



Further and Higher Education Act 1992

1992 CHAPTER 13

PART I **E+W+S**

FURTHER EDUCATION

CHAPTER I **E+W**

RESPONSIBILITY FOR FURTHER EDUCATION

The new funding councils

F1 **E+W**

Textual Amendments

F1 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

The new further education sector

F2 **E+W**

Textual Amendments

F2 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

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F3 **E+W**

Textual Amendments
F3 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F4 **E+W**

Textual Amendments
F4 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Finance

F5 **E+W**

Textual Amendments
F5 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F6 **E+W**

Textual Amendments
F6 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F7 **E+W**

Textual Amendments
F7 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Further functions

F8 **E+W**

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Textual Amendments

F8 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F9 **E+W**

Textual Amendments

F9 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Adjustment of local education authority sector

F10 **E+W**

Textual Amendments

F10 S. 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F11 **E+W**

Textual Amendments

F11 S. 11 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Provision of further education in schools

F12 **E+W**

Textual Amendments

F12 s. 12 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F13 **E+W**

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Textual Amendments

F13 S. 13 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

General

F14 14 **E+W**

Textual Amendments

F14 S. 14 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

CHAPTER II E+W+S

INSTITUTIONS WITHIN THE FURTHER EDUCATION SECTOR

The further education corporations

15 Initial incorporation of existing institutions. E+W

- (1) Before the appointed day the Secretary of State shall by order specify—
 - (a) each educational institution maintained by a [^{F15}local authority] which appears to him to fall within subsection (2) below, and
 - (b) each county school, controlled school or grant-maintained school which appears to him to fall within subsection (3) below.
- (2) An institution falls within this subsection if on 1st November 1990 its enrolment number calculated in accordance with paragraph 1(1) of Schedule 3 to this Act was not less than 15 per cent. of its total enrolment number calculated in accordance with paragraph 1(2) of that Schedule.
- (3) An institution falls within this subsection if on 17th January 1991 not less than 60 per cent. of the pupils at the institution were receiving full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.
- (4) On the appointed day a body corporate shall be established, for each institution so specified, for the purpose of conducting the institution as from the operative date.
- (5) The name given in the order under subsection (1) above as the name of the institution shall be the initial name of the body corporate.
- (6) Where an educational institution, being an institution maintained by a [^{F15}local authority] or a grant-maintained school, has been established since 1st November 1990 or, as the case may be, 17th January 1991 by a merger of two or more institutions existing on that date, the institution shall be treated as falling within subsection (2) or,

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as the case may be, subsection (3) above if it would have done so if the merger had taken place before that date.

- (7) In this section “the appointed day” means the day appointed under section 94 of this Act for the commencement of subsection (4) above.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

Commencement Information

II S. 15 wholly in force: s. 15(1)(2)(3)(5)(6)(7) in force at 6.5.1992; s. 15(4) in force at 30.9.1992, see s. 94(3) and [S.I. 1992/831](#), art. 2, **Schs. 1, 2**

16 Orders incorporating further institutions. **E+W**

- (1) The Secretary of State may by order make provision for the establishment of a body corporate—
- (a) for the purpose of establishing and conducting an educational institution, or
 - (b) for the purpose of conducting an existing educational institution,
- but shall not make an order in respect of an existing institution without the consent of the governing body.
- [^{F16}(2) Subsection (1) above does not apply to an institution which is maintained by a [^{F15}local authority].
- (3) The Secretary of State may by order make provision for the establishment of a body corporate for the purpose of conducting an institution which—
- (a) is maintained by a [^{F15}local authority], and
 - (b) in his opinion, is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.]
- (4) The name given in the order under this section as the name of the institution shall be the initial name of the body corporate.
- (5) An order under this section shall provide for the institution to be conducted by the body corporate as from the operative date.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

F16 S. 16(2)(3) substituted (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21](#), s. **111(1)**; [S.I. 2000/2559](#), art. 2(1), **Sch. Pt. I**; [S.I. 2001/1274](#), art. 2, **Sch. Pt. I**

Modifications etc. (not altering text)

C1 S. 16(1) modified (1.4.1993) by [S.I. 1993/563](#), art. 2, **Sch. 1**

Commencement Information

I2 S. 16 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 2**

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[^{F17}16A Publication of proposals **E+W**

- (1) The appropriate authority may not make an order under section 16(1) or (3) unless the authority has published a draft of the proposed order, or of an order in substantially the same form, by such time and in such manner as may be prescribed.
- (2) A draft proposal or order in respect of an institution which is maintained by a local authority may not be published without the consent of the governing body and the local authority.
- (3) In this section “the appropriate authority” means—
 - (a) in relation to a proposal or order in respect of an institution in England, the Secretary of State;
 - (b) in relation to a proposal or order in respect of an institution in Wales, the Welsh Ministers.]

Textual Amendments

F17 S. 16A inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 2](#); [S.I. 2012/924](#), art. 2

17 “Further education corporation” and “operative date”. **E+W**

- (1) In this Act “further education corporation” means a body corporate established under section 15 or 16 of this Act [^{F18}or which has become a further education corporation by virtue of section [^{F19}33D or] 47 of this Act.]
- (2) In this Part of this Act “operative date”, in relation to a further education corporation and the institution, means—
 - (a) in the case of a further education corporation established under section 15 of this Act, such date as the Secretary of State may by order appoint in relation to the corporations so established, and
 - (b) in the case of a further education corporation established under section 16 of this Act, such date as the Secretary of State may by order appoint in relation to that corporation.

Textual Amendments

F18 Words in s. 17(1) added (1.10.1998) by [1998 c. 30](#), s. 44(1), [Sch. 3 para.7](#) (with s. 42(8)); [S.I. 1998/2215](#), art.2

F19 Words in s. 17(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 2](#); [S.I. 2010/303](#), art. 3, Sch. 2

Commencement Information

I3 S. 17 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

18 Principal powers of a further education corporation. **E+W**

- (1) A further education corporation may—
 - (a) provide further and higher education, and

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- [^{F20}(aa) provide secondary education [^{F21}suitable to the requirements of persons who have attained the age of fourteen years],
 - (ab) provide education which is secondary education by virtue of section 2(2B) of the ^{M1}Education Act 1996 (definition of secondary education),
 - (ac) participate in the provision of secondary education at a school,]
 - (b) supply goods or services in connection with their provision of education, [^{F22}and those powers are referred to in section 19 of this Act as the corporation’s principal powers].
- [^{F23}(1A) A further education corporation may not provide education of a kind specified in subsection (1)(aa), (ab) or (ac) above unless they have consulted such [^{F15}local authorities] as they consider appropriate.]
- (2) For the purposes of subsection (1) above, goods are supplied in connection with the provision of education by a further education corporation if they result from—
 - (a) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) ideas of a person employed by them, or of one of their students, arising out of their provision of education.
 - (3) For the purposes of that subsection, services are supplied in connection with the provision of education by a further education corporation if—
 - (a) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

- ^{F24}(4)
- ^{F24}(5)
- ^{F24}(6)

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F20** S. 18(1)(aa)-(ac) substituted for s. 18(1)(aa) (1.4.2001) by 2000 c. 21, **s. 142(1)(a)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F21** Words in s. 18(1)(aa) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215(1), **Sch. 21 para.11**; S.I. 2002/2439, {art. 3}; S.I. 2002/3185, **art. 4**
- F22** Words after s. 18(1)(b) inserted (1.4.2001) by 2000 c. 21, ss. 149, **Sch. 9 para. 21(a)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F23** S. 18(1A) inserted (1.4.2001) by 2000 c. 21, **s. 142(1)(b)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F24** S. 18(4)-(6) repealed (28.7.2000 for certain purposes, 1.1.2001 for W., 1.4.2001 and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, **Sch. 9 para. 21(b)**, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pts. II, III** (with transitional provisions in art. 3)

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Commencement Information

I4 S. 18 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

Marginal Citations

M1 1996 c. 56.

19 Supplementary powers of a further education corporation. **E+W**

- (1) A further education corporation may do anything (including in particular the things referred to in subsections (2) to (4) below) which appears to the corporation to be necessary or expedient for the purpose of or in connection with the exercise of any of their principal powers.
- (2) A further education corporation may conduct an educational institution for the purpose of carrying on activities undertaken in the exercise of their powers to provide further or higher education and, in particular, may assume as from the operative date the conduct of the institution in respect of which the corporation is established.
- (3) A further education corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties^{F25} ...).
- (4) A further education corporation may—
 - (a) acquire and dispose of land and other property,
 - (b) enter into contracts, including in particular—
 - (i) contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers, and
 - (ii) contracts with respect to the carrying on by the corporation of any such activities,
 - ^{F26}(bb) form, participate in forming or invest in a company,
 - (bc) form, participate in forming or otherwise become a member of a charitable incorporated organisation [^{F27}(within the meaning of Part 11 of the Charities Act 2011)],
 - (c) borrow such sums as the corporation think fit for the purposes of carrying on any activities they have power to carry on or meeting any liability transferred to them under sections 23 to [^{F28}27C or 33P] of this Act and, in connection with such borrowing, may grant any mortgage, charge or other security in respect of any land or other property of the corporation,
 - (d) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,
 - (e) accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes, and
 - (f) do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

^{F29}^{F30}(4A) The power conferred by subsection (4)(bb) above may not be exercised [^{F31}by a further education corporation in Wales] for the purpose of—

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- (a) conducting an educational institution, or
- (b) investing in a company conducting an educational institution.

(4AA) The power conferred by subsection (4)(bc) above may not be exercised [^{F32}by a further education corporation in Wales] for the purpose of—

- (a) conducting an educational institution, or
- (b) becoming a member of a charitable incorporated organisation conducting an educational institution.

(4AB) But a restriction on the exercise of a power imposed by subsection (4A) or (4AA) above shall not apply to the extent that the [^{F33}Welsh Ministers consent] to the exercise of the power in a way which does not comply with the restriction.

^{F34}(4AC)]

(4B) [^{F35}Neither the power conferred by subsection (4)(bb) above nor the power conferred by subsection (4)(bc) above may be exercised [^{F36}by a further education corporation in Wales]] for the purpose of the provision of education if the provision is secured (wholly or partly) by financial resources provided by ^{F37}... the [^{F38}National Assembly for Wales in the discharge of its functions under Part 2 of the Learning and Skills Act 2000].

(4C) But subsection (4B) above shall not apply to the extent that ^{F39}... [^{F40} the National Assembly for Wales]^{F39}... consents to the exercise of the power conferred by subsection (4)(bb) above [^{F41}or the power conferred by subsection (4)(bc) above] in a way which does not comply with the restriction in subsection (4B).]

(5) The power conferred on a further education corporation by subsection (4)(c) above to borrow money may not be exercised [^{F42}by a further education corporation in Wales] without the consent of the [^{F43}Welsh Ministers], and such consent may be given for particular borrowing or for borrowing of a particular class.

[^{F44}(6) A person has a learning difficulty if—

- (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
- (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions within the further education sector for persons of his age.

(7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.]

[^{F45}(8) A reference in this section to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.]

[^{F46}(9) A further education corporation may provide advice or assistance to any other person where it appears to the corporation to be appropriate for them to do so for the purpose of or in connection with the provision of education by the other person.]

Textual Amendments

F25 Words in s. 19(3) omitted (1.4.2001) by virtue of 2000 c. 21, s. 149, **Sch. 9 para. 22(2)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

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- F26** S. 19(4)(bb)(bc) substituted for s. 19(4)(bb) (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(2), 32(1)** (with s. 21(7))
- F27** Words in s. 19(4)(bc) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 57** (with s. 20(2), **Sch. 8**)
- F28** Words in s. 19(4)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(2)**; S.I. 2012/924, art. 2
- F29** S. 19(4A)-(4C) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 22(4)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F30** S. 19(4A)-(4AC) substituted for s. 19(4A) (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(3), 32(1)**
- F31** Words in s. 19(4A) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(3)**; S.I. 2012/924, art. 2
- F32** Words in s. 19(4AA) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(4)**; S.I. 2012/924, art. 2
- F33** Words in s. 19(4AB) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(5)**; S.I. 2012/924, art. 2
- F34** S. 19(4AC) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(6)**; S.I. 2012/924, art. 2
- F35** Words in s. 19(4B) substituted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(4), 32(1)**
- F36** Words in s. 19(4B) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(7)(a)**; S.I. 2012/924, art. 2
- F37** Words in s. 19(4B) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(7)(b)**; S.I. 2012/924, art. 2
- F38** Words in s. 19(4B) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 14(a)** (with art. 7)
- F39** Words in s. 19(4C) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(8)**; S.I. 2012/924, art. 2
- F40** Words in s. 19(4C) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 14(b)** (with art. 7)
- F41** Words in s. 19(4C) inserted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(5), 32(1)**
- F42** Words in s. 19(5) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(9)(a)**; S.I. 2012/924, art. 2
- F43** Words in s. 19(5) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(9)(b)**; S.I. 2012/924, art. 2
- F44** S. 19(6)(7) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 22(5)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F45** S. 19(8) inserted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(6), 32(1)**
- F46** S. 19(9) added (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 256(2), 269(4)**; S.I. 2010/303, art. 3, **Sch. 2**

Commencement Information

- I5** S. 19 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

^{F47} **19A Duty in relation to promotion of well-being of local area** **E+W**

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Textual Amendments

F47 S. 19A repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 4](#); [S.I. 2012/924](#), art. 2

20 Constitution of corporation and conduct of the institution. **E+W**

- (1) For every further education corporation established to conduct an educational institution there shall be—
- (a) an instrument providing for the constitution of the corporation (to be known as the instrument of government), and
 - (b) an instrument in accordance with which the corporation, and the institution, are to be conducted (to be known as articles of government).
- [^{F48}(2) Instruments of government and articles of government of further education corporations in England—
- (a) must comply with the requirements of Part 2 of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.
- (2A) Instruments of government and articles of government of further education corporations in Wales—
- (a) must comply with the requirements of Part 3 of Schedule 4, and
 - (b) subject to that, may make any provision authorised to be made by that Part of that Schedule and such other provision as may be necessary or desirable.]
- (3) The validity of any proceedings of a further education corporation, or of any committee of the corporation, shall not be affected by a vacancy amongst the members or by any defect in the appointment or nomination of a member.
- (4) Every document purporting to be an instrument made or issued by or on behalf of a further education corporation and to be duly executed under the seal of the corporation, or to be signed or executed by a person authorised by the corporation to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Textual Amendments

F48 S. 20(2)(2A) substituted for s. 20(2) (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 5](#); [S.I. 2012/924](#), art. 2

Commencement Information

I6 S. 20 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 2](#)

21 Initial instruments and articles. **E+W**

- (1) As from the date on which a further education corporation is established, the instrument of government and articles of government—
- ^{F49}(a)
- ^{F50} . . . shall be such as is prescribed by regulations.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (2) Such ^{F51} . . . regulations—
- (a) may provide for all or any of the persons who, on the date on which a corporation is established to conduct the ^{F52} . . . existing institution, are the members of the governing body of the institution to be the initial members of the corporation, and
 - (b) may make such other provision in relation to ^{F53} . . . existing institutions as appears to the Secretary of State necessary or desirable to secure continuity in their government.
- (3) In the case of a further education corporation established to conduct an institution which, on the date the corporation was established, was [^{F54}a maintained school, the governing body incorporated under [^{F55}section 19 of the Education Act 2002]] shall, on the operative date, be dissolved.

Textual Amendments

- F49** S. 21(1)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(a)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F50** Words, including subsection "(b)", in s. 21(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(a)(ii), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F51** Words in s. 21(2) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F52** Words in s. 21(2)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(ii), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F53** Words in s. 21(2)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(iii), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F54** Words in s. 21(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 35(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F55** Words in s. 21(3) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 12** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

Commencement Information

- I7** S. 21 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[^{F56}22 Subsequent instruments and articles: England **E+W**

A further education corporation in England may modify or replace their instrument of government or articles of government.]

Textual Amendments

- F56** Ss. 22, 22ZA substituted for s. 22 (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 6**; S.I. 2012/924, art. 2

Commencement Information

- I8** S. 22 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[^{F56}22ZASubsequent instruments and articles: Wales **E+W**

- (1) Subject to subsections (2) and (3), the Welsh Ministers may—

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- (a) if a further education corporation in Wales submits a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in the terms of the draft or in such terms as they think fit, and
 - (b) if such a corporation submits draft modifications of an instrument made under paragraph (a), by order modify the instrument in the terms of the draft or in such terms as they think fit.
- (2) The Welsh Ministers must not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in the terms of the draft, unless they have consulted the corporation.
- (3) If the institution conducted by a further education corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding, the Welsh Ministers must consult the Chief Executive of Skills Funding before making an order under subsection (1).
- (4) The Welsh Ministers may by order modify, replace or revoke any instrument of government or articles of government of any further education corporation in Wales.
- (5) An order under subsection (4) may relate to all further education corporations in Wales, to any category of such corporations specified in the order or to any such corporation so specified.
- (6) Before making an order under subsection (4), the Welsh Ministers must consult—
 - (a) the further education corporation or (as the case may be) each further education corporation to which the order relates, and
 - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation or (as the case may be) any corporation to which the order relates mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.
- (7) A further education corporation in Wales may, with the consent of the Welsh Ministers—
 - (a) make new articles of government in place of their existing articles, or
 - (b) modify their existing articles.
- (8) The Welsh Ministers may by a direction under this section require further education corporations in Wales, any class of such corporations specified in the direction or any particular further education corporation so specified—
 - (a) to modify, replace or revoke their articles of government, or
 - (b) to secure that any rules or bye-laws made in pursuance of their articles of government are modified, replaced or revoked,in any manner so specified.
- (9) Before giving a direction under this section, the Welsh Ministers must consult the further education corporation or (as the case may be) each further education corporation to which the direction applies.]

