EXPLANATORY MEMORANDUM TO

THE APPRENTICESHIPS (SPECIFICATION OF APPRENTICESHIP STANDARDS FOR ENGLAND) ORDER 2011

2011 No. 219

THE APPRENTICESHIP SECTORS (SPECIFICATION) ORDER 2011

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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 instruments

2.1 The Apprenticeships (Specification of Apprenticeship Standards for England) Order 2011 brings into effect the Specification of Apprenticeship Standards for England (SASE). It specifies that the document entitled "The Specification of Apprenticeship Standards for England (SASE)", which has been published by the Secretary of State and is on the BIS website, has effect. The SASE is a specification of requirements that must be met by an Apprenticeship framework to be issued as a recognised English framework.

2.2 The Apprenticeship Sectors (Specification) Order 2011 specifies the Apprenticeship sectors in England and Wales. Specification of sectors is important to the Apprenticeship programme since Apprenticeship frameworks will relate to a particular skill, trade or occupation included in an Apprenticeship sector. Only one English or Welsh Issuing Authority will be authorised to issue Apprenticeship frameworks for an Apprenticeship sector, to avoid duplicate frameworks being issued within a sector.

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

3.1 None.

4. Legislative Context

4.1 The Apprenticeships (Specification of Apprenticeship Standards for England) Order 2011 brings into effect the Specification of Apprenticeship Standards for England (SASE), provision for which was made under the Apprenticeships, Skills, Children and Learning Act 2009 ("the Act"). The SASE sets out the requirements to be met by an Apprenticeship framework. During the passage of the Act, undertakings were given to Parliament that the SASE would set a minimum off-the-job training time for Apprenticeships. Compliance with the SASE will ensure that Apprenticeships involve a minimum of 100 training hours or 30% of the total on and off-the-job training hours to be delivered off-the-job, whichever is the greater.

4.2 The Apprenticeship Sectors (Specification) Order 2011 specifies Apprenticeship sectors, provision for which was made under the Act. The instrument sets out the Apprenticeship sectors. An apprenticeship framework must relate to a particular

skill, trade or occupation included in an Apprenticeship sector. The Apprenticeship sectors specified in the Order cover the full range of skills, trades and occupations.

4.3 The instruments are part of a suite of regulations that will help to implement the Apprenticeship programme.

5. Territorial Extent and Application

5.1 The Apprenticeships (Specification of Apprenticeship Standards for England) Order 2011 applies to England only.

5.2 The Act makes provision for a Specification of Apprenticeship Standards for Wales (SASW). Separate arrangements will be made to bring the SASW into effect. The SASW will not replicate the SASE.

5.3 The Apprenticeship Sectors (Specification) Order 2011 applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 Prior to the Act there were no statutory arrangements for specifying Apprenticeship framework standards. As Government has invested significantly in the range of Apprenticeships and the numbers have been grown significantly, it has emerged that there are wide variations between sectors and occupations in the content and quality of Apprenticeship frameworks. For example, whilst some frameworks offer a high number of training hours leading to nationally recognised qualifications within a broad curriculum, others offer a low number of training hours leading to qualifications which are either not nationally recognised or within a narrow curriculum. A previous attempt to ensure consistency through non-statutory national standards has had a limited effect. Legislation will ensure that all statutory frameworks, whether publicly-funded or not, meet national minimum standards in terms of curriculum breadth of the qualifications on offer, the training hours offered and the recognition of that training through the award of qualifications. There has been considerable involvement and interest across the learning and employer community in making sure that the SASE balances minimum standards with flexibility for employers, Sector Skills Councils (SSCs) and others to design frameworks to meet the skills needs of their sectors and the wider economy.

7.2 The purpose of specifying Apprenticeship sectors which cover the full range of skills, trades and occupations is (a) to ensure that Apprenticeship frameworks may be issued across the full range of skills, trades and occupations and (b) to support the requirement within the Act that Apprenticeship frameworks within a sector may be issued by only one English or Welsh Issuing Authority. This is to avoid duplicate issuing by more than one Issuing Authority of Apprenticeship frameworks relating to the same skill, trade or occupation.

