



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### [<sup>F1</sup>PART 1A

#### APPRENTICESHIPS [<sup>F2</sup>, TECHNICAL EDUCATION QUALIFICATIONS][<sup>F3</sup> AND OTHER EDUCATION AND TRAINING]: INFORMATION SHARING

##### Textual Amendments

- F1** Pt. 1A inserted (4.7.2016) by [Enterprise Act 2016 \(c. 12\)](#), **ss. 26(1)**, 44(5); S.I. 2016/695, art. 2(a)
- F2** Words in Pt. 1A heading inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), **ss. 11(3)**, 36(3); S.I. 2022/965, reg. 3(6) (with regs. 4, 5)
- F3** Words in Pt. 1A heading inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), **Sch. 1 para. 26**; S.I. 2017/1055, reg. 3(b)(ii)

#### *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;

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- (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.

### **Sharing of information by or with the Institute**

**F4 40AA**

- (1) The Institute for Apprenticeships and Technical Education may disclose information to a relevant person for the purpose of a relevant function of that person.
- (2) For disclosure of information by the Institute for the purposes of its own functions, see paragraph 10 of Schedule A1.
- (3) A relevant person may disclose information to the Institute for the purpose of—
  - (a) a function of the Institute, or
  - (b) a relevant function of that person.
- (4) In this section “relevant person” means—
  - (a) Ofqual,
  - (b) the OfS,
  - (c) Ofsted, or
  - (d) a prescribed person.
- (5) In this section “relevant function” means—
  - (a) in relation to Ofqual, the OfS or Ofsted, a function of that body, so far as the function relates to England;
  - (b) in relation to a prescribed person, a prescribed function of that person, so far as the function relates to England.
- (6) In this section—
  - “Ofqual” means the Office of Qualifications and Examinations Regulation;
  - “OfS” means the Office for Students;
  - “Ofsted” means—
    - (a) the Office for Standards in Education, Children's Services and Skills, and
    - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills.
- (7) Regulations under this section prescribing functions of a person may prescribe all of the person's functions.]

#### **Textual Amendments**

**F4** S. 40AA inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 27](#); [S.I. 2017/1055](#), reg. 3(b)(ii) (with reg. 4)

**Sharing of technical education information by or with Ofqual**

F5 40AB

- (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](#).]

**Textual Amendments**

- F5** S. 40AB inserted (30.9.2022) by [Skills and Post-16 Education Act 2022 \(c. 21\)](#), **ss. 11(2)**, 36(3); [S.I. 2022/965](#), reg. 3(6) (with regs. 4, 5)

*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;

- (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
- <sup>F6</sup>(a) [ affects any power to disclose information that exists apart from this Part],
  - <sup>F7</sup>(b) [ authorises the disclosure of any information in contravention of any provision made by or under any Act which prevents disclosure of the information.]]

#### **Textual Amendments**

- F6** Words in s. 40D(3) renumbered as s. 40D(3)(a) (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), s. 47(2), [Sch. 1 para. 28\(a\)](#); S.I. 2017/1055, reg. 3(b)(ii)

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**F7** S. 40D(3)(b) inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\), s. 47\(2\), Sch. 1 para. 28\(b\)](#); S.I. 2017/1055, reg. 3(b)(ii)

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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