Textual Amendments

F56 Ss. 22, 22ZA substituted for s. 22 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 6](#); [S.I. 2012/924](#), art. 2

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[^{F57}22A Charitable status of a further education corporation **E+W**

A further education corporation shall be a charity (and, in accordance with Schedule 3 to the Charities Act 2011, is an exempt charity for the purposes of that Act).]

Textual Amendments

F57 S. 22A substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, Sch. 7 para. 58 (with s. 20(2), Sch. 8) (with [S.I. 2011/1396](#), [Sch. para. 43\(b\)](#))

Transfer of property, etc., to further education corporations

23 **Transfer of property, etc.: institutions maintained by [^{F15}local authorities] **E+W****

- (1) This section has effect in relation to a further education corporation established to conduct an institution which, on the date the corporation was established, was maintained by a [^{F15}local authority].
- (2) Subject to subsection (3) below and section 36 of this Act, on the operative date—
 - (a) all land or other property which, immediately before that date, was property of any local authority used or held for the purposes of the institution the corporation is established to conduct, and
 - (b) all rights and liabilities of any such authority subsisting immediately before that date which were acquired or incurred for those purposes,
 shall be transferred to, and by virtue of this Act vest in, that corporation.
- (3) Subsection (2) above shall not apply to—
 - (a) any liability of any such authority in respect of the principal of, or interest on, any loan, or
 - (b) any property, rights or liabilities excluded under subsections (4) or (5) below.
- (4) If before the operative date—
 - (a) the governing body of the institution and the local authority have agreed in writing to exclude any land, ^{F58} . . .
 - (b) ^{F58}
 the land, and any rights or liabilities relating to it, shall be excluded.
- (5) If in default of agreement under subsection (4) above—
 - (a) the governing body or the local authority have applied to the Secretary of State to exclude any land, and
 - (b) the Secretary of State has by order directed its exclusion,
 the land, and any rights or liabilities relating to it, shall be excluded.
- (6) An agreement under subsection (4) above may provide for the land to be used for the purposes of the institution on such terms as may be specified in or determined in accordance with the agreement; and directions under subsection (5) above—
 - (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
 - (b) shall have effect as if contained in such an agreement.

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- (7) References in subsections (4) and (5) above to anything done, other than the making of an order, include anything done before the passing of this Act.
- (8) On the operative date—
- (a) all land and other property which, immediately before that date, was property of the former governing body, and
 - (b) all rights and liabilities of that body subsisting immediately before that date, shall be transferred to and, by virtue of this Act, vest in the corporation.
- (9) In subsection (8) above “former governing body” in relation to an institution means the governing body of the institution immediately before the operative date.
- [^{F59}(10) In this section, except in subsection (1), “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 5\(2\)](#)
- F58** S. 23(4)(b) and preceding word repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c.32\)](#), [ss. 215, 216](#), [Sch. 21 para. 13](#), [Sch. 22 Pt. 3](#); [S.I. 2002/2349](#), [art. 3](#); [S.I. 2002/3185](#), [art. 4](#)
- F59** S. 23(10) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [art. 1](#), [Sch. 2 para. 5\(3\)](#)

Commencement Information

- I9** S. 23 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 2](#)

24 Provisions supplementary to section 23. **E+W**

- (1) Where in exercise of their powers under section 2 of the ^{M2}Further Education Act 1985 a local authority—
- (a) have entered into an agreement for the supply of goods or services or both through an educational institution, or
 - (b) for the purposes of any agreement for such a supply through such an institution, hold shares in any body corporate,
- and a further education corporation is established to conduct the institution, then, the rights and liabilities of the authority under or by virtue of the agreement or, as the case may be, the interest of the authority in the shares shall be treated as falling within section 23(2) of this Act.
- (2) Expressions used in subsection (1) above and in section 2 of that Act have the same meaning as in that section.
- (3) Where, immediately before the operative date in relation to a further education corporation, arrangements exist for the supply by a local authority of goods or services for the purposes of the institution in pursuance of a bid prepared under section 7 of the ^{M3}Local Government Act 1988 (restrictions on activities of local authorities), those arrangements shall have effect as from that date as if—
- (a) they were contained in an agreement made before that date between the local authority and the corporation on the terms specified in the bid, and

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- (b) the agreement required the corporation or, as the case may be, the local authority to make payments corresponding to the provision made in the bid in pursuance of section 8(3) of that Act for items to be credited or, as the case may be, debited to any account.
- (4) Where such arrangements are for the supply to others as well as to the institution—
- (a) those arrangements shall have effect as mentioned in subsection (3) above only to the extent that they relate to the institution in question, and
 - (b) the rights and liabilities arising under the agreement shall be such rights and liabilities as are properly required to give effect to the arrangements so far as relating to that institution.
- (5) Where at any time land is used for the purposes of such an institution, any interest of a local authority in the land subsisting at that time shall be taken for the purposes of section 23 of this Act to be land held for the purposes of that institution (whether or not it is by virtue of that interest that the land is so used).
- [^{F60}(6) In subsections (3) and (5) “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

F60 S. 24(6) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 5(4)**

Commencement Information

I10 S. 24 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 2**

Marginal Citations

M2 1985 c. 47.

M3 1988 c. 9.

^{F61}[25 **Transfer of property, etc. from foundation bodies.** **E+W**

- (1) This section applies where a further education corporation is established to conduct an institution which, on the date the corporation is established, is a foundation or voluntary school belonging to the group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998.
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transfer, in any such case, of property, rights and liabilities from the foundation body to the further education corporation.
- (3) Regulations under subsection (2) may, in relation to any such transfer of property, rights or liabilities—
 - (a) modify any provision made by or under any of sections 23, 24, 36 and 38 of this Act and Schedule 5 to this Act;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision.
- (4) In this section “foundation body” and “group of schools” have the same meaning as in the School Standards and Framework Act 1998.]

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Textual Amendments

F61 S. 25 substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.36** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

26 **Transfer of staff to further education corporations.** **E+W**

- (1) This section applies to any person who immediately before the operative date in relation to a further education corporation established to conduct an institution which, on the date the corporation was established, was maintained by a [^{F15}local authority]^{F62}... —
 - (a) is employed by the transferor to work solely at the institution the corporation is established to conduct, or
 - (b) is employed by the transferor to work at that institution and is designated for the purposes of this section by an order made by the Secretary of State.
- (2) A contract of employment between a person to whom this section applies and the transferor shall have effect from the operative date as if originally made between that person and the corporation.
- (3) Without prejudice to subsection (2) above—
 - (a) all the transferor's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred to the corporation on the operative date, and
 - (b) anything done before that date by or in relation to the transferor in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the corporation.
- (4) Subsections (2) and (3) above are without prejudice to any right of an 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.
- (5) An order under this section may designate a person either individually or as a member of a class or description of employees.
- (6) References in this section, in relation to a further education corporation, to the transferor are—
 - (a) in relation to a corporation established to conduct an institution which, on the date on which it was established, was maintained by a [^{F15}local authority], [^{F63}references to that authority, and],
 - [^{F64}(b) in relation to a corporation established to conduct an institution which, on that date, was a foundation or voluntary aided school, references to the governing body of that school.]
- (7) For the purposes of this section—
 - (a) a person employed by the transferor is to be regarded as employed to work at an institution if his employment with the transferor for the time being involves work at that institution, and
 - (b) subject to subsection (8) below, a person employed by the transferor is to be regarded as employed to work solely at an institution if his only employment

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with the transferor (disregarding any employment under a separate contract with the transferor) is for the time being at that institution.

- (8) A person employed by the transferor in connection with the provision of meals shall not be regarded for the purposes of subsection (7)(b) above as employed to work solely at an institution unless the meals are provided solely for consumption by persons at the institution.

^{F65}(9)

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F62** Words in s. 26(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), [Sch. 30 para. 37\(a\)](#), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F63** Words in s. 26(6) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 37(b)(i)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F64** S. 26(6)(b) substituted (1.9.1999) for s. 26(6)(b)(c) by 1998 c. 31, s. 140(1), **Sch. 30 para. 37(b)(ii)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F65** S. 26(9) repealed (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 215, **Sch. 21 para. 14**, **Sch. 22 Pt. 1**, S.I. 2002/2439, {art. 2}

Modifications etc. (not altering text)

- C2** S. 26 applied (with modifications) (20.8.2010) by [The Gorseinion College Further Education Corporation and Swansea College Further Education Corporation \(Dissolution\) Order 2010 \(S.I. 2010/1876\)](#), arts. 1, **4(2)**
- C3** S. 26(1)-(5) applied (with modifications) (1.12.2002) by [The North Derbyshire Tertiary College \(Dissolution\) Order 2002 \(S.I. 2002/1714\)](#), **art. 3**
- C4** S. 26(1)-(5) applied (with modifications) (1.8.2007) by [The Pershore Group of Colleges \(Dissolution\) Order 2007 \(S.I. 2007/1793\)](#), arts. 1, **3**
- C5** S. 26(1)(2)(3)(4) applied (with modifications) (31.7.2011) by [The St Marys College, Middlesbrough \(Dissolution\) Order 2011 \(S.I. 2011/1038\)](#), arts. 1, **3**
- C6** S. 26(2)(3)(4) applied (with modifications): (2.4.1993) by S.I. 1993/270, **art. 4**; (1.8.1994) by S.I. 1994/1478, **art. 4**; (1.8.1994) by S.I. 1994/1741, **art. 3**; (1.8.1994) by S.I. 1994/1754, **art. 3**; (1.8.1994) by S.I. 1994/1755, **art. 3**; (1.8.1994) by S.I. 1994/1830, **art. 3**; (1.8.1995) by S.I. 1995/1710, **art. 3**; (1.8.1995) by S.I. 1995/1711, **art. 3**; (15.8.1995) by S.I. 1995/1927, **art. 3**; (1.9.1995) by S.I. 1995/2091, **art. 3**; (1.3.1996) by S.I. 1996/249, **art. 3**; (1.8.1996) by S.I. 1996/1744, **art. 3**; (1.8.1996) by S.I. 1996/1764, **art. 3**; (1.9.1996) by S.I. 1996/2084, **art. 3**; (6.1.1996) by S.I. 1996/3136, **art. 3**; (10.5.1997) by S.I. 1997/1168, **art. 3**; (1.8.1997) by S.I. 1997/513, **art. 3**; (18.2.1998) by S.I. 1998/156, **art. 3**; (1.8.1998) by S.I. 1998/1651, **art. 3**; (1.8.1998) by S.I. 1998/1652, **art. 3**; (1.8.1998) by S.I. 1998/1653, **art. 3**; (1.8.1998) by S.I. 1998/1654, **art. 3**; (1.8.1998) by S.I. 1998/1655, **art. 3**; (1.8.1998) by S.I. 1998/1656, **art. 3**; (1.8.1998) by S.I. 1998/1657, **art. 3**; (1.4.1999) by S.I. 1999/218, **art. 3**; (1.4.1999) by S.I. 1999/602, **art. 3**; (1.4.1999) by S.I. 1999/699, **art. 3**; (1.6.1999) by S.I. 1999/1285, **art. 3**; (1.8.1999) by S.I. 1999/1802, **art. 3**; (1.8.1999) by S.I. 1999/1919, **art. 3**; (1.8.1999) by S.I. 1999/1997, **art. 3**; (1.10.1999) by S.I. 1999/2544, **art. 3**; (1.1.2000) by S.I. 1999/3300, **art. 3**; (1.4.2000) by S.I. 2000/354, **art. 3**; (1.4.2000) by S.I. 2000/974, **art. 3**; (1.8.2000) by S.I. 2000/1684, **art. 3**; (1.8.2000) by S.I. 2000/1751, **art. 3**; (1.8.2000) by S.I. 2000/1806, **art. 3**; (1.9.2000) by S.I. 2000/2124, **art. 3**; (1.9.2000) by S.I. 2000/2172, **art. 3**; (1.11.2000) by S.I. 2000/2728, **art. 3**; (1.1.2001) by S.I. 2000/3219, **art. 3**; (31.3.2001) by S.I. 2001/781, **art. 3**; (1.8.2001) by S.I. 2001/2447, **art. 3**; (1.8.2001) by S.I. 2001/1532, **art. 3**; (1.8.2001) by S.I. 2001/1533, **art. 3**; (1.9.2001) by S.I. 2001/2898, **art. 3**;

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- (1.11.2001) by S.I. 2001/3153, **art. 3**; (1.11.2001) by S.I. 2001/3154, **art. 3**; (1.1.2002) by S.I. 2001/3809, **art. 3**; (1.1.2002) by S.I. 2001/3833, **art. 3**; (1.2.2002) by S.I. 2001/4037, **art. 3**
- C7** S. 26(2)(3)(4) applied (with modifications) (1.3.2002) by The Mackworth College (Dissolution) Order 2002 (S.I. 2002/244), **art. 3**
- S. 26(2)(3)(4) applied (with modifications) (1.3.2002) by The Broomfield Agricultural College (Dissolution) Order 2002 (S.I. 2002/243), **art. 3**
- S. 26(2)(3)(4) applied (with modifications) (1.3.2002) by The Derby Tertiary College-Wilmorton (Dissolution) Order (S.I. 2002/245), {art. 3}
- S. 26(2)(3)(4) applied (with modifications) (1.3.2002) by The East Yorkshire College of Further Education, Bridlington (Dissolution) Order 2002 (S.I. 2002/246), **art. 3**
- S. 26(2)(3)(4) applied (with modifications) (1.8.2002) by The Brinsbury College (Dissolution) Order 2002 (S.I. 2002/1402), **art. 3**
- S. 26(2)(3)(4) applied (with modifications) (1.8.2002) by The Teesside Tertiary College (Dissolution) Order 2002 (S.I. 2002/1695), **art. 3**
- C8** S. 26(2)(3)(4) applied (1.8.2003) by The Rugby College of Further Education (Dissolution) Order 2003 (S.I. 2003/516), arts. 1, **3**
- C9** S. 26(2)(3)(4) applied (with modifications) (1.8.2003) by The North Birmingham College (Dissolution) Order 2003 (S.I. 2003/1293), arts. 1, **3**
- C10** S. 26(2)(3)(4) applied (with modifications) (1.8.2003) by The Merrist Wood College (Dissolution) Order 2003 (S.I. 2003/1611), arts. 1, **3**
- C11** S. 26(2)(3)(4) applied (with modifications) (1.8.2003) by The Rycotewood College, Oxford College of Further Education and North Oxfordshire College and School of Art (Dissolution) Order 2003 (S.I. 2003/1610), arts. 1, **3**
- C12** S. 26(2)(3)(4) applied (with modifications) (31.10.2003) by The Park College (Dissolution) Order 2003 (S.I. 2003/2442), arts. 1, **3**
- C13** S. 26(2)(3)(4) applied (with modifications) (31.12.2003) by The Reading College and School of Arts and Design (Dissolution) Order 2003 (S.I. 2003/2918), arts. 1, **3**
- C14** S. 26(2)(3)(4) applied (with modifications) (1.8.2004) by The Daventry Tertiary College (Dissolution) Order 2004 (S.I. 2004/1598), arts. 1, **3**
- C15** S. 26(2)(3)(4) applied (with modifications) (1.8.2004) by The Rother Valley College (Dissolution) Order 2004 (S.I. 2004/1681), arts. 1, **3**
- C16** S. 26(2)(3)(4) applied (with modifications) (1.9.2004) by The Cannington College (Dissolution) Order 2004 (S.I. 2004/2024), arts. 1, **3**
- C17** S. 26(2)(3)(4) applied (with modifications) (1.3.2005) by The Tynemouth College and North Tyneside College (Dissolution) Order 2005 (S.I. 2005/94), arts. 1, **3**
- C18** S. 26(2)(3)(4) applied (with modifications) (1.8.2005) by The Crawley College and Haywards Heath College (Dissolution) Order 2005 (S.I. 2005/1113), arts. 1, **3**
- C19** S. 26(2)(3)(4) applied (with modifications) (1.1.2006) by The North Area College (Dissolution) Order 2005 (S.I. 2005/3097), arts. 1, **3**
- C20** S. 26(2)(3)(4) applied (with modifications) (1.4.2006) by The Isle College (Dissolution) Order 2006 (S.I. 2006/555), arts. 1, **3**
- C21** S. 26(2)(3)(4) applied (with modifications) (1.6.2006) by The Peoples College, Nottingham (Dissolution) Order 2006 (S.I. 2006/1184), arts. 1, **3**
- C22** S. 26(2)(3)(4) applied (with modifications) (1.8.2006) by The Widnes and Runcorn Sixth Form College (Dissolution) Order 2006 (S.I. 2006/1739), arts. 1, **3**
- C23** S. 26(2)(3)(4) applied (with modifications) (1.8.2006) by The Josiah Mason Sixth Form College, Erdington, Birmingham (Dissolution) Order 2006 (S.I. 2006/1754), arts. 1, **3**
- C24** S. 26(2)(3)(4) applied (with modifications) (1.1.2007) by The Newark and Sherwood College (Dissolution) Order 2006 (S.I. 2006/3160), arts. 1, **3**
- C25** S. 26(2)(3)(4) applied (with modifications) (1.8.2007) by The Skelmersdale College (Dissolution) Order 2007 (S.I. 2007/1747), arts. 1, **3**
- C26** S. 26(2)(3)(4) applied (with modifications) (1.8.2007) by The Farnham College (Dissolution) Order 2007 (S.I. 2007/1751), arts. 1, **3**

