



# Enterprise Act 2016

## 2016 CHAPTER 12

### PART 4

#### APPRENTICESHIPS

#### **22 The Institute for Apprenticeships**

Schedule 4 establishes the Institute for Apprenticeships and makes provision about its functions.

#### **23 The Institute for Apprenticeships: transitional provision**

- (1) Subsection (2) applies to—
  - (a) any standard approved and published by the Secretary of State under section A2 of the 2009 Act before the appointed day;
  - (b) any plan which—
    - (i) relates to the assessment of a person's attainment of outcomes set out in a standard mentioned in paragraph (a), and
    - (ii) was approved and published by the Secretary of State for the purposes of that assessment before the appointed day.
- (2) Such a standard or plan is to be treated on and after the appointed day as having been approved by the Institute for Apprenticeships under section A2A of the 2009 Act and published by it under section A2 of that Act (as amended by Schedule 4).
- (3) A standard or plan within subsection (1) is to be treated for the purposes of section A2I of the 2009 Act (as inserted by Schedule 4) as having been approved by the Institute for Apprenticeships at the beginning of the appointed day.
- (4) This section does not limit the provision that may be made under clause 43.
- (5) In this section—

“the appointed day” means the day on which section A2A of the 2009 Act (inserted by Schedule 4) comes into force;

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“the 2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009.

## **24 Public sector apprenticeship targets**

- (1) In Chapter A1 of Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships: England), after section A8 insert—

### **“A9 Public sector apprenticeship targets**

- (1) The Secretary of State may by regulations set apprenticeship targets for prescribed public bodies.
- (2) An “apprenticeship target”, in relation to a public body, is a target relating to the number of persons (“apprentices”) who work for the body under an apprenticeship agreement.
- (3) Public bodies for which apprenticeship targets are set under this section must have regard to—
  - (a) the targets, and
  - (b) any applicable guidance issued by the Secretary of State in relation to the targets.
- (4) The Secretary of State may require a public body to provide any information that the Secretary of State needs for the purpose of exercising functions under this section.
- (5) Regulations under this section may set apprenticeship targets for—
  - (a) a prescribed public body,
  - (b) a prescribed part of a public body,
  - (c) a prescribed group of public bodies, or
  - (d) public bodies of a prescribed description.

A reference in this section to a public body includes a reference to a prescribed part of a public body or a prescribed group of public bodies.

- (6) The regulations must specify the period to which each apprenticeship target relates.
- (7) In this section—
 

“apprenticeship agreement” means—

  - (a) an approved English apprenticeship agreement;
  - (b) an apprenticeship agreement within the meaning given in section 32 as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015;

“public body” means—

  - (a) a public authority, or
  - (b) a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds.

## **A10 Further provision about apprenticeship targets**

- (1) A public body for which an apprenticeship target is set must—
  - (a) publish and send to the Secretary of State the information specified in subsection (2), and
  - (b) send to the Secretary of State any other prescribed information, within six months after the end of each reporting period of the body in the target period.
- (2) The information referred to in subsection (1)(a) is—
  - (a) the number of employees whose employment in England by the body began in the reporting period in question (“figure A”);
  - (b) the number of apprentices who began to work for the body in that period and whose apprenticeship agreements also began in that period (“figure B”);
  - (c) figure B expressed as a percentage of figure A;
  - (d) the number of employees employed in England that the body has at the end of that period (“figure C”);
  - (e) the number of apprentices who work for the body at the end of that period (“figure D”);
  - (f) figure D expressed as a percentage of figure C;
  - (g) if that reporting period is the first reporting period in the target period, the number of apprentices who worked for the body immediately before that period.
- (3) The information that may be prescribed under subsection (1)(b) includes—
  - (a) information about action that the body has taken to meet an apprenticeship target set for it;
  - (b) if the public body has failed to meet an apprenticeship target set for it, an explanation of why the target has not been met;
  - (c) information about action that the body proposes to take to meet an apprenticeship target set for the body for a period that has not yet expired (“a future target”);
  - (d) if the body considers that a future target is not likely to be met, an explanation of why that is so.
- (4) Regulations may specify how the information is to be published or sent.
- (5) A body’s “reporting periods” in the target period are—
  - (a) so much of the first financial year of the body to end in the target period as falls within that period,
  - (b) each subsequent financial year of the body which falls wholly within the target period, and
  - (c) if the target period ends during a financial year of the body, so much of that financial year as falls within that period.
- (6) But, where the target period in relation to a body does not exceed 12 months, the Secretary of State may direct in writing that for the purposes of this section the body is to be treated as having one reporting period which coincides with the target period.

