

# Apprenticeship Code of Practice for Employers and Apprentices

# **APPRENTICESHIP CODE OF PRACTICE FOR EMPLOYERS AND APPRENTICES**

## **1. Introduction**

The Code of Practice is intended to assist employers and apprentices to understand their duties and responsibilities relating to the Apprenticeship Programme. Apprentices (and, if they are under 18, their parents or guardians) and employers must accept this Code of Practice as part of the employer approval and apprentice registration processes. This Code of Practice may be amended from time to time following consultation with the National Apprenticeship Advisory Committee and/or the Apprenticeship Council.

## **2. Scope**

This Code of Practice applies from 15<sup>th</sup> August 2016 to employers approved by SOLAS to train statutory apprentices and apprentices registered by SOLAS for statutory apprenticeships on or after 15<sup>th</sup> August 2016.

## **3. Objective of Apprenticeship**

The objective of the statutory apprenticeship is to provide apprentices with the required knowledge, skills and competence to work autonomously in their selected craft or occupation. The apprenticeship is a statutory validated training and educational programme for SOLAS-registered apprentices, which is enterprise-led in conjunction with the relevant stakeholders.

## **4. Apprenticeship Stakeholders**

Stakeholders relevant to the development and implementation of an Apprenticeship Programme include:

- Prospective and existing employers of apprentices and their representatives
- Prospective and existing apprentices
- Organisations representing employees, including trade unions and excepted bodies<sup>1</sup>
- Practitioners in the occupation concerned
- Consortia established to develop and implement apprenticeships

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<sup>1</sup> Industrial Relations (Amendment) Act 2015

- Providers of education and training services, including a Coordinating Provider<sup>2</sup> that has overall responsibility for the development and maintenance of the curriculum and assessment procedures for an Apprenticeship Programme
- Occupational regulators
- Awarding Bodies
- State organisations responsible for funding, quality assuring and regulating apprenticeships

The Consortium for a particular apprenticeship is a group, normally led by employers and including education and training providers and other stakeholders, whose role is to ensure that the Apprenticeship Programme conforms to, and evolves with, the requirements of the occupation and that the Apprenticeship Programme is enterprise-led and meets labour market needs. In the case of certain apprenticeships SOLAS undertakes the role of the Coordinating Provider and Consortium.

An employer of apprentices means any employer of apprentices who has been approved by SOLAS to employ a statutory apprentice.

SOLAS is responsible for fulfilling its functions, including pursuant to the Industrial Training Act 1967 as amended.

Local Education and Training Boards (“ETBs”) administer aspects of the apprenticeship process on behalf of SOLAS. SOLAS may appoint authorised officers within an ETB to perform duties in connection with apprenticeship.

## **5. Apprenticeship Programme**

The Apprenticeship Programme is a programme of education and training based on a curriculum developed and maintained by a Coordinating Provider that has been validated by a recognised awarding body. Each statutory apprenticeship has its own Apprenticeship Programme.

The start date of a statutory apprenticeship is the date the apprentice registration is approved by SOLAS.

The date on which an apprenticeship is complete is that which the ETB Results Approval Panel or the Programme Board<sup>3</sup>, as appropriate, confirms to SOLAS that the apprentice has successfully achieved the required standard, completed all of the alternating on-the-job and off-the-job elements of his/her apprenticeship, and served the minimum apprenticeship period specified in

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<sup>2</sup> As defined by Quality and Qualifications Ireland (QQI) in its Guidelines; [www.qqi.ie](http://www.qqi.ie)

<sup>3</sup> Established by the Coordinating Provider; see QQI Guidelines

the relevant Apprenticeship Programme. Every apprenticeship will be deemed to be automatically terminated on the date confirmed by the ETB, on behalf of SOLAS, in the notification of successful completion of the programme to the apprentice/employer.

The completion of an Apprenticeship Programme:

- Prepares the apprentice for a specific occupation, and
- Leads to a qualification nationally recognised under the National Framework of Qualifications<sup>4</sup>

## **6. Temporary Suspension of the Apprenticeship Programme**

Any period of time spent on temporary lay-off (per the redundancy legislation), maternity, adoptive or parental leave, carer's leave or any other period of statutory protective leave, sick leave (in excess of 6 weeks in any 12 month period) or any unauthorised absence will not count towards completion of the apprenticeship. During such absence the apprenticeship will be temporarily suspended. SOLAS retains the discretion to temporarily suspend an apprenticeship in instances of frequent intermittent absences and/or absences of less than 6 weeks' duration.

