



Education and Skills Act 2008

2008 CHAPTER 25

PART 1

DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

CHAPTER 1

YOUNG PERSONS

Duty to participate in education or training

1 Persons to whom Part 1 applies

This Part applies to any person who is resident in England and who—

- (a) has ceased to be of compulsory school age,
- (b) has not reached the age of 18, and
- (c) has not attained a level 3 qualification (see section 3).

2 Duty to participate in education or training

(1) A person to whom this Part applies must—

- (a) be participating in appropriate full-time education or training (see section 4),
- (b) be participating in training in accordance with a contract of apprenticeship, or
- (c) both—
 - (i) be in full-time occupation (see section 5), and
 - (ii) participate in sufficient relevant training or education in each relevant period (see sections 6 to 8).

(2) For the purposes of this Part, a person who is in full-time occupation is to be taken to be participating in sufficient relevant training or education at any particular time if—

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- (a) arrangements have been made (whether by means of enrolment on a course or courses, or otherwise) for the person to receive sufficient relevant training or education during the current relevant period, and
- (b) where the arrangements call for the person to be participating in training or education at the time, the person is so participating.

Interpretation

3 Level 3 qualification

- (1) In this Part, “level 3 qualification” means a prescribed external qualification, or an external qualification of a prescribed description, at level 3.
- (2) For this purpose, level 3 is the level of attainment (in terms of breadth and depth) which, in the opinion of the Secretary of State, is demonstrated by the General Certificate of Education at the advanced level in two subjects.
- (3) A qualification, or description of qualification, prescribed under subsection (1) may be prescribed by reference to an assessment made by the Qualifications and Curriculum Authority of the level of attainment demonstrated by a qualification; and for that purpose regulations under subsection (1) may confer a function (which may include the exercise of a discretion) on the Authority.
- (4) In subsection (1), “external qualification” has the meaning given in section 24 of the Education Act 1997 (c. 44).
- (5) The Secretary of State may by order amend subsection (2) so as to substitute a different qualification for the qualification for the time being referred to.

4 Appropriate full-time education or training

- (1) In this Part, “appropriate full-time education or training”, in relation to a person, means full-time education or training which is suitable for the person, having regard—
 - (a) to the person’s age, ability and aptitude, and
 - (b) to any learning difficulty which the person may have,
 and is provided at a school, at a college of further education, at an institution within the higher education sector or otherwise.
- (2) Regulations may provide that a particular description of—
 - (a) education provided otherwise than at a school, or
 - (b) training,
 is, or is not, to be treated as being “full-time” for the purposes of this section.
- (3) Subsections (5) and (6) of section 13 of the Learning and Skills Act 2000 (c. 21) (persons with learning difficulties) apply for the purposes of this section.

5 Full-time occupation

- (1) For the purposes of this Part, a person is in full-time occupation if the person works for at least 20 hours per week—
 - (a) under a contract of employment, or
 - (b) in any other way which may be prescribed,

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otherwise than under a short-term contract or arrangement.

- (2) The power conferred by subsection (1)(b) includes, in particular, power to prescribe the following ways of working—
- (a) as a self-employed person,
 - (b) otherwise than for reward, or
 - (c) as the holder of an office.
- (3) For the purposes of this section, the number of hours for which a person works per week is—
- (a) the number of the person’s normal weekly working hours, less
 - (b) the number of hours of actual guided learning—
 - (i) which constitute relevant training or education, and
 - (ii) in which the young person participates each week during normal weekly working hours.
- (4) In subsection (3)—
- “normal weekly working hours”—
 - (a) in relation to a person employed under a contract of employment, means the person’s normal working hours in a week, and
 - (b) in relation to a person working in a way prescribed under subsection (1)(b), has the prescribed meaning;
 - “actual guided learning” has the meaning given by section 8(3).
- (5) Section 234 of the Employment Rights Act 1996 (c. 18) (construction of references to normal working hours where employee entitled to overtime pay) applies for the purposes of the definition of “normal weekly working hours” in subsection (4) as it applies for the purposes of that Act.
- (6) Regulations may make provision for a person to be, or not to be, treated as working for at least 20 hours per week in cases where the number of hours for which the person works per week (calculated under subsection (3)) varies from week to week.
- (7) Where a person works otherwise than under—
- (a) a single contract of employment, or
 - (b) a single arrangement (in the case of a way of working prescribed under subsection (1)(b)),
- the number of hours for which the person works per week is the aggregate of the amounts calculated under subsection (3) in relation to each of the contracts or arrangements under which the person works.
- (8) For the purposes of subsection (1)—
- (a) a contract of employment is a short-term contract unless it—
 - (i) has a fixed term of 8 weeks or longer, or
 - (ii) does not have a fixed term but has been, or can reasonably be expected to be, in force for at least 8 weeks;
 - (b) an arrangement, in the case of a way of working prescribed under paragraph (b) of that subsection, is a short-term arrangement unless it has been, or can reasonably be expected to be, in force for at least 8 weeks.

