

LEARNING AND SKILLS ACT 2000

EXPLANATORY NOTES

BACKGROUND

15. The following paragraphs give a brief description of the legislative and operational framework before this Act comes into force for the planning and funding of post-16 learning outside higher education; the inspection of provision for post-16 learning; and careers and education services to young people.
16. Broadly speaking, there are three routes for securing the provision of post-16 learning: the Further Education Funding Councils of England and Wales, Training and Enterprise Councils and Local Education Authorities.

The Further Education Funding Councils

17. The FEFCs are statutory corporations created by section 1 of the Further and Higher Education Act 1992. They have a duty to secure for the population of England and Wales the provision of *sufficient* facilities for full-time education for all 16 to 18 year olds wanting such education. They also have a duty to secure the provision of *adequate* facilities for part-time education for those over compulsory school age and full-time education for those aged 19 or over, where education is provided by means of a course described in Schedule 2 to the Further and Higher Education Act 1992.
18. The FEFCs also have a power to secure the provision of courses which do not fall within Schedule 2. The FEFCs may only fund institutions in the FE or HE sectors. The only exception is where they consider it might be better to meet the needs of people with learning difficulties outside the FE sector. The FE sector consists mainly of former LEA-maintained FE and sixth form colleges, which were incorporated as statutory FE corporations in 1993, and other institutions, including former voluntary aided schools, that were designated as being eligible for funding from the FEFCs. The Further and Higher Education Act 1992 established the FE sector and provided for the incorporation of FE institutions. That Act's provisions will continue to apply, subject to the amendments and repeals in this Act.

Training and Enterprise Councils

19. There are 72 TECs in England and 4 in Wales and they are all private companies, usually limited by guarantee. Some have merged with Chambers of Commerce to form Chambers of Commerce, Training and Enterprise (CCTEs). They are funded by Government, primarily under powers contained in section 2(2) of the Employment and Training Act 1973, to provide training programmes and to give support and advice to local businesses. They operate on a licence agreement with the Government and are supported by annual funding contracts. The Government contracts with TECs to deliver a wider range of programmes and activities including those with funding from the Single Regeneration Budget. In addition, TECs can bid for and receive funding from other sources including the European Social Fund and can generate money by selling services to business. The Government issued contractual notices to TECs in England in July 1999 informing them that their licences will expire on 25 March 2001. No organisation will be able to trade as a TEC from that date.

Local Education Authorities

20. LEAs are responsible for the funding of school sixth forms. Section 20 of the School Standards and Framework Act 1998 sets out the types of schools which are maintained by LEAs and section 22 of that Act sets out the extent of the LEAs' obligation to maintain such schools. The financing of maintained schools is covered in detail by sections 45 to 53 of that Act.
21. LEAs are also responsible for certain categories of further education. Under section 15(1) of the Education Act 1996, local authorities have a duty to secure the provision for their area of adequate facilities for further education. Section 15(2) qualifies this duty by saying that it does not apply to education to which sections 2(1) and 3(1) of the Further and Higher Education Act 1992 apply. Provision under these sections is made by means of one of the courses listed in Schedule 2 to that Act and is the responsibility of the FEFCs. Under section 15(3) of the Education Act 1996, LEAs may, in respect of part-time education for those over compulsory school age and full-time education for those over 18, secure the provision for their area of appropriate facilities. They may also secure the provision of further education for persons of other areas.
22. Essentially, the duty of local authorities in relation to further education begins where the remit of the FEFCs ends: provision which is not covered by Schedule 2 to the 1992 Act (generally, therefore, further education that does not lead to formal national qualifications or otherwise meet the criteria for funding by the FEFCs). Under section 15A(1) of the Education Act 1996, LEAs also have a power to secure full-time provision for 16-18 year olds (for which the FEFCs have the statutory duty). Section 55(4) and (5) of the Further and Higher Education Act 1992 places a duty on LEAs to keep under review the quality of education in institutions maintained or assisted by them and allows them to cause inspections to be made by authorised persons who are suitably qualified.
23. Section 508 of the Education Act 1996 states that it is the duty of every LEA to make sure that further education provided in their area includes adequate facilities for recreation and social and physical training. For that purpose an authority may establish, maintain and manage facilities such as playing fields, gymnasia and swimming baths, and may organise or assist in expeditions and other activities for people for whom they owe the duty to secure further education. The section is the statutory basis for the youth service provided by local authorities. The youth service provides a range of services including youth clubs, information centres and specialist centres and is increasingly working with young people at risk.