## **7. Employment Entitlements**

Throughout the apprenticeship the apprentice remains an employee of the employer. This includes any time the apprentice is attending an off-the-job training element (stage or phase). An employer shall not assign the apprentice to a sub-contractor of the employer. Employee statutory holiday entitlements continue to accrue during the off-the-job phases, but must be taken during the on-the-job phases at times agreed with the employer.

## **8. Employer Obligations**

Employers must comply with the statutory obligations imposed by the Industrial Training Act, 1967 (as amended), and any Apprenticeship Rules (which may apply in relation to the relevant Apprenticeship Programme from time to time). Employers are required to:

- a) Apply to SOLAS through their local ETB, for approval to train apprentices for a specific statutory apprenticeship.
- b) Notify their local ETB within two weeks of an apprentice commencing employment. Within two weeks of an apprentice commencing employment the employer must submit to the ETB an application for the registration of the apprentice as a statutory apprentice.

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<sup>4</sup> [www.nfq-qqi.com](http://www.nfq-qqi.com)

- c) Ensure that the apprentice meets the minimum entry requirements specified in the applicable Apprenticeship Programme.<sup>5</sup>
- d) Be familiar with and implement the applicable Apprenticeship Programme.
- e) Ensure that the apprentice is released to attend the mandatory apprenticeship induction presentation.
- f) Train the apprentice in the required on-the-job elements of the Apprenticeship Programme and ensure that the apprentice has access to the full range of work specified for the on-the-job elements of the Apprenticeship Programme.
- g) Provide access for the apprentice to the appropriate equipment, tools and resources to facilitate the required assessments for the on-the-job elements of the Apprenticeship Programme. If the employer cannot do so within the time allocated for completion of on-the-job assessments, the employer must arrange, in consultation with its assigned SOLAS authorised officer, to have the apprentice trained with another SOLAS approved employer for that particular curriculum item(s).
- h) Provide the apprentice with the opportunities to practice elements of the Apprenticeship Programme under supervised conditions while having regard to the apprentice's skill level at the time the task is being undertaken.
- i) Employ a person qualified in the occupation to which the Apprenticeship Programme relates who has been approved by a SOLAS authorised officer to act as a mentor<sup>6</sup> and/or assessor<sup>7</sup>/verifier<sup>8</sup> to his/her assigned apprentices for the on-the-job elements of the apprenticeship, in accordance with the quality assurance requirements set out in the Apprenticeship Programme, including, where appropriate, completing the SOLAS-approved Assessor/Verifier Programme.
- j) Ensure all on-the-job assessments are conducted in a fair and consistent manner and in accordance with the quality assurance requirements set out in the Apprenticeship Programme.
- k) Ensure that all on-the-job training assessment results are returned to the SOLAS authorised officer or the relevant Programme Board, as

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<sup>5</sup> An employer may have requirements in excess of the minimum requirements set out in the Programme

<sup>6</sup> A **mentor** is an experienced person, qualified in the occupation to which the Apprenticeship Programme applies, who guides and supports the apprentice.

<sup>7</sup> An **assessor** is an experienced person, qualified in the occupation to which the Apprenticeship Programme applies, with responsibility for conducting on-the-job assessments; the mentor and assessor may or may not be the same person, and for some occupations an external assessor may be assigned by the Coordinating Provider. <sup>8</sup> A **verifier** is a person assigned by the employer or the Coordinating Provider who confirms or otherwise the quality assurance of the on-the-job assessment process and results.

appropriate, as per schedule when the apprentice has reached the qualifying standard required in the Apprenticeship Programme.

- l) Release the apprentice for the off-the-job training elements of the Apprenticeship Programme on the dates and to the location as notified.
- m) Communicate, co-operate with and support, as appropriate, SOLAS, the consortium relevant to the Apprenticeship Programme and the off-the-job training provider(s) (e.g. ETB Training Centre, Institute of Technology, College of Further or Higher Education) or as otherwise required by SOLAS to ensure that the apprentice receives the training specified in the Apprenticeship Programme.
- n) Ensure on-the-job training and assessment records, as defined in the applicable Apprenticeship Programme, are maintained for each apprentice and retained for a period of seven years from the end of the apprenticeship and that SOLAS authorised officers or such other persons as SOLAS may direct shall have access to these records when required.
- o) Afford every assistance and co-operation to SOLAS and SOLAS authorised officers in the statutory monitoring of apprenticeship, including granting access to copies of all appropriate documentation connected with apprenticeship and to an apprentice's place of work. Monitoring visits will be undertaken by authorised officers appointed by SOLAS to ensure that the apprentice is properly trained and confirming the employer's continued suitability to train.
- p) Afford every assistance and co-operation to the Apprenticeship Programme Board <sup>8</sup>, in the administration of the Apprenticeship programme.
- q) Regularly communicate with the apprentice and his/her workplace mentor and/or assessor/verifier to monitor how the apprentice is progressing.
- r) Be proactive in reviewing the apprentice's progress and provide support, advice and encouragement to the apprentice throughout the apprenticeship.
- s) Furnish a report to the SOLAS authorised officer or, where applicable, SOLAS, on the apprentice's training programme/progress (if requested), in particular where an assessment appeal has been requested by the apprentice.
- t) Ensure that the apprentice receives appropriate training and information on the requirements of the Safety, Health and Welfare at Work Act 2005 and any regulations and codes of practice made thereunder.

