



# Skills and Post-16 Education Act 2022

## 2022 CHAPTER 21

### PART 1

#### SKILLS AND EDUCATION FOR WORK

### CHAPTER 2

#### TECHNICAL EDUCATION QUALIFICATIONS, APPRENTICESHIPS, ETC

##### *Functions of the Institute for Apprenticeships and Technical Education*

#### **6 Functions of the Institute: oversight etc**

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- (2) In section ZA2 (general duties), in subsection (6)—
  - (a) for “section” substitute “Chapter”;
  - (b) omit the word “or” at the end of paragraph (b);
  - (c) after paragraph (c) insert “or
  - (d) to enable a person to enter work within a published occupation (whether in the course of training or otherwise).”
- (3) After section ZA2 insert—

##### **“ZA2A Oversight**

- (1) The Institute must keep under review—
  - (a) education and training within the Institute’s remit, and
  - (b) the effect that the exercise of the Institute’s functions has had, or might have, on the range and availability of that education and training.

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- (2) The Institute may provide a report to the Secretary of State on anything arising from the exercise of the Institute’s functions under subsection (1).
- (3) Subsection (2) does not affect the Institute’s functions under section ZA3.”
- (4) In section ZA3 (provision of advice and assistance to the Secretary of State etc)—
  - (a) in subsection (1), after paragraph (a) (but before the word “or” at the end of it) insert—
    - “(aa) technical education qualifications,”;
  - (b) in subsection (2), for “and (b)” substitute “to (b)”.

#### **Commencement Information**

- I1** S. 6 not in force at Royal Assent, see [s. 36\(3\)](#)
- I2** [S. 6](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(1\)](#) (with [regs. 4, 5](#))

### *Technical education qualifications*

## **7 Additional powers to approve technical education qualifications**

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- (2) Before section A2D3 (as renumbered by section 13) insert—

#### **“A2D1 Approval of technical education qualifications: overview**

- (1) Sections A2D3 and [A2D5](#) provide for the approval of technical education qualifications.
- (2) Section A2D3 provides for the approval of technical education qualifications which (in conjunction with any approved steps towards occupational competence determined under section A2D4) can lead to the award of technical education certificates under section A3A.
- (3) Section [A2D5](#) provides for the approval of other technical education qualifications.
- (4) For further provision about approval of technical education qualifications see, in particular—
  - (a) section [A2D2](#) (provision about the categories of technical education qualification that may be approved under section A2D3 or [A2D5](#)),
  - (b) sections [A2D6](#) to [A2D11](#) (further provision about approval and withdrawal of approval),
  - (c) section A2HA (list of technical education qualifications), and
  - (d) section A2IA (transfer of copyright relating to technical education qualifications approved under section A2D3).

#### **A2D2 Categories of technical education qualification**

- (1) The Institute—

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- (a) may specify one or more categories of technical education qualification in relation to England that may be approved under section A2D3, and
  - (b) may specify one or more categories of technical education qualification in relation to England that may be approved under section A2D5.
- (2) The Institute may specify a category under subsection (1)(b) only if it considers that it would not be appropriate for qualifications in the category to be approved under section A2D3.
- (3) For any category specified under subsection (1)(b), the Institute must specify which of the following is the appropriate test for the purposes of section A2D5—
  - (a) the alternative approval test (see section A2D5(3));
  - (b) the additional specialist competence test (see section A2D5(4));
  - (c) the significant outcomes test (see section A2D5(5)).
- (4) The Institute may revise or withdraw any category specified under subsection (1).
- (5) A technical education qualification does not cease to be approved merely because the category is revised or withdrawn under subsection (4).
- (6) The Institute must publish information showing—
  - (a) the categories of technical education qualification that are for the time being specified under subsection (1), and
  - (b) for each category, whether qualifications in the category may be approved under section A2D3 or A2D5 and, if under section A2D5, the appropriate test.
- (7) Before specifying a category of qualification under this section, the Institute must consult—
  - (a) the Secretary of State, and
  - (b) such other persons as the Institute considers appropriate.”
- (3) In section A2D3 (as renumbered by section 13: approved technical education qualifications), in subsection (3), after “satisfied that” insert “—
  - “(a) the qualification falls within a category specified under section A2D2(1)(a), and
  - (b)”.
- (4) After section A2D4 (as renumbered by section 13) insert—