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- (7) Where, by virtue of section A9(5)(c) or (d) a target is set for more than one public body, regulations may specify which body’s financial year is to be used to determine the reporting periods under subsection (5).
- (8) In this section—
- “apprenticeship agreement” has the meaning given by section A9(7);
  - “apprenticeship target” has the meaning given by section A9(2);
  - “public body” has the meaning given by section A9(7);
  - “target period”, in relation to an apprenticeship target, means the period specified under section A9(6) as the period to which the target relates.”
- (2) In section 262(6) of that Act (regulations etc subject to affirmative resolution procedure), before paragraph (aa) insert—
- “(za) the first regulations under section A9;
  - “(zb) the first regulations under section A10;”.

## 25 Only statutory apprenticeships to be described as apprenticeships

- (1) In Chapter A1 of Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships: England), after section A10 (inserted by section 24) insert—

### “A11 Only statutory apprenticeships to be described as apprenticeships

- (1) A person (“P”) providing or offering any course or training that is, or is to be, undertaken (wholly or partly) in England commits an offence if—
- (a) in the course of business P describes the course or training as an apprenticeship, and
  - (b) the course or training is not a statutory apprenticeship.
- (2) No offence is committed under subsection (1) where the course or training is, or is to be, provided to an individual under or in pursuance of a contract of employment between the individual and P.
- (3) In subsection (1) “statutory apprenticeship” means any course or training that is, or is to be, provided under—
- (a) an approved English apprenticeship;
  - (b) an apprenticeship agreement within the meaning given in section 32;
  - (c) an arrangement to undertake any other kind of working—
    - (i) in relation to which alternative English completion conditions apply under section 1(5), and
    - (ii) in connection with which training is to be provided in accordance with an apprenticeship framework within the meaning given in section 12; or
  - (d) arrangements made under—
    - (i) section 2 of the Employment and Training Act 1973,
    - (ii) section 17B(1)(a) of the Jobseekers Act 1995,
    - (iii) section 2(3) of the Enterprise and New Towns (Scotland) Act 1990, or

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- (iv) section 1 of the Employment and Training Act (Northern Ireland) 1950,  
that are identified by the person making the arrangements as arrangements for the provision of apprenticeships.
- (4) The reference to section 32 in subsection (3)(b) includes a reference to that section as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015; and a reference to a section in subsection (3)(c) is a reference to the section as it so applies.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (6) Where an offence under this section committed by a body corporate—
- (a) is committed with the consent or connivance of an officer of the body corporate, or
  - (b) is attributable to neglect on the part of an officer of the body corporate, the officer also commits the offence and is liable to be proceeded against and punished accordingly.
- (7) Every local weights and measures authority in England—
- (a) has a duty to enforce the provisions of this section within their area;
  - (b) must make to the Secretary of State, whenever he or she so directs, a report on the exercise of the authority's functions under this section.
- A report under paragraph (b) must be in such form, and contain such particulars, as the Secretary of State may direct.
- (8) Proceedings for an offence under this section may be instituted only—
- (a) by or on behalf of a local weights and measures authority in England,
  - (b) by or on behalf of the Secretary of State, or
  - (c) with the consent of the Director of Public Prosecutions.
- (9) In this section—
- “contract of employment” has the same meaning as in the Employment Rights Act 1996 (see section 230(2) of that Act);
  - “offering”, in relation to any course or training, includes offering or marketing it to the public generally or to any section of the public;
  - “officer”, in relation to a body corporate, means—
    - (a) a director, manager, secretary or similar officer of the body, or a person purporting to act in such capacity;
    - (b) a governor of an educational institution conducted by the body.
- (10) The reference in subsection (1) to describing any course or training as an apprenticeship includes a reference to describing an individual who undertakes it as an apprentice.”
- (2) In Schedule 5 to the Consumer Rights Act 2015 (investigatory powers etc), in paragraph 10, at the appropriate place insert—
- “section A11(7)(a) of the Apprenticeships, Skills, Children and Learning Act 2009;”.

**26 Apprenticeships: information sharing**

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

**“PART 1A****APPRENTICESHIPS: INFORMATION SHARING***England***40A Sharing of information by HMRC and the Secretary of State**

- (1) HMRC may disclose information held by them to the Secretary of State for the purpose of the Secretary of State’s functions in relation to English statutory apprenticeships.
- (2) The Secretary of State may disclose information to HMRC—
- (a) for the purpose of requesting HMRC to disclose information under subsection (1), or
  - (b) for another purpose connected with the Secretary of State’s functions in relation to English statutory apprenticeships.
- (3) In this section “English statutory apprenticeships” means—
- (a) approved English apprenticeships within the meaning given in section A1;
  - (b) apprenticeships undertaken under apprenticeship agreements within the meaning given in section 32 that were entered into in connection with recognised English frameworks;
  - (c) apprenticeships in relation to which alternative English completion arrangements apply under section 1(5);
  - (d) apprenticeships undertaken under arrangements made in relation to England under section 2 of the Employment and Training Act 1973 that are identified by the person making them as arrangements for the provision of apprenticeships.

