

# **APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4: the Chief Executive of Skills Funding**

##### *Chapter 1: Establishment and main duties*

#### **The Chief Executive**

231. The White Paper *Raising Expectations: enabling the system to deliver* set out proposals to create a new system that would fund education and skills training for persons aged 19 or over (referred to in these Notes as “post 19”). A widespread consultation was undertaken on these proposals.
232. Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 describes the powers and duties of the Chief Executive of Skills Funding, referred to in these Notes as “the Chief Executive”. The Chief Executive will be responsible for funding post-19 education and training, for exercising the apprenticeships functions, including securing provision of apprenticeship places for suitably qualified young people aged 16 to 18; and for the education and training of those in adult custody.
233. The Government intends that the Chief Executive will be supported by a new Skills Funding Agency, which will administer the funding system, and make payments to colleges, training providers and others based on the course selections of learners and employers and on a set of entitlements to learning, advice and financial support. The Skills Funding Agency will also manage the new Adult Advancement and Careers Service (AACS), the National Apprenticeship Service and the Train to Gain service. The Train to Gain service is the set of skills services provided to business including public sector employers. Together with its role in funding colleges and providers, these services will provide advice and support on jobs, skills and funding.
234. The Skills Funding Agency will also oversee the development of the Further Education Sector, working with the aim of ensuring that the supply of learning provision meets the needs of learners and employers, and the wider economy. It will also work with other agencies such as Jobcentre Plus to ensure those out of work or likely to be made redundant, receive an integrated employment and skills service, taking account of labour market needs.
235. The Skills Funding Agency is not defined in this Act – instead the Government intends that it will operate through the powers and duties of the Chief Executive of Skills Funding, as described in Part 4 of the Act. The detailed role and functions of the Skills Funding Agency will be set out in a Framework Document which will be issued by the Secretary of State. The Secretary of State will also provide the agency with an annual letter setting out its budget and performance targets for each forthcoming financial year.

236. Both the Chief Executive and the staff of the Skills Funding Agency will work within the Department for Business, Innovation, and Skills (BIS). The Chief Executive will be a civil servant, and will be accountable to the Permanent Secretary and through him to Ministers.
237. The Act provides the Secretary of State with powers to direct the Chief Executive in certain circumstances, but the responsibility for making decisions relating to the funding of particular individuals or bodies lies with the Chief Executive, not the Secretary of State, who is prohibited from giving directions to the Chief Executive in relation to individual funding decisions.

### ***Section 81: The Chief Executive of Skills Funding***

238. This section provides for there to be a Chief Executive of Skills Funding who will be appointed by the Secretary of State and whose functions will be limited to England, except where the Chief Executive participates in arrangements with devolved administrations — see sections 107, 108 and 109 below.
239. Most provisions about the Chief Executive which could broadly be categorised as relating to the administration of the office are contained in Schedule 4 whereas the specific duties, powers and functions in relation to the provision of education and training are in the main body of the Act.

### ***Schedule 4: The Chief Executive of Skills Funding***

240. *Paragraph 1* provides that the holder of the office of Chief Executive will exercise the functions of the office on behalf of the Crown. It also provides that the office itself will be a corporation sole, so that any contracts entered into, or property owned by, the Chief Executive will pass automatically from one holder of the office to the next. *Paragraph 2* sets out how the Chief Executive will hold and vacate office, and provides that the holder of the office will be a civil servant. *Paragraphs 3 to 5* contain provision about the staff of the Chief Executive, who will form the Skills Funding Agency. These staff may either be staff appointed by the Chief Executive under *paragraph 3*, or staff provided by the Secretary of State to the Chief Executive under secondment arrangements under *paragraph 5* and will in either case be civil servants. *Paragraph 4* makes arrangements whereby the Chief Executive may delegate the functions of the office to members of the Chief Executive's staff and to staff provided by the Secretary of State under *paragraph 5*. *Paragraphs 6 to 8* make provision for operational matters such as funding, including the payment of grants to the Chief Executive and how these must be accounted for, and the preparation and publication of annual reports and accounts.
241. *Paragraph 9* sets out provision for supplementary powers and restrictions, and gives the Chief Executive additional general powers to enable him or her to perform the functions of the office. For example, these powers would allow the Chief Executive to acquire and dispose of land and other property, and enter into contracts. It also sets out those things that the Chief Executive may not do. So the Chief Executive may not borrow money and may not, without the prior consent of the Secretary of State, lend money; form, participate or invest in a company; or form, participate in forming, or become a member of a charitable incorporated organisation.