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STATUTORY INSTRUMENTS

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**2013 No. 1205**

**EDUCATION, ENGLAND**

**The Duty to Participate in Education or Training  
(Miscellaneous Provisions) Regulations 2013**

<i>Made</i>	- - - -	<i>23rd May 2013</i>
<i>Laid before Parliament</i>		<i>30th May 2013</i>
<i>Coming into force</i>	- -	<i>28th June 2013</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 3(1), 4(2), 5(4)(b), 5(6), 7(3)(a), 8(1)(b), 8(4) and 62(2) of the Education and Skills Act 2008<sup>(1)</sup>.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Duty to Participate in Education or Training (Miscellaneous Provisions) Regulations 2013 and come into force on 28th June 2013.

(2) In these Regulations, “the 2008 Act” means the Education and Skills Act 2008.

**Level 3 qualification**

2. The following qualifications and descriptions of qualifications are prescribed for the purposes of section 3(1) of the 2008 Act (level 3 qualification)—

- (a) General Certificate of Education at the advanced level in two subjects;
- (b) International Baccalaureate Diploma;
- (c) Advanced apprenticeship;
- (d) Scottish National qualifications at the higher level in three subjects; and
- (e) Cambridge Pre-University qualifications in two subjects.

**Full-time education or training**

3.—(1) The following descriptions of education provided otherwise than at a school, or training, are to be treated as being “full-time” for the purposes of section 4 of the 2008 Act (appropriate full-time education or training)—

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(1) 2008 c. 25. See section 168 for the definitions of “prescribed” and “regulations”.

- (a) a study programme that is delivered to a person in at least 540 hours in any 12 month period;
- (b) a programme of activity that is delivered to a person for the purpose of enabling the person to participate in education or training in accordance with section 2(1) of the 2008 Act (duty to participate in education or training); and
- (c) education provided at home.

(2) For the purposes of paragraph (1), a “study programme” is a programme of study developed by a college of further education, an institution within the higher education sector, or other training provider to meet the needs of an individual student, which may include activity leading to a qualification and other activity including work experience.

### **Full-time occupation**

4. The meaning of “normal weekly working hours” prescribed for the purposes of section 5(4)(b) of the 2008 Act (full-time occupation) is the person’s normal working hours in a week.

5. The following persons are to be treated as working for at least 20 hours per week for the purposes of section 5(6) of the 2008 Act—

- (a) a person who works for an average of at least 40 hours per two week period, or
- (b) a person who is serving as a member of the armed forces of the Crown.

### **Relevant period**

6. The date prescribed for the purposes of section 7(3)(a) of the 2008 Act (relevant period) is, in relation to a person—

- (a) the anniversary of the date on which section 7(4) of that Act starts to apply to the person, or
- (b) the date on which Part 1 of the Act ceases to apply to the person, whichever is earliest.

### **Sufficient relevant training or education**

7.—(1) The number of hours of guided learning for the purposes of section 8(1)(b) of the 2008 Act (sufficient relevant training or education) is 280 divided by 52 and then multiplied by the number of weeks in the relevant period.

(2) The number of hours of guided learning attributable to any relevant period for the purposes of section 8(4) of the 2008 Act is the number of hours of guided learning assigned to the course divided by the number of weeks over which the course will be run and then multiplied by the number of weeks in the relevant period.

### **Service as a member of the armed forces of the Crown**

8.—(1) Chapter 1 of Part 1 of the 2008 Act has effect subject to the following modifications in relation to a person serving as a member of the armed forces of the Crown.

- (2) Section 2 (duty to participate in education or training) of that Act has effect as if—
  - (a) in subsection (1)(c)(ii) for “in each relevant period (see sections 6 to 8)” there were substituted “(see sections 6 to 8)”; and
  - (b) in subsection (2)(a) “during the current relevant period” were omitted.
- (3) Section 6 (relevant training or education) of that Act has effect as if—
  - (a) for subsection (1) there were substituted—

“(1) In this Part, “relevant training or education” means training given to recruits into the armed forces.”; and

(b) subsection (2) were omitted.