*Wales, Scotland and Northern Ireland***40B Sharing of information by HMRC and devolved authorities**

- (1) HMRC may disclose information held by them—
- (a) to a Welsh authority for the purpose of the authority’s functions in relation to Welsh apprenticeships;
  - (b) to a Scottish authority for the purpose of the authority’s functions in relation to Scottish apprenticeships;
  - (c) to a Northern Irish authority for the purpose of the authority’s functions in relation to Northern Irish apprenticeships.
- (2) An authority mentioned in paragraph (a), (b) or (c) of subsection (1) may disclose information to HMRC—

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- (a) for the purpose of requesting HMRC to disclose information to the authority under subsection (1), or
- (b) for another purpose connected with the authority's functions mentioned in subsection (1).

(3) In this section—

“Northern Irish apprenticeships” means apprenticeships undertaken under arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950 that are identified by the person making them as arrangements for the provision of apprenticeships;

“Northern Irish authority” means—

- (a) a Northern Ireland department, and
- (b) any body or other person that is prescribed, or of a prescribed description;

“Scottish apprenticeships” means apprenticeships undertaken under arrangements made—

- (a) in relation to Scotland, under section 2 of the Employment and Training Act 1973, or
- (b) under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990,

that are identified by the person making them as arrangements for the provision of apprenticeships;

“Scottish authority” means—

- (a) the Scottish Ministers, and
- (b) any body or other person that is prescribed, or of a prescribed description;

“Welsh apprenticeships” means—

- (a) apprenticeships undertaken under apprenticeship agreements within the meaning given in section 32 that were entered into in connection with recognised Welsh frameworks;
- (b) apprenticeships in relation to which alternative Welsh completion arrangements apply under section 2(5);
- (c) apprenticeships undertaken under arrangements made in relation to Wales under—
  - (i) section 2 of the Employment and Training Act 1973, or
  - (ii) section 17B of the Jobseekers Act 1995,

that are identified by the person making them as arrangements for the provision of apprenticeships;

“Welsh authority” means—

- (a) the Welsh Ministers, and
- (b) any body or other person that is prescribed, or of a prescribed description.

(4) In subsection (3)—

- (a) the reference to a Northern Ireland department includes a reference to a person providing services to a Northern Ireland department;
- (b) the reference to the Scottish Ministers includes a reference to a person providing services to the Scottish Ministers;

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- (c) the reference to the Welsh Ministers includes a reference to a person providing services to the Welsh Ministers.
- (5) Regulations under this section may amend the definition in subsection (3) of —
- (a) “Northern Irish apprenticeships”,
  - (b) “Scottish apprenticeships”, or
  - (c) “Welsh apprenticeships”.

### *General*

#### **40C Wrongful disclosure**

- (1) Information disclosed by HMRC under section 40A(1) or 40B(1) may not be disclosed by the recipient of the information to any other person without the consent of HMRC (except so far as permitted by section 40A(2) or 40B(2)).
- (2) If a person discloses, in contravention of subsection (1), any revenue and customs information relating to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.

#### **40D Interpretation**

- (1) In this Part—
    - “HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;
    - “revenue and customs information relating to a person” has the same meaning as in section 19 of the Commissioners for Revenue and Customs Act 2005 (see section 19(2) of that Act).
  - (2) In this Part—
    - (a) references to HMRC include references to a person providing services to HMRC;
    - (b) references to the Secretary of State include references to a person providing services to the Secretary of State.
  - (3) Nothing in this Part affects any power to disclose information that exists apart from this Part.”
- (2) In section 262(6) of that Act (orders and regulations subject to affirmative procedure) after paragraph (aa) insert—
- “(aaa) regulations under section 40B;”.
- (3) In section 268 of that Act (extent)—
- (a) in subsection (2) (provisions extending to Scotland) for “Sections 40,” substitute “Section 40, Part 1A, sections”, and



- (b) in subsection (3) (provisions extending to Northern Ireland) for “Sections”, in the first place, substitute “Part 1A, sections”.

## **27 Apprenticeship funding**

In section 100(1A) of the Apprenticeships, Skills, Children and Learning Act 2009 (provision of financial resources in connection with approved English apprenticeships)—

- (a) for “approved English apprenticeships”, in both places, substitute “English statutory apprenticeships”, and
- (b) after subsection (4) insert—

“(5) In this section “English statutory apprenticeship” has the same meaning as in section 40A (see subsection (3) of that section).”