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- C27** S. 26(2)(3)(4) applied (with modifications) (1.8.2007) by [The Cricklade College, Andover \(Dissolution\) Order 2007 \(S.I. 2007/1752\)](#), arts. 1, 3
- C28** S. 26(2)(3)(4) applied (with modifications) (1.8.2007) by [The Keighley College \(Dissolution\) Order 2007 \(S.I. 2007/1754\)](#), arts. 1, 3
- C29** S. 26(2)(3)(4) applied (with modifications) (1.8.2007) by [The Spelthorne College, Ashford, Middlesex \(Dissolution\) Order 2007 \(S.I. 2007/1746\)](#), arts. 1, 3
- C30** S. 26(2)(3)(4) applied (with modifications) (1.9.2007) by [The North Trafford College of Further Education \(Dissolution\) Order 2007 \(S.I. 2007/1748\)](#), arts. 1, 3
- C31** S. 26(2)(3)(4) applied (with modifications) (1.1.2008) by [The Salisbury College \(Dissolution\) Order 2007 \(S.I. 2007/3473\)](#), arts. 1, 3
- C32** S. 26(2)(3)(4) applied (with modifications) (1.4.2008) by [The Penwith College, Penzance \(Dissolution\) Order 2008 \(S.I. 2008/633\)](#), arts. 1, 3
- C33** S. 26(2)(3)(4) applied (with modifications) (30.4.2008) by [The Bede Sixth Form College, Billingham \(Dissolution\) Order 2008 \(S.I. 2008/812\)](#), arts. 1, 3
- C34** S. 26(2)(3)(4) applied (with modifications) (1.8.2008) by [The East Devon College, Tiverton \(Dissolution\) Order 2008 \(S.I. 2008/1771\)](#), arts. 1, 3
- C35** S. 26(2)(3)(4) applied (with modifications) (1.8.2008) by [The Manchester College of Arts and Technology and City College, Manchester \(Dissolution\) Order 2008 \(S.I. 2008/1418\)](#), arts. 1, 3
- C36** S. 26(2)(3)(4) applied (with modifications) (1.1.2009) by [The Rodbaston College, Cannock Chase Technical College and Tamworth and Lichfield College \(Dissolution\) Order 2008 \(S.I. 2008/2992\)](#), arts. 1, 3
- C37** S. 26(2)(3)(4) applied (with modifications) (1.1.2009) by [The Eccles College and Salford College \(Dissolution\) Order 2008 \(S.I. 2008/2773\)](#), arts. 1, 3
- C38** S. 26(2)(3)(4) applied (with modifications) (31.3.2009) by [The Park Lane College, Leeds, Leeds Thomas Danby College, and Leeds Technology College \(Dissolution\) Order 2009 \(S.I. 2009/499\)](#), arts. 1, 3
- C39** S. 26(2)(3)(4) applied (with modifications) (1.8.2009) by [The Enfield College \(Dissolution\) Order 2009 \(S.I. 2009/1514\)](#), arts. 1, 3
- C40** S. 26(2)(3)(4) applied (with modifications) (1.8.2009) by [The Merton College, Morden \(Dissolution\) Order 2009 \(S.I. 2009/1515\)](#), arts. 1, 3
- C41** S. 26(2)(3)(4) applied (with modifications) (1.8.2009) by [The Matthew Boulton College of Further and Higher Education, Birmingham \(Dissolution\) Order 2009 \(S.I. 2009/1543\)](#), arts. 1, 3
- C42** S. 26(2)(3)(4) applied (with modifications) (1.9.2009) by [The Welsh College of Horticulture \(Dissolution\) Order 2009 \(S.I. 2009/1841\)](#), arts. 1, 3
- C43** S. 26(2)(3)(4) applied (with modifications) (1.1.2010) by [The Thurrock and Basildon College \(Dissolution\) Order 2009 \(S.I. 2009/3153\)](#), arts. 1, 3
- C44** S. 26(2)(3)(4) applied (with modifications) (1.1.2010) by [The Yorkshire Coast College of Further and Higher Education, Scarborough \(Dissolution\) Order 2009 \(S.I. 2009/3237\)](#), arts. 1, 3
- C45** S. 26(2)(3)(4) applied (with modifications) (1.1.2010) by [The Braintree College \(Dissolution\) Order 2009 \(S.I. 2009/3239\)](#), arts. 1, 3
- C46** S. 26(2)(3)(4) applied (with modifications) (15.2.2010) by [The South East Derbyshire College \(Dissolution\) Order 2010 \(S.I. 2010/109\)](#), arts. 1, 3
- C47** S. 26(2)(3)(4) applied (with modifications) (31.3.2010) by [The South Kent College, Folkestone \(Dissolution\) Order 2010 \(S.I. 2010/623\)](#), arts. 1, 3
- C48** S. 26(2)(3)(4) applied (with modifications) (1.4.2010) by [The Coleg Meirion-Dwyfor Further Education Corporation \(Dissolution\) Order 2010 \(S.I. 2010/562\)](#), arts. 1, 3
- C49** S. 26(2)(3)(4) applied (with modifications) (1.8.2010) by [The Coleg Llysfasi College Further Education Corporation \(Dissolution\) Order 2010 \(S.I. 2010/1761\)](#), arts. 1, 3
- C50** S. 26(2)(3)(4) applied (with modifications) (31.1.2011) by [The Royal Forest of Dean College \(Dissolution\) Order 2010 \(S.I. 2010/2992\)](#), arts. 1, 3
- C51** S. 26(2)(3)(4) applied (with modifications) (1.7.2011) by [The Castle College, Nottingham \(Dissolution\) Order 2011 \(S.I. 2011/1432\)](#), arts. 1, 3

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- C52** S. 26(2)(3)(4) modified (1.8.2011) by [The Joseph Priestley College, Leeds \(Dissolution\) Order 2011 \(S.I. 2011/1675\)](#), arts. 1, 3
- C53** S. 26(2)(3)(4) applied (with modifications) (1.8.2011) by [The Barry College Further Education Corporation and Coleg Glan Hafren Further Education Corporation \(Dissolution\) Order 2011 \(S.I. 2011/1504\)](#), arts. 1, 4
- C54** S. 26(2)(3)(4) applied (with modifications) (1.8.2011) by [The Orpington College of Further Education \(Dissolution\) Order 2011 \(S.I. 2011/1496\)](#), arts. 1, 3
- C55** S. 26(2)-(4) applied (with modifications) (1.4.2012) by [The Coleg Menai Further Education Corporation \(Dissolution\) Order 2012 \(S.I. 2012/631\)](#), arts. 1, 3
- C56** S. 26(7)(8) applied (with modifications) (31.7.2011) by [The St Marys College, Middlesbrough \(Dissolution\) Order 2011 \(S.I. 2011/1038\)](#), arts. 1, 3

Commencement Information

- I11** S. 26 partly in force; s. 26 in force for certain purposes at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 2](#), as amended by [S.I. 1992/2041](#), art. 2(a)

Dissolution of further education corporations

[^{F66}27 **Proposals for dissolution of further education corporations: England** **E+W**]

- (1) This section applies if a further education corporation in England propose that the corporation should be dissolved.
- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.]

Textual Amendments

- F66** Ss. 27-27C substituted for s. 27 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 7](#); [S.I. 2012/924](#), art. 2

Commencement Information

- I12** S. 27 wholly in force at 30.9.1992, see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 2](#)

[^{F66}27A **Dissolution of further education corporations: England** **E+W**]

- (1) This section and section 27B apply if, after complying with section 27, a further education corporation in England resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

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Textual Amendments

F66 Ss. 27-27C substituted for s. 27 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 7](#); [S.I. 2012/924, art. 2](#)

27B Dissolution of further education corporations: England: transfer of property, rights and liabilities E+W

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed.
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

Textual Amendments

F66 Ss. 27-27C substituted for s. 27 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 7](#); [S.I. 2012/924, art. 2](#)

27C Dissolution of further education corporations: Wales E+W

- (1) Subject to the following provisions of this section, the Welsh Ministers may by order provide for—
 - (a) the dissolution of a further education corporation in Wales, and
 - (b) the transfer to any person mentioned in subsection (2) or (3) of property, rights and liabilities of the corporation.
- (2) Such property, rights and liabilities may, with the consent of the person or body concerned, be transferred to—
 - (a) any person appearing to the Welsh Ministers to be wholly or mainly engaged in the provision of educational facilities or services of any description, or
 - (b) any body corporate established for purposes which include the provision of such facilities or services.
- (3) Such property, rights and liabilities may be transferred to a higher education funding council.
- (4) Where the recipient of a transfer under an order under this section is not a charity established for charitable purposes which are exclusively educational purposes, any property transferred must be transferred on trust to be used for charitable purposes which are exclusively charitable purposes.

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- (5) An order under this section may apply section 26 with such modifications as the Welsh Ministers consider necessary or desirable.
- (6) Before making an order under this section in respect of a further education corporation, the Welsh Ministers must consult—
 - (a) the corporation, and
 - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.]

Textual Amendments

F66 Ss. 27-27C substituted for s. 27 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 7](#); [S.I. 2012/924](#), art. 2

Designation of institutions for funding by the councils

28 Designation of institutions. E+W

- (1) The Secretary of State may by order designate [^{F67}for the purposes of this section] any educational institution principally concerned with the provision of one or both of the following—
 - (a) full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years, and
 - (b) courses of further or higher education,if the institution meets the requirements of subsection (2) below.
 - (2) The institution must be one of the following—
 - (a) a voluntary aided school [^{F68}(other than one belonging to a group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998)],
 - ^{F69}(b)
 - (c) an institution which is grant-aided or eligible to receive aid by way of grant [^{F70}or
 - (d) an institution established for the purpose of being principally concerned with the provision of one or both of the kinds of education specified in subsection (1) above.]
 - (3) For the purposes of subsection (2)(c) above an institution is grant-aided or eligible to receive aid by way of grant if it is maintained by persons other than [^{F15}local authorities] who—
 - (a) receive any grants under regulations made under [^{F71}section 485 of the Education Act 1996], or
 - (b) are eligible to receive such grants.
- [^{F72}(3A) The Secretary of State shall not make an order under this section in respect of a voluntary aided school without the consent of the governing body and the [^{F15}local authority].]

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- (4) In this Part of this Act “designated institution” means an institution in relation to which a designation under this section has effect.

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F67** Words in s. 28(1) substituted (1.4.2001) by [2000 c. 21, s. 143\(1\)\(a\)](#) (with s. 150); [S.I. 2001/1274, art. 2, Sch. Pt. I](#); [S.I. 2001/654, art. 2, Sch. Pt. I](#)
- F68** Words in s. 28(2)(a) inserted (1.9.1999) by [1998 c. 31, s. 140\(1\)](#), **Sch. 30 para. 38** (with ss. 138(9), 144(6)); [S.I. 1999/2323, art. 2\(1\), Sch. 1](#).
- F69** S. 28(2)(b) repealed (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21, ss. 143\(1\)\(b\), 153](#), **Sch. 11** (with s. 150); [S.I. 2000/2559, art. 2\(1\), Sch. Pt. I](#); [S.I. 2001/1274, art. 2, Sch. Pt. I](#)
- F70** S. 28(2)(d) and the word preceding it added (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21, s. 143\(1\)\(c\)](#) (with s. 150); [S.I. 2000/2559, art. 2\(1\), Sch. Pt. I](#); [S.I. 2001/1274, art. 2, Sch. Pt. I](#)
- F71** Words in s. 28(3)(a) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\)](#), **Sch. 37 Pt. I para. 109** (with ss. 1(4), 561, 562, Sch. 39)
- F72** S. 28(3A) inserted (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21, s. 112](#) (with s. 150); [S.I. 2000/2559, art. 2\(1\), Sch. Pt. I](#); [S.I. 2001/1274, art. 2, Sch. Pt. I](#)

Commencement Information

- I13** S. 28 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

[^{F73}29 Government and conduct of designated institutions **E+W**]

- (1) This section applies to a designated institution, other than—
- (a) an institution conducted by a company, or
 - (b) an institution conducted by an unincorporated association, if the order designating the institution provides for its exemption.
- (2) For each designated institution to which this section applies, there is to be—
- (a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government), and
 - (b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government).
- (3) In sections 29A to 29C—
- “instrument” means an instrument of government or articles of government;
- “regulatory instrument”, in relation to an institution, means—
- (a) an instrument of government or articles of government, or
 - (b) any other instrument relating to or regulating the institution.]

Textual Amendments

- F73** Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\)](#), **Sch. 12 para. 8**; [S.I. 2012/924, art. 2](#)

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Commencement Information

I14 S. 29 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

[^{F73}29A First post-designation instruments and articles of designated institutions: England and Wales **E+W**

- (1) The first post-designation instrument and articles of government of a designated institution to which section 29 applies must each comply with subsection (3) and (if the institution is in Wales) subsection (6).
- (2) The “first post-designation instrument and articles of government” of a designated institution are the first instrument of government and articles of government that the institution has after the designation takes effect.
- (3) The instrument must meet one of the following requirements—
 - (a) the instrument was in force when the designation took effect and is approved for the purposes of this section by the appropriate authority;
 - (b) the instrument—
 - (i) is made in pursuance of a power under a regulatory instrument or (where there is no such power) by the governing body of the institution, and
 - (ii) (in either case) is approved for the purposes of this section by the appropriate authority;
 - (c) the instrument is made by the appropriate authority by order.
- (4) An instrument made by the governing body under subsection (3)(b) or the appropriate authority under subsection (3)(c) may replace wholly or in part an existing regulatory instrument.
- (5) Before making an instrument under subsection (3)(c), the appropriate authority must, so far as it appears practicable to do so, consult—
 - (a) the governing body of the institution, and
 - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.
- (6) If the institution is in Wales, provision made by the instrument in relation to the appointment of members of the governing body must take into account the members who may be appointed by the Welsh Ministers under section 39 of the Learning and Skills Act 2000.
- (7) In this section “the appropriate authority”—
 - (a) in relation to an institution in England, means the Secretary of State;
 - (b) in relation to an institution in Wales, means the Welsh Ministers.

Textual Amendments

F73 Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 8; S.I. 2012/924, art. 2](#)

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[^{F73}29B Changes to instruments and articles: England E+W

- (1) This section applies to a designated institution in England which is an institution to which section 29 applies.
- (2) The governing body of the institution may modify or replace its instrument of government and articles of government.
- (3) The instrument of government and articles of government (as modified or replaced)—
 - (a) must comply with the requirements of Part 2 of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.]

Textual Amendments

F73 Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 8](#); [S.I. 2012/924, art. 2](#)

[^{F73}29C Changes to instruments and articles: Wales E+W

- (1) This section applies to a designated institution in Wales which is an institution to which section 29 applies.
- (2) Subject to subsection (3), the governing body of the institution may modify, replace or revoke its instrument of government and articles of government if —
 - (a) the instrument falls within section 29A(3)(a),
 - (b) the instrument was made by the governing body, or
 - (c) the instrument was made in pursuance of a power under a regulatory instrument, where there is no other power to modify it.
- (3) An instrument approved under section 29A(3)(a) or (b) by the Welsh Ministers may not be modified, replaced or revoked without the consent of the Welsh Ministers.
- (4) The Welsh Ministers may by order modify, replace or revoke the instrument of government or articles of government of the institution.
- (5) Before making an order under subsection (4), the Welsh Ministers must, so far as it appears practicable to do so, consult—
 - (a) the governing body of the institution, and
 - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.]

Textual Amendments

F73 Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 8](#); [S.I. 2012/924, art. 2](#)

[^{F74}30 Special provision for certain institutions. E+W

- (1) Notwithstanding anything in [^{F75}sections 29 to 29C] of this Act, the instrument of government of a designated institution to which this section applies must provide—

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- (a) for the governing body of the institution to include persons appointed for the purpose of securing so far as practicable that the established character of the institution at the time of its designation is preserved and developed and, in particular, that the institution is conducted in accordance with any trust deed relating to it, and
 - (b) for the majority of members of the governing body to be such governors.
- (2) This section applies to—
- (a) an institution which, when designated, was a voluntary aided school, and
 - (b) an institution specified, or falling within a class specified, by the Secretary of State by order.
- (3) The Secretary of State may specify an institution or a class of institutions only if the institution or each member of the class is principally concerned with the provision of the education specified in section 28(1)(a) above.
- (4) The reference in subsection (1)(a) above to the established character of an institution is, in relation to an institution established shortly before or at the same time as being designated, a reference to the character which the institution is intended to have on its establishment.]