6 Relevant training or education

- (1) In this Part, “relevant training or education” means training or education towards an accredited qualification provided by a course or courses.
- (2) For this purpose, “accredited qualification” means a qualification which has been accredited by the Qualifications and Curriculum Authority under section 24(2)(g) of the Education Act 1997 (c. 44) (functions of the Authority in relation to external vocational and academic qualifications).

7 Relevant period

- (1) In this Part, “relevant period”, in relation to a person, means a period beginning with a start date and ending with the next end date.
- (2) The following are start dates for the purposes of subsection (1)—
 - (a) a date on which subsection (4) starts to apply to the person;
 - (b) the date immediately following the end of a relevant period (if on that date that subsection still applies to the person).
- (3) The following are end dates for the purposes of subsection (1)—
 - (a) a prescribed date;
 - (b) a date on which subsection (4) ceases to apply to the person.
- (4) This subsection applies to a person at any time when—
 - (a) this Part applies to the person, and
 - (b) the person is not participating in education or training in accordance with section 2(1)(a) or (b).

8 Sufficient relevant training or education

- (1) For the purposes of this Part, relevant training or education is “sufficient” in relation to any relevant period if it amounts in aggregate to—
 - (a) at least 280 hours of guided learning, in the case of a relevant period which is one year;
 - (b) such number of hours of guided learning as is determined in accordance with regulations, in the case of any other relevant period.
- (2) For the purposes of this Part, a person participates in a particular number of hours of guided learning by—
 - (a) participating in actual guided learning for that number of hours, or
 - (b) completing a course or courses which can reasonably be expected to be adequate to enable persons completing it or them to achieve any standard required to attain an accredited qualification to which that number of hours of guided learning has been assigned.
- (3) In subsection (2)—

“accredited qualification” has the meaning given by section 6(2);

“actual guided learning”, in relation to a person, means time the person spends—
 - (a) being taught or given instruction by a lecturer, tutor, supervisor or other appropriate provider of training or education, or

(b) otherwise participating in education or training under the immediate guidance or supervision of such a person,

but does not include time spent on unsupervised preparation or study, whether at home or otherwise;

“assigned” means assigned by the Qualifications and Curriculum Authority under subsection (2)(g) of section 24 of the Education Act 1997 (c. 44) (functions of the Authority in relation to external vocational and academic qualifications) by virtue of subsection (2B) of that section.

- (4) Regulations may make provision for attributing to any relevant period a number of hours of guided learning in which a person participates (or is treated by the regulations as participating) by virtue of subsection (2)(b) in cases where courses do not begin and end during a single relevant period.

9 Assignment of numbers of hours of guided learning to external qualifications

In section 24 of the Education Act 1997 (functions of Qualifications and Curriculum Authority in relation to external vocational and academic qualifications), after subsection (2A) insert—

“(2B) Any accreditation of a qualification under paragraph (g) of subsection (2) must assign to the qualification a number of notional hours (to be known as “the number of hours of guided learning”) representing an estimate of the amount of actual guided learning which could reasonably be expected to be required in order for persons to achieve the standard required to attain the qualification.

(2C) Accordingly, criteria published under paragraph (f) of that subsection must include criteria for the assignment of numbers of hours of guided learning to qualifications mentioned in that paragraph.

(2D) In subsection (2B), “actual guided learning” means time a person spends—

- (a) being taught or given instruction by a lecturer, tutor, supervisor or other appropriate provider of training or education, or
- (b) otherwise participating in education or training under the immediate guidance or supervision of such a person,

but does not include time spent on unsupervised preparation or study, whether at home or otherwise.”