

# EDUCATION AND SKILLS ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Local education authority*

#### *Legal background*

#### **Part 1: Duty to participate in education or training: England**

#### *Sections 3 to 9: Interpretation*

16. In *section 3*, level 3 is defined as the level of attainment which is demonstrated by two A levels. The section enables regulations to set out the qualifications that will count for this purpose. It is intended that these will include the Progression Diploma and the Advanced Diploma once these are available. *Sections 4 to 9* provide detail and definitions for the types of participation that will fulfil the duty. Section 4 defines appropriate full-time education or training as full-time education or training suitable to the person's age, ability, aptitude and any learning difficulty he or she has, provided at a school, college of further education or otherwise. For example, this provides that home education and programmes of learning provided by voluntary sector organisations would fulfil the central duty to participate. "Full-time" in relation to a particular description of education provided otherwise than at school or training, may be defined in regulations under *subsection (2)* of section 4. "Full-time" is not defined in legislation for compulsory school age, but, otherwise, this section substantially mirrors section 7 of the 1996 Act which provides for compulsory education pre-16.
17. For the purposes of this Part, *section 5* defines full-time occupation as working for 20 hours or more per week under a contract of employment or in any other way which may be prescribed in regulations. Section 5 provides for regulations to be made determining whether people should be treated as working 20 hours where their normal working hours vary from week to week. Regulations made under *subsection (1)(b)* can prescribe any other kinds of occupation that should count for these purposes, including volunteering, agency work and working as the holder of an office (for example, police officers or public appointees). By virtue of *section 62*, Crown employment (for example, civil servants or those in the armed forces) counts as work under a contract of employment.
18. *Section 6* defines relevant training or education for people who are fulfilling the duty to participate through the route described in *subsection (1)(c)* of section 2. It must consist of a course or courses leading towards a qualification accredited by the QCA.
19. Where a person is not fulfilling the duty to participate through full-time education or training or under a contract of apprenticeship, the person should be fulfilling the duty in accordance with section 2(1)(c). The time when the person should be fulfilling the duty in this way is divided into relevant periods and the person must participate in sufficient relevant training or education in each of those periods. *Section 7* provides for the dates on which relevant periods begin and end to be set by regulations (except in the case of

*These notes refer to the Education and Skills Act 2008  
(c.25) which received Royal Assent on 26 November 2008*

relevant periods at the beginning or end of a time when the person should be fulfilling the duty in this way).

20. *Section 8* provides that if a person fulfils the duty to participate by working and pursuing part time education or training towards an accredited qualification, then the training provided by a person's employer, or any other education or training towards accredited qualifications, must be equivalent to 280 guided learning hours per year. It establishes that those guided learning hours may be actual hours of guided learning or a value assigned to an accredited qualification by the QCA. Regulations will prescribe what constitutes sufficient education or training where this option is pursued for relevant periods of less than a whole year, for instance where a young person changes the way he or she is fulfilling the duty mid-way through a year, or because their 18th birthday falls before the end of the year. *Section 9* requires the QCA to assign guided learning hours in accrediting qualifications.