



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 3

SECURING AND FUNDING TERTIARY EDUCATION AND RESEARCH

VALID FROM 04/09/2023

Further education and training

PROSPECTIVE

93 Education and training for persons aged 16 to 19

- (1) The Commission must secure the provision of proper facilities for Wales for—
- (a) further education suitable to the requirements of persons who are over compulsory school age but have not attained the age of 19, and
 - (b) training suitable to the requirements of such persons.
- (2) Facilities are proper if they are—
- (a) of a quantity sufficient to meet the reasonable needs of individuals,
 - (b) of a quality adequate to meet those needs, and
 - (c) sufficient to satisfy the entitlements conferred under section 33F of the [Learning and Skills Act 2000 \(c. 21\)](#).

Commencement Information

- 11** S. 93 not in force at Royal Assent, see [s. 148\(2\)](#)

Status: Point in time view as at 15/12/2022. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: Further education and training. (See end of Document for details)

VALID FROM 01/04/2024

94 Education and training for eligible persons over 19

- (1) The Commission must secure the provision of proper facilities for Wales for relevant education and training for eligible persons that is suitable to their requirements.
- (2) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
 - (b) of a quality adequate to meet those needs.
- (3) The Welsh Ministers must, by regulations, specify as relevant education and training for the purpose of subsection (1) a description of further education or training.
- (4) Regulations under subsection (3) may describe further education or training by reference to (among other things)—
 - (a) subject;
 - (b) level of study, including by reference to—
 - (i) the level of attainment which, in the opinion of the Welsh Ministers, is demonstrated by a qualification falling within level 1, 2 or 3 of the Credit and Qualifications Framework for Wales, or
 - (ii) another document specified in the regulations that sets out descriptions of levels of qualifications;
 - (c) type of qualification.
- (5) In subsection (4), "the Credit and Qualifications Framework for Wales" means the document with that title published by the Welsh Ministers (as updated from time to time) and which includes descriptions of levels of qualifications.
- (6) In forming an opinion for the purposes of subsection (4)(b)(i) and before specifying a document under subsection (4)(b)(ii), the Welsh Ministers may have regard, in particular, to advice or information relating to qualifications which is provided by Qualifications Wales.
- (7) An eligible person is a person who—
 - (a) has attained the age of 19, and
 - (b) falls within a description specified in regulations made by the Welsh Ministers (if any).
- (8) Regulations under subsection (7)(b)—
 - (a) may describe an eligible person by reference to (among other things)—
 - (i) age;
 - (ii) qualifications or other educational attainment;
 - (iii) status;
 - (iv) income;
 - (b) may specify different descriptions of eligible person in relation to different descriptions of further education or training.

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Commencement Information

I2 S. 94 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

95 Education and training for persons over 19

- (1) The Commission must secure the provision of reasonable facilities for Wales for—
 - (a) further education suitable to the requirements of persons who have attained the age of 19, and
 - (b) training suitable to the requirements of such persons.
- (2) Facilities are reasonable if (taking account of the Commission's resources) the facilities are of such a quantity and quality that the Commission can reasonably be expected to secure their provision.

Commencement Information

I3 S. 95 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

96 Requirements on Commission when securing further education and training

- (1) In discharging the duties imposed on it by sections 93 to 95, the Commission must—
 - (a) have regard to the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) have regard to the different abilities and aptitudes of different persons;
 - (c) have regard to the requirements of employers, employees and potential employees in relation to the education and training required in different sectors of employment;
 - (d) have regard to the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh;
 - (e) have regard to the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs;
 - (f) have regard to facilities whose provision the Commission thinks might reasonably be secured by other persons (including provision secured by local authorities under Part 2 of the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#));
 - (g) make the best use of the Commission's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (2) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.

