



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART I

#### FURTHER EDUCATION

#### CHAPTER III

#### GENERAL

#### 54 Duty to give information

- (1) Each of the following shall give a council such information as they may require for the purposes of the exercise of any of their functions under this Part of this Act—
  - (a) a local education authority,
  - (b) the governing body of any institution maintained by a local education authority, grant-maintained school, city technology college or city college for the technology of the arts,
  - (c) the governing body of any institution within the further education sector or the higher education sector, and
  - (d) the governing body of any institution which is receiving or has received financial support under section 5 of this Act.
- (2) Such information relating to the provision which has been made by a local education authority in respect of any pupil at an institution as the authority may require for the purposes of claiming any amount in respect of the pupil from another authority under section 51 of the Education (No. 2) Act 1986 or by virtue of regulations under section 52 of that Act shall, where the institution becomes an institution within the further education sector, be provided to the authority by the governing body of the institution.

**55 Inspection etc. of local education authority institutions, other than schools, and advice to Secretary of State**

- (1) The chief inspector shall have the general duty of keeping the Secretary of State informed about—
  - (a) the quality of education provided in local education authority institutions,
  - (b) the educational standards achieved in such institutions, and
  - (c) whether the financial resources made available to such institutions are managed efficiently.
- (2) When asked to do so by the Secretary of State, the chief inspector shall—
  - (a) give advice to the Secretary of State on such matters relating to local education authority institutions, and on such other matters relating to further education, as may be specified in the Secretary of State’s request, and
  - (b) inspect and report on any such local education authority institution, or any such class of local education authority institution, as may be so specified.
- (3) In connection with the duties imposed on the chief inspector under this section, his powers, and those of his inspectors, in relation to the inspection of schools under any enactment shall extend to the inspection of institutions under this section.
- (4) In relation to any local education authority institution maintained or assisted by them, a local education authority—
  - (a) shall keep under review the quality of education provided, the educational standards achieved and whether the financial resources made available are managed efficiently, and
  - (b) may cause an inspection to be made by persons authorised by them.
- (5) A local education authority shall not authorise any person to inspect any institution under this section unless they are satisfied that he is suitably qualified to do so.
- (6) A person who wilfully obstructs any person authorised to inspect an institution under or by virtue of this section in the exercise of his functions shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) In this section—
  - (a) in relation to institutions in England, “chief inspector” means Her Majesty’s Chief Inspector of Schools in England and “his inspectors” means Her Majesty’s Inspectors of Schools in England,
  - (b) in relation to institutions in Wales, “chief inspector” means Her Majesty’s Chief Inspector of Schools in Wales and “his inspectors” means Her Majesty’s Inspectors of Schools in Wales, and
  - (c) “local education authority institution” means an educational institution, other than a school, maintained or assisted by a local education authority.

**56 Directions**

- (1) In exercising their functions under this Part of this Act, each council shall comply with any directions contained in an order made by the Secretary of State.
- (2) Directions under this section may be general or special, and special directions may, in particular, relate to the provision of financial support by the council in respect of activities carried on by any particular institution or institutions.

**57 Intervention in the event of mismanagement or breach of duty**

- (1) If the Secretary of State is satisfied that the affairs of any institution within the further education sector have been or are being mismanaged, he may on the recommendation of the appropriate council by order—
  - (a) remove all or any of the members of the governing body of the institution and appoint new members in their places, and
  - (b) make such modifications of the instrument of government of the institution as he thinks fit.
- (2) An appointment of a member of a governing body of an institution under subsection (1) above shall have effect as if made in accordance with the instrument of government and articles of government of the institution.
- (3) If the Secretary of State is satisfied, either upon complaint by any person interested or otherwise, that—
  - (a) a council, or
  - (b) the governing body of any institution within the further education sector,have failed to discharge any duty imposed on them by or for the purposes of the Education Acts, he may make an order under this subsection.
- (4) An order under subsection (3) above shall declare the council or the governing body, as the case may be, to be in default in respect of that duty, and may give such directions for the purpose of enforcing the execution of that duty as appear to the Secretary of State to be expedient.
- (5) A council or governing body in respect of which an order is made under subsection (3) above shall comply with any directions contained in the order.
- (6) Section 93 of the Education Act 1944 (power to hold local inquiries) applies for the purposes of the Secretary of State's functions under this section as it applies for the purposes of his functions under that Act.

