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What Type of Contract Does An Apprentice Need?

Modern apprenticeships involve the worker; the employer; and a training provider. An apprentice is an employee and benefits from all related rights, such as the right to claim unfair dismissal and protection against discrimination. Apprentices are entitled to full employment rights including holidays, rest periods and sick pay. An apprentice will be entitled to basic particulars of employment just like all other employees. The parties should agree the key terms, such as the duration, pay, training aspects and any other general policies that are applicable. Basic rates of pay are set by the government on an annual basis, however, employers can pay more. Apprentices can only be made redundant in cases where the workplace completely closes. Apprenticeships will typically be for a fixed duration. This can range from a number of months to several years, depending on the time reasonably needed to acquire the skills or qualification in question.

Before April 2012 the written agreement between an employer and an apprentice was known as a contract of apprenticeship. A contract of apprenticeship is governed by common law and the primary focus is on the apprentice's training rather than the job. It involves greater responsibilities and liabilities for employers than ordinary contracts of employment. Apprenticeships are generally for a fixed term and apprentices are protected against premature termination of the contract of apprenticeship. Termination before the apprentice is qualified can result in enhanced awards for unfair dismissal which may include compensation for loss of wages, loss of training/ trade and loss of status.

In April 2012 the implementation of the Apprenticeships, Skills, Children and Learning Act 2009 brought in the requirement for a prescribed form of contract. The relationship is now one of a contract of services rather than a contract of apprenticeship. The Act also introduces minimum hours of work and learning for apprenticeships. The apprenticeship agreement can be in the form of a written statement of particulars under the Employment Rights Act 1996; or a document in writing in the form of a contract of employment or a letter of engagement.

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Existing and new contracts of employment between the apprentice and the employer must include a statement setting out the skill, trade or occupation for which the apprentice is being trained under the apprenticeship framework. Without an agreement in place the apprentice cannot be issued with an apprenticeship certificate.

Whereas previously it was very difficult to dismiss an apprentice early, under the new legislation and with a contract of employment in place, provided the employer follows a fair procedure giving appropriate notice, this will not amount to unfair dismissal and breach of contract.

It is important to get the wording of these apprentice contracts correct, if the new provisions are to apply and to avoid potential costly employment tribunal claims.