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Commencement Information

14 S. 96 not in force at Royal Assent, see [s. 148\(2\)](#)

97 Financial support for further education or training

- (1) The Commission or the Welsh Ministers may secure the provision of financial resources to—
 - (a) persons for the purpose of the provision or proposed provision by them or by a collaborating body (within the meaning given by subsection (3)) of further education or training wholly or mainly in Wales;
 - (b) persons for the purpose of the provision or proposed provision by them or by a collaborating body (within the meaning given by subsection (3)) of further education or training to persons who are ordinarily resident in Wales;
 - (c) persons for the purpose of the provision or proposed provision by them of goods or services in connection with the provision by them or others of further education or training wholly or mainly in Wales;
 - (d) persons who are ordinarily resident in Wales and who are receiving or proposing to receive further education or training;
 - (e) persons who are not ordinarily resident in Wales and who are receiving or proposing to receive further education or training in Wales;
 - (f) tertiary education providers in Wales that are institutions within the further or higher education sector for the purpose of the provision or proposed provision by them of secondary education to persons of compulsory school age;
 - (g) persons carrying out means tests under arrangements made under section 100.
- (2) The Commission or the Welsh Ministers may secure the provision of financial resources under subsection (1)—
 - (a) by providing resources itself or themselves;
 - (b) by making arrangements for the provision of resources by another person;
 - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the Commission or the Welsh Ministers).
- (3) A person (“a provider”) may pay all or some of the financial resources provided to the provider under subsection (1)(a) or (b) to another person (“a collaborating body”) if subsection (4) applies.
- (4) This subsection applies if the collaborating body is providing, is proposing to provide or has provided further education or training on behalf of the provider, or is working, is proposing to work or has worked in collaboration with the provider for the purpose for which the financial resources are secured.
- (5) The Commission (in the case of financial resources secured by it) or the Welsh Ministers (in the case of financial resources secured by them) must give their consent before the provider makes a payment to a collaborating body (see section 109 for further provision about the Commission’s consent).
- (6) The Commission may not provide its financial resources under subsection (1)(a) or (b), or make arrangements for a local authority to provide such resources under

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subsection (2)(b), to the governing body of a maintained school in Wales for the purpose of, or for a purpose connected with, the provision by the school of education suitable to the requirements of persons over compulsory school age (for provision as to the funding of school sixth-forms, see section 101).

- (7) But the Commission may provide its financial resources under this subsection, or make arrangements for a local authority to provide such resources, to the governing body of a maintained school in Wales that provides education suitable to the requirements of persons over compulsory school age for the purpose of innovative activities.
- (8) An innovative activity is an activity that—
- (a) in the Commission’s opinion will contribute to the raising of standards of tertiary education, and
 - (b) is described in a document prepared by the Commission and approved by the Welsh Ministers.

Commencement Information

I5 S. 97 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

98 Financial support for further education or training: further provision

- (1) In exercising the power under section 97(1)(d) or (e), the Commission or the Welsh Ministers may secure the provision of financial resources by reference to any fees or charges payable by the person receiving or proposing to receive the education or training or to any other matter (such as transport or childcare).
- (2) The Welsh Ministers may, by regulations, provide that the provision of financial resources for specified purposes must only be secured under section 97(1)(a) or (b) to registered providers in specified categories.
- (3) Regulations under subsection (2) may provide for exceptions for specified courses of further education or training or specified descriptions of such courses; and a course may be described by reference to (among other things)—
- (a) requirements to be met by the course;
 - (b) the description of person providing the course;
 - (c) the qualification to which the course leads.
- (4) In subsections (2) and (3), “specified” means specified in the regulations.

Commencement Information

I6 S. 98 not in force at Royal Assent, see [s. 148\(2\)](#)

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PROSPECTIVE

99 Financial resources for further education or training: terms and conditions

- (1) If the Commission itself, or the Welsh Ministers themselves, provide financial resources under section 97, they may impose such terms and conditions as they consider appropriate.
- (2) The terms and conditions may (among other things)—
 - (a) enable the Commission or the Welsh Ministers to require the repayment, in whole or in part, of sums paid by them if any of the terms and conditions subject to which the sums were paid is not complied with;
 - (b) require the payment of interest in respect of any period in which a sum due to the Commission or the Welsh Ministers in accordance with any of the terms and condition remains unpaid;
 - (c) require a person providing or proposing to provide education or training (“the provider”) to make arrangements providing for all or any of the following—
 - (i) for the provider to charge fees by reference to specified criteria;
 - (ii) for the provider to make awards by reference to specified criteria;
 - (iii) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
 - (iv) for amounts to be determined by reference to specified criteria where provision is made under sub-paragraph (iii);
 - (v) for specified exemptions to operate where provision is made under sub-paragraph (iii).
- (3) In subsection (2), “specified” means specified in the terms and conditions.
- (4) The terms and conditions must prohibit a person providing, or proposing to provide, further education or training suitable to the requirements of persons who are over compulsory school age but have not attained the age of 19 from charging persons of that age who are receiving the further education or training.
- (5) The terms and conditions must also prohibit a person providing, or proposing to provide, relevant education and training suitable to the requirements of eligible persons from charging eligible persons who are receiving that education or training; in this subsection “relevant education and training” and “eligible persons” have the same meaning as in section 94.
- (6) The Welsh Ministers may, by regulations, provide for exceptions to the requirement in subsection (4) or (5).
- (7) Terms and conditions imposed by the Commission in relation to financial resources provided under section 97(1)(a) to a person who is not a registered provider, must—
 - (a) require the person, if given notice under section 126(1), to have in place a learner protection plan approved by the Commission (under section 126(3) or (5)) on or before the date specified in the terms and conditions, and to give effect to the plan;
 - (b) require the person, if the person is a tertiary education provider in Wales, to comply with the requirements contained in the Learner Engagement

