



# Skills and Post-16 Education Act 2022

## 2022 CHAPTER 21

### PART 1

#### SKILLS AND EDUCATION FOR WORK

### CHAPTER 2

#### TECHNICAL EDUCATION QUALIFICATIONS, APPRENTICESHIPS, ETC

##### *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),

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- (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—
  - (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—

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### “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\(1\)\(b\)](#),
  - (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.

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### **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.
- (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

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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
  - (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—

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“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](#);

“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.”

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**Commencement Information**

- I1** S. 7 not in force at Royal Assent, see [s. 36\(3\)](#)  
**I2** S. 7 in force at 30.9.2022 by [S.I. 2022/965](#), [reg. 3\(2\)](#) (with [regs. 4, 5](#))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 19(2)(ga) inserted by [2023 c. 55 Sch. 4 para. 222](#)
- s. 20(7)(ca) inserted by [2023 c. 55 Sch. 4 para. 223](#)