

LEARNING AND SKILLS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part V - Miscellaneous and General

Section 142: powers of FE and HE corporations to provide secondary education

201. **Section 142** enables FE corporations to provide secondary "fourth key stage" education and secondary education for 16 to 19 year olds (without, as now, such education having to be in pursuance of arrangements with an LEA or the governing body of a school). HE corporations, which are sometimes significant providers of further education in a particular area, are given the same powers by this section. Before providing such education, an FE or HE corporation must consult such LEAs as it considers appropriate. Although FE corporations already have some powers to provide secondary education, the FEFCs may not fund this provision. The LSC and CETW, however, will be able to fund this sort of provision (see sections 5(1)(e) and 34(1)(e)) whether by FE or HE corporations.
202. It is envisaged that young people in the following three categories may receive secondary education from an FE or HE corporation. The first, and probably the largest category is of children who are registered at a school and who will undertake some studies at a local FE or HE institution. Usually these pupils will have part of the National Curriculum disapplied, under section 363 of the Education Act 1996, to enable them to spend more time on work-related learning. The second category is young people who are not registered as pupils at a school, perhaps because the child is being educated at home, has been excluded from school or is being educated at the FE or HE institution under arrangements made by the LEA under section 19 of the Education Act 1996. The third category is young people not registered as pupils at a school and who are educated at an FE or HE institution, but not under arrangements made by the LEA. Section 18(1) (aa) of the Further and Higher Education Act 1992 would allow an FE corporation to provide education for pupils in the first two categories, but not the third. That is because it refers to education "to pupils in the fourth key stage". This expression only has meaning in the context of a school, and pupils in the second and third categories above will not be at school.
203. **Section 142** of this Act states that the such secondary education provision is for "persons who would, if they were pupils at a school, be in the fourth key stage". A similar and associated amendment is made at paragraph 30 of Schedule 9 to the Act. As a result section 142, together with the second change of the definition of secondary education in section 110, will allow for greater collaboration between schools and colleges in providing secondary education for 16 to 19 year olds.