Textual Amendments

- F73** Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 8](#); [S.I. 2012/924, art. 2](#)
- F74** S. 30 substituted (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21, s. 143\(2\)](#) (with s. 150); [S.I. 2000/2559, art. 2\(1\)](#), [Sch. Pt. I](#); [S.I. 2001/1274, art. 2](#), [Sch. Pt. I](#)
- F75** Words in s. 30(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 9](#); [S.I. 2012/924, art. 2](#)

31 Designated institutions conducted by companies. **E+W**

- (1) This section has effect in relation to any designated institution conducted by a company.
- (2) The articles of association of the company shall incorporate—
- (a) provision with respect to the constitution of a governing body of the institution (to be known as the instrument of government of the institution), and
 - (b) provision with respect to the conduct of the institution (to be known as the articles of government of the institution).
- [^{F76}(2A) Provision made by the articles of association of the company in relation to the appointment of members of the governing body shall take into account the members who may be appointed by—
- ^{F77}(a)
 - (b) the [^{F78}National Assembly for Wales] under section 39 of [^{F79}the Learning and Skills Act 2000].]
- (3) The Secretary of State may give to the persons who appear to him to have effective control over the company such directions as he thinks fit for securing that—
- (a) the [^{F80}articles of association] of the company, or

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- (b) any rules or bye-laws made in pursuance of any power conferred by the articles of association of the company, are amended in such manner as he may specify in the direction.
- (4) No amendment of the [^{F81}articles of association] of the company (other than one required under subsection (3)(a) above) shall take effect until it has been submitted to the Secretary of State for his approval and he has notified his approval to the company.
- (5) Before giving any directions under subsection (3) above the Secretary of State shall consult the persons who appear to him to have effective control over the company.

Textual Amendments

- F73** Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 8**; [S.I. 2012/924](#), art. 2
- F76** S. 31(2A) inserted (1.4.2001) by [2000 c. 21](#), s. 149, **Sch. 9 para. 25**; [S.I. 2001/654](#), art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); [S.I. 2001/1274](#), art. 2, **Sch. Pt. I**
- F77** S. 31(2A)(a) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 10**; [S.I. 2012/924](#), art. 2
- F78** Words in s. 31(2A)(b) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 18** (with art. 7)
- F79** Words in s. 31(2A)(b) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 6 para. 5(b)**; [S.I. 2010/303](#), art. 3, Sch. 2
- F80** Words in s. 31(3)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 131** (with art. 10)
- F81** Words in s. 31(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 131** (with art. 10)

Commencement Information

- I15** S. 31 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 1**

32 **Transfer of property, etc., to designated institutions.** E+W

- (1) This section has effect in relation to an institution designated under section 28 of this Act in any case where—
- (a) the order designating the institution under that section so provides, and
 - (b) when designated the institution was a voluntary aided school or an institution (other than a school) assisted by a [^{F15}local authority].
- (2) Subject to subsection (4) below and section 36 of this Act, on the designation date—
- (a) all land or other property which, immediately before that date, was property of a former assisting authority used or held for the purposes of the institution, and
 - (b) all rights and liabilities of that authority subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the appropriate transferees.

^{F82}(2A)

- (3) In this section and section 33 of this Act—

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- “appropriate transferees” means—
- (a) in relation to an institution conducted by a company, the company, and
 - (b) in relation to an institution not so conducted, any persons specified in the order designating the institution as persons appearing to the Secretary of State to be trustees holding property for the purposes of that institution,
- “designation date”, in relation to a designated institution, means the date on which the designation takes effect, and
- “former assisting authority” means—
- (a) in relation to an institution which when designated was a voluntary aided school, the [^{F15}local authority] which maintained the school, and
 - (b) in relation to an institution which when designated was an institution (other than a school) assisted by a [^{F15}local authority], that authority.
- (4) Subsection (2) above shall not apply to—
- (a) any liability of a former assisting authority in respect of the principal of, or interest on, any loan, or
 - (b) any property, rights or liabilities excluded under subsections (5) or (6) below.
- (5) If before the designation date—
- (a) the appropriate transferees and the former assisting authority have agreed in writing to exclude any land, and
 - (b) the Secretary of State has given his written approval of the agreement,
- the land, and any rights or liabilities relating to it, shall be excluded.
- (6) If in default of agreement under subsection (5) above—
- (a) the appropriate transferees or the former assisting authority have applied to the Secretary of State to exclude any land, and
 - (b) the Secretary of State has by order directed its exclusion,
- the land, and any rights or liabilities relating to it, shall be excluded.
- (7) An agreement under subsection (5) above may provide for the land to be used for the purposes of the institution on such terms as may be specified in or determined in accordance with the agreement; and directions under subsection (6) above—
- (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
 - (b) shall have effect as if contained in such an agreement.
- (8) References in subsections (5) and (6) above to anything done, other than the making of an order, include anything done before the passing of this Act.

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F73** Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 8**; [S.I. 2012/924](#), art. 2
- F82** S. 32(2A) repealed (1.4.2001) by [2000 c. 21](#), ss. 143(3), 153, **Sch. 11**; [S.I. 2001/654](#), art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); [S.I. 2001/1274](#), art. 2, **Sch. Pt. I**

Commencement Information

- I16** S. 32 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 1**

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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33 Provisions supplementary to section 32. **E+W**

- (1) Subject to section 36(2) of this Act, where persons appearing to the Secretary of State to be trustees holding property for the purposes of the institution are the appropriate transferee, any land or other property or rights transferred to them under section 32 of this Act shall be held on the trusts applicable under such trust deed relating to or regulating that institution (if any) as may be specified in the order designating the institution or, if no such trust deed is so specified, on trust for the general purposes of the institution.
- (2) Where persons so appearing to the Secretary of State are the appropriate transferee, they shall incur no personal liability by virtue of any liability so transferred but may apply any property held by them on trust for the purposes of the institution in meeting any such liability.
- (3) Where at any time land is used for the purposes of an institution, any interest of a local authority in the land subsisting at that time shall be taken for the purposes of that section to be land held for the purposes of that institution (whether or not it is by virtue of that interest that the land is so used).
- (4) References in this Part of this Act to the operative date, in relation to a designated institution, are to the designation date.]

Textual Amendments

F73 Ss. 29-29C substituted for s. 29 (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 8](#); [S.I. 2012/924](#), art. 2

Commencement Information

I17 S. 33 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

^{F83}Sixth form college corporations: England

Textual Amendments

F83 Ss. 33A-33N and cross-heading inserted (12.1.2010 for the insertion of ss. 33A-33J, 33M, 33N, 1.4.2010 in so far as not already in force) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 3](#); [S.I. 2009/3317](#), art. 2, [Sch.](#); [S.I. 2010/303](#), art. 3, [Sch. 2](#) (with arts. 9-11)

33A Initial designation of existing bodies corporate as sixth form college corporations **E+W+S**

- (1) The Secretary of State may by order designate a body corporate within subsection (2) as a sixth form college corporation, for the purpose of conducting an educational institution specified in the order.
- (2) A body corporate is within this subsection if it is—
 - (a) a further education corporation established in respect of an institution in England, or
 - (b) a body corporate established by an order under section 143(4) of the Learning and Skills Act 2000 in respect of an institution in England.

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- (3) On the date specified in the order—
 - (a) a body corporate within subsection (2)(a) ceases to be a further education corporation and becomes a sixth form college corporation;
 - (b) a body corporate within subsection (2)(b) ceases to be subject to the order under section 143(4) of the Learning and Skills Act 2000 establishing it and becomes a sixth form college corporation;
 - (c) in the case of a body corporate within subsection (2)(b), a designation under section 28 which has effect in relation to the relevant sixth form college ceases to have effect.
- (4) An order under subsection (1) may—
 - (a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;
 - (b) make provision as to the initial name of the corporation as a sixth form college corporation.
- (5) The power conferred by subsection (1)—
 - (a) is exercisable only once;
 - (b) is not exercisable after the date specified in an order made by the Secretary of State.

33B Subsequent designation of existing bodies corporate as sixth form college corporations **E+W+S**

- (1) The Secretary of State may by order designate a body corporate within subsection (2) as a sixth form college corporation, for the purpose of conducting an educational institution specified in the order.
- (2) A body corporate is within this subsection if it is—
 - (a) a further education corporation established in respect of an institution in England, or
 - (b) a body corporate established by an order under section 143(4) of the Learning and Skills Act 2000 in respect of an institution in England.
- (3) An order under subsection (1) may be made only if—
 - (a) an application for the order has been made by the governing body of the institution mentioned in subsection (2)(a) or (b), and
 - (b) the institution is one within subsection (4).
- (4) An institution is within this subsection if it appears to the Secretary of State that on the date on which the application is made at least 80% of its total enrolment number will be persons over compulsory school age but under 19.
- (5) The total enrolment number of an institution is to be calculated in accordance with paragraph 1(2) of Schedule 3.
- (6) On the date specified in the order—
 - (a) a body corporate within subsection (2)(a) ceases to be a further education corporation and becomes a sixth form college corporation;

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- (b) a body corporate within subsection (2)(b) ceases to be subject to the order under section 143(4) of the Learning and Skills Act 2000 establishing it and becomes a sixth form college corporation;
 - (c) in the case of a body corporate within subsection (2)(b), a designation under section 28 which has effect in relation to the relevant sixth form college ceases to have effect.
- (7) An order under subsection (1) may—
- (a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;
 - (b) make provision as to the initial name of the corporation as a sixth form college corporation.
- (8) The power conferred by subsection (1) is exercisable only after the date specified in an order under section 33A(5)(b).

33C **Establishment of new bodies corporate as sixth form college corporations** E+W +S

- (1) The Secretary of State may by order make provision for the establishment of a body corporate as a sixth form college corporation, for the purpose of establishing and conducting an educational institution specified in the order.
- (2) An order under subsection (1) may be made only if—
- (a) a proposal relating to the order has been made by [^{F84}a person or body (“the proposer] and it appears to the Secretary of State that the requirements in subsection (3) have been met in relation to the proposal, and
 - (b) it appears to the Secretary of State that the institution will when established be one within subsection (4).
- (3) The requirements are that—
- (a) the [^{F85}proposer has] published the proposal by the prescribed time and in the prescribed manner;
 - (b) the proposal as published contained prescribed information;
 - (c) the [^{F86}proposer has] considered any representations about the proposal made to [^{F87}the proposer] within the prescribed period.
- (4) An institution is within this subsection if—
- (a) the institution is in England, and
 - (b) on the date on which it is proposed to be established, at least 80% of its total enrolment number will be persons over compulsory school age but under 19.
- (5) The total enrolment number of an institution is to be calculated in accordance with paragraph 1(2) of Schedule 3.
- (6) An order under subsection (1)—
- (a) must provide for the institution to be established and conducted by the body corporate as from the date specified in the order;
 - (b) may make provision as to the initial name of the corporation as a sixth form college corporation.

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Textual Amendments

- F84** Words in s. 33C(2) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 11\(2\)](#); [S.I. 2012/924, art. 2](#)
- F85** Words in s. 33C(3)(a) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 11\(3\)](#); [S.I. 2012/924, art. 2](#)
- F86** Words in s. 33C(3)(c) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 11\(4\)\(a\)](#); [S.I. 2012/924, art. 2](#)
- F87** Words in s. 33C(3)(c) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 11\(4\)\(b\)](#); [S.I. 2012/924, art. 2](#)

33D Conversion of sixth form college corporations into further education corporations **E+W+S**

- (1) The Secretary of State may by order convert a sixth form college corporation into a further education corporation.
- (2) An order under subsection (1) may be made only if—
 - (a) an application for the order has been made by the governing body of the relevant sixth form college, or
 - (b) the Secretary of State is satisfied that it is no longer appropriate for the body to be a sixth form college corporation.
- (3) An application under subsection (2)(a) may not be made during the period of two years beginning with the date on which the body's designation or establishment as a sixth form college corporation takes effect.
- (4) The Secretary of State must consult the governing body of the relevant sixth form college before making an order under subsection (1) in a case within subsection (2)(b).
- (5) On the date specified in the order, the body ceases to be a sixth form college corporation and becomes a further education corporation.
- (6) An order under subsection (1) may—
 - (a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;
 - (b) make provision as to the initial name of the corporation as a further education corporation.

33E Principal powers of a sixth form college corporation **E+W+S**

- (1) A sixth form college corporation may do any of the following—
 - (a) provide further and higher education,
 - (b) provide secondary education suitable to the requirements of persons who have attained the age of 14,
 - (c) provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996,
 - (d) participate in the provision of secondary education at a school,
 - (e) supply goods or services in connection with their provision of education.

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- (2) The powers conferred by subsection (1) [^{F88}and (in the case of a sixth form college corporation to which section 33J applies) section 33J(1A)] are referred to in section 33F as the corporation's principal powers.
- (3) A sixth form college corporation may not provide education of a kind specified in subsection (1)(b), (c) or (d) unless they have consulted such [^{F15}local authorities] as they consider appropriate.
- (4) For the purposes of subsection (1), goods are supplied in connection with the provision of education by a sixth form college corporation if they result from—
 - (a) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) ideas of a person employed by them, or one of their students, arising out of their provision of education.
- (5) For the purposes of subsection (1), services are supplied in connection with the provision of education by a sixth form college corporation if—
 - (a) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F88** Words in s. 33E(2) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 12**; S.I. 2012/924, art. 2

33F **Supplementary powers of a sixth form college corporation** **E+W+S**

- (1) A sixth form college corporation may do anything (including in particular the things referred to in subsections (2) to (6)) which appears to the corporation to be necessary or expedient for the purpose of or in connection with the exercise of any of their principal powers.
- (2) A sixth form college corporation may conduct an educational establishment for the purpose of carrying on activities undertaken in the exercise of their powers to provide further or higher education.
- (3) In particular, a sixth form college corporation may conduct the relevant sixth form college as from the date specified in the order designating or establishing the corporation as a sixth form college corporation.
- (4) A sixth form college corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers.

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- (5) The facilities include—
 - (a) boarding accommodation and recreational facilities for students and staff, and
 - (b) facilities to meet the needs of students with learning difficulties.
- (6) A sixth form college corporation may—
 - (a) acquire and dispose of land and other property,
 - (b) enter into contracts, including in particular—
 - (i) contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers, and
 - (ii) contracts with respect to the carrying on by the corporation of any such activities,
 - (c) form, participate in forming or invest in a company,
 - (d) form, participate in forming or otherwise become a member of a charitable incorporated organisation [^{F89}(within the meaning of Part 11 of the Charities Act 2011)],
 - (e) borrow such sums as the corporation think fit for the purposes of—
 - (i) carrying on any activities they have power to carry on, or
 - (ii) meeting any liability transferred to them under sections 23 to [^{F90}27C or 33P] ,
 - (f) in connection with their borrowing, grant any mortgage, charge or other security in respect of any land or other property of the corporation,
 - (g) invest any sums not immediately required for the purpose of carrying on any activities they have power to carry on,
 - (h) accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes,
 - (i) do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

^{F91}(7)

- (8) For the purposes of this section a person has a learning difficulty if—
 - (a) the person has a significantly greater difficulty in learning than the majority of persons of the same age, or
 - (b) the person has a disability which either prevents or hinders the person from making use of facilities of a kind generally provided by institutions within the further education sector for persons of the same age.
- (9) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person's home.
- (10) A reference in this section ^{F92}... to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.
- (11) A sixth form college corporation may provide advice or assistance to any other person where it appears to the corporation to be appropriate for them to do so for the purpose of or in connection with the provision of education by the other person.

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Textual Amendments

- F89** Words in s. 33F(6)(d) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 60** (with s. 20(2), **Sch. 8**)
- F90** Words in s. 33F(6)(e)(ii) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 13(a)**; [S.I. 2012/924](#), art. 2
- F91** S. 33F(7) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 13(b)**; [S.I. 2012/924](#), art. 2
- F92** Words in s. 33F(10) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 13(c)**; [S.I. 2012/924](#), art. 2

^{F93}**33G Further provision about supplementary powers** **E+W+S**

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Textual Amendments

- F93** S. 33G repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 14**; [S.I. 2012/924](#), art. 2

^{F94}**33H Duty in relation to promotion of well-being of local area** **E+W+S**

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Textual Amendments

- F94** S. 33H repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 15**; [S.I. 2012/924](#), art. 2

33I Constitution of sixth form college corporation and conduct of sixth form college **E+W+S**

- (1) For every sixth form college corporation there is to be—
 - (a) an instrument providing for the constitution of the corporation (to be known as the instrument of government), and
 - (b) an instrument in accordance with which the corporation, and the relevant sixth form college, are to be conducted (to be known as articles of government).
- (2) Instruments of government and articles of government—
 - (a) must comply with the requirements of [^{F95}Part 2 of] Schedule 4, and
 - [^{F96}(b) subject to that, may make such other provision as may be necessary or desirable.]
- (3) Subsection (2) is subject to section 33J.
- (4) The validity of any proceedings of a sixth form college corporation, or of any committee of the corporation, is not affected by—
 - (a) a vacancy among the members, or
 - (b) a defect in the appointment or nomination of a member.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (5) Subsection (6) applies to a document purporting to be an instrument made or issued by or on behalf of a sixth form college corporation and to be—
- (a) duly executed under the seal of the corporation, or
 - (b) signed or executed by a person authorised by the corporation to act in that behalf.
- (6) The document is to be received in evidence and treated, without further proof, as being made or issued by or on behalf of the corporation unless the contrary is shown.