**58 Reorganisations of schools involving establishment of further education corporation**

- (1) Subsection (2) below applies where, in connection with a reorganisation of schools maintained by a local education authority, any land used for the purposes of one or more of the schools affected by the reorganisation or, as the case may be, the school so affected—
  - (a) is to cease to be so used or is to continue to be so used for a limited period, and
  - (b) while it is so used, or after it has ceased to be so used, is to be used for the purposes of an institution conducted by a further education corporation;and in that subsection that land is referred to as “the land to be transferred”.
- (2) If the land to be transferred is land of the local authority, the land and any other property of the local authority used for the purposes of the school on that land shall be treated for the purposes of section 23 of this Act as used for the purposes of the educational institution conducted by the corporation.
- (3) For the purposes of this section there is a reorganisation of schools maintained by a local education authority if, in the case of each of the schools affected by the reorganisation or (if there is only one) the school so affected—
  - (a) the local education authority cease to maintain the school, or

- (b) a significant change is made in the character of the school or the premises of the school are significantly enlarged,  
whether or not the reorganisation also involves the establishment of one or more new schools.

## 59 Reorganisations, affecting provision for further education, of schools

- (1) This subsection applies where—
- (a) the governors of a school maintained by a local education authority as a voluntary school intend to discontinue the school, and
  - (b) the intention arises in connection with a proposal by a council, or by the Secretary of State, for the establishment under section 16 of this Act of a further education corporation to conduct an educational institution in the same area.
- (2) Where subsection (1) above applies—
- (a) section 14 of the Education Act 1944 (restrictions on discontinuance) shall not apply,
  - (b) section 13 of the Education Act 1980 (establishment and alteration of voluntary schools) and, so far as relating to that section, section 16(1) to (3B) of that Act, shall apply as they would apply if the intention were to make a significant change in the character of the school, and
  - (c) if the school is discontinued the duty of the local education authority to maintain the school as a voluntary school shall be extinguished.
- (3) Where—
- (a) a local education authority intend to cease to maintain any county school or (except as provided by section 14 of the Education Act 1944) voluntary school or to make any significant change in the character of a county school, or
  - (b) the governors of a school maintained by a local education authority as a voluntary school intend to discontinue the school or to make any significant change in the character of the school,
- and ceasing to maintain or discontinuing the school, or the change, will affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years, they shall, before they publish notice of their proposals in pursuance of section 12 or 13 of the Education Act 1980 or serve notice under section 14 of the Education Act 1944, consult the appropriate council.
- (4) In subsection (3) above, references to any significant change in the character of a school include a significant enlargement of its premises.
- (5) Where—
- (a) a local education authority propose to make any change in any arrangements for any special school as to the pupils for whom provision is made or the special educational provision made for them or propose to cease to maintain any special school, and
  - (b) the change, or ceasing to maintain the school, will affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years,
- they shall, before they give written notice of the proposed change to the Secretary of State in pursuance of regulations under section 12 of the Education Act 1981 (approval

of special schools) or serve notice of their proposals under section 14 of that Act (discontinuance of maintained special school), consult the appropriate council.

## **60 Saving as to persons detained by order of a court**

No function conferred or imposed by this Act on a further education funding council shall be construed as relating to any person who is detained, otherwise than at a school, in pursuance of an order made by a court or of an order of recall made by the Secretary of State.

## **61 Interpretation of Part I**

- (1) In this Part of this Act—
  - “functions” includes powers and duties,
  - “modifications” includes additions, alterations and omissions and
  - “modify” shall be construed accordingly, and
  - “regulations” means regulations made by the Secretary of State.
- (2) References in this Part of this Act, except section 26, to the transfer of any person’s rights or liabilities do not include—
  - (a) rights or liabilities under a contract of employment, or
  - (b) liabilities of that person in respect of compensation for premature retirement of any person formerly employed by him.
- (3) In relation to any time before the commencement of section 65 of this Act, references in this Part of this Act and, so far as relating to this Part, Part III of this Act—
  - (a) to institutions within the higher education sector are to universities, to institutions within the PCFC funding sector and to higher education institutions which receive, or are maintained by persons who receive, grants under regulations made under section 100(1)(b) of the Education Act 1944, and
  - (b) to a higher education funding council are to the Universities Funding Council established under section 131 of the Education Reform Act 1988 and to the Polytechnics and Colleges Funding Council established under section 132 of that Act.