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<sup>8</sup> Established by the Coordinating Provider

- u) Contact the SOLAS authorised officer in writing at least two weeks prior to the introduction of any short-time working arrangements for apprentices. Any such short-time working arrangements must be approved in advance by the SOLAS authorised officer. Approved short-time working of up to 6 weeks in any 12 month period will count as full weeks towards completion of the Apprenticeship Programme. Any approved short-time working time in excess of 6 weeks in any 12 month period will only count towards completion of the Apprenticeship Programme on the basis of the actual number of full training days completed, and will lead to an extension in the minimum period required to complete an apprenticeship. (A “training week” is 5 days and a “training day” is a minimum of 7.8 hours.) If an apprentice is on short-time, the employer is required to submit a copy of the OWT 1 Form(s) or substantially similar forms <sup>9</sup> to the SOLAS authorised officer on completion of the approved period of short-time working.
- v) Contact the SOLAS authorised officer in writing prior to terminating the employment contract with an apprentice (for any reason, including redundancy). Employers must also take all reasonable steps to have their obligations in connection with apprenticeship transferred to another employer in the case of redundancies. An employer is not permitted to register a new apprentice with SOLAS unless the employer has first offered the role to any SOLAS apprentice made redundant by the employer within the past 12 months.
- w) Contact the SOLAS authorised officer within 2 weeks of any of the following occurrences:
  - i. Placing an apprentice on temporary lay-off
  - ii. An apprentice going on maternity, adoptive, carer's or parental leave or other period of statutory protective leave
  - iii. An apprentice being on sick leave for more than 6 weeks (in a 12 month period)

## **9. Employer Standards of Performance and Conduct**

The employer is the provider of ‘on-the-job’ elements of the Apprenticeship Programme and is responsible for apprentice direction, observation, supervision, and, if applicable, assessment. The off-the-job provider is responsible for the off-the-job educational and training elements of the apprenticeship, including assessment.

The SOLAS authorised officer, in conjunction with the occupation-specific Consortium representative for the Apprenticeship Programme, as appropriate,

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<sup>9</sup> As indicated under section 25(1), SI No. 473/2001

will provide advice and assistance to employers in relation to employer obligations under the applicable Apprenticeship Programme. SOLAS reserves the right to impose appropriate sanctions up to and including prohibiting employers from registering apprentices where those employers in the reasonable opinion of SOLAS fail to meet the standards set out in this Code of Practice, which may be amended from time to time.

## **10. Compliance**

Employers must comply with all statutory obligations including:

- a) All current employment legislation. Information on employment legislation may be obtained from a number of sources including:
  - i. The Department of Jobs, Enterprise and Innovation at 01-6312121 or [www.enterprise.gov.ie](http://www.enterprise.gov.ie)
  - ii. The Workplace Relations Service at 1890808090 or [www.workplacerelements.ie](http://www.workplacerelements.ie)
- b) The Safety, Health and Welfare at Work Act, 2005 and the regulations and codes of practice made thereunder. In particular, employers must ensure that apprentices have undergone a Safety Awareness Training Programme where applicable. Information on health and safety in the workplace may be obtained from the Health and Safety Authority at 1890 289 389 or [www.hsa.ie](http://www.hsa.ie).
- c) Industrial Training Act, 1967 (as amended) and relevant Apprenticeship Rules made thereunder. Information on apprenticeship may be obtained from SOLAS at 01-5332500 or [www.solas.ie](http://www.solas.ie) or the employer's local ETB.

