

**EXPLANATORY MEMORANDUM TO
THE APPRENTICESHIPS (ALTERNATIVE ENGLISH COMPLETION CONDITIONS)
REGULATIONS 2012**

2012 No. 1199

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Apprenticeships (Alternative English Completion Conditions) Regulations 2012 set out the circumstances where a person who is not working under an apprenticeship agreement will be deemed to have completed an English apprenticeship for the purposes of the Apprenticeships, Skills, Children and Learning Act 2009 (the Act).

These alternative working arrangements are:-

- specific apprenticeships in occupations where self-employment or unpaid employment is the norm;
- where the apprentice who was working under an apprenticeship agreement has been made redundant during the course of the apprenticeship and satisfies the conditions set out in the regulations; and
- where the apprentice is an elite athlete in a specified sport and is training with a view to competing in the Olympics, the Paralympics or the Commonwealth Games.

2.2 The purpose of the instrument is to enable individuals to complete an apprenticeship, and to be eligible for an apprenticeship certificate, in the prescribed circumstances.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Apprenticeships (Alternative English Completion Conditions) Regulations 2012 specify the conditions for apprentices who work other than under an apprenticeship agreement which will enable them to complete an English apprenticeship and entitle them to an apprenticeship certificate. During the passage of the legislation, a commitment was given to Parliament that the instrument would be subject to affirmative resolution.

5. Territorial Extent and Application

5.1 This instrument applies to England.

5.2 The Act makes separate provision for alternative Welsh completion conditions.

6. European Convention on Human Rights

The Secretary of State for Business, Innovation and Skills has made the following statement regarding Human Rights:

In my view the provisions of The Apprenticeships (Alternative English Completion Conditions) Regulations 2012 are compatible with the Convention rights.

7. Policy background

7.1 The Act makes provision for a statutory framework for apprenticeships with sufficient flexibility to allow employers to organise apprenticeships to meet the needs of their industry or sector. There are already in place statutory requirements which govern the standard completion conditions for an apprentice, employed under an apprenticeship agreement (contract of service) throughout their apprenticeship. These Regulations specify alternative completion conditions for apprentices who do not work under an apprenticeship agreement where a contract of service is not the norm for a particular occupation, industry or sector; or where an apprentice has been made redundant prior to completion of their apprenticeship; and for certain elite athletes who are training in a specified sport with a view to competing in Olympic, Paralympic or Commonwealth Games, to undertake and complete apprenticeship training.

8. Consultation outcome

8.1 The government conducted a full public consultation on the Draft Apprenticeships Bill from July to October 2008. There were 69 responses and the overall assessment of them was positive. Respondents were generally receptive to the legislative proposals with particular reference to the Government's aims of promoting apprenticeships as a valuable alternative to conventional qualifications and providing a central mechanism for apprenticeship provision. A copy of the consultation report on the Draft Apprenticeships Bill is available at:

<http://www.education.gov.uk/consultations/downloadableDocs/Report%20on%20Draft%20apprenticeships%20Bill%20Consultation.doc>

Specifically, the consultation on the Draft Apprenticeships Bill did not include the Alternative English Completion Conditions as these provisions were added later during the passage of the Bill. However, on 9 September 2010 Sector Skills Councils and standards setting bodies across all sectors were invited by the Department to submit a case

for their occupations, industries and sectors where they met the conditions for Alternative English Completion Conditions. Although the original deadline for submissions was 24 September 2010, submissions were accepted up to December 2011 to allow for amended or new apprenticeship frameworks. Of the 25 Sector Skills Councils (“SSCs”) in existence at the time of consultation, nine submitted a case for alternative completion conditions. Four submissions were accepted at least in part. In one case the SSC agreed that a different approach would better meet the sector’s needs and the submission was withdrawn. Of the other four, one could not be considered because the framework had not been issued, and three were rejected because the case for inclusion was not sufficiently strong.

9. Guidance

9.1 It is intended that the certifying authority, which will be the Alliance of Sector Skills Councils, will issue guidance on the administrative arrangements relating to the application and awarding of apprenticeship certificates. This guidance will cover circumstances where the standard completion conditions do not apply. The Secretary of State is not intending to issue guidance.

10. Impact

10.1 This instrument applies to individuals who are not working under an apprenticeship agreement and does not impact on business, charities, voluntary bodies or the public sector.

10.2 A full Impact Assessment has not been prepared for this specific instrument as there is zero cost to business. A full Impact Assessment was published for the apprenticeship provisions in the Apprenticeships, Skills, Children and Learning Bill based on the recommendations of World Class Apprenticeships published in 2008.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This instrument will be subject to internal review after twelve months and annually thereafter, to determine whether the instrument remains valid and to consider whether any occupations or frameworks should be added, amended or removed.

13. Contact

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