Draft Regulations laid before Parliament under section 262(6)(za) and (zb) of the Apprenticeships, Skills, Children and Learning Act 2009 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No.

EMPLOYMENT AND TRAINING

The Public Sector Apprenticeship Targets Regulations 2017

Made - - - -	***
Coming into force - -	*31st March 2017*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections A9(1), (5)(c) and (d) and (6), and A10(1)(b), (3) and (7) of the Apprenticeships, Skills, Children and Learning Act 2009(**a**).

In accordance with sections 262(6)(za) and (zb) of the Apprenticeships, Skills, Children and Learning Act 2009, a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) —These Regulations may be cited as the Public Sector Apprenticeship Targets Regulations 2017 and come into force on 31st March 2017.

(2) In these Regulations—

"the 2009 Act" means the Apprenticeships, Skills, Children and Learning Act 2009;

"Group A" has the meaning given by regulation 3(2);

"Group B" has the meaning given by regulation 3(3);

"headcount" has the meaning given by regulation 2;

"target period" has the meaning given by regulation 5.

Headcount

2.—(1) A public body's headcount is equal to the number of persons who work for that public body in England.

(2) A person works for a public body if the person—

(a) works for the public body as a worker within the meaning given by section 230(3) of the Employment Rights Act 1996 (employees and other workers)(**b**);

(**a**) 2009 c. 22; sections A9 and A10 were inserted by section 24(1) of the Enterprise Act 2016 (c. 12).
(**b**) 1996 c. 18.

(b) is an apprentice working for the public body, whether the apprenticeship agreement is with the public body itself or with an apprenticeship training agency(**a**); or

(c) works for the public body in the course of Crown employment or of service as a member of the naval, military or air forces of the Crown.

(3) But a person coming within any of paragraphs (4) to (6) does not, for the purposes of these Regulations, work for that public body.

(4) A person comes within this paragraph if the person works for the public body under a zero hours contract.

(5) A person comes within this paragraph if the person works for the public body on behalf of a contractor.

(6) A person comes within this paragraph if the person works under an apprenticeship agreement with a public body which is an apprenticeship training agency with a view to being supplied to another public body.

(7) In this regulation—

"Crown employment" has the meaning given by section A7(6) of the 2009 Act(**b**);

"zero hours contract" has the same meaning as in section 27A of the Employment Rights Act 1996(**c**).

Prescribed public bodies

3.—(1) The following are prescribed for the purposes of section A9(1) of the 2009 Act—

(a) Group A; and

(b) Group B.

(2) Group A is the group of public bodies which comprises—

(a) government departments, other than the Government Communications Headquarters; and

(b) those public bodies listed in Schedule 1.

(3) Group B comprises Transport for London and those of its subsidiaries which are public bodies(**d**).

(4) In addition, a public body is prescribed for the purposes of section A9(1) of the 2009 Act if on the day before the first day of one or more reporting periods in the target period the body—

(a) is not a constituent part of Group A or Group B;

(b) is not described in Schedule 2; and

(c) has a headcount equal to, or greater than 250.

Reporting periods

4. For the purposes of section A10(5) of the 2009 Act (reporting periods) the financial year of—

(a) the Department for Education, which begins with 1st April and ends with 31st March in the following calendar year, is to be used to determine the reporting periods for all the prescribed public bodies within Group A;

(**a**) An apprenticeship training agency is an organisation approved as such by the Skills Funding Agency which supplies apprentices to host businesses and other organisations whilst itself remaining the apprentice's employer throughout.
(**b**) Section A7 was inserted by paragraph 1 of Part 1 of Schedule 1 to the Deregulation Act 2015 (c. 20).
(**c**) Section 27A was inserted by section 153 of the Small Business, Enterprise and Employment Act 2015 (c. 18).
(**d**) A body corporate established under section 154(1) of the Greater London Authority Act 1999 (c. 29).

(b) Transport for London, which begins with 1st April and ends with 31st March in the following calendar year, is to be used to determine the reporting periods for all the prescribed public bodies within Group B;

(c) Westminster City Council, which begins with 1st April and ends with 31st March in the following calendar year, is to be used to determine the reporting periods for all the prescribed public bodies coming with regulation 3(4).