Textual Amendments

- F95** Words in s. 33I(2)(a) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 16\(a\)](#); [S.I. 2012/924](#), art. 2
- F96** S. 33I(2)(b) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 16\(b\)](#); [S.I. 2012/924](#), art. 2

33J Special provision for certain institutions **E+W+S**

- (1) Despite anything in section 33I, the instrument of government of a sixth form college corporation to which this section applies must provide—
- (a) for the governing body of the relevant sixth form college to include persons appointed for the purpose of securing so far as practicable that the established character of the sixth form college is preserved and developed and, in particular, that the sixth form college is conducted in accordance with any trust deed relating to it, and
 - (b) for the majority of members of the governing body of the relevant sixth form college to be such governors.

[A sixth form college corporation to which this section applies may (accordingly) ^{F97}(1A) conduct the relevant sixth form college in a way that secures that the established character of the sixth form college is preserved and developed (and, in particular, in a way that is in accordance with any trust deed relating to the college).]

- (2) This section applies to a sixth form college corporation in respect of which the relevant sixth form college is specified, or falls within a class specified, by the Secretary of State by order.
- (3) The [^{F98}references in subsections (1)(a) and (1A) to the established character of a sixth form college are] , in relation to a sixth form college established shortly before or at the same time as the designation or establishment of the sixth form college corporation in respect of which it is the relevant sixth form college, [^{F99}references] to the character which the sixth form college is intended to have on its establishment.

Textual Amendments

- F97** S. 33J(1A) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 17\(2\)](#); [S.I. 2012/924](#), art. 2
- F98** Words in s. 33J(3) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 17\(3\)\(a\)](#); [S.I. 2012/924](#), art. 2
- F99** Word in s. 33J(3) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 17\(3\)\(b\)](#); [S.I. 2012/924](#), art. 2

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33K Instrument and articles of new sixth form college corporations E+W+S

(1) The first instrument of government and articles of government of a sixth form college corporation established under section 33C are to be made by the [^{F100}Secretary of State by order] .

[^{F101}(2) An order under subsection (1) may not be made unless—

- (a) the Secretary of State has consulted the corporation, and
- (b) in the case of a sixth form college corporation to which section 33J applies, the trustees of the relevant sixth form college have given their consent.]

Textual Amendments

F100 Words in s. 33K(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 18\(a\); S.I. 2012/924, art. 2](#)

F101 S. 33K(2) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 18\(b\); S.I. 2012/924, art. 2](#)

[^{F102}33L Changes to instruments and articles E+W+S

(1) A sixth form college corporation may modify or replace their instrument of government or articles of government.

(2) A sixth form college corporation to which section 33J applies may do the things mentioned in subsection (1) only with the consent of the trustees of the relevant sixth form college.]

Textual Amendments

F102 S. 33L substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 19; S.I. 2012/924, art. 2](#)

33M Charitable status of a sixth form college corporation E+W+S

A sixth form college corporation is a charity ^{F103}... [^{F104}(and, as a result of its inclusion in Schedule 3 to the Charities Act 2011, is an exempt charity for the purposes of that Act)].

Textual Amendments

F103 Words in s. 33M omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of [The Charities \(Pre-consolidation Amendments\) Order 2011 \(S.I. 2011/1396\), art. 1, Sch. paras. 37\(1\)\(2\)\(f\)](#)

F104 Words in s. 33M substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 61 \(with s. 20\(2\), Sch. 8\)](#)

[^{F105}33N Proposals for dissolution of sixth form college corporations E+W+S

(1) This section applies if a sixth form college corporation propose that the corporation should be dissolved.

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- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.]]

Textual Amendments

F105 Ss. 33N-33P substituted for s. 33N (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 20](#); [S.I. 2012/924](#), art. 2 (with art. 6)

[^{F105}33O Dissolution of sixth form college corporations **E+W+S**

- (1) This section and section 33P apply if, after complying with section 33N, a sixth form college corporation resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

Textual Amendments

F105 Ss. 33N-33P substituted for s. 33N (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 20](#); [S.I. 2012/924](#), art. 2 (with art. 6)

33P **Dissolution of sixth form college corporations: transfer of property, rights and liabilities** **E+W+S**

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed, subject to subsection (4).
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) In the case of a sixth form college corporation to which section 33J applies, any property held by the corporation on trust for the purposes of the relevant sixth form college must be transferred to the trustees of the relevant sixth form college.
- (5) Subsection (6) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (6) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (7) Subsection (6) does not apply to property transferred to the person or body by virtue of subsection (4).]

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Textual Amendments

F105 Ss. 33N-33P substituted for s. 33N (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 20](#); S.I. 2012/924, art. 2 (with art. 6)

Property, rights and liabilities: general

34 Making additional property available for use. E+W

- (1) The Secretary of State may by order provide for any land or other property of a local authority to be made available for use by an institution within the further education sector [^{F106}other than a sixth form college] (referred to in this section as the “new sector institution”) if the requirements of subsection (2) below are satisfied.
- (2) Those requirements are that in the opinion of the Secretary of State—
 - (a) the property—
 - (i) either has within the preceding six months been used for the purpose of the provision of further education by an institution maintained by a [^{F15}local authority] but its use for that purpose has been discontinued or the [^{F15}local authority] intend its use for that purpose to be discontinued, or
 - (ii) is being used for that purpose but the [^{F15}local authority] intend its use for that purpose to be discontinued, and
 - (b) it is necessary or desirable for the property to be available for use for the purposes of the new sector institution but the governing body of that institution have been unable to secure agreement with the local authority, on such terms as may reasonably be required, to secure that the property is so available.
- (3) The Secretary of State shall not make an order under this section unless—
 - (a) the governing body of the new sector institution have applied to him, before the end of the period of three years beginning with the date which is the operative date in relation to further education corporations established under section 15 of this Act, for such an order to be made, and
 - (b) he has consulted the [^{F107}appropriate body], the local authority and the Education Assets Board.
- (4) For the purpose of making any property available for use for the purposes of an institution, an order under this section may—
 - (a) transfer to, and vest in, the governing body—
 - (i) the property concerned, and
 - (ii) any rights or liabilities of the local authority acquired or incurred for the purpose of the provision of further education there, or
 - (b) confer any rights or impose any liabilities and, to the extent (if any) that the order does so, it shall have effect as if contained in an agreement between the local authority and the governing body.
- (5) Subsection (4)(a)(ii) above shall not apply to any liability of the local authority in respect of the principal of, or interest on, any loan.
- (6) References in this section to use for the purpose of the provision of further education are to use wholly or mainly for that purpose.

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[^{F108}(7) Nothing in this section requires the National Assembly to consult itself.]

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F106** Words in s. 34(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 4**; S.I. 2010/303, art. 3, Sch. 2
- F107** Words in s. 34(3)(b) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 19(a)** (with art. 7)
- F108** S. 34(7) inserted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 19(b)** (with art. 7)

Modifications etc. (not altering text)

- C57** S. 34 modified (1.1.2001) by [S.I. 2000/3209](#), **reg. 9** (with savings in [regs. 13, 14](#))
- C58** S. 34(4) modified (1.4.1993) by [S.I. 1993/563](#), art. 2, **Sch.1**

Commencement Information

- I18** S. 34 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 3**

35 Voluntary transfers of staff in connection with section 34. **E+W+S**

- (1) This section applies where—
- for the purpose of making any property of a local authority available for use for the purposes of an institution within the further education sector, an order is made under section 34 of this Act,
 - at any time on or after such date as may be specified by the order a person employed by the local authority ceases to be so employed and is subsequently employed by the governing body of the institution, and
 - by virtue of [^{F109}section 138 of the Employment Rights Act 1996] (renewal or re-engagement) that subsequent employment precludes his receiving any redundancy payment under [^{F109}Part XI] of that Act.
- (2) [^{F110}Chapter I of Part XIV of] that Act (computation of period of employment for the purposes of that Act) shall have effect in relation to that person as if it included the following provisions—
- the period of employment of that person with the local authority shall count as a period of employment with the governing body, and
 - the change of employer shall not break the continuity of the period of employment.
- (3) The period of that person's employment with the local authority shall count as a period of employment with the governing body for the purposes of any provision of his contract of employment with the governing body which depends on his length of service with that employer.

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Textual Amendments

F109 Words in s. 35(1)(c) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(2)(a)(i)(ii)** (with ss. 191-195, 202)

F110 Words in s. 35(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(2)(b)** (with ss. 191-195, 202)

Modifications etc. (not altering text)

C59 S. 35 modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 1**

Commencement Information

I19 S. 35 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

36 General provisions about transfers under Chapter II. **E+W**

- (1) This section applies to any transfer under section 23 or 32 of this Act, and those sections are subject to Schedule 5 to this Act.
- (2) Where any land or other property or rights—
 - (a) were immediately before the operative date in relation to any institution held on trust for any particular purposes, or (as the case may be) for the general purposes, of the institution, and
 - (b) fall to be transferred under any transfer to which this section applies, they shall continue to be so held by the transferee.
- (3) Schedule 5 to this Act has effect for the purpose of—
 - (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one educational institution,
 - (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer,
 - (c) providing for identifying and defining the property, rights and liabilities which fall to be so transferred, and
 - (d) making supplementary and consequential provisions in relation to transfers to which this section applies.
- (4) Where arrangements for the supply by a local authority of goods or services for the purposes of an institution to be conducted by a further education corporation are to have effect as from the operative date in accordance with section 24(4) of this Act as if contained in an agreement made before that date between the local authority and the corporation, paragraphs 2 to 5 of Schedule 5 to this Act shall have effect as if the rights and liabilities of the corporation under the agreement were rights and liabilities of the local authority transferred to the corporation under a transfer to which this section applies.
- (5) In carrying out the functions conferred or imposed on them by that Schedule, it shall be the duty of the Education Assets Board to secure that each transfer to which this section applies is, so far as practicable, fully effective on the date on which it takes effect under this Act.

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- (6) Where in accordance with that Schedule anything falls to be or may be done by the Board for the purposes of or in connection with any such transfer—
- (a) it may not be done by the transferee, and
 - (b) in doing it the Board shall be regarded as acting on behalf and in the name of the transferee,
- and in a case where the transferee is a body corporate established under this Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act.
- (7) Not later than the end of the period of six months beginning with the operative date in relation to a further education corporation established under section 15 of this Act, the Board shall provide the appropriate council with a written statement giving such particulars of all property, rights and liabilities transferred to that corporation as are then available to the Board.
- (8) If in any case within subsection (7) above full particulars of all property, rights and liabilities transferred to the corporation concerned are not given in the statement required under that subsection, the Board shall provide the appropriate council with a further written statement giving any such particulars omitted from the earlier statement as soon as it is possible for them to do so.
- [^{F111}(9) In subsection (4) “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

F111 S. 36(9) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 5(5)**

Modifications etc. (not altering text)

C60 S. 36 modified (1.1.2001) by [S.I. 2000/3209](#), **reg. 9** (with savings in regs. 13, 14)

Commencement Information

I20 S. 36 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 2**

^{F112}**37 Attribution of surpluses and deficits.** **E+W**

Textual Amendments

F112 S. 37 repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), Sch. 1 para. 92, **Sch. 2 Pt. 2** (with art. 2(3))

38 Payments ^{F113}**... in respect of loan liabilities.** **E+W**

- (1) This section applies to any excepted loan liability, that is, any liability of a local authority which—

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- (a) in the case of a transfer by virtue of section 23 of this Act, would have been transferred but for subsection (3)(a) of that section,
 - (b) in the case of a transfer by virtue of section 32 of this Act, would have been transferred but for subsection (4)(a) of that section, or
 - (c) in the case of a transfer by virtue of section 34(4)(a) of this Act, could have been transferred but for subsection (5) of that section.
- (2) [^{F114}The [^{F115}[^{F116}Secretary of State] or the Chief Executive of Skills Funding]] may make payments, on such terms and conditions as the [^{F117}[^{F116}Secretary of State] or the Chief Executive] may determine, to a local authority in respect of the principal of, and any interest on, any excepted loan liability of that authority.
- (3) No payment shall be made under this section in respect of any excepted loan liability, where the class or classes of excepted loan liabilities in respect of which payments may be made are for the time being prescribed by an order of the Secretary of State, unless the liability falls within a prescribed class.
- (4) The Secretary of State may by order provide for determining—
- (a) the amounts that may be paid under this section in respect of the principal of, and any interest on, any excepted loan liability,
 - (b) the instalments by which any amounts may be paid, and
 - (c) the rate at which interest may be paid on any outstanding amounts,
- and, in the case of any payment to which such an order applies, no amount may be paid under this section in excess of any amount determined in accordance with the order.
- [^{F118}(5) In this section “local authority” includes a non-metropolitan district council for an area for which there is a country council.]

Textual Amendments

- F113** Words in s. 38 heading repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), [Sch. 1 para. 20\(b\)](#), [Sch. 2 Pt. 1](#) (with art. 2(3))
- F114** Words in s. 38(2) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), [Sch. 1 para. 20](#) (with art. 7)
- F115** Words in s. 38(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 20\(a\)\(i\)](#) (with art. 2(3))
- F116** Words in s. 38(2) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 21](#); [S.I. 2012/924](#), art. 2
- F117** Words in s. 38(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 20\(a\)\(ii\)](#) (with art. 2(3))
- F118** S. 38(5) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 5\(6\)](#)

Commencement Information

- I21** S. 38 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 3](#)

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39 Control of disposals of land. E+W

F119

Textual Amendments

F119 S. 39 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215, Sch. 21 para. 16, [Sch. 22 Pt. 3](#); S.I. 2002/2439, [art. 3](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

40 Wrongful disposals of land. E+W

F120

Textual Amendments

F120 S. 40 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215, Sch. 21 para. 16, [Sch. 22 Pt. 3](#); S.I. 2002/2439, [art. 3](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

41 Control of contracts. E+W

F121

Textual Amendments

F121 S. 41 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215, Sch. 21 para. 16, [Sch. 22 Pt. 3](#); S.I. 2002/2439, [art. 3](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

42 Wrongful contracts. E+W

F122

Textual Amendments

F122 S.42 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215, Sch. 21 para. 16, [Sch. 22 Pt. 3](#); S.I. 2002/2439, [art. 3](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

^{F123}**43 Remuneration of employees. E+W**

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Textual Amendments

F123 S. 43 repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), [art. 1\(2\)\(a\)\(b\)](#), Sch. 1 para. 92, [Sch. 2 Pt. 2](#) (with [art. 2\(3\)](#))

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Miscellaneous

44 **Collective worship.** E+W

[^{F124}(1) This section applies to any institution within the further education sector which is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

- (2) An institution is of voluntary origin for the purposes of this section if—
- (a) immediately before it joined the further education sector it was a voluntary school (within the meaning of the Education Act 1996),
 - (b) immediately before it joined the further education sector it was a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) having a foundation established otherwise than under that Act,
 - (c) it is designated for the purposes of this paragraph by order of the Secretary of State, or
 - (d) it is formed by or for the purpose of merging two institutions both of which were within paragraphs (a) to (c).

(2A) The governing body of an institution to which this section applies shall ensure that at an appropriate time on at least one day in each week during which the institution is open an act of collective worship is held at the institution which persons receiving education at the institution may attend.]

- (3) In an institution of voluntary origin such act of collective worship shall —
- (a) be in such forms as to comply with the provisions of any trust deed affecting the institution, and
 - (b) reflect the religious traditions and practices of the institution before it [^{F125}joined the further education sector].

(4) In all [^{F126}other institutions to which this section applies] such act of collective worship shall be wholly or mainly of a broadly Christian character in that it shall reflect the broad traditions of Christian belief but need not be distinctive of any particular Christian denomination.

(5) If the governing body of [^{F127}an institution to which this section applies] considers it appropriate to do so it may in addition to the act of collective worship referred to in subsection (3) or (4) provide for acts of worship which reflect the practices of some or all of the other religious traditions represented in Great Britain.

^{F128}(6)

[^{F129}(7) In the application of this section to an institution which is of voluntary origin by virtue of subsection (2)(d), subsection (3)(b) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in subsection (2)(d).]

