



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART II

#### HIGHER EDUCATION

##### *The new funding councils*

#### **62 The Higher Education Funding Councils**

- (1) There shall be established—
  - (a) a body corporate to be known as the Higher Education Funding Council for England to exercise in relation to England the functions conferred on them, and
  - (b) a body corporate to be known as the Higher Education Funding Council for Wales to exercise in relation to Wales the functions conferred on them.
- (2) The Higher Education Funding Council for England shall consist of not less than twelve nor more than fifteen members appointed by the Secretary of State, of whom one shall be so appointed as chairman.
- (3) The Higher Education Funding Council for Wales shall consist of not less than eight nor more than twelve members appointed by the Secretary of State, of whom one shall be so appointed as chairman.
- (4) In appointing the members of a council the Secretary of State—
  - (a) shall have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, the provision of higher education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of higher education and, in appointing such persons, he shall have regard to the desirability of their being currently engaged in the provision of higher education or in carrying responsibility for such provision, and

- (b) shall have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.
- (5) In this Part of this Act any reference to a council is to a higher education funding council.
- (6) In the Education Acts any reference to a higher education funding council—
  - (a) in relation to matters falling within the responsibility of the Higher Education Funding Council for England or to educational institutions in England, is to that council, and
  - (b) in relation to matters falling within the responsibility of the Higher Education Funding Council for Wales or to educational institutions in Wales, is to that council.
- (7) In this Part of this Act references to institutions in England or institutions in Wales—
  - (a) are to institutions whose activities are carried on, or principally carried on, in England or, as the case may be, Wales, but
  - (b) include, in both cases, the Open University.
- (8) Any dispute as to whether any functions are exercisable by one of the councils shall be determined by the Secretary of State.
- (9) Schedule 1 to this Act has effect with respect to each of the councils.

### **63 Dissolution of existing councils**

- (1) On the appointed day—
  - (a) the Universities Funding Council and the Polytechnics and Colleges Funding Council (referred to in this section as the “existing councils”) shall be dissolved, and
  - (b) all property, rights and liabilities to which either of the existing councils were entitled or subject immediately before that date shall become by virtue of this section property, rights and liabilities of the Higher Education Funding Council for England,

but this subsection does not apply to rights or liabilities under a contract of employment.
- (2) Where—
  - (a) immediately before the appointed day, a person (referred to below as “the employee”) is employed by an existing council (referred to below as “the existing employer”) under a contract of employment which would have continued but for the dissolution of the existing employer, and
  - (b) the employee is designated for the purposes of this section by an order made by the Secretary of State,

the contract of employment shall not be terminated by that dissolution but shall have effect as from the appointed day as if originally made between the employee and the new employer.
- (3) In this section “the new employer”, in relation to the employee, means such higher education funding council as may be specified in relation to the employee by the order designating him for the purposes of this section; and in this subsection “higher education funding council” includes the Scottish Higher Education Funding Council.

- (4) Without prejudice to subsection (2) above, where that subsection applies—
  - (a) all the existing employer’s rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this section be transferred on the appointed day to the new employer, and
  - (b) anything done before that date by or in relation to the existing employer in respect of that contract or the employee shall as from that date be treated as having been done by or in relation to the new employer.
- (5) Subsections (2) and (4) above are without prejudice to any right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (6) An order under this section may designate a person either individually or as a member of a class or description of employees.
- (7) In this section “the appointed day” means the day appointed under section 94 of this Act for the commencement of this section.

#### **64 Transitional arrangements**

- (1) Until the commencement of section 65 of this Act, any institution which is a university and was at any time within the PCFC funding sector shall be treated for the purposes of Chapter II of Part II of the Education Reform Act 1988 (reorganisation and provision of funding of higher education) as if it were within that sector and were not a university.
- (2) Until their dissolution the Universities Funding Council shall give to the higher education funding councils and the Scottish Higher Education Funding Council all such assistance as those councils may reasonably require for the purpose of enabling them to exercise their functions on and after the commencement of section 65 of this Act or, as the case may be, the corresponding provisions of the Further and Higher Education (Scotland) Act 1992.
- (3) Until their dissolution the Polytechnics and Colleges Funding Council shall give to the higher education funding councils all such assistance as those councils may reasonably require for the purpose of enabling them to exercise their functions on and after the commencement of section 65 of this Act.
- (4) The Higher Education Funding Council for England shall discharge any duty under paragraph 17 of Schedule 8 to the Education Reform Act 1988 (accounts) in respect of any period ending before the dissolution of the Universities Funding Council and the Polytechnics and Colleges Funding Council under section 63 of this Act which would have fallen to be discharged by those councils after the dissolution or fell to be so discharged before the dissolution but has not been discharged.