



Education and Skills Act 2008

2008 CHAPTER 25

PART 1

DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

CHAPTER 1

YOUNG PERSONS

Interpretation

3 Level 3 qualification

- (1) In this Part, “level 3 qualification” means a prescribed ^{F1}... qualification, or [^{F2}a 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 [^{F3}Office of Qualifications and Examinations Regulation (in this Part referred to as “Ofqual”)] 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 [^{F4}Ofqual].

^{F5}(4)

- (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.

Status: This version of this cross heading contains provisions that are prospective.

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Textual Amendments

- F1** Word in s. 3(1) omitted (24.5.2013) by virtue of [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(2)(a)(i)**
- F2** Words in s. 3(1) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(2)(a)(ii)**
- F3** Words in s. 3(3) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(2)(b)(i)**
- F4** Word in s. 3(3) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(2)(b)(ii)**
- F5** S. 3(4) omitted (24.5.2013) by virtue of [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(2)(c)**

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), **8**

Commencement Information

- I1** S. 3 in force at 28.6.2013 by [S.I. 2013/1204](#), **art. 2(c)**

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 [^{F6}special educational needs] 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.

^{F7}(3)

Textual Amendments

- F6** Words in s. 4(1)(b) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 83(a)**; [S.I. 2014/889](#), art. 7(a)
- F7** S. 4(3) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 83(b)**; [S.I. 2014/889](#), art. 7(a)

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Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), **8**

Commencement Information

- I2** S. 4 in force at 28.6.2013 by [S.I. 2013/1204](#), **art. 2(d)**

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,
- 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)),

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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.

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), **8**

Commencement Information

- I3** S. 5 in force at 28.6.2013 by [S.I. 2013/1204](#), **art. 2(e)**

6 Relevant training or education

- (1) In this Part, “relevant training or education” means training or education towards [^{F8}a regulated qualification] provided by a course or courses.

- [^{F9}(2) “Regulated qualification” has the same meaning as in Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 (see section 130 of that Act).]

Textual Amendments

- F8** Words in s. 6(1) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(3)(a)**
- F9** S. 6(2) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(3)(b)**

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), **8**

Commencement Information

- I4** S. 6 in force at 28.6.2013 by [S.I. 2013/1204](#), **art. 2(f)**

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)—

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- (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).

Modifications etc. (not altering text)

C1 Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), 8

Commencement Information

I5 S. 7 in force at 28.6.2013 by [S.I. 2013/1204](#), art. 2(g)

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 ^{F10}a form of a regulated qualification to which that number of hours of guided learning has been assigned.]
- (3) In subsection (2)—
- ^{F11}
.....
“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;

^{F12}“assigned” means assigned by a recognised body in accordance with section 145 of the Apprenticeships, Skills, Children and Learning Act 2009;]

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[^{F13cc}“regulated qualification” has the same meaning as in Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 (see section 130 of that Act).]

- (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.

Textual Amendments

- F10** Words in s. 8(2)(b) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(4)(a)**
- F11** Words in s. 8(3) omitted (24.5.2013) by virtue of [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(4)(b)(i)**
- F12** Words in s. 8(3) substituted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(4)(b)(ii)**
- F13** Words in s. 8(3) inserted (24.5.2013) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments to Part 1 of the Education and Skills Act 2008\) Order 2013 \(S.I. 2013/1242\)](#), arts. 1, **2(4)(b)(iii)**

Modifications etc. (not altering text)

- C1** Pt. 1 Ch. 1 modified (28.6.2013) by [The Duty to Participate in Education or Training \(Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/1205\)](#), regs. 1(1), **8**

Commencement Information

- I6** S. 8 in force at 28.6.2013 by [S.I. 2013/1204](#), **art. 2(h)**

PROSPECTIVE

^{F149} **Assignment of numbers of hours of guided learning to external qualifications**

.....

Textual Amendments

- F14** S. 9 repealed (31.5.2013) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 16 Pt. 4**; [S.I. 2013/975](#), art. 2(c) (with art. 3)

Status:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)