**“A2D5 Further powers to approve technical education qualifications**

- (1) The Institute may, if it considers it appropriate, approve a technical education qualification under this section in respect of one or more published occupations (each a “related” occupation).
- (2) But it may approve a qualification under this section only if—
  - (a) the Institute is satisfied that the qualification falls within a category specified under section A2D2(1)(b),

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- (b) the qualification meets each of the following tests in respect of the related occupation or occupations—
    - (i) the appropriate test specified for the category under section [A2D2\(3\)](#), and
    - (ii) the employer demand test (see subsection (6)), and
  - (c) the Institute is not prevented from approving the qualification by virtue of a moratorium under section [A2D9](#).
- (3) The alternative approval test is met in respect of an occupation if—
  - (a) a standard is published under section ZA11 for the occupation, and
  - (b) the Institute is satisfied that by obtaining the qualification a person demonstrates attainment of as many of the outcomes set out in the standard as may reasonably be expected to be attained by undertaking a course of education.
- (4) The additional specialist competence test is met in respect of an occupation if—
  - (a) a standard is published under section ZA11 for the occupation, and
  - (b) the Institute is satisfied that—
    - (i) by obtaining the qualification, a person demonstrates attainment of particular outcomes which are additional to those set out in the standard, and
    - (ii) attaining all those outcomes (together with attainment of the outcomes set out in the standard) would enable a person to specialise within the occupation.
- (5) The significant outcomes test is met in respect of one or more occupations if—
  - (a) the Institute is satisfied that—
    - (i) by obtaining the qualification a person demonstrates attainment of particular outcomes in relation to the occupations, and
    - (ii) attaining those outcomes would enable a person to work in the occupations at a particular level of competence (whether in the course of training or otherwise) or to improve competence in the occupations, and
  - (b) where standards are published under section ZA11 for any of the occupations, the outcomes are set out in the standards (whether or not all in the same standard).
- (6) The employer demand test is met in respect of one or more occupations if the Institute is satisfied that there is, or is likely to be, demand from employers in the occupations for employees who have obtained the particular qualification.

#### **A2D6 Approved technical education qualifications: approval and withdrawal**

- (1) The Institute may make any arrangements that it considers appropriate—
  - (a) to secure that suitable technical education qualifications are available for approval under section A2D3 or [A2D5](#), or
  - (b) in connection with the approval, or continued approval, of a technical education qualification under either of those sections.

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- (2) The Institute may withdraw approval of a technical education qualification.
- (3) The Institute is not required to withdraw approval of a technical education qualification in a specified category merely because—
  - (a) the qualification is modified, or
  - (b) the category is revised or withdrawn under section [A2D2\(4\)](#).
- (4) The Institute must publish information about matters that it takes into account when deciding whether or not—
  - (a) to approve a qualification under section [A2D3](#) or [A2D5](#), or
  - (b) to withdraw approval of it.
- (5) The matters may differ for different purposes and may, in particular, be different for—
  - (a) qualifications in different categories specified under section [A2D2](#), or
  - (b) qualifications relating to different occupations.
- (6) When making a decision of the kind mentioned in subsection [\(4\)\(a\)](#) or [\(b\)](#) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question.
- (7) Information published under subsection [\(4\)](#) may be revised or replaced, and the Institute must publish under that subsection any revised or replacement information.

#### **A2D7 Approved technical education qualifications: publication and fees**

- (1) Where a technical education qualification is approved in respect of an occupation, the Institute must publish, with the information published under section [ZA10\(5\)](#) in relation to the occupation, information indicating—
  - (a) that a technical education qualification has been approved in respect of it, and
  - (b) whether the qualification (in conjunction with any steps approved under section [A2D4](#)) could lead to a technical education certificate.
- (2) If approval of the technical education qualification is withdrawn, the Institute must publish, with the information published under section [ZA10\(5\)](#) in relation to the occupation, information indicating that the approval of the qualification has been withdrawn.
- (3) The Secretary of State may by regulations authorise the Institute (subject to any restrictions prescribed by the regulations) to charge fees for things done in connection with approval, or continued approval, of qualifications under section [A2D5](#).

#### **A2D8 Reviews of approval of technical education qualifications**

- (1) The Institute must maintain arrangements for reviewing approved technical education qualifications at regular intervals with a view to determining, for each qualification, whether—
  - (a) it should continue to be approved,
  - (b) it should be revised, or

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(c) approval should be withdrawn.