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Code published under section 129(1) or any revised code published under section 129(3);

- (c) require the person to have regard to advice or guidance given by the Commission (either specifically or to persons generally) in exercise of the Commission's functions in this Act.
- (8) If the Commission has made arrangements under section 97(2)(b) for another person to provide the Commission's financial resources, the Commission—
- (a) may require that person to provide the resources subject to such terms and conditions that the Commission considers appropriate (including terms and conditions of a kind that could be imposed under subsection (2)), and
 - (b) must require that person to provide the resources subject to the terms and conditions described in subsections (4) to (7).

Commencement Information

I7 S. 99 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

100 Means tests

- (1) The Commission or the Welsh Ministers may—
 - (a) carry out means tests;
 - (b) arrange for other persons to carry out means tests.
- (2) The Commission and the Welsh Ministers may take the results of means tests carried out under subsection (1) into account in exercising the power under section 97(1) (d) or (e).

Commencement Information

I8 S. 100 not in force at Royal Assent, see [s. 148\(2\)](#)

101 School sixth-forms

- (1) The Commission may make a grant to a local authority—
 - (a) on the condition that the grant be applied as part of the authority's schools budget for a funding period, and
 - (b) with a view to the grant being used for the purposes of, or for purposes connected with, the provision by schools of education suitable to the requirements of persons over compulsory school age.
- (2) A grant made under this section may be made on terms and conditions in addition to the condition mentioned in subsection (1)(a) (including terms and conditions of a kind which could be imposed under section 99(2)).
- (3) The governing body of a maintained school in Wales that provides education suitable to the requirements of persons over compulsory school age must comply

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with the requirements contained in the Learner Engagement Code published under section 129(1) or any revised code published under section 129(3).

(4) The following must have regard to advice or guidance given by the Commission (either specifically or to persons generally) in exercise of the Commission’s functions in this Act—

- (a) a local authority in receipt of a grant under this section, and
- (b) the governing body of a maintained school in Wales that provides education suitable to the requirements of persons over compulsory school age.

(5) In this section—

“funding period” (“*cyfnod cyllido*”) means a financial year or, if some other period is prescribed in relation to Wales under subsection (1B) of section 45 of the [School Standards and Framework Act 1998 \(c. 31\)](#) (maintained schools to have budget shares), that other period;

“schools budget” (“*cyllideb ysgolion*”) has the same meaning as in section 45A(2) of the [School Standards and Framework Act 1998](#) (determination of specified budgets of local authority).

Commencement Information

19 S. 101 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

102 Persons with additional learning needs

(1) In exercising its functions under the provisions set out in subsection (2), the Commission must have regard to—

- (a) the needs of persons with additional learning needs;
- (b) the desirability of facilities being available which would assist the discharge of duties under the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#).

(2) The provisions are—

- (a) section 93 (education and training for persons aged 16 to 19);
- (b) section 94 (education and training for eligible persons over 19);
- (c) section 95 (education and training for persons over 19);
- (d) section 97(1)(a) to (e) and (7) (financial support for further education or training);
- (e) section 103(1) (financial support for provision of information, advice, guidance and to form links with employers);
- (f) section 103(2) (financial support for Welsh medium education and teaching Welsh) except in so far as the provision of tertiary education and the teaching referred to in that subsection consists of higher education.

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Commencement Information

I10 S. 102 not in force at Royal Assent, see [s. 148\(2\)](#)

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Changes to legislation:

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