Target period

5. The target period is the period beginning with 1st April 2017 and ending with 31st March 2021.

Public sector apprenticeship target

6.—(1) The apprenticeship target for—

(a) each of Group A and Group B is to ensure that the total number of apprentices who begin working for the public bodies comprising those groups during the target period, and whose apprenticeship agreements also began in that period, is equal to figure Z;

(b) a public body referred to in regulation 3(4) is to ensure that the total number of apprentices who begin working for that public body during the active period or periods (taken as a whole), and whose apprenticeship agreements also begin in an active period, is equal to figure Z.

(2) In paragraph (1)(b), "active period", in relation to a public body referred to in regulation 3(4), means a 12-month period coinciding with a reporting period—

(a) which is in the target period; and

(b) in respect of which the body satisfies the conditions set out in regulation 3(4) on the day before the first day of that reporting period.

Public sector apprenticeship target: Group A and Group B

7.—(1) Figure Z in respect of Group A and Group B is calculated in accordance with the steps outlined in the following paragraphs.

(2) Step 1 is to ascertain the total headcount of each of Group A and Group B on the day before the first day of each reporting period in the target period, that number being figure—

(a) "W1" in relation to the reporting period beginning with 1st April 2017;

(b) "W2" in relation to the reporting period beginning with 1st April 2018;

(c) "W3" in relation to the reporting period beginning with 1st April 2019;

(d) "W4" in relation to the reporting period beginning with 1st April 2020.

(3) Step 2 is to multiply each of figures W1, W2, W3 and W4 in relation to that Group by 0.023, the sum of which being for the reporting period beginning with—

(a) 1st April 2017, "figure X1";

(b) 1st April 2018, "figure X2";

(c) 1st April 2019, "figure X3";

(d) 1st April 2020, "figure X4".

(4) Step 3 is to calculate the total of figures X1, X2, X3 and X4, as they relate to each of Group A and Group B ("figure Y").

(5) Step 4 is to round figure Y up or down to the nearest whole number ("figure Z").

Public sector apprenticeship target: other public bodies

8.—(1) Figure Z in respect of a public body referred to in regulation 3(4) is calculated in accordance with the steps outlined in the following paragraphs.

(2) Step 1 is to ascertain the total headcount of the public body on the day before the first day of each active period.

(3) Step 2 is to multiply each of the figures determined under Step 1 by 0.023.

(4) Step 3 is to add together the figures determined under Step 2.

(5) Step 4 is to round up or down to the nearest whole number the total calculated under Step 3, with the resulting rounded figure being figure Z.

(6) Where the public body is an apprenticeship training agency, any apprentices which the agency supplies to another public body must not be taken into account when calculating figure Z.

(7) In this regulation, "active period" has the meaning given by regulation 6(2).

Prescribed information

9. The information prescribed under section A10(1)(b) of the 2009 Act is—

(a) the information described in paragraphs (a) to (d) of section A10(3) of the 2009 Act (information explaining steps taken to meet a target or reasons why a target has not or may not be met);

(b) the figure determined under Step 1 in respect of the reporting period in question (headcount on the day before the first day of each reporting period in the target period);

(c) figure B (the number of apprentices who began to work for the body during each reporting period) expressed as a percentage of each of the figures described in paragraph (b).

Name
Parliamentary Under Secretary of State
Department for Education

Date

SCHEDULE 1

Regulation 3(2)(b)

1. Advisory Conciliation and Arbitration Service.

2. Health and Safety Executive.

3. Office for Budget Responsibility.

SCHEDULE 2

Regulation 3(4)(b)

1. The British Broadcasting Corporation and any of its subsidiaries.

2. Channel Four Television Corporation and any of its subsidiaries.

3. The House of Commons.

4. The House of Lords.

5. Post Office Ltd(**a**) and any of its subsidiaries.

(**a**) Registered company number 02154540.

6. A charity within the meaning of section 1(1) of the Charities Act 2011(**a**) which—

(a) does not come within any other paragraph in this Schedule;

(b) is not a school within the meaning of section 4(1) of the Education Act 1996(**b**);

(c) is not a 16 to 19 Academy within the meaning of section 1B of the Academies Act 2010(**c**);

(d) is not a further education corporation within the meaning of section 17 of the Further and Higher Education Act 1992(**d**).