(4) Section 7 (relevant period) of that Act has no effect.

(5) Section 8 (sufficient relevant training or education) of that Act has effect as if—

(a) for subsection (1) there were substituted—

“(1) For the purposes of this Part, relevant training or education is “sufficient” in relation to a person serving as a member of the armed forces if the person has completed, or is participating in, relevant training or education by the date on which this Part ceases to apply to the person.”; and

(b) subsections (2) to (4) were omitted.

23rd May 2013

*Matthew Hancock*  
Parliamentary Under Secretary of State  
Department for Education

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under Part 1 of the Education and Skills Act 2008 (“the 2008 Act”) and make provision in relation to the duty on young people to participate in education or training until the age of 18 (or until attaining a level 3 qualification if earlier).

Section 3 of the 2008 Act defines “level 3” as the level of attainment which, in the opinion of the Secretary of State, is demonstrated by two A-levels. Regulation 2 sets out the qualifications and descriptions of qualifications that count for this purpose.

Section 4 of the 2008 Act defines “appropriate full-time education or training” as full-time education or training which is suitable for the person, having regard to the person’s age, ability and aptitude, and to any learning difficulty which the person may have, and which is provided at a school, college of further education, an institution within the higher education sector or otherwise. Regulation 3 sets out the types of education provided otherwise than at a school, or training, which will be treated as “full-time”, namely a study programme of at least 540 hours, home education and a programme of activity that is provided for a person specifically for the purpose of enabling the person to participate fully in education or training – such a provider is commonly known as a re-engagement provider.

Section 5 of the 2008 Act 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. The Duty to Participate in Education or Training (Alternative Ways of Working) Regulations 2013 prescribe being self-employed, working otherwise than for reward or as the holder of an office as alternative ways of working. Regulation 4 defines “normal weekly working hours” for the purposes of persons who work in any of these ways. Regulation 5 makes provision for persons who work at least 40 hours per fortnight and for persons serving as a member of the armed forces of the Crown, whose working hours vary from week to week, to be treated as working for at least 20 hours per week.

Where a person is fulfilling the duty to participate in education or training in accordance with section 2(1)(c) of the 2008 Act, the time when the person should be fulfilling the duty is divided into relevant periods and the person must participate in sufficient relevant training or education in each of those periods. Section 7 of the 2008 Act provides for the dates on which relevant periods begin and end. Regulation 6 provides that, in relation to a person, a relevant period ends on the anniversary of the date on which section 7(4) of that Act starts to apply to the person, or the date on which Part 1 of the Act ceases to apply to the person, whichever is earliest.

Section 8 of the 2008 Act provides that relevant training or education is sufficient in relation to any relevant period if it amounts to at least 280 hours of guided learning in a relevant period which is one year. Regulation 7(1) sets out how the number of hours of guided learning is determined in relation to any other relevant period. Regulation 7(2) sets out how the number of hours of guided learning in which a person participates is attributed in cases where courses do not begin and end during a single relevant period.

Regulation 8 makes provision for Chapter 1 of Part 1 of the 2008 Act to have effect subject to the modifications set out in relation to a person in service as a member of the armed forces of the Crown. Paragraphs (2) and (4) modify sections 2 and 7 of the 2008 Act respectively so as to remove the references to “relevant periods”. Paragraph (3) modifies section 6 of the 2008 Act so as to define “relevant training or education” as the training given to recruits into the armed forces and paragraph (5) modifies section 8 of the 2008 Act so that such relevant training or education will be sufficient in relation to a member of the armed forces if the person has either completed or is

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participating in the relevant training or education on the date that Part 1 of the 2008 Act ceases to apply to the person.

An impact assessment has not been produced for this instrument as it has no impact on businesses, the public sector or civil society organisations.