Inspection

24. Until the provisions of this Act come into force, responsibility for inspecting publicly-funded post-16 education and training provision in England will continue to lie with three bodies.
 - **OFSTED** is the Office for Standards in Education, a non-Ministerial Government Department, comprising Her Majesty's Chief Inspector (HMCI) and his staff, including inspectors known as Her Majesty's Inspectors of Schools. The School Inspections Act 1996 set out HMCI's functions in relation to the inspection of schools, including school sixth forms. Section 55 of the Further and Higher Education Act 1992 deals with HMCI's inspection of LEA provision other than schools and the youth service.
 - The **Further Education Inspectorate** is the inspectorate arm of the FEFCE and is responsible for assessing the quality of education provided in institutions within the FE sector. Section 9(1)(a) of the Further and Higher Education Act 1992 places a duty on the FEFCs to secure that provision is made for assessing the quality of education provided within the further education sector.

*These notes refer to the Learning and Skills Act 2000
(c.21) which received Royal Assent on 28 July 2000*

- The **Training Inspectorate** is the operational arm of the Training Standards Council (TSC). The TSC is a private company limited by guarantee, set up to inspect all publicly funded work-based training. It is funded by Government, under powers contained in section 2 of the Employment and Training Act 1973, to undertake inspection. It operates on an annual contract with Government.
25. The Office of Her Majesty's Chief Inspector of Schools in Wales (Estyn), a non-Ministerial Government Department comprising Her Majesty's Chief Inspector and her staff, inspects post-16 education and training provision in Wales. The School Inspections Act 1996 sets out Estyn's functions in relation to the inspection of schools, including schools' sixth forms. Section 55 of the Further and Higher Education Act 1992 deals with Estyn's inspection of LEAs' post-16 provision other than in schools. Section 9 of the Further and Higher Education Act 1992 places a duty on the FEFCW to secure that provision is made for assessing the quality of education provided in the further education sector, and the Funding Council contracts with Estyn for this purpose. The Teaching and Higher Education Act 1998 enables Estyn to inspect TECs' training and training-related programmes in Wales.

Careers Services and services for young people

26. Sections 8 to 10 of the Employment and Training Act 1973, as amended by sections 45 and 46 of the Trade Union Reform and Employment Rights Act 1993, form the basis of the Careers Service. This legislation places a duty on the Secretary of State and the National Assembly to secure the provision of information, advice and guidance for people in full-time education (except higher education) or in part-time vocational education in order to assist them in deciding what employment will be suitable for them, and what education and training will be necessary to enable them to obtain that employment. The Secretary of State and the National Assembly also have a power to secure careers services to assist people who are not engaged in full or part-time education. The Secretary of State and the National Assembly can make arrangements and give directions to other people in order to arrange for the provision of careers services. These duties are discharged in England and Wales through contracts with careers service companies. In England, the provision is inspected by DfEE staff and is the subject of an annual report by the Secretary of State to Parliament. In Wales, the provision is inspected by Estyn under section 35 of the Teaching and Higher Education Act 1998. The Connexions Service for England will include work currently undertaken by the Careers Service.
27. Section 44 of the Education Act 1997 requires the heads and governors of publicly funded schools and colleges to provide careers advisers on request with the names and addresses of pupils or students, information about pupils or students that careers advisers need in order to give guidance, and access to those pupils or students at reasonable times. A "careers adviser" is defined as a person employed by a body providing services under section 10 of the Employment and Training Act 1973. Section 43 of the Education Act 1997 requires maintained schools to provide programmes of careers education in years 9 to 11; such programmes are a necessary foundation for careers information and guidance. Section 45 of the Education Act 1997 requires the heads and governors of schools and colleges to give pupils and students access to careers guidance materials.