## **11. Sanctions**

The sanctions which may be imposed by SOLAS on employers who in the reasonable belief of SOLAS have failed to observe the requirements of this Code of Practice are as follows:

- a) Written warning, which will remain on file for 6 months
- b) Final written warning, which will remain on file for 1 year
- c) Suspension from registering apprentices for 6 months
- d) Prohibition on registering apprentices for an indefinite/defined period

*While SOLAS will, where appropriate, adopt a process of progressive sanctions, for the avoidance of doubt, in cases of serious breach of this Code of Practice SOLAS may impose such level of sanction as it considers appropriate.*



## **12. Employer Appeal Process for Code of Practice Sanction**

An employer may appeal to the Apprenticeship Appeals Committee any decision made by SOLAS in relation to a failure to abide by this Code of Practice.

Appeals must be lodged within 3 months of notification of the sanction relating to the incident which has led to the appeal occurring. The Apprenticeship Appeals Committee retains absolute discretion to extend this time limit. Details of the appeals application process are available from the employer's local SOLAS authorised officer. An administration fee of €50 shall apply for the appeal.

## **13. Apprentice Obligations**

Apprentices must comply with the statutory obligations on them under the Industrial Training Act, 1967 (as amended) and any Apprenticeship Rules (which may apply in respect of the relevant Apprenticeship Programme from time to time). Apprentices are required to:

- a) Comply with the minimum entry requirements for the applicable Apprenticeship Programme to which they wish to apply. Please note employers may have requirements in excess of the minimum requirements set out in an Apprenticeship Programme.
- b) Attend the mandatory Apprenticeship induction presentation and attend, on time, all scheduled classes and training sessions of all off-the-job training elements of the Apprenticeship Programme.
- c) Complete the specified number of training days to meet the requirements of the relevant Apprenticeship Programme.
- d) Be responsible for learning throughout the Apprenticeship Programme.
- e) Be diligent and committed to all aspects of work, training and education throughout the Apprenticeship Programme.
- f) Seek the advice of the employer and/or workplace mentor/assessor where difficulties arise while on-the-job. Apprentices who have difficulties during an off-the-job training element should, in the first instance, bring their concerns to the course tutor. If an apprentice wishes to make a complaint about any aspect of the on-the-job or off- the-job phases, the complaints procedure is available on [www.solas.ie](http://www.solas.ie).
- g) Attend the off-the-job training location as notified for the off-the-job training elements of the Apprenticeship Programme. Failure to accept an

offer of training will unnecessarily prolong the period of apprenticeship and/or may result in the apprenticeship being suspended temporarily.

Continued failure to attend off-the-job training could lead to the apprenticeship being terminated.

- h) Be responsible for attendance and time-keeping during all of the on- thejob and off-the-job elements of the Apprenticeship Programme. Inadequate attendance and lateness during on-the-job or off-the-job elements may have repercussions including exclusion from assessment events and may result in an apprenticeship being suspended temporarily. Continued absenteeism or lateness may lead to the apprenticeship being terminated.
- i) Behave in a responsible and mature manner while in employment and during off-the-job training in ETB Training Centres, the Institutes of Technology, Colleges of Further or Higher Education and/or other training providers as applicable.
- j) Comply with the relevant code of conduct and regulations of the ETB Training Centre, Institute of Technology, College of Further or Higher Education or other training providers while in those locations. Please note that apprentices will be subject to the disciplinary procedures of those training providers.
- k) Undertake all scheduled modular and competency assessments including re-sit assessments. Breach of the on-the-job and/or off-the-job assessments or examination rules may result in disciplinary action in accordance with the employer or training provider's procedures, which may result in delay of completion or in termination of the apprenticeship.
- l) Perform all tasks with due care and diligence and observe all safety regulations during both on-the-job and off-the-job elements of the Apprenticeship Programme.
- m) Comply with the policies and procedures of the employer and carry out all reasonable instructions made of the apprentice by the employer or the training provider.
- n) Contact the SOLAS authorised officer in the event that the relationship between employer and the apprentice is terminated by the apprentice or employer, for any reason.
- o) Be aware that the off-the-job elements of the apprenticeship do not alter an apprentice's status as an employee of their employer, nor does it imply a contract of employment between SOLAS and/or the provider and the

apprentice. Apprentices remain in the employment of the employer at all times during the apprenticeship.

- p) Be aware that if an apprentice does not achieve the required standard of the relevant Apprenticeship Programme or the apprentice breaches this Code of Practice and the apprenticeship is terminated by SOLAS, SOLAS reserves the right to refuse a further application from the apprentice for the same occupation.

