

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Post-16 Education and Training

Apprenticeships

Section 69: The apprenticeship offer

329. **Section 69** places a new duty on the Chief Executive of Skills Funding (“the Chief Executive”) to prioritise funding for apprenticeship training for specified groups of young people. It also gives effect to *Schedule 18* which repeals sections 91 to 99 of ASCLA 2009 (which have not been commenced), which placed a duty on the Chief Executive to secure an apprenticeship place for all suitably qualified young people in these groups.
330. **Section 69** inserts sections 83A and 83B into ASCLA 2009.
331. New section 83A places a duty on the Chief Executive of Skills Funding (the “Chief Executive”) to fund apprenticeship training by securing the provision of proper facilities for every young person in certain specified groups who has secured an apprenticeship opportunity. The effect of this section is to give higher funding priority for apprenticeship training for these young persons. This duty is known as “the apprenticeship offer”. The apprenticeship offer applies in England only.
332. An apprenticeship opportunity is defined in section 83A(3) as being an opportunity to enter an apprenticeship agreement; a contract of employment in connection with which training in accordance with an apprenticeship framework will be provided; or an opportunity to undertake other kinds of working in relation to which the apprenticeship alternative completion conditions in section 1(5) of ASCLA 2009 apply.
333. Proper facilities are defined in section 83A(8) as being those which are of a sufficient quantity and adequate quality to meet the reasonable needs of individuals. The training must be suitable to the apprentices’ needs, and in determining this, the Chief Executive must have regard to the factors in section 83(2) and (3) of ASCLA 2009. The Chief Executive must make best use of resources.
334. The persons who are eligible for the new apprenticeship offer are the same as those who are eligible for the current apprenticeship offer in ASCLA 2009, and are:
- all young people aged 16 to 18;
 - people aged 19 to 24 who are care leavers (explained below); and
 - people aged 19 to 24 with a disability or learning difficulty who are of a prescribed description (as set out below).
335. For the purposes of the apprenticeship offer, a “care leaver” is a person aged under 21 who was looked after by the local authority before and after turning 18 and to whom

a local authority owes duties under section 23C of CA 1989, or a person to whom an authority owes duties under section 23CA of that Act (that is, a person to whom the authority no longer owes duties under section 23C, but who wishes to pursue education or training). The duties provided for by section 23CA may continue to be owed until the person reaches the age of 25.

336. Section 83A(6)(b) provides a regulation-making power to specify descriptions of persons who will be eligible for the apprenticeship offer. It is intended that these will be people with disabilities or learning difficulties, and that the definition of the people to be included in the prescribed description will be based on the advice of external disability experts. These regulations will be subject to the negative resolution procedure.
337. Section 83A(12) gives the Secretary of State powers to amend the description of the persons covered by the apprenticeship offer by order subject to the affirmative resolution procedure.
338. New section 83B limits the scope of the apprenticeship offer by specifying that the duty to fund apprenticeship training under the offer applies to one completed apprenticeship at each apprenticeship level. This would mean that a person who has already completed an apprenticeship or holds an apprenticeship certificate at that level has no right to be funded under the apprenticeship offer to train for a second apprenticeship in a different skill, trade or occupation at the same level. Other evidence of experience and attainment at a similar or higher level could also be taken as equivalent to an apprenticeship certificate.

Schedule 18

339. This Schedule repeals sections 91 to 99 of ASCLA 2009, which have not been commenced. These sections place a duty on the Chief Executive to secure an apprenticeship place for every suitably qualified person within specified categories of people, set out the terms of this offer and criteria for its fulfilment, specified eligibility criteria and gave the Secretary of State powers to suspend the offer. This Schedule also repeals section 104 of ASCLA 2009, in consequence of the repeal of sections 91 to 99. The Chief Executive retains a power to provide assistance and support under section 110(6) of ASCLA 2009.
340. This Schedule also makes consequential amendments related to the repeal of sections 91 to 99 and 104 of ASCLA 2009, and to the new sections inserted by section 69.

Section 70: Securing the provision of apprenticeship training

341. **Section 70** amends the duty on the Chief Executive in section 85 of ASCLA 2009 so that the Chief Executive is under a duty to make reasonable efforts to secure employers' participation in apprenticeship training for all young people within the specified groups which are covered by the redefined apprenticeship offer set out in [section 69](#). These groups are young people aged 16 to 18; young people aged 19 to 24 with a disability and/or learning difficulty assessment; and young care leavers. (Other persons may be prescribed through regulations). This replaces the existing duty on the Chief Executive in section 85(1)(a) of ASCLA 2009 to promote apprenticeships for young people to employers and encourage them to employ young people as apprentices.
342. It also amends section 118 of ASCLA 2009 to specify that any guidance issued by the Secretary of State to the Chief Executive under this section must include guidance about this duty.

Section 71: apprenticeship certificates

343. **Section 71** replaces section 6 of ASCLA 2009. The new section provides that the certifying authority for apprenticeships in England will be the person designated for that purpose by the Secretary of State. Where a person has not been designated, the Secretary

*These notes refer to the Education Act 2011 (c.21)
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of State will be the English certifying authority. Subsection (2) provides that only one person at any one time may be designated to issue apprenticeship certificates for a particular sector and subsection (3) provides that the designated person must comply with directions and have regard to guidance given by the Secretary of State. Subsection (4) allows the Secretary of State to amend or revoke the designation.

344. The effect of the amendments made by section 71 is that the Chief Executive of Skills Funding is no longer the English certifying authority. Section 6 of ASCLA 2009 is now largely similar to the arrangements for Wales in section 10 of the same Act.
345. The section also makes minor and consequential amendments to ASCLA 2009 relating to the new section 6.