is the responsible local authority (within the meaning of that section).
- (6) A person within this subsection is one who—
 - (a) is not within subsection (4), and
 - (b) is of a prescribed description.
- (7) If regulations under subsection (6)(b) describe a person by reference to an age or an age range, the age, or the upper age of the age range, must be less than 25.
- (8) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and

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- (b) of a quality adequate to meet those needs.
- (9) Section 83(2) and (3) (when apprenticeship training is suitable, and matters to which Chief Executive must have regard) apply for the purposes of the apprenticeship offer.
- (10) In complying with the apprenticeship offer the Chief Executive must make the best use of the Chief Executive's resources.
- (11) In this section "apprenticeship framework" has the meaning given by section 12.
- (12) The Secretary of State may by order amend this section for the purpose of changing the descriptions of persons to whom the apprenticeship offer applies.

Textual Amendments

F6 Ss. 83A, 83B inserted (1.9.2012) by Education Act 2011 (c. 21), ss. 69(2), 82(3); S.I. 2012/1087, art. 3

83B Limit on scope of the apprenticeship offer

- (1) The Chief Executive is not required by the apprenticeship offer to secure the provision of facilities for apprenticeship training at a particular level for a person who—
 - (a) has already completed an English apprenticeship in relation to an apprenticeship framework at that level, or
 - (b) holds an apprenticeship certificate at that level.
- (2) For the purposes of this section apprenticeship training is at a particular level if it might reasonably be expected to lead to the issue of an apprenticeship certificate at that level.
- (3) The following provisions of Chapter 1 of Part 1 apply for the purposes of this section—section 1 (meaning of "completing an English apprenticeship"); section 12 (meaning of apprenticeship framework and level of an apprenticeship framework).
- (4) In this section "apprenticeship certificate" means an apprenticeship certificate issued under section 3 or 4.
- (5) A reference in this section to an apprenticeship certificate at any level includes a reference to a certificate or other evidence (including a certificate awarded or evidence provided by a person outside England) which appears to the Chief Executive to be evidence of experience and attainment at a comparable or higher level.]

Textual Amendments

F6 Ss. 83A, 83B inserted (1.9.2012) by Education Act 2011 (c. 21), ss. 69(2), 82(3); S.I. 2012/1087, art. 3

84 Arrangements and co-operation with [F7local authorities]

- (1) The Chief Executive may enter into arrangements with [F7local authorities] in England under which the Chief Executive is to secure the provision of apprenticeship training by virtue of section 83 [F8 or 83A].
- (2) The Chief Executive must co-operate with a [F9local authority] in England where the authority is—

- (a) making any determination as to the provision of apprenticeship training that should be secured under section 15ZA(1) of the Education Act 1996 (duty in respect of education and training for persons over compulsory school age: England), or
- (b) securing the provision of any apprenticeship training under that section.

Textual Amendments

- F7 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), Sch. 2 para. 16(3)
- **F8** Words in s. 84(1) inserted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 6**; S.I. 2012/1087, art. 3
- F9 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), Sch. 2 para. 16(2)

Commencement Information

I4 S. 84 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

85 [F10Provision of apprenticeship training etc for persons within section 83 or 83A]

- (1) The Chief Executive must—
 - [FII(a) make reasonable efforts to secure that employers participate in the provision of apprenticeship training for all persons who are within section 83(1)(a) or (b) or section 83A(4), (5) or (6);]
 - (b) encourage employers to contribute to the costs of [F12apprenticeship training] for such persons.
- (2) For the purposes of subsection (1)(a), participating in the provision of [F13] apprenticeship] training includes participating by entering into—
 - (a) an apprenticeship agreement, or
 - (b) any other contract of employment in connection with which training is provided.

Textual Amendments

- F10 S. 85 heading substituted (1.9.2012) by Education Act 2011 (c. 21), ss. 70(2)(d), 82(3); S.I. 2012/1087, art. 3
- F11 S. 85(1)(a) substituted (1.9.2012) by Education Act 2011 (c. 21), ss. 70(2)(a), 82(3); S.I. 2012/1087, art 3
- **F12** Words in s. 85(1)(b) substituted (1.9.2012) by Education Act 2011 (c. 21), ss. 70(2)(b), 82(3); S.I. 2012/1087, art. 3
- **F13** Word in s. 85(2) inserted (1.9.2012) by Education Act 2011 (c. 21), ss. 70(2)(c), 82(3); S.I. 2012/1087, art. 3

Commencement Information

I5 S. 85 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

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Education and training for persons aged 19 or over etc.