#### **14. Apprentices Standards of Performance and Conduct**

The Apprenticeship Programme requires the apprentice to be responsible for his or her own learning throughout their apprenticeship. Apprentices are required to abide by this Code of Practice and any ETB Training Centre, Institute of Technology, College of Further or Higher Education, or other training provider rules applying at any time during the apprenticeship.

The local SOLAS authorised officer will assist apprentices to comply with this Code of Practice by advising them where possible of potential or apparent breaches of the standards set out. However, SOLAS reserves the right to impose the appropriate sanctions up to and including the removal from the Apprenticeship Programme of an apprentice who in the reasonable opinion of SOLAS fails to meet the standards set out in this Code of Practice (which may be amended from time to time).

#### **15. Non-Attendance for Off-the-Job Assessment**

Apprentices will be called on up to three (3) occasions for each off-the-job assessment. Those who fail to attend on the third occasion will not be scheduled to attend further assessment events and apprentices and their employers shall be notified that the apprenticeship status has been recorded as "holding" where applicable. An apprenticeship with a "holding" status will not progress until confirmation is received that an apprentice will attend the next call.

Apprentices who wish to be called on a subsequent occasion must make an application to the SOLAS authorised officer to request to have their status reactivated and be called for the assessment.

#### **16. Failure to reach standards**

Apprentices may attempt each off-the-job assessment three times. The apprentice can request that the result be rechecked and reviewed by, and appealed to the relevant training provider on each occasion. Thereafter, if the

failure of the assessment has been confirmed by the relevant training provider on the third and final occasion, the apprenticeship shall be automatically terminated.

Apprentices and their employers shall be notified by SOLAS of this termination in writing where applicable. Apprentices may appeal such termination and request a fourth and final assessment attempt to the Apprenticeship Appeals Committee. The time limit for making an appeal is 3 months from the date of termination.

SOLAS retains absolute discretion to extend this time limit.

## **17. Compliance**

Apprentices must comply with all statutory obligations including:

- a) All current employment legislation. Information on employment legislation may be obtained from a number of sources including:
  - i. The Department of Jobs, Enterprise and Innovation at 01-631 2121 or [www.djei.ie](http://www.djei.ie)
  - ii. The Workplace Relations Service at 1890 808090 or [www.workplacerelations.ie](http://www.workplacerelations.ie)
- b) Safety, Health and Welfare at Work Act, 2005, and the regulations and codes of practice made thereunder. In particular, apprentices must ensure that they have undergone a Safety Awareness Training Programme where applicable. Information may be obtained from the Health and Safety Authority at 1890 289 389 or [www.hsa.ie](http://www.hsa.ie).
- c) The Industrial Training Act, 1967, (as amended) and applicable Apprenticeship Rules made thereunder. Information on apprenticeship may be obtained from SOLAS at 01-5332500 or [www.solas.ie](http://www.solas.ie) or the apprentice's local ETB.
- d) Qualifications and Quality Assurance (Education and Training) Act, 2012, as may be amended from time to time. Information may be obtained from SOLAS at 01-5332500 or [www.solas.ie](http://www.solas.ie), or the apprentice's local ETB.

## **18. Sanctions**

The sanctions which may be imposed by SOLAS on apprentices who in the reasonable belief of SOLAS have failed to observe the requirements of this Code of Practice are as follows:

- a) Written warning, which will remain on file for 6 months
- b) Final written warning, which will remain on file for 1 year
- c) Suspension from the Apprenticeship Programme for a stated period

- d) Termination of Apprenticeship Programme
- e) Refusal to permit an apprentice to apply for further apprenticeships in the same occupation for a defined period/indefinitely

*While SOLAS will, where appropriate, adopt a process of progressive sanctions, for the avoidance of doubt, in cases of serious breach of this Code of Practice, SOLAS may impose such level of sanction as it considers appropriate.*

## **19. Apprentice Appeal Process for Code of Practice Sanctions**

Apprentices may appeal a sanction to the Apprenticeship Appeals Committee. Appeals must be lodged within 3 months of notification of the sanction relating to the incident which has led to the appeal occurring. The Apprenticeship Appeals Committee retains absolute discretion to extend this time limit. Details of the appeals application process are available from the SOLAS authorised officer. An administration fee of €50 shall apply for the appeal.

For further information go to: [www.apprenticeship.ie](http://www.apprenticeship.ie)

Apprenticeship Services  
Block 1, Castleforbes House, Castleforbes Road, Dublin 1  
Telephone: +353 (0)1 5332500