Textual Amendments

F124 S. 44(1)-(2A) substituted for s. 44(1)(2) (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(2)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

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- F125** Words in s. 44(3)(b) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(3)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F126** Words in s. 44(4) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(4)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 23, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F127** Words in s. 44(5) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(5)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F128** S. 44(6) repealed (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, ss. 149, 153, **Sch. 9 para. 27(6)**, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F129** S. 44(7) inserted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(7)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

Commencement Information

- I22** S. 44 partly in force: s. 44 in force for certain purposes at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

45 Religious education. **E+W**

- [^{F130}(1) This section applies to any institution to which section 44 of this Act applies.
- (2) An institution is of voluntary origin for the purposes of this section if it is of voluntary origin for the purposes of section 44 of this Act.
- (2A) The governing body of an institution to which this section applies shall ensure that religious education is provided at the institution for all persons attending the institution who wish to receive it.]
- (3) The governing body of [^{F131}an institution to which this section applies] shall be deemed to be fulfilling its duty under this section if religious education is provided at a time or times at which it is convenient for the majority of full time students to attend.
- (4) For the purposes of this section religious education may take the form of a course of lectures or classes or of single lectures or classes provided on a regular basis and may include a course of study leading to an examination or the award of a qualification.
- (5) The form and content of religious education provided pursuant to this section shall be determined from time to time by the governing body of [^{F132}institution to which this section applies] and—
- (a) in the case of an institution of voluntary origin—
- (i) shall be in accordance with the provisions of any trust deed affecting the institution, and
- (ii) shall not be contrary to the religious traditions of the institution before it [^{F133}joined the further education sector];
- (b) in the case of all [^{F134}other institutions to which this section applies] shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.

^{F135}(6)

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[^{F136}(7) In the application of this section to an institution which is an institution of voluntary origin by virtue of section 44(2)(d), subsection (5)(a)(ii) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in section 44(2)(d).]

Textual Amendments

- F130** S. 45(2)-(2A) substituted for s. 44(1)(2) (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(2)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F131** Words in s. 45(3) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(3)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F132** Words in s. 45(5) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(a)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F133** Words in s. 45(5)(a)(ii) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(b)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F134** Words in s. 45(5)(b) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(c)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F135** S. 45(6) repealed (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, **Sch. 9 para. 28(5)**, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)
- F136** S. 45(7) inserted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(6)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

Commencement Information

- I23** S. 45 partly in force: s. 45 in force for certain purposes at 1.4.1993 see s. 94(3) and Sch. 3

46 Variation of trust deeds. **E+W**

- (1) The Secretary of State may by order make such modifications as he thinks fit in any trust deed or other instrument—
 - (a) relating to or regulating an institution within the further education sector, or
 - (b) relating to any land or other property held by any person for the purposes of such an institution.
- (2) Before making any modifications under subsection (1) above of any trust deed or other instrument the Secretary of State shall so far as it appears to him to be practicable to do so consult—
 - (a) the governing body of the institution,
 - (b) where that deed or instrument, or any other instrument relating to or regulating the institution concerned, confers power on any other persons to modify or replace that deed or instrument, those persons, and

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- (c) where the instrument to be modified is a trust deed and the trustees are different from the persons mentioned in paragraphs (a) and (b) above, the trustees.

Modifications etc. (not altering text)

C61 S. 46(2)(a) modified (1.4.1993) by [S.I. 1993/563, art. 2, Sch.2](#)

Commencement Information

I24 S. 46 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

47 Transfer of higher education institutions to further education sector. E+W

- (1) The Secretary of State may by order provide for the transfer of a higher education corporation to the further education sector.
- (2) Where an order is made under this section in respect of a higher education corporation, sections 20 and 21 of this Act shall have effect as if, on the date the order has effect, the corporation were established as a further education corporation; and the order may make [^{F137}provision as to the initial name of the corporation as a further education corporation.]
- (3) On such date as may be specified in the order the corporation shall cease to be a higher education corporation and become a further education corporation.
- (4) An order under section 28 of this Act in respect of any institution may revoke any order in respect of that institution under section 129 of the ^{M4}Education Reform Act 1988 (designation of institutions).

Textual Amendments

F137 Words in s. 47(2) substituted (1.9.1999) by [1998 c. 31, s. 140\(1\), Sch. 30 para.43](#) (with [ss. 138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1.](#)

Commencement Information

I25 S. 47 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

Marginal Citations

M4 [1988 c. 40.](#)

48 Statutory conditions of employment. E+W

F138

Textual Amendments

F138 S. 48 repealed (1.10.2002) by [Education Act 2002 \(c. 32\), s. 215, Sch. 21 para. 18, Sch. 22 Pt. 1](#); [S.I. 2002/2439, art. 2](#)

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49 **Avoidance of certain contractual terms.** E+W

- (1) This section applies to any contract made between the governing body of an institution within the further education sector and any person employed by them, not being a contract made in contemplation of the employee's pending dismissal by reason of redundancy.
- (2) In so far as a contract to which this section applies provides that the employee—
- (a) shall not be dismissed by reason of redundancy, or
 - (b) if he is so dismissed, shall be paid a sum in excess of the sum which the employer is liable to pay to him under [^{F139}Part XI of the Employment Rights Act 1996],
- the contract shall be void and of no effect.

Textual Amendments

F139 Words in s. 49(2)(b) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(3)** (with ss. 191-195, 202)

Commencement Information

I26 S. 49 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[^{F140}49A Consultation E+W

- [^{F141}(1) In exercising their functions the governing body of an institution within the further education sector [^{F142} in Wales] must have regard to any guidance given from time to time by the [^{F142}Welsh Ministers] about consultation with—
- (a) persons who are or are likely to become students of the institution, or
 - (b) employers,
- in connection with the taking of decisions affecting them.
- (2) Any guidance under this section about consultation with persons falling within paragraph (a) of subsection (1) must provide for the views of such a person to be considered in the light of his age and understanding.

[^{F142}(3)]]

Textual Amendments

F140 S. 49A inserted (23.12.2007 for E.) by **Further Education and Training Act 2007 (c. 25)**, ss. 22, 32(4); S.I. 2007/3505, art. 2(d)

F141 S. 49A repealed (E.) (1.4.2012) by **Education Act 2011 (c. 21)**, s. 82(3), **Sch. 12 para. 22**; S.I. 2012/924, art. 2

F142 S. 49A: amendment to earlier affecting provision 2007 c. 25, s. 22 (W.) (1.4.2012) by **Education Act 2011 (c. 21)**, s. 82(3), **Sch. 12 para. 45**; S.I. 2012/924, art. 2

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50 Information with respect to institutions within the further education sector. E
+W

- (1) The Secretary of State may by regulations require the governing body of any institution within the further education sector to publish such information as may be prescribed about—
 - (a) the educational provision made or proposed to be made for their students,
 - (b) the educational achievements of their students on entry to the institution and the educational achievements of their students while at the institution (including in each case the results of examinations, tests and other assessments),
 - (c) the financial and other resources of the institution and the effectiveness of the use made of such resources, and
 - (d) the careers of their students after completing any course or leaving the institution.
- (2) For the purposes of subsection (1)(d) above, a person’s career includes any education, training, employment or occupation; and the regulations may in particular require the published information to show—
 - (a) the numbers of students not undertaking any career, and
 - (b) the persons providing students with education, training or employment.
- (3) The information shall be published in such form and manner and at such times as may be prescribed.
- (4) The published information shall not name any student to whom it relates.
- (5) In this section “prescribed” means prescribed by regulations.

Modifications etc. (not altering text)

C62 S. 50(1) modified (1.4.1993) by [S.I. 1993/563, art. 2, Sch.2](#)

Commencement Information

I27 S. 50 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

^{F143}**51 Publication of proposals. E+W**

Textual Amendments

F143 S. 51 repealed (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 12 para. 23; S.I. 2012/924, art. 2 \(with art. 7\)](#)

Commencement Information

I28 S. 51 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

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[^{F144}51A Duty to provide for named individuals: England E+W

- (1) This section applies to an institution in England within the further education sector which provides education suitable to the requirements of persons over compulsory school age but under the age of 19.
- (2) A [^{F15}local authority] may by notice given to the governing body of such an institution—
 - (a) require them to provide specified individuals with such education falling within subsection (1) as is appropriate to the individuals' abilities and aptitudes;
 - (b) withdraw such a requirement.
- (3) A [^{F15}local authority] may specify an individual in a notice under subsection (2) only if the individual—
 - (a) is in the authority's area, and
 - (b) is over compulsory school age but under the age of 19.
- (4) Before giving a notice under subsection (2) imposing a requirement on a governing body, a [^{F15}local authority] must consult—
 - (a) the governing body, and
 - (b) such other persons as the authority think appropriate.
- (5) The governing body of an institution within subsection (1) must secure compliance with a requirement that has been imposed under subsection (2) and has not been withdrawn.
- (6) In deciding whether to require a particular institution to provide education to a particular individual under subsection (2) a [^{F15}local authority] in England must have regard to any guidance given from time to time by the Secretary of State.]

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F144** S. 51A inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 44(1), 269(4)**; S.I. 2010/303, art. 3, Sch. 2

52 Duty to provide for named individuals[^{F145}: Wales] E+W

- (1) This section applies where an institution [^{F146}in Wales] within the further education sector provides ^{F147}... education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.
- (2) [^{F148}The ^{F149}... National Assembly for Wales] may by notice given to the governing body of such an institution—
 - (a) require them to provide for such individuals as may be specified in the notice such education falling within subsection (1) above as is appropriate to their abilities and aptitudes, or
 - (b) withdraw such a requirement.
- (3) The governing body of such an institution shall, for any academic year in respect of which they receive financial support from [^{F150}the ^{F151}... National Assembly for

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Wales], secure compliance with any requirement in respect of any individual who has not attained the age of nineteen years which is or has been imposed by ^{F152}the ^{F153}... National Assembly for Wales] under subsection (2) above and has not been withdrawn.

Textual Amendments

- F145** Word in s. 52 heading inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 44(2)(b)**, 269(4); S.I. 2010/303, art. 3, Sch. 2
- F146** Words in s. 52(1) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 44(2)(a)**, 269(4); S.I. 2010/303, art. 3, Sch. 2
- F147** Words in s. 52(1) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 29, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F148** Words in s. 52(2) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(a)** (with art. 7)
- F149** Words in s. 52(2) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(a), **Sch. 2 Pt. 1** (with art. 2(3))
- F150** Words in s. 52(3) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(b)(i)** (with art. 7)
- F151** Words in s. 52(3) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(b)(i), **Sch. 2 Pt. 1** (with art. 2(3))
- F152** Words in s. 52(3) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(b)(ii)** (with art. 7)
- F153** Words in s. 52(3) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(b)(ii), **Sch. 2 Pt. 1** (with art. 2(3))

Modifications etc. (not altering text)

- C63** S. 52 modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 2**

Commencement Information

- I29** S. 52 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

^{F154}52A Duty to safeguard pupils receiving secondary education. **E+W**

- (1) This section applies where secondary education is provided to ^{F155}persons of compulsory school age]—
- (a) by a further education corporation ^{F156}by virtue of section 18(1)(aa) or (ab) of this Act],
- ^{F157}(aa) [by a sixth form college corporation by virtue of section 33E(1)(b) or (c) of this Act,] or
- (b) by a designated institution in pursuance of arrangements made—
- (i) by a ^{F15}local authority], or
- (ii) by the governing body of a school on behalf of such an authority.
- (2) The governing body of the corporation or institution shall secure that, except in such circumstances as may be prescribed by regulations, no education is provided to a

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person who has attained the age of nineteen years in a room in which any [^{F158}persons of compulsory school age] are for the time being receiving secondary education.]

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F154** S. 52A inserted (1.10.1998) by [1998 c. 31, s. 113\(2\)](#) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**.
- F155** Words in s. 52A(1) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), s. 215\(1\)](#), **Sch. 21 para. 19(2)(a)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I
- F156** Words in s. 52A(1)(a) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), s. 215\(1\)](#), **Sch. 21 para. 19(2)(b)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I
- F157** S. 52A(1)(aa) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\), s. 269\(4\)](#), **Sch. 8 para. 5**; S.I. 2010/303, art. 3, Sch. 2
- F158** Words in s. 52A(2) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), s. 215\(1\)](#), **Sch. 21 para. 19(3)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

53 Inspection of accounts. E+W

- (1) The accounts of—
- (a) any further education corporation,
 - [^{F159}(aa) any sixth form college corporation,] and
 - (b) any designated institution,
- shall be open to the inspection of the Comptroller and Auditor General.
- (2) In the case of any such corporation or institution—
- (a) the power conferred by subsection (1) above, and
 - (b) the powers under sections 6 and 8 of the ^{M5}National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies and access to documents and information) conferred on the Comptroller and Auditor General by virtue of section 6(3)(c) of that Act,
- shall be exercisable only in, or in relation to accounts or other documents which relate to, any financial year in which expenditure is incurred by the corporation, or by the governing body of the institution in question, in respect of which grants, loans or other payments are made to them under [^{F160}section 15ZA [^{F161}or 18A] of the Education Act 1996, section 14 of the Education Act 2002 or section ^{F162}... 100 of the Apprenticeships, Skills, Children and Learning Act 2009].

Textual Amendments

- F159** S. 53(1)(aa) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 93(2)** (with art. 2(3))
- F160** Words in s. 53(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 93(3)** (with art. 2(3))
- F161** Words in s. 53(2) inserted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\)](#), **Sch. 12 para. 24(a)**; S.I. 2012/924, art. 2
- F162** Words in s. 53(2) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\), s. 82\(3\)](#), **Sch. 12 para. 24(b)**; S.I. 2012/924, art. 2

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Modifications etc. (not altering text)

C64 S. 53(2) modified by S.I. 1993/563, **art. 2 Sch.1** (as amended (19.4.1993) by 1993/870, art. 2)

Commencement Information

I30 S. 53 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, **art. 2, Sch. 2**

Marginal Citations

M5 1983 c. 44.

CHAPTER III **E+W**

GENERAL

54 **Duty to give information. **E+W****

- (1) Each of the following shall give [^{F163}[^{F164}the Chief Executive of Skills Funding] or the National Assembly for Wales] such information as [^{F165}[^{F166}the Chief Executive] or (as the case may be) the National Assembly for Wales may require] for the purposes of the exercise of any of [^{F167}the functions of [^{F166}the Chief Executive] or (as the case may be) the National Assembly for Wales] under [^{F168}any enactment]—
- a [^{F15}local authority],
 - the governing body of any institution maintained by a [^{F15}local authority], [^{F169}... city technology college^{F170}, city college for the technology of the arts or [^{F171}Academy]],
 - the governing body of any institution within the further education sector or the higher education sector, and
 - 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 [^{F15}local 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 [^{F172}regulations under section 492 or 493 of the Education Act 1996] shall, where the institution becomes an institution within the further education sector, be provided to the authority by the governing body of the institution.

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**
- F163** Words in s. 54(1) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 23(a)** (with art. 7)
- F164** Words in s. 54(1) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 6(a)**; S.I. 2010/303, art. 3, Sch. 2
- F165** Words in s. 54(1) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 23(b)** (with art. 7)
- F166** Words in s. 54(1) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 6(b)**; S.I. 2010/303, art. 3, Sch. 2

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- F167** Words in s. 54(1) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 23(c)** (with art. 7)
- F168** Words in s. 54(1) substituted (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215(1), **Sch. 21 para. 20**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I
- F169** Words in s. 54(1)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F170** Words in s. 54(1)(b) substituted (28.7.2000) by 2000 c. 21, ss. 149, 154(1), **Sch. 9 para. 31**
- F171** Words in s. 54(1)(b) substituted (26.7.2002) by Education Act 2002 (c. 32), s. 65, **Sch. 7 Pt. 2 para. 4**; S.I. 2002/2002, **art. 2**
- F172** Words in s. 54(2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 111** (with ss. 1(4), 561, 562, Sch. 39)

Modifications etc. (not altering text)

- C65** S. 54 modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 2**
- C66** S. 54(1) applied (with modifications): (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**; (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt. I**

Commencement Information

- I31** S. 54 wholly in force: s. 54(1) in force at 6.5.1992, s. 54(2) in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, 3

55 Inspection etc. of [F15 local authority] institutions, other than schools, and advice to Secretary of State. E+W

- ^{F173}(1)
- ^{F173}(2)
- ^{F173}(3)
- (4) In relation to any [F15 local authority] institution maintained or assisted by them, a [F15 local 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 [F15 local 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—
 - ^{F174}(a)
 - ^{F174}(b)
 - (c) “[F15 local authority] institution” means an educational institution, other than a school, maintained or assisted by a [F15 local authority].

