



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 1

#### APPRENTICESHIPS, STUDY AND TRAINING

#### [<sup>F1</sup>CHAPTER A1

#### APPRENTICESHIPS [<sup>F1</sup>AND TECHNICAL EDUCATION]: ENGLAND]

#### *[<sup>F1</sup>Technical education qualifications*

#### Textual Amendments

- F1** Ss. A2DA-A2DC and cross-heading inserted (31.1.2019) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 15](#); S.I. 2019/61, reg. 2(b)

#### [<sup>F2</sup>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—

*Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Cross Heading: Technical education qualifications is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (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](#)).

#### Textual Amendments

**F2** Ss. [A2D1](#), [A2D2](#) inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. [7\(2\)](#), [36\(3\)](#); S.I. 2022/965, reg. [3\(2\)](#) (with regs. [4](#), [5](#))

### **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.]

#### Textual Amendments

**F2** Ss. [A2D1](#), [A2D2](#) inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. [7\(2\)](#), [36\(3\)](#); S.I. 2022/965, reg. [3\(2\)](#) (with regs. [4](#), [5](#))

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<sup>F4</sup>**A2D3** [<sup>F3</sup>**Technical education certificate: approval of technical education qualifications**]

- (1) The Institute may, if it considers it appropriate, approve a technical education qualification [<sup>F5</sup>under this section] in respect of one or more occupations for which standards are published under section ZA11.
- <sup>F6</sup>(2) .....
- (3) The Institute may approve a technical education qualification under this section only if satisfied that
- <sup>F7</sup>(a) [ the qualification falls within a category specified under section [A2D2\(1\)\(a\)](#), and
  - (b)] by obtaining the qualification a person demonstrates that he or she has attained as many of the outcomes set out in the standards as may reasonably be expected to be attained by undertaking a course of education.
- (4) The Institute may approve a technical education qualification under this section only where the Institute—
- (a) has determined the documents relating to the qualification to which it considers section A21A should apply (if any), and
  - (b) is satisfied that each person (other than the Institute) who it thinks is entitled to a right or interest in any copyright in those documents agrees to the right or interest being transferred to the Institute (see section A21A).
- (5) If the Institute fails to comply with subsection (4)(b) then, unless it does so in the knowledge that a person does not agree as mentioned in that provision—
- (a) the failure does not invalidate the approval of the qualification, but
  - (b) the Institute must pay such compensation (if any) as may be appropriate to any person whose right or interest is transferred to the Institute without the person's agreement.
- (6) In making a determination under subsection (4)(a), the Institute may take into account the likelihood of any person agreeing as mentioned in subsection (4)(b).
- (7) The Institute may revise its determination under subsection (4)(a) before approving the qualification.

- <sup>F8</sup>(8) .....
- <sup>F8</sup>(9) .....
- <sup>F8</sup>(10) .....
- <sup>F8</sup>(11) .....
- <sup>F8</sup>(12) .....
- <sup>F8</sup>(13) .....

**Textual Amendments**

- F3** S. A2D3 heading substituted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. **12(3)(d)**, 36(3); S.I. 2022/965, reg. 3(7) (with regs. 4, 5)
- F4** S. A2DA renumbered as s. A2D3 (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. **13(2)**, 36(3) (with s. 13(8)); S.I. 2022/965, reg. 3(8) (with regs. 4, 5)

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- F5** Words in s. A2D3(1) inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 12(3)(a)**, 36(3); S.I. 2022/965, reg. 3(7) (with regs. 4, 5)
- F6** S. A2D3(2) omitted (30.9.2022) by virtue of Skills and Post-16 Education Act 2022 (c. 21), **ss. 12(3)(b)**, 36(3); S.I. 2022/965, reg. 3(7) (with regs. 4, 5)
- F7** Words in s. A2D3(3) inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 7(3)**, 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)
- F8** Ss. A2D3(8)-(13) omitted (30.9.2022) by virtue of Skills and Post-16 Education Act 2022 (c. 21), **ss. 12(3)(c)**, 36(3); S.I. 2022/965, reg. 3(7) (with regs. 4, 5)

### **Additional steps towards occupational competence**

- A2D4** (1) Where there is <sup>F10</sup>a technical education qualification <sup>F11</sup>that is approved under section A2D3] in respect of one or more occupations, the Institute may from time to time determine other steps that it considers it would be appropriate for a person to take in order to progress towards being a person who is competent to work in those occupations.
- (2) Steps determined under this section may include the obtaining of other qualifications.
- (3) The Institute may make a further determination under this section.
- (4) The Institute must publish a statement of any steps it determines under this section.
- (5) In this Chapter steps that the Institute determines under this section are referred to as “approved steps towards occupational competence”.

#### **Textual Amendments**

- F9** S. A2DB renumbered as s. A2D4 (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 13(2)**, 36(3) (with s. 13(8)); S.I. 2022/965, reg. 3(8) (with regs. 4, 5)
- F10** Word in s. A2D4(1) substituted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 7(5)(a)**, 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)
- F11** Words in s. A2D4(1) inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 7(5)(b)**, 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)

### **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**.

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- (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.

#### Textual Amendments

- F12** Ss. A2D5-A2D9 inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 7(4), 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)

### **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

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- (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.

**Textual Amendments**

**F12** Ss. [A2D5-A2D9](#) inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. [7\(4\)](#), [36\(3\)](#); [S.I. 2022/965](#), reg. [3\(2\)](#) (with regs. [4](#), [5](#))

**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](#).

**Textual Amendments**

**F12** Ss. [A2D5-A2D9](#) inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), ss. [7\(4\)](#), [36\(3\)](#); [S.I. 2022/965](#), reg. [3\(2\)](#) (with regs. [4](#), [5](#))

**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—

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- (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.

#### Textual Amendments

**F12** Ss. A2D5-A2D9 inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 7(4), 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)

### 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.]

#### Textual Amendments

**F12** Ss. A2D5-A2D9 inserted (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 7(4), 36(3); S.I. 2022/965, reg. 3(2) (with regs. 4, 5)

### [<sup>F13</sup>A2D10] Directions

The Secretary of State may give the Institute a direction in connection with the exercise by the Institute of any function under or for the purposes of [<sup>F14</sup>sections A2D2 to A2D9 or A2IB].]

#### Textual Amendments

**F13** S. A2DC renumbered as s. A2D10 (30.9.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 13(2), 36(3) (with s. 13(8)); S.I. 2022/965, reg. 3(8) (with regs. 4, 5)

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**F14** Words in s. A2D10 substituted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), **ss. 12(4), 36(3)**; S.I. 2022/965, [reg. 3\(7\)](#) (with [regs. 4, 5](#))

**[<sup>F15</sup>A2D10] 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
  - (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.]

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**Textual Amendments**

**F15** [S. A2D11](#) inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), **ss. 9, 36(3)**; S.I. 2022/965, [reg. 3\(4\)](#) (with [regs. 4, 5](#))



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**Commencement Orders yet to be applied to the Apprenticeships, Skills, Children and Learning Act 2009**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/3341 art. 2](#) commences (2009 c. 22)
- [S.I. 2010/2413 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/829 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/882 art. 2](#) amendment to earlier commencing SI 2010/303 art. 7 Sch. 6