- ***Consolidation***

7.3 Not applicable.

8. Consultation outcome

8.1 The government conducted a public consultation on a non-statutory version of the SASE during the passage of the Apprenticeships, Skills, Children and Learning Bill. The consultation took place between 23rd February 2009 and 29th May 2009. There were 357 responses across colleges, universities, training providers, employers, Sector Skills Councils, trade unions and learners. 67% of respondents agreed that the SASE should specify the minimum size of a framework (in terms of credit value), to ensure that it offers qualifications of a reasonable minimum size across occupational and transferable skill areas. The main objection was that a minimum framework size would reduce the scope of employers to design frameworks to meet their needs. 35% of respondents agreed that the SASE should specify a minimum of 250 hours of off-the-job training. There was a general view that greater flexibility was needed for employers to specify the balance of on and off-the-job training to meet their requirements. Following further discussions with a wide range of stakeholders, the government agreed a more flexible approach to determine the balance of on and off-the-job training. Every framework will offer at least 280 training hours per year and a minimum of 30% of the total training hours offered will be delivered off-the-job. A copy of the consultation results is available at:

http://www.bis.gov.uk/assets/biscore/corporate/migratedD/publications/S/SASE-Consultation-Response

8.2 There was no public consultation by the Chief Executive of Skills Funding on the statutory SASE, because of the government's earlier non-statutory consultation, and because the Act provides that the duty to consult on the SASE does not apply to the first draft specification to be prepared by the Chief Executive after the commencement of the section.

8.3 There was no public consultation on the specification of Apprenticeship sectors although we have consulted informally with key stakeholders on how the sectors should be specified.

9. Guidance

9.1 The SASE clearly sets out the requirements with which Apprenticeship frameworks must comply. It is publicly available at:

http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/s/11-521-specification-apprenticeship-standards-england.

9.2 The SASE is supported by non-statutory guidance published in December 2009 and which relates to the earlier non-statutory SASE. The non-statutory guidance is under review and is publicly available at: http://www.bis.gov.uk/assets/biscore/corporate/migratedD/publications/S/SASE-Consultation-Guidance

9.3 The specification of Apprenticeship sectors is closely linked to the designation of English and Welsh Issuing Authorities. The specification of Apprenticeship sectors specifies the sector(s) of skills, trades and occupations. The sectors will be included in the designation to Issuing Authorities to specify the sectors for which they may issue Apprenticeship frameworks. The Secretary of State will issue a letter of designation to English Issuing Authorities and Welsh Ministers will issue a letter of

designation to Welsh Issuing Authorities. It makes sense for these letters to specify the Apprenticeship sectors for which the Issuing Authorities may issue frameworks.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that the Apprenticeship frameworks they offer must comply with the SASE.

10.2 The impact on the public sector is that the Apprenticeship frameworks they offer must comply with the SASE.

10.3 An Impact Assessment has not been prepared for these specific instruments. A full Impact Assessment was published for the Apprenticeships provisions in the ASCL Bill based on the recommendations of World Class Apprenticeships published in 2008.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The government conducted a full public consultation on the non-statutory version of the SASE including discussions with the Federation of Small Businesses (FSB). Small and large businesses expressed concern over the potential increase in apprentice hours away from the job and the workplace. To minimise the impact of the requirements on employers, and in particular small firms employing up to 20 people, the approach taken is: (a) to allow flexibility in the definition of off-the-job training so that it may be undertaken in the workplace provided it is away from the immediate pressures of the job; and (b) to allow flexibility in the balance of on and off-the-job training provided at least 100 training hours (or 30% of total training hours, whichever is the greater) are delivered off-the-job..

11.3 The Apprenticeship Sectors (Specification) Order 2011 specifies the sector(s) which will be used when designating Issuing Authorities to issue Apprenticeship frameworks. It does not have an impact on small business.

12. Monitoring & review

12.1 The outcome of the Apprenticeships (Specification of Apprenticeship Standards for England) Order 2011 is that from 1st March 2011, Apprenticeship frameworks in England will comply with the SASE. Under the Act the English Issuing Authorities will be designated by the Secretary of State to issue frameworks, and will be required to report to the Secretary of State as and when requested to do so. English Issuing Authorities will be directed to submit a report to the Secretary of State on progress achieved towards the outcome by 31 July 2011, and to report at the end of March annually thereafter.

12.2 The outcome of the Apprenticeship Sectors (Specification) Order 2011 is that sectors will be specified which cover the full range of skills, trades and occupations. Issuing Authorities will be designated to issue Apprenticeship frameworks relating to a particular Apprenticeship sector. The UK Commission for Employment and Skills will be directed to review the specification of Apprenticeship sectors by 31 March 2012 and to report to the Secretary of State on whether the sectors, as specified, continue to cover the full range of skills, trades and occupations.

13. Contact

13.1 Gary Bollington at the Department for Business, Innovation and Skills Tel: 0114 207 5023 or email: gary.bollington@bis.gsi.gov.uk can answer any queries regarding the instrument.