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Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F173** S. 55(1)-(3) repealed (1.4.2001) by [2000 c. 21, ss. 149, 153, Sch. 9 para. 32, Sch. 11](#); S.I. 2001/654, [art. 2, Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); S.I. 2001/1274, [art. 2, Sch. Pt. I](#)
- F174** S. 55(7)(a)(b) repealed (1.4.2001) by [2000 c. 21, ss. 149, 153, Sch. 9 para. 32, Sch. 11](#); S.I. 2001/654, [art. 2, Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); S.I. 2001/1274, [art. 2, Sch. Pt. I](#)

Modifications etc. (not altering text)

- C67** S.55: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by [Contracting Out \(Local Education Authority Functions\) \(England\) Order 2002 \(S.I. 2002/928\)](#), [art. 3, Sch. 3](#)

Commencement Information

- I32** S. 55 wholly in force; s. 55 not in force at Royal assent see s. 94(3); s. 55(1)-(3) (as respects England only) and s. 55(4)-(6)(7)(a)(c) in force at 1.4.1993 by [S.I. 1992/831, art. 2, Sch. 3](#); s. 55(1)(2)(3)(7)(b) in force at 1.8.1996 so far as not already in force by [S.I. 1996/1897, art. 3](#)

^{F175}**56** **E+W**

Textual Amendments

- F175** S. 56 repealed (1.4.2001) by [2000 c. 21, ss. 149, 153, Sch. 9 para. 33, Sch. 11](#) (with s. 150); S.I. 2001/654, [art. 2, Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); S.I. 2001/1274, [art. 2, Sch. Pt. I](#)

[^{F176}**56A Intervention: England** **E+W**

- (1) This section applies if the [^{F177}Secretary of State] is satisfied as to one or more of the matters listed in subsection (2) in the case of an institution in England within the further education sector [^{F178}other than a sixth form college]; and it is immaterial whether or not a complaint is made by any person.
- (2) The matters are—
 - (a) that the institution's affairs have been or are being mismanaged by the institution's governing body;
 - (b) that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
 - (c) that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
 - (d) that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.
- (3) If this section applies the [^{F179}Secretary of State] may do one or more of the things listed in subsection (6).

^{F180}(4)

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- (5) ^{F181}At the same time as doing one or more of those things the ^{F182}Secretary of State] must] give the institution's governing body a notice stating—
- (a) the matter or matters listed in subsection (2) as to which the ^{F182}Secretary of State] is satisfied;
 - (b) the reasons why the ^{F182}Secretary of State] is so satisfied;
 - (c) the reasons why the ^{F182}Secretary of State] has decided to do that thing or those things.
- (6) The ^{F182}Secretary of State] may—
- (a) remove all or any of the members of the institution's governing body;
 - (b) appoint new members of that body if there are vacancies (however arising);
 - (c) give to that body such directions ^{F183}as the ^{F182}Secretary of State] thinks] expedient as to the exercise of their powers and performance of their duties.
- (7) The directions that may be given to a governing body under this section include ^{F184}—
- (a)] a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
 - ^{F185}(b) [a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.]
- ^{F186}(7A) [A governing body to which a direction such as is mentioned in subsection (7)(b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.]
- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- ^{F187}(9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.]
- ^{F188}(10)
- (11) A governing body must comply with any directions given to them under this section.
- (12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.]

Textual Amendments

- F176** Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 17, 32(5)**; S.I. 2007/3505, arts. 2(c), 5
- F177** Words in s. 56A(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 25(2)**; S.I. 2012/924, art. 2
- F178** Words in s. 56A(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 6**; S.I. 2010/303, art. 3, Sch. 2
- F179** Words in s. 56A(3) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 25(3)**; S.I. 2012/924, art. 2
- F180** S. 56A(4) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 25(4)**; S.I. 2012/924, art. 2

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- F181** Words in s. 56A(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 7(4)(a)**; S.I. 2010/303, art. 3, Sch. 2
- F182** Words in s. 56A(5)(6) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(5)**; S.I. 2012/924, art. 2
- F183** Words in s. 56A(6)(c) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 7(5)(b)**; S.I. 2010/303, art. 3, Sch. 2
- F184** Words in s. 56A(7) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(6)**; S.I. 2012/924, art. 2
- F185** S. 56A(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(6)**; S.I. 2012/924, art. 2
- F186** S. 56A(7A) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(6)**; S.I. 2012/924, art. 2
- F187** S. 56A(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(7)**; S.I. 2012/924, art. 2
- F188** S. 56A(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(8)**; S.I. 2012/924, art. 2

F189 56AA Appointment by Chief Executive of Skills Funding of members of governing body of further education institutions **E+W**

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Textual Amendments

- F189** S. 56AA repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 26**; S.I. 2012/924, art. 2

F190 56B Intervention policy: England **E+W**

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Textual Amendments

- F190** S. 56B repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 27**; S.I. 2012/924, art. 2

F191 56C Directions **E+W**

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Textual Amendments

- F191** S. 56C repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 28**; S.I. 2012/924, art. 2

F192 56D Notification by local authority or YPLA of possible grounds for intervention **E+W**

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Textual Amendments

F192 S. 56D repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 29](#); S.I. 2012/924, art. 2

[^{F193}56E Intervention by [^{F194}Secretary of State] : sixth form colleges **E+W**

- (1) This section applies in relation to a sixth form college if the [^{F195}Secretary of State is] satisfied as to one or more the matters listed in subsection (2) in relation to the sixth form college; and it is immaterial whether or not a complaint is made by any person.
- (2) The matters are—
 - (a) that the sixth form college's affairs have been or are being mismanaged by its governing body;
 - (b) that the sixth form college's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
 - (c) that the sixth form college's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
 - (d) that the sixth form college is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an accepted standard of education or training.
- (3) If this section applies the [^{F196}Secretary of State] may do one or more of the things listed in subsection (6).
- [^{F197}(4) Subsections (4A) and (4B) apply to a sixth form college which is specified, or falls within a class specified, in an order under section 33J(2).
- (4A) Before doing one or more of the things listed in subsection (6), the Secretary of State must consult—
 - (a) the trustees of the sixth form college, and
 - (b) each person or body with power under the college's instrument of government to appoint or nominate one or more of its foundation governors.
- (4B) After carrying out a consultation under subsection (4A), the Secretary of State must give the persons and bodies consulted a notice stating—
 - (a) what the Secretary of State has decided to do;
 - (b) the reasons for the decision.]
- (5) If the [^{F198}Secretary of State does one or more of the things listed in subsection (6), the Secretary of State] must at the same time give the sixth form college's governing body a notice stating—
 - (a) the matter or matters listed in subsection (2) as to which the [^{F199}Secretary of State is] satisfied;
 - (b) the reasons why the [^{F200}Secretary of State has] decided to do that thing or those things.
- (6) [^{F201}The Secretary of State] may—
 - (a) remove all or any of the members of the sixth form college's governing body;
 - (b) appoint new members of that body if there are vacancies (however arising);

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- (c) give to that body such directions as the [^{F202}Secretary of State thinks] expedient as to the exercise of the body's powers and performance of the body's duties.
- (7) The directions that may be given to a governing body under this section include [^{F203}—
- (a) a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- [a direction requiring a governing body to make a resolution under
- ^{F204}(b) section 33O(1) for the body to be dissolved on a date specified in the direction.]
- [A governing body to which a direction such as is mentioned in subsection (7)(b)
- ^{F205}(7A) is given is to be taken for the purposes of section 33O(1) to have complied with section 33N before making the resolution required by the direction.]
- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- [^{F206}(9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.]
- ^{F207}(10)
- (11) A governing body must comply with any directions given to them under this section.
- (12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the governing body's instrument of government and articles of government.]

Textual Amendments

- F193** Ss. 56E-56J inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 8](#); S.I. 2010/303, art. 3, [Sch. 2](#)
- F194** Words in s. 56E heading substituted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(10\)](#); S.I. 2012/924, art. 2
- F195** Words in s. 56E(1) substituted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(2\)](#); S.I. 2012/924, art. 2
- F196** Words in s. 56E(3) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(3\)](#); S.I. 2012/924, art. 2
- F197** S. 56E(4)-(4B) substituted for s. 56E(4) (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(4\)](#); S.I. 2012/924, art. 2
- F198** Words in s. 56E(5) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(5\)\(a\)](#); S.I. 2012/924, art. 2
- F199** Words in s. 56E(5)(a) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(5\)\(b\)](#); S.I. 2012/924, art. 2
- F200** Words in s. 56E(5)(b) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(5\)\(c\)](#); S.I. 2012/924, art. 2
- F201** Words in s. 56E(6) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(6\)\(a\)](#); S.I. 2012/924, art. 2
- F202** Words in s. 56E(6)(c) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 30\(6\)\(b\)](#); S.I. 2012/924, art. 2

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- F203** Words in s. 56E(7) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(7)**; S.I. 2012/924, art. 2
- F204** S. 56E(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(7)**; S.I. 2012/924, art. 2
- F205** S. 56E(7A) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(7)**; S.I. 2012/924, art. 2
- F206** S. 56E(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(8)**; S.I. 2012/924, art. 2
- F207** S. 56E(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(9)**; S.I. 2012/924, art. 2

F208 **56F Appointment by local authorities of members of sixth form college governing body** **E+W**

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Textual Amendments

- F208** S. 56F repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 31**; S.I. 2012/924, art. 2

F209 **56G Intervention policy: sixth form colleges** **E+W**

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Textual Amendments

- F209** S. 56G repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 32**; S.I. 2012/924, art. 2

F210 **56H Intervention by YPLA** **E+W**

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Textual Amendments

- F210** S. 56H repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 33**; S.I. 2012/924, art. 2

F211 **56I Appointment by YPLA of members of sixth form college governing body** **E+W**

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Textual Amendments

- F211** S. 56I repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 34**; S.I. 2012/924, art. 2

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.
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^{F212}**56J Notification by Chief Executive of Skills Funding of possible grounds for intervention** **E+W**

Textual Amendments

F212 S. 56J repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 35**; S.I. 2012/924, art. 2

^{F214}**57 Intervention**^{F213}: Wales **E+W**

(1) This section applies if one or more of the conditions listed in subsection (2) is satisfied regarding an institution [^{F215}in Wales] within the further education sector; and it is immaterial whether or not a complaint is made by any person.

(2) These are the conditions—

- (a) [^{F216}the Welsh Ministers are] satisfied that the institution’s affairs have been or are being mismanaged by its governing body;
- (b) [^{F217}they are] satisfied that the institution’s governing body have failed to discharge any duty imposed on them by or for the purposes of any Act [^{F218}or any Measure of the National Assembly for Wales];
- (c) [^{F219}they are] satisfied that the institution’s governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act [^{F220}or any Measure of the National Assembly for Wales];

^{F221}(d) they are satisfied that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.]

^{F222}(3)

(4) If this section applies [^{F223}the Welsh Ministers] may by order—

- (a) declare which of the conditions is (or are) satisfied, and
- (b) do one or more of the things listed in subsection (5).

(5) [^{F224}They may] —

- (a) remove all or any of the members of the institution’s governing body;
- (b) appoint new members of that body if there are vacancies (however arising);
- (c) give to that body such directions as [^{F225}they think] expedient as to the exercise of their powers and performance of their duties.

[The directions that may be given to a governing body under this section include a ^{F226}(5A) direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.]

(6) Directions may be given to a body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body’s opinion.

[The Welsh Ministers may not direct a governing body under subsection (5)(c) to ^{F227}(6A) dismiss a member of staff.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (6B) But subsection (6A) does not prevent the Welsh Ministers, where they consider that it may be appropriate to dismiss a member of staff whom the governing body have power under their institution's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.]
- (7) A governing body must comply with any directions given to them under this section.
- (8) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.

^{F228}(9)]

Textual Amendments

- F213** Words in s. 57 heading inserted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(7\)](#); S.I. 2008/1065, art. 2(c)
- F214** S. 57 substituted (1.1.2001 for W. and 1.4.2001 for E.) by [2000 c. 21](#), s. 149, [Sch. 9 para. 34](#) (with s. 150); S.I. 2000/3230, art. 2, [Sch.](#); S.I. 2001/654, art. 2, [Sch. Pt. II](#) (with transitional provisions in art. 3)
- F215** Words in s. 57(1) inserted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(2\)](#); S.I. 2008/1065, art. 2(c)
- F216** Words in s. 57(2)(a) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(3\)\(a\)](#); S.I. 2008/1065, art. 2(c)
- F217** Words in s. 57(2)(b) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(3\)\(b\)](#); S.I. 2008/1065, art. 2(c)
- F218** Words in s. 57(2)(b) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), s. 28(2), [Sch. 1 para. 3\(2\)](#); S.I. 2009/371, art. 2(2), [Sch. Pt. 2](#)
- F219** Words in s. 57(2)(c) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(3\)\(b\)](#); S.I. 2008/1065, art. 2(c)
- F220** Words in s. 57(2)(c) inserted (1.9.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), s. 28(2), [Sch. 1 para. 3\(3\)](#); S.I. 2009/371, art. 2(2), [Sch. Pt. 2](#)
- F221** S. 57(2)(d) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 18\(2\)](#), 32(3); S.I. 2008/983, art. 2
- F222** S. 57(3) repealed (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(4\)](#), [Sch. 2](#); S.I. 2008/1065, art. 2(c)(d)
- F223** Words in s. 57(4) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(5\)](#); S.I. 2008/1065, art. 2(c)
- F224** Words in s. 57(5) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(6\)\(a\)](#); S.I. 2008/1065, art. 2(c)
- F225** Words in s. 57(5)(c) substituted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), [Sch. 1 para. 9\(6\)\(b\)](#); S.I. 2008/1065, art. 2(c)
- F226** S. 57(5A) inserted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 18\(3\)](#), 32(3); S.I. 2008/983, art. 2
- F227** S. 57(6A)(6B) inserted (18.4.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 18\(4\)](#), 32(3); S.I. 2008/983, art. 2
- F228** S. 57(9) repealed (7.6.2005) by [Inquiries Act 2005 \(c. 12\)](#), s. 51(1), [Sch. 2 para. 13](#), [Sch. 3](#) (with [ss. 44](#), 50); S.I. 2005/1432, art. 2

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Modifications etc. (not altering text)

C68 S. 57(3)(4) amended (22.3.2001) by S.I. 2001/1274, art. 3(4)(b)

[^{F229}57A Intervention policy: Wales **E+W**

- (1) The Welsh Ministers must—
 - (a) prepare a statement of their policy with respect to the exercise of their powers under section 57,
 - (b) keep it under review, and
 - (c) if they consider it appropriate in consequence of a review, prepare a revised statement of their policy.
- (2) When preparing a statement or revised statement of their policy, the Welsh Ministers must—
 - (a) undertake such consultation as they think appropriate;
 - (b) consider any representations made to them about the policy to be set out in the statement.
- (3) The Welsh Ministers must lay before the National Assembly for Wales a copy of any statement or revised statement prepared by them under this section.
- (4) The Welsh Ministers must publish any statement or revised statement prepared by them under this section.
- (5) The Welsh Ministers must have regard to the statement most recently published under subsection (4) in exercising, or deciding whether to exercise, any of their powers under section 57 in relation to an institution.]

Textual Amendments

F229 S. 57A inserted (23.12.2007) by Further Education and Training Act 2007 (c. 25), ss. 18(5), 32(3); S.I. 2007/3565, art. 2

58 Reorganisations of schools involving establishment of further education corporation. **E+W**

- (1) Subsection (2) below applies where, in connection with a reorganisation of schools maintained by a [^{F15}local 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
 - [^{F230}(b) a prescribed alteration within the meaning of section 28 of the School Standards and Framework Act 1998 has been made to the school,]
 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.

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- (3) For the purposes of this section there is a reorganisation of schools maintained by a ^{F15}[local 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 ^{F15}[local authority] cease to maintain the school, or
 - ^{F231}(b) a prescribed alteration within the meaning of the relevant school organisation provision has been made to the school,]
- whether or not the reorganisation also involves the establishment of one or more new schools.

- ^{F232}(4) In subsection (3)(b) “the relevant school organisation provision” means—
- (a) in relation to England, section 18 of the Education and Inspections Act 2006, and
 - (b) in relation to Wales, section 28 of the School Standards and Framework Act 1998.]

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

F230 S. 58(1)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.45** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F231 S. 58(3)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 6(2)**; S.I. 2007/935, art. 7(o)

F232 S. 58(4) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 6(3)**; S.I. 2007/935, art. 7(o)

Commencement Information

I33 S. 58 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

^{F233}59 **E+W**

Textual Amendments

F233 S. 59 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

60 Saving as to persons detained by order of a court. **E+W**

^{F234}

Textual Amendments

F234 S. 60 repealed (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215, Sch. 21 para. 21, **Sch. 22 Pt. 3**; S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. I

^{F235}60A **E+W**

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Textual Amendments

F235 S. 60A repealed (28.7.2000 for E. for specified purposes, 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 36, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

61 Interpretation of Part I. **E+W**

- (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 ^{M6}Education Act 1944, and
 - (b) to a higher education funding council are to the Universities Funding Council established under section 131 of the ^{M7}Education Reform Act 1988 and to the Polytechnics and Colleges Funding Council established under section 132 of that Act.

Modifications etc. (not altering text)

C69 S. 61(3)(a) applied by 1973 c. 50, s. 8(4) (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, s.45; S.I. 1993/2503, art. 2(3)(a)(b), **Sch.3**)

Commencement Information

I34 S. 61 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M6 1944 c. 31.

M7 1988 c. 40.