86 Education and training for persons aged 19 or over and others subject to adult detention

- (1) The Chief Executive must secure the provision of reasonable facilities for—
 - (a) education suitable to the requirements of persons who are aged 19 or over, other than persons aged under 25 [F14 for whom an EHC plan is maintained],
 - (b) education suitable to the requirements of persons who are subject to adult detention, and
 - (c) training suitable to the requirements of persons within paragraphs (a) and (b).
- (2) This section does not apply to the provision of facilities to the extent that section [F1583A or] 87 applies to the provision of those facilities.
- (3) Facilities are reasonable if (taking account of the Chief Executive's resources) their quantity and quality are such that the Chief Executive can reasonably be expected to secure their provision.
- (4) In discharging the duty under subsection (1) the Chief Executive must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and skills required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities the provision of which the Chief Executive thinks might reasonably be secured by other persons;
 - (e) act with a view to encouraging diversity of education and training available to individuals;
 - (f) act with a view to increasing opportunities for individuals to exercise choice;
 - (g) have regard to the desirability of enabling persons subject to adult detention to continue programmes of education or training which they have begun;
 - (h) have regard to the desirability of the core entitlement ^{F16}... being satisfied for persons subject to adult detention but aged under 19 ^{F16}...;
 - (i) make the best use of resources.
- (5) For the purposes of this section a reference to the provision of facilities for education or training (except so far as relating to facilities for persons subject to adult detention) includes a reference to the provision of facilities for organised leisure-time occupation in connection with education or (as the case may be) training.
- (6) For the purposes of this section—
 - "education" includes full-time and part-time education;
 - "training" includes—
 - (a) full-time and part-time training;
 - (b) vocational, social, physical and recreational training;
 - (c) apprenticeship training.
- (7) In this Part, "organised leisure-time occupation" means leisure-time occupation, in such organised cultural training and recreational activities as are suited to the requirements of persons who fall within subsection (1)(a) or (b), for any such persons who are able and willing to profit by facilities provided for that purpose.

[F17(8) Section 17C of the Education Act 1996 (the core entitlement) applies for the purposes of subsection (4)(h).]

Textual Amendments

- F14 Words in s. 86(1)(a) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 90; S.I. 2014/889, art. 7(a)
- **F15** Words in s. 86(2) inserted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 7**; S.I. 2012/1087, art. 3
- F16 Words in s. 86(4)(h) omitted (15.1.2012) by virtue of Education Act 2011 (c. 21), ss. 30(8)(a), 82(2)(b)
- F17 S. 86(8) substituted (15.1.2012) by Education Act 2011 (c. 21), ss. 30(8)(b), 82(2)(b)

Commencement Information

I6 S. 86 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

87 Learning aims for persons aged 19 or over: provision of facilities

- (1) The Chief Executive must secure the provision of proper facilities for relevant education or training for persons falling within subsection (3) which is suitable to their requirements.
- (2) Relevant education or training is education or vocational training provided by means of a course of study for a qualification to which paragraph 1 of Schedule 5 applies.
- (3) The persons falling within this subsection are persons who—
 - (a) are aged 19 or over, and are not persons aged under 25 [F18 for whom an EHC plan is maintained],
 - (b) do not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and
 - (c) satisfy such conditions as may be specified in regulations.
- (4) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
 - (b) of a quality adequate to meet those needs.
- (5) In discharging the duty under subsection (1) the Chief Executive must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) act with a view to encouraging diversity of education and training available to individuals;
 - (e) act with a view to increasing opportunities for individuals to exercise choice;
 - (f) make the best use of the Chief Executive's resources.
- (6) For the purposes of this section—
 - "education" includes full-time and part-time education;
 - "training" includes full-time and part-time training.

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Textual Amendments

F18 Words in s. 87(3)(a) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3** para. 91; S.I. 2014/889, art. 7(a)