7. A housing association within the meaning of section 1 of the Housing Associations Act 1985(**e**).

8. A housing trust within the meaning of section 2 of the Housing Associations Act 1985.

9. An independent school within the meaning of section 463(1) of the Education Act 1996(**f**).

10. An institution incorporated in, or formed under the law of any part of the United Kingdom, which has permission under Part 4A of the Financial Services and Markets Act 2000(**g**) to carry on any regulated activity within the meaning of section 22(**h**) of that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Secretary of State under powers in the Apprenticeships, Skills, Children and Learning Act 2009 ("the 2009 Act"). Those powers provide the Secretary of State with the power to make provision for apprenticeship targets applicable to prescribed public sector bodies in England. These Regulations introduce a wholly new regime in relation to the meeting of such targets.

These Regulations prescribe two distinct groups of public bodies: firstly, a group of bodies which comprise government departments and a small number of additional bodies (Group A). The second group is Group B which comprises Transport for London and those of its subsidiaries which are public bodies.

The Regulations also prescribe any public body which satisfies the conditions in regulation 3(4) on the day before the first day of a reporting period, those being that the body's headcount is less than 250 (headcount is defined in regulation 2), that the body is not a constituent part of either Group A or Group B and is not listed in Schedule 2.

Schedule 2 describes and specifies a number of bodies which, notwithstanding having a headcount of 250 or more, will not be subject to the target. Regulation 4 aligns the reporting periods for all bodies subject to the public sector apprenticeship target.

The target to which Group A and Group B are subject is to ensure that over the four year target period, that period beginning with 1st April 2017 and ending with 31st March 2021, the number of

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(**a**) 2011 c. 25.

(**b**) 1996 c. 56; section 4(1) was substituted by section 51 of the Education Act 1997 (1997 c. 44), and was further amended by section 95(1) and (2) of the Childcare Act 2006 (c. 21) and section 54(1) of, and paragraph 9 of Schedule 13 to, the Education Act 2011 (c. 21).

(**c**) 2010 c. 32; section 1B was inserted by section 53(7) of the Education Act 2011.

(**d**) 1992 c. 13; section 17 was amended by the section 44(1) of, and paragraph 7 of Schedule 3 to, the Teaching and Higher Education Act 1998 (c. 30).

(**e**) 1985 c. 69; section 1 was amended by section 151(1) of, and paragraph 36 of Schedule 4 to, the Co-operative and Community Benefits Societies Act 2014 (c. 14). There are other amendments to section 1 which are not relevant to these Regulations.

(**f**) 1996 c. 56. Section 463 was substituted by section 172 of the Education Act 2002 (c. 32), and has been further amended by section 82 of, and paragraphs 1 and 43 of Part 1 of Schedule 3 to the Children and Families Act 2014 (c. 6). It has also been amended by S.I. 2010/1158 and S.1. 2016/413.

(**g**) 2008 c. 8.

(**h**) There have been amendments to section 22 but none are relevant for the purposes of these Regulations.

apprentices which begin to work for it is equal to 2.3 per cent of its headcount in England. Headcount is determined on 31st March in each of 2017, 2018, 2019 and 2020.

The target of a body coming within regulation 3(4) is calculated only by reference to the 12 month periods beginning with 1st April in each of 2017, 2018, 2019 or 2020 for which the body satisfies the conditions specified in that regulation on 31st March in any of those years. The target for such a body is to ensure that for each of those years (taken as a whole) that the number of apprentices which begin to work for it is equal to 2.3 per cent of its headcount in England.

Regulations 7 and 8 make provision detailing how that target is to be calculated. Regulation 7 provides that the target may be aggregated over the whole of the four-year target period in the case of Group A and Group B. Regulation 8 provides in respect of a public body coming within regulation 3(4) that the target may be aggregated over those years during the target period that a public body comes within regulation 3(4). Regulation 9 makes provision in respect of certain information which public bodies subject to the target must return to the Secretary of State.

An Impact Assessment has not been prepared for this instrument. As this measure only affects publically funded bodies, with no costs to business, the Better Regulation Executive confirmed that no Impact Assessment is required in relation to these regulations. A full Impact Assessment was prepared for all measures included in the Enterprise Act 2016 and may be accessed at http://www.parliament.uk/documents/impact-assessments/IA15-009F.pdf.

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