

# APPRENTICESHIP AGREEMENT



## Q&A

### **What is an Apprenticeship Agreement?**

An Apprenticeship Agreement is an agreement between an employer and an apprentice under which the apprentice undertakes to work for the employer and is in the form prescribed by s32 of the Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA)<sup>1</sup> and states that the agreement is entered into in connection with a qualifying Apprenticeship framework.

### **Why is an Apprenticeship Agreement required?**

The ASCLA introduced the requirement for an apprentice to be employed under an Apprenticeship Agreement as part of the standard completion conditions for an Apprenticeship.

The implementation of this part of the Act was initially delayed in order to consult further with businesses but has now been enacted under the Apprenticeships (Form of Apprenticeship Agreement) Regulations 2012<sup>2</sup> which came into effect on the 6<sup>th</sup> April 2012. All Apprenticeships commencing on or after this date must be covered by an Apprenticeship Agreement which must be in place for the whole duration of the Apprenticeship.

### **What is the status of the Apprenticeship Agreement?**

The ASCLA makes it clear that the Apprenticeship Agreement is a contract of service and not a contract of Apprenticeship. This reflects the fact that an Apprenticeship is primarily a job rather than training. It also means the apprentice does not have any additional rights over those of other employees.

### **What needs to be contained in an Apprenticeship Agreement?**

The Regulations came into force on 6<sup>th</sup> April 2012 and set out the prescribed form of the Apprenticeship Agreement. The requirement to have an Apprenticeship Agreement applies to apprentices who commenced their Apprenticeship on or after 6<sup>th</sup> April 2012.

The Apprenticeship Agreement must be a written statement of particulars given to the employee for the purpose of complying with s1 of the Employment Rights Act or any other document in writing in the form of a contract or letter of engagement which contains certain specified information set out in s1 of the Act.

The Apprenticeship Agreement must also include a statement of the skill, trade or occupation for which the apprentice is being trained under the qualifying Apprenticeship framework.

The Regulations also contain provision covering Apprenticeship Agreements for Crown Servants and Parliamentary staff<sup>3</sup>.

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<sup>1</sup> [Apprenticeship Schools Children and Learning Act \(ASCLA\) 2009](#)

<sup>2</sup> [Apprenticeships \(Form of Apprenticeship Agreement\) Regulations 2012](#)

<sup>3</sup> [Regulations 3 and 4](#)

## **Can an Apprenticeship be completed without an Apprenticeship Agreement being in place?**

For all Apprenticeships commencing on or after 6<sup>th</sup> April 2012 the requirement to be employed under an Apprenticeship Agreement is a condition for completion of an Apprenticeship. Without it an Apprenticeship certificate cannot be issued.

The only circumstances where an Apprenticeship can be completed without an Apprenticeship Agreement being in place are covered by the specific occupations in a limited number of frameworks covered by the alternative completion conditions<sup>4</sup>. Apprentice redundancy is also covered under the alternative completion conditions.

## **Does this mean a change to existing contracts or terms and conditions?**

There is no need to introduce an Apprenticeship Agreement for apprentices who commenced their Apprenticeship prior to April 6th 2012.

For new starts employers will need to review their documentation to ensure that it meets the requirements of the ASCLA and that it is in the prescribed form set out in the regulations. If the current employment contract used includes a statement to the effect that the employee will undertake an Apprenticeship then changes will be small and just need to set out the skill, trade or occupation for which the apprentice is being trained.

From the 6th April 2012 onwards apprentices recruited into an Apprenticeship from the existing workforce will need to be employed under an Apprenticeship Agreement. They will need to have their existing contract varied to reflect the requirements of the Act.

## **Is there a template that employers can use?**

The Apprenticeship Agreement is part of the individual employment arrangements between the apprentice and the employer. The contractual arrangements in place will determine the extent of any change required.

A template has been developed for employers and providers to use. This covers the additional information about the Apprenticeship as required by the ASCLA and is offered by way of guidance. However employers are reminded that in order to comply with the requirements an Apprenticeship Agreement must also contain the terms required by the Employment Rights Act. This template is being provided to assist employers but they should take their own independent advice to ensure they comply with their legal obligations under both the Employment Rights Act and the ASCLA and the Chief Executive of Skills funding will not be liable for any reliance placed on any guidance given in this document.

## **What does this mean for providers?**

As the Apprenticeship Agreement is an employment contract it is between the employer and the apprentice. The 2012/13 Funding Rules make it clear that an Apprenticeship Agreement must be in place and that this needs to be evidenced by the provider. It is recognised that providers may be asked for advice in this area but it is for individual organisations to determine their own approach to dealing with such requests. NAS will not offer support or guidance on individual cases beyond that contained in this document.

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<sup>4</sup> [The Apprenticeships \(Alternative England Completion Conditions\) Regulations 2012](#)

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## TEMPLATE

Further to the Apprenticeships (Form of Apprenticeship Agreement) Regulations<sup>5</sup> which came into force on 6th April 2012, an Apprenticeship Agreement is required at the commencement of an Apprenticeship for all new apprentices who start on or after that date.

The purpose of the Apprenticeship Agreement is to:-

- identify the skill, trade or occupation for which the apprentice is being trained; and
- confirm the qualifying Apprenticeship framework that the apprentice is following.

The Apprenticeship Agreement is incorporated into and does not replace the written statement of particulars issued to the individual in accordance with the requirements of the Employment Rights Act 1996.

The Apprenticeship is to be treated as being a contract of service not a contract of Apprenticeship.

### Apprenticeship Particulars:

Apprentice name:	
Skill, trade or occupation for which the apprentice is being trained:	
Relevant Apprenticeship framework and level:	
Start date:	
Estimated completion of learning date:	

### Signatories:

Apprentice:		Date:
Employer:		Date:

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<sup>5</sup> [Apprenticeships \(Form of Apprenticeship Agreement\) Regulations 2012](#)