Commencement Information

I7 S. 87 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

88 Learning aims for persons aged 19 or over: payment of tuition fees

- (1) Functions under this Part must be exercised by the Chief Executive so as to secure that a course of study for a qualification to which [F19 paragraph 1(a) or (b)] of Schedule 5 applies is free to a person falling within subsection (2) if it is provided for the person by virtue of facilities whose provision is secured under section 87.
- (2) A person falls within this subsection if, at the time of starting the course in question, the person—
 - (a) is aged 19 or over,
 - (b) does not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and
 - (c) satisfies such conditions as may be specified in regulations.
- [F20(2A) Functions under this Part must be exercised by the Chief Executive so as to secure that a course of study for a qualification to which paragraph 1(c) of Schedule 5 applies is free to a person falling within subsection (4) if it is provided for the person by virtue of facilities whose provision is secured under section 87.]
 - (3) Functions under this Part must be exercised by the Chief Executive so as to secure that a course of study for a qualification to which paragraph 2 of Schedule 5 applies is free to a person falling within subsection (4) if it is provided for the person by virtue of facilities whose provision is secured under section 86.
 - (4) A person falls within this subsection if, at the time of starting the course in question, the person—
 - (a) is aged at least 19 but less than $[^{F21}24]$,
 - (b) does not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and
 - (c) satisfies such conditions as may be specified in regulations.
 - (5) The Secretary of State may by order—
 - (a) amend subsection (2)(a) by substituting a different age for the age for the time being referred to;
 - (b) amend subsection (4)(a) by substituting a different age for either of the ages for the time being referred to.
 - (6) For the purposes of this section, a course is free to a person if no tuition fees in respect of the provision of the course for the person are payable by a person other than—
 - (a) the Chief Executive, or
 - (b) a body specified by order by the Secretary of State for the purposes of this section.

- (7) In subsection (6) "tuition fees", in relation to a course, means—
 - (a) the fees charged in respect of the course by the person providing it, and
 - (b) such fees in respect of other matters relating to the course (such as undergoing a preliminary assessment or sitting an examination) as may be specified in regulations.

Textual Amendments

- **F19** Words in s. 88(1) substituted (1.8.2012) by Education Act 2011 (c. 21), ss. 73(2)(a), 82(3); S.I. 2012/1087, art. 2
- **F20** S. 88(2A) inserted (1.8.2012) by Education Act 2011 (c. 21), ss. 73(2)(b), 82(3); S.I. 2012/1087, art. 2
- F21 Word in s. 88(4)(a) substituted (1.8.2012 for specified purposes, 1.8.2013 in so far as not already in force) by Education Act 2011 (c. 21), ss. 73(2)(c), 82(3); S.I. 2012/1087, art. 2; S.I. 2012/2213, art. 4

Commencement Information

I8 S. 88 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

89 Sections 87 and 88: supplementary

- (1) Regulations may make provision as to circumstances in which—
 - (a) despite having a specified qualification, a person is to be treated for the purposes of section 87 or 88 as not having that qualification;
 - (b) despite not having a specified qualification, a person is to be treated for any of those purposes as having that qualification.
- (2) A condition specified in regulations under section 87 or 88 may, in particular, relate to—
 - (a) the possession, or lack, of a specified qualification;
 - (b) the completion of, or failure to complete, a course for a specified qualification.
- (3) A reference in subsection (1) or (2) to a specified qualification is to a qualification specified, or of a description specified, in the regulations.
- (4) Regulations under this section, or under section 87 or 88, may confer a function (which may relate to the administration of an assessment and may include the exercise of a discretion) on a person specified, or of a description specified, in the regulations.
- (5) Nothing in section 87 or 88 applies to the provision of facilities, or to courses of study, for persons subject to adult detention.
- (6) Part 2 of Schedule 5 makes further provision for the purposes of sections 87 and 88.

Commencement Information

I9 S. 89 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

90 Encouragement of education and training for persons aged 19 or over and others subject to adult detention

(1) The Chief Executive must—

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- (a) encourage participation by persons within section 86(1)(a) and (b) in education and training within the Chief Executive's remit;
- (b) encourage employers to participate in the provision of education and training within the Chief Executive's remit for persons within section 86(1)(a);
- (c) encourage employers to contribute to the costs of education and training within the Chief Executive's remit for such persons.
- (2) For the purposes of subsection (1)(b), participating in the provision of training includes participating by entering into—
 - (a) an apprenticeship agreement, or
 - (b) any other contract of employment in connection with which training is provided.

Commencement Information I10 S. 90 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

	PROSPECTIVE
	The apprenticeship offer
F22 91	Duty to secure availability of apprenticeship places
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F22 92	Election for apprenticeship offer
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F2293	Meaning of "apprenticeship place"
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3

F2294	Suitability and availability of apprenticeship places: further provision
	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F22 95	Apprenticeship offer requirements
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F22 96	Apprenticeship offer requirements: interpretation
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
^{F22} 97	Suspension of offer
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F2298	Power to amend apprenticeship offer
Textu	al Amendments
F22	Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 18 para. 8 ; S.I. 2012/1087, art. 3
F2299	Apprenticeship offer: interpretation

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Textual Amendments

F22 Ss. 91-99 repealed (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 8**; S.I. 2012/1087, art. 3

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