(2) The Institute must publish information about the intervals at which those reviews are to be conducted.

#### **A2D9 Moratorium on further approvals under section A2D5**

(1) This section applies where the Institute determines that there is an appropriate number of approved technical education qualifications of a particular kind.

(2) The Institute may decide that it should not approve further technical education qualifications of that kind under section A2D5 for a period (a “moratorium”).

(3) Where the Institute decides that there should be a moratorium in relation to technical education qualifications of a particular kind, it—

- (a) must publish that decision, and
- (b) during the moratorium, may not approve any further technical education qualification of that kind under section A2D5.

(4) A moratorium ends when the Institute decides to end it.

(5) Where the Institute decides to end a moratorium, it must publish that decision.

(6) The Institute must consult the Secretary of State before—

- (a) deciding whether there should be a moratorium in relation to qualifications of a particular kind;
- (b) deciding to end a moratorium.”

(5) In section A2D4 (as renumbered by section 13: additional steps towards occupational competence), in subsection (1)—

- (a) for “an approved” substitute “a”;
- (b) after “qualification” insert “that is approved under section A2D3”.

(6) In section A3A (power to issue technical education certificates), in subsection (1)(a)—

- (a) for “an approved” substitute “a”;
- (b) after “qualification” insert “approved under section A2D3”.

(7) After section A11 insert—

#### **“A12 Interpretation of Chapter A1**

(1) In this Chapter—

“approved technical education qualification” means a technical education qualification that is approved by the Institute under section A2D3 or A2D5;

“Ofqual” means the Office of Qualifications and Examinations Regulation;

“published occupation” means an occupation which the Institute has determined falls within section ZA10(1)(a) and in relation to which information is published under section ZA10(5);

“specified category”, in relation to a qualification, means a category specified under section A2D2;

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“technical education certificate” has the meaning given by section A3A;

“technical education qualification” means a qualification that relates to one or more occupations.

- (2) References in this Chapter to approval, in relation to a technical education qualification approved under section A2D3 or [A2D5](#), are to approval under the section in question.”

#### Commencement Information

- I3** S. 7 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I4** [S. 7](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(2\)](#) (with [regs. 4, 5](#))

## 8 Functions of the Institute: availability of qualifications outside England

In the Apprenticeships, Skills, Children and Learning Act 2009, after section A2IA insert—

### “A2IB Availability of approved technical education qualifications outside England

The Institute may provide advice and assistance, or take other steps that it considers appropriate, for the purpose of enabling approved technical education qualifications to be made available to be obtained by persons outside England.”

#### Commencement Information

- I5** S. 8 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I6** [S. 8](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(3\)](#) (with [regs. 4, 5](#))

## 9 Technical education qualifications: co-operation between the Institute and Ofqual

In the Apprenticeships, Skills, Children and Learning Act 2009, after section A2D10 (as renumbered by section [13](#)) insert—

### “A2D11 Co-operation between the Institute and Ofqual

- (1) The Institute and Ofqual must co-operate with one another in the exercise of—
- (a) their respective functions relating to technical education qualifications, and
  - (b) any other functions of theirs where the exercise is relevant to functions mentioned in paragraph (a).
- (2) Each of the Institute and Ofqual—
- (a) may provide advice and assistance to the other in relation to the exercise by the other of any function within subsection (1), and

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- (b) must, in exercising any function within subsection (1), have regard to any advice or information provided to it by the other, so far as relevant to the exercise of that function.”

**Commencement Information**

- I7** S. 9 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I8** [S. 9](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(4\)](#) (with [regs. 4, 5](#))

## 10 Application of accreditation requirement in relation to technical education qualifications

In section 138 of the Apprenticeships, Skills, Children and Learning Act 2009 (qualifications subject to the accreditation requirement)—

- (a) after subsection (1) insert—

“(1A) But Ofqual may not make a determination under subsection (1) in relation to a technical education qualification if—

- (a) the qualification is an approved technical education qualification, or  
 (b) the Institute—  
     (i) has notified Ofqual that the Institute is considering whether or not to approve the qualification as an approved technical education qualification, and  
     (ii) has not notified Ofqual of its decision.”;

- (b) after subsection (6) insert—

“(7) Where the Institute has notified Ofqual under subsection (1A)(b)(i) that it is considering whether or not to approve the qualification, it must also notify Ofqual of its decision.

- (8) In this section—

“the Institute” means the Institute for Apprenticeships and Technical Education;

“approved technical education qualification” and “technical education qualification” have the meanings given by section [A12\(1\)](#).”

**Commencement Information**

- I9** S. 10 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I10** [S. 10](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(5\)](#) (with [regs. 4, 5](#))

## 11 Information sharing in relation to technical education qualifications

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.  
 (2) After section 40AA insert—



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*Changes to legislation:* There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Chapter 2. (See end of Document for details)

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#### **“40AB Sharing of technical education information by or with Ofqual**

- (1) Ofqual may disclose information to a relevant person for the purpose of a relevant function of—
  - (a) Ofqual, or
  - (b) the relevant person.
- (2) A relevant person may disclose information to Ofqual for the purpose of a relevant function of—
  - (a) Ofqual, or
  - (b) the relevant person.
- (3) In this section “relevant person” means—
  - (a) the Secretary of State;
  - (b) the OfS;
  - (c) Ofsted;
  - (d) a prescribed person.
- (4) In this section “relevant function” means—
  - (a) in relation to the Secretary of State, Ofqual, the OfS or Ofsted, a technical education function of that body so far as the function relates to England;
  - (b) in relation to a prescribed person, a prescribed technical education function of that person, so far as the function relates to England.
- (5) In this section—

“Ofqual”, the “OfS” and “Ofsted” have the same meanings as in section 40AA;

“technical education function” means a function that relates to technical education qualifications approved, or that may be approved, by the Institute for Apprenticeships and Technical Education under section A2D3 or [A2D5](#).”
- (3) In the heading of Part 1A, after “Apprenticeships” insert “, Technical Education Qualifications”.
- (4) In section 262 (orders and regulations), in subsection (6), after paragraph (aza) insert—

“(azb) regulations under section [40AB](#);

#### **Commencement Information**

- I11** S. 11 not in force at Royal Assent, see [s. 36\(3\)](#)
- I12** [S. 11](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(6\)](#) (with [regs. 4, 5](#))

## **12 Technical education qualifications: minor and consequential amendments**

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as set out in subsections [\(2\)](#) to [\(9\)](#).
- (2) After section ZA8 insert—

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### **“ZA8A Interpretation of Chapter ZA1**

In this Chapter, the following terms have the same meanings as in Chapter A1—

technical education qualification (see section [A12\(1\)](#));  
 approved technical education qualification (see section [A12\(1\)](#));  
 approved steps towards occupational competence (see section [A2D4\(5\)](#));  
 published occupation (see section [A12\(1\)](#)).”

- (3) In section A2D3 (as renumbered by section [13](#): approved technical education qualifications)—
  - (a) in subsection (1), after “qualification” insert “under this section”;
  - (b) omit subsection (2);
  - (c) omit subsections (8) to (13);
  - (d) for the heading substitute “Technical education certificate: approval of technical education qualifications”.
- (4) In section A2D10 (as renumbered by section [13](#): directions), for “section A2DA or A2DB” substitute “sections [A2D2](#) to [A2D9](#) or [A2IB](#)”.
- (5) In section A2HA (list of technical education qualifications)—
  - (a) after subsection (1), insert—

“(1A) For each qualification, the list must indicate whether (in conjunction with any steps determined under section A2D4) it could lead to the issue of a technical education certificate.”;
  - (b) in subsection (2)(a), for “the standards” substitute “any standards”.
- (6) In section 100 (funding), in subsection (5), in the definition of “approved technical education qualification”, for “A2DA” substitute “[A12\(1\)](#)”.
- (7) In section 121 (interpretation of Part 4), in subsection (1)—
  - (a) in the definition of “approved technical education qualification”, for “A2DA” substitute “[A12](#)”;
  - (b) in the definition of “technical education qualification”, for “A2DA” substitute “[A12](#)”.
- (8) In section 122 (sharing of information for education and training purposes), in subsection (5)(ba), for “the IfA” substitute “the Institute for Apprenticeships and Technical Education”.
- (9) In paragraph 9(2) of Schedule A1 (exercise of Institute’s functions)—
  - (a) after “sections” insert “[ZA2A](#), ”;
  - (b) for “A2DA, A2DB” substitute “[A2D2](#) to [A2D9](#)”;
  - (c) for “A2IA” substitute “[A2IB](#)”.
- (10) In section 42B of the Education Act 1997 (information about technical education: access to English schools), in subsection (10), for “A2DA” substitute “A2D3 or [A2D5](#)”.

**Changes to legislation:** There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Chapter 2. (See end of Document for details)

#### Commencement Information

- I13** S. 12 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I14** [S. 12](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(7\)](#) (with [regs. 4, 5](#))

### 13 Renumbering of provisions relating to technical education qualifications

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.  
(2) Sections A2DA to A2DC are renumbered as follows—

<i>Existing section number</i>	<i>New section number</i>
A2DA	A2D3
A2DB	A2D4
A2DC	A2D10

- (3) In section A2HA (list of technical education qualifications), in subsection (2)(b), for “A2DB” substitute “A2D4”.
- (4) In section A2IA (transfer of copyright relating to technical education qualifications)—  
(a) in subsection (1), for “A2DA” substitute “A2D3”;  
(b) in subsection (4), for “A2DA(4)(a)” substitute “A2D3(4)(a)”.
- (5) In section A3A (power to issue technical education certificate), in subsection (1)(b), for “A2DB” substitute “A2D4”.
- (6) In section 100 (provision of financial resources), in subsection (5), in the definition of “approved steps towards occupational competence”, for “A2DB” substitute “A2D4”.
- (7) In section 121 (interpretation of Part 4), in subsection (1), in the definition of “approved steps towards occupational competence”, for “A2DB” substitute “A2D4”.
- (8) Nothing in subsection (2) alters the effect of anything done under or for the purposes of a provision renumbered by that subsection, and accordingly—  
(a) anything done under or for the purposes of such a provision (a “renumbered provision”) that has effect immediately before that subsection comes into force continues to have effect after that time as done under the provision as renumbered;  
(b) any reference in an instrument or other document to such a provision is (so far as the context permits) to be read after that time as including a reference to the provision as renumbered;  
(c) any reference in an instrument or other document to a provision as so renumbered is (so far as the context permits) to be read after that time as including a reference to the provision as previously numbered.

#### Commencement Information

- I15** S. 13 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I16** [S. 13](#) in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(8\)](#) (with [regs. 4, 5](#))

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*Changes to legislation: There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Chapter 2. (See end of Document for details)*

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*Information about technical education and training*

**14 Information about technical education and training: access to English schools**

(1) Section 42B of the Education Act 1997 (information about technical education: access to English schools) is amended as follows.

(2) In subsection (1), for “is an opportunity” substitute “are opportunities”.

(3) After subsection (1) insert—

“(1A) In complying with subsection (1), the proprietor must give access to registered pupils on at least two occasions during each of the first, second and third key phase of their education.”

(4) After subsection (2) insert—

“(2A) The proprietor of a school in England within subsection (2) must—

(a) ensure that, during each of the first and second key phases of the education of each registered pupil—

(i) on at least two occasions the pupil meets at least one provider to whom access is given (or any other number of such providers that may be specified for the purposes of that key phase by regulations under subsection (8)), and

(ii) the pupil does not meet exactly the same provider or providers on each of those occasions, and

(b) ask providers to whom access is given to provide information that includes the following—

(i) information about the provider and the approved technical education qualifications or apprenticeships that the provider offers,

(ii) information about the careers to which those technical education qualifications or apprenticeships might lead,

(iii) a description of what learning or training with the provider is like, and

(iv) responses to questions from the pupils about the provider or approved technical education qualifications and apprenticeships.

(2B) Access given under subsection (1) must be for a reasonable period of time during the standard school day.”

(5) In subsection (5)—

(a) in paragraph (c), at the end insert “and the times at which the access is to be given;”;

(b) after paragraph (c) insert—

“(d) an explanation of how the proprietor proposes to comply with the obligations imposed under subsection (2A).”

(6) In subsection (8), after “subsection (1)” insert “or (2A)”.

(7) After subsection (9) insert—

“(9A) For the purposes of this section—

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- (a) the first key phase of a pupil's education is the period—
  - (i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 13, and
  - (ii) ending with 28 February in the following school year;
- (b) the second key phase of a pupil's education is the period—
  - (i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 15, and
  - (ii) ending with 28 February in the following school year;
- (c) the third key phase of a pupil's education is the period—
  - (i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 17, and
  - (ii) ending with 28 February in the following school year.”

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**Commencement Information**

- I17** S. 14 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I18** [S. 14](#) in force at 1.1.2023 by [S.I. 2022/1349](#), [reg. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Chapter 2.