[^{F236} 61A References to [^{F237} appropriate bodies] **E+W**

^{F238}(1)

- (2) In this Part of this Act a reference to the appropriate [^{F239}body], in relation to any educational institution, is to be construed as follows—

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- (a) if the institution mainly serves the population of England, the reference is to the [^{F240}Chief Executive of Skills Funding];
- (b) if the institution mainly serves the population of Wales, the reference is to the [^{F241}National Assembly for Wales];
- (c) if the institution receives financial support from the other [^{F242}body], the reference is to that [^{F242}body] also.]

Textual Amendments

F236 S. 61A inserted (28.7.2000 for specified purposes and otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 37**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)

F237 Words in s. 61A heading substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 24(a)** (with art. 7)

F238 S. 61A(1) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 24(b)** (with art. 7)

F239 Word in s. 61A(2) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 24(c)** (with art. 7)

F240 Words in s. 61A(2)(a) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 23** (with art. 2(3))

F241 Words in s. 61A(2)(b) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 24(d)** (with art. 7)

F242 Word in s. 61A(2)(c) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 24(e)** (with art. 7)

PART II U.K.

HIGHER EDUCATION

The new funding councils

62 The Higher Education Funding Councils. E+W

- (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.

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- (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.
- [^{F243}(7A) In exercising their functions, each council shall have regard to the requirements of disabled persons.
- (7B) In subsection (7A) “disabled persons” means persons who are disabled persons for the purposes of the [^{F244}Equality Act 2010].]
- (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.

Textual Amendments

F243 S. 62(7A)(7B) inserted (31.7.1996) by 1995 c. 50, s. 30(5) (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(2), Sch. Pt.II

F244 Words in s. 62(7B) substituted by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 23 (as inserted (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5 (see S.I. 2010/2317, art. 2))

Modifications etc. (not altering text)

C70 S. 62(7) applied (31.3.1999) by S.I. 1999/603, art. 3(2).

C71 S. 62(8) modified (1.7.1999) by S.I. 1999/672, art. 5, Sch.2.

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Commencement Information

I35 S. 62 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

63 Dissolution of existing councils. **E+W+S**

- (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.

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Extent Information

E1 S. 63 extends to Great Britain see s. 94(5).

Commencement Information

I36 S. 63 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

^{F245}64 Transitional arrangements. **E+W+S**

Textual Amendments

F245 S. 64 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 4

Funds

65 Administration of funds by councils. **E+W**

- (1) Each council shall be responsible, subject to the provisions of this Part of this Act, for administering funds made available to the council by the Secretary of State and others for the purposes of providing financial support for activities eligible for funding under this section.
- (2) The activities eligible for funding under this section are—
 - (a) the provision of education and the undertaking of research by higher education institutions in the council's area,
 - (b) the provision of any facilities, and the carrying on of any other activities, by higher education institutions in their area which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purpose of or in connection with education or research,
 - (c) the provision—
 - (i) by institutions in their area maintained or assisted by [^{F15}local authorities], or
 - (ii) by such institutions in their area as are within the further education sector,
 of prescribed courses of higher education, and
 - (d) the provision by any person of services for the purposes of, or in connection with, the provision of education or the undertaking of research by institutions within the higher education sector.
- (3) A council may—
 - (a) make grants, loans or other payments to the governing body of any higher education institution in respect of expenditure incurred or to be incurred by them for the purposes of any activities eligible for funding under this section by virtue of subsection (2)(a) or (b) above, and
 - (b) make grants, loans or other payments to any persons in respect of expenditure incurred or to be incurred by them for the purposes of the provision

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as mentioned in subsection (2)(c) above of prescribed courses of higher education or the provision of services as mentioned in subsection (2)(d) above, subject in each case to such terms and conditions as the council think fit.

[^{F246}(3A) In the application of subsection (3) above to any grants, loans or other payments by a Council, the reference to expenditure incurred or to be incurred by the governing body of a higher education institution as mentioned in paragraph (a) of that subsection includes a reference to expenditure incurred or to be incurred by any connected institution to which the governing body propose, with the consent of the Council, to pay the whole or part of any such grants, loans or other payments.

(3B) In subsection (3A) “connected institution”, in relation to a higher education institution, means any college, school, hall or other institution which the Council in question are satisfied has a sufficient connection with that institution for the purposes of that subsection.]

(4) The terms and conditions on which a council may make any grants, loans or other payments under this section may in particular—

(a) enable the council to require the repayment, in whole or in part, of sums paid by the council if any of the terms and conditions subject to which the sums were paid is not complied with, and

(b) require the payment of interest in respect of any period during which a sum due to the council in accordance with any of the terms and conditions remains unpaid,

but shall not relate to the application by the body to whom the grants or other payments are made of any sums derived otherwise than from the council.

^{F247}(4A)

^{F247}(4B)

(5) In this section and section 66 of this Act “higher education institution” means a university, an institution conducted by a higher education corporation or a designated institution.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

F246 S. 65(3A)(3B) inserted (retrospectively) by 1998 c. 30, **ss. 27, 46(3)** (with s. 42(8))

F247 S. 65(4A)(4B) repealed (1.9.2002) by 2001 c. 10, s. 42(6), **Sch. 9** (with s. 43(13)); S.I. 2002/2217, **art. 3, Sch. 1 Pt. I**

Modifications etc. (not altering text)

C72 S. 65(3)(a) modified (1.4.1993) by [S.I. 1993/563](#), **art. 2, Sch. 1**

Commencement Information

I37 S. 65 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), **art. 2, Sch. 3**

66 Administration of funds: supplementary. **E+W**

(1) Before exercising their discretion under section 65(3)(a) of this Act with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments,

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- a council shall consult such of the following bodies as appear to the council to be appropriate to consult in the circumstances—
- (a) such bodies representing the interests of higher education institutions as appear to the council to be concerned, and
 - (b) the governing body of any particular higher education institution which appears to the council to be concerned.
- (2) In exercising their functions in relation to the provision of financial support for activities eligible for funding under section 65 of this Act a council shall have regard to the desirability of not discouraging any institution for whose activities financial support is provided under that section from maintaining or developing its funding from other sources.
- (3) In exercising those functions a council shall have regard (so far as they think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining—
- (a) what appears to them to be an appropriate balance in the support given by them as between institutions which are of a denominational character and other institutions, and
 - (b) any distinctive characteristics of any institution within the higher education sector for whose activities financial support is provided under that section.
- (4) For the purposes of subsection (3) above an institution is an institution of a denominational character if it appears to the council that either—
- (a) at least one quarter of the members of the governing body of the institution are persons appointed to represent the interests of a religion or religious denomination,
 - (b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned shall be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or
 - (c) any of the property held for the purposes of the institution is held on trust for or in connection with—
 - (i) the provision of education, or
 - (ii) the conduct of an educational institution,
 in accordance with the tenets of a religion or religious denomination.

Commencement Information

I38 S. 66 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

67 **Payments in respect of persons employed in provision of higher or further education.** **E+W**

- (1) In section 133 of the ^{M8}Education Reform Act 1988 (payments by PCFC in respect of persons employed in the provision of higher or further education) for subsection (1) there is substituted—

“(1) A higher education funding council shall have power to make payments, subject to such terms and conditions as the council think fit, to—

- (a) any [^{F15}local authority] in their area;

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the London Residuary Body;
 - (c) the London Pensions Fund Authority; and
 - (d) the governing body of any institution designated under section 129 of this Act, as originally enacted;
- in respect of relevant expenditure incurred or to be incurred by that authority or body of any class or description prescribed for the purposes of this section.”
- (2) In subsection (2)(a) of that section (meaning of relevant expenditure) after “education authority” there is inserted “ the London Residuary Body or the London Pensions Fund Authority ”.
- (3) At the end of subsection (3) of that section (meaning of references to higher and further education) there is added “ and in any other case the reference to further education shall be read as a reference to further education within the meaning of section 41 of the 1944 Act as that section had effect on that date ”.
- (4) In subsection (4) of that section (duty to give information) after paragraph (a) there is inserted—
- “(aa) the London Residuary Body;
 - (ab) the London Pensions Fund Authority”.
- (5) That section as originally enacted shall have effect, or be treated as having had effect, as if—
- (a) in subsection (1), in relation to anything done before regulations for the purposes of that subsection were in force, the words “of any class or description prescribed for the purposes of this section” were omitted, and
 - (b) in subsections (1) and (2) the references to a [F15local authority] included the London Residuary Body and the London Pensions Fund Authority.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

Commencement Information

I39 S. 67 wholly in force: s. 67(2)-(5) in force at 6.5.1992; s. 67(1) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Schs. 1, 3](#)

Marginal Citations

M8 1988 c. 40.

68 Grants to councils. **E+W**

- (1) The Secretary of State may make grants to each of the councils of such amounts and subject to such terms and conditions as he may determine.
- (2) The terms and conditions subject to which grants are made by the Secretary of State to either of the councils—
- (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of

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- any amount or description so specified is provided by the council in respect of activities carried on by the institution, but
- (b) shall not otherwise relate to the provision of financial support by the council in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to particular courses of study or programmes of research (including the contents of such courses or programmes and the manner in which they are taught, supervised or assessed) or to the criteria for the selection and appointment of academic staff and for the admission of students.
- (4) Such terms and conditions may in particular—
- (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any of the terms and conditions subject to which the sums were paid is not complied with, and
- (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.

Modifications etc. (not altering text)

C73 S. 68 excluded (1.9.2005) by [Education Act 2005 \(c. 18\)](#), **ss. 88(5)**, 125(3)(a)

C74 S. 68 modified (14.1.2006) by [Higher Education Act 2004 \(c. 8\)](#), **ss. 23**, 52(2) (with **ss. 24-29**); [S.I. 2006/51](#), **art. 2**

C75 S. 68(1) extended (16.7.1998) by [1998 c. 30](#), **ss. 26(3)**, 46(3) (with **s. 42(8)**)

C76 S. 68(1) extended (31.3.2011) by [Higher Education Act 2004 \(c. 8\)](#), **ss. 27**, 52(3); [S.I. 2011/297](#), **art. 3(a)**

Commencement Information

I40 S. 68 wholly in force at 6.5.1992 see **s. 94(3)** and [S.I. 1992/831](#), **art. 2**, **Sch. 1**

Further functions

69 Supplementary functions. **E+W**

- (1) Each council—
- (a) shall provide the Secretary of State with such information or advice relating to the provision for their area of higher education as he may from time to time require, and
- (b) may provide the Secretary of State with such information or advice relating to such provision as they think fit,

and information and advice provided under this subsection shall be provided in such manner as the Secretary of State may from time to time determine.

^[F248](1A) Subsection (1) does not apply to any information which the Higher Education Funding Council for England receives in its capacity as principal regulator (within the meaning of ^[F249]section 25 of the Charities Act 2011)].

(1B) Subsection (1A) does not prevent the Higher Education Funding Council for England disclosing information under ^[F250]section 56 or 57 of that Act].]

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- (2) Each council shall keep under review activities eligible for funding under section 65 of this Act.
- (3) A council may provide, on such terms as may be agreed, such advisory services as the Department of Education for Northern Ireland or the Department of Agriculture for Northern Ireland may require in connection with the discharge of the department's functions relating to higher education in Northern Ireland.
- (4) Where—
- (a) any land or other property is or was used or held for the purposes of an institution, and
 - (b) the Secretary of State is entitled to any right or interest in respect of the property, or would be so entitled on the occurrence of any event,
- then, if the institution is within the higher education sector, the Secretary of State may direct that all or any of his functions in respect of the property shall be exercisable on his behalf by the council, and the functions shall be so exercised in accordance with such directions as he may give from time to time.
- (5) The Secretary of State may by order confer or impose on a council such supplementary functions relating to the provision of education as he thinks fit.
- (6) For the purposes of subsection (5) above a function is a supplementary function in relation to a council if it is exercisable for the purposes of—
- (a) the exercise by the Secretary of State of functions of his under any enactment, or
 - (b) the doing by the Secretary of State of anything he has power to do apart from any enactment,
- and it relates to, or to the activities of, any institution mentioned in subsection (7) below.
- (7) Those institutions are—
- (a) institutions within the higher education sector, or
 - (b) institutions within the further education sector, or maintained or assisted by ^[F15]local authorities, at which prescribed courses of higher education are currently provided.

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F248** S. 69(1A)(1B) inserted (1.6.2010) by [The Charities Act 2006 \(Principal Regulators of Exempt Charities\) Regulations 2010 \(S.I. 2010/501\)](#), reg. 1(1), **Sch. para. 1(2)**
- F249** Words in s. 69(1A) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 63(a)** (with s. 20(2), **Sch. 8**)
- F250** Words in s. 69(1B) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 63(b)** (with s. 20(2), **Sch. 8**)

Commencement Information

- I41** S. 69 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 1**

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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70 Assessment of quality of education provided by institutions. **E+W**

- (1) Each council shall—
- (a) secure that provision is made for assessing the quality of education provided in institutions for whose activities they provide, or are considering providing, financial support ^{F251} . . . , and
 - (b) establish a committee, to be known as the “Quality Assessment Committee”, with the function of giving them advice on the discharge of their duty under paragraph (a) above and such other functions as may be conferred on the committee by the council.
- (2) The majority of the members of the committee—
- (a) shall be persons falling within subsection (3) below, and
 - (b) shall not be members of the council.
- (3) Persons fall within this subsection if they appear to the council to have experience of, and to have shown capacity in, the provision of higher education in institutions within the higher education sector and, in appointing such persons, the council shall have regard to the desirability of their being currently engaged in the provision of higher education or in carrying responsibility for such provision.
- (4) Schedule 1 to this Act shall apply to a committee established under this section as it applies to committees established under paragraph 8 of that Schedule.

Textual Amendments

F251 Words in s. 70(1)(a) omitted (21.9.1994) by virtue of 1994 c. 30, s. 24, **Sch. 2 para. 10(2)**; S.I. 1994/2204, **art.2**

Commencement Information

I42 S. 70 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, **art. 2, Sch. 1**

Institutions in the higher education sector

71 Higher education corporations: constitution and conduct. **E+W**

- (1) After section 124 of the ^{M9}Education Reform Act 1988 there is inserted—

“124A Constitution and conduct of corporations.

- (1) For each higher education corporation established on or after the appointed day there shall be an instrument (to be known as the instrument of government) providing for the constitution of the corporation and making such other provision as is required under this section.
- (2) The initial instrument of government of a higher education corporation established on or after that day shall be such as is prescribed by an order of the Privy Council.
- (3) An order of the Privy Council may—
 - (a) make an instrument of government of any higher education corporation with respect to which Schedule 7 to this Act has effect

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- or make a new instrument of government of any higher education corporation in place of the instrument prescribed under subsection (2) above; or
- (b) modify an instrument made in pursuance of this subsection.
- (4) An instrument of government of a higher education corporation—
- (a) shall comply with the requirements of Schedule 7A to this Act; and
- (b) may make any provision authorised to be made by that Schedule and such other provision as may be necessary or desirable.
- (5) An order under subsection (2) or (3) above may make such provision as appears to the Privy Council necessary or desirable to secure continuity in the government of the institution or institutions to which it relates.
- (6) The validity of any proceedings of a higher education corporation for which an instrument of government has effect, or of any committee of such a corporation, shall not be affected by a vacancy amongst the members or by any defect in the appointment or nomination of a member.
- (7) Every document purporting to be an instrument made or issued by or on behalf of a higher education corporation for which an instrument of government has effect and to be duly executed under the seal of the corporation, or to be signed or executed by a person authorised by the corporation to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.
- (8) In relation to a higher education corporation for which an instrument of government has effect the members of the corporation for the time being shall be known as the board of governors of the institution conducted by the corporation.
- (9) The Secretary of State may by order amend or repeal any of paragraphs 3 to 5 and 11 of Schedule 7A to this Act.
- (10) In this section and section 124C “the appointed day” means the day appointed under section 94 of the Further and Higher Education Act 1992 for the commencement of section 71 of that Act.

124B Accounts.

- (1) It shall be the duty of each corporation—
- (a) to keep proper accounts and proper records in relation to the accounts; and
- (b) to prepare in respect of each financial year of the corporation a statement of accounts.
- (2) The statement shall—
- (a) give a true and fair account of the state of the corporation’s affairs at the end of the financial year and of the corporation’s income and expenditure in the financial year; and
- (b) comply with any directions given by the higher education funding council as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.

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- (3) The corporation shall supply a copy of the statement to any person who asks for it and, if the corporation so requires, pays a fee of such amount not exceeding the cost of supply as the corporation thinks fit.
- (4) The accounts (including any statement prepared under this section) shall be audited by persons appointed in respect of each financial year by the corporation.
- (5) The corporation shall consult, and take into account any advice given by, the Audit Commission for Local Authorities and the National Health Service in England and Wales before appointing any auditor under subsection (4) above in respect of their first financial year.
- (6) No person shall be qualified to be appointed auditor under that subsection except—
 - (a) an individual, or firm, eligible for appointment as a company auditor under section 25 of the Companies Act 1989;
 - (b) a member of the Chartered Institute of Public Finance and Accountancy; or
 - (c) a firm each of the members of which is a member of that institute.
- (7) In this section, in relation to a corporation—

“the first financial year” means the period commencing with the date on which the corporation is established and ending with the second 31st March following that date; and

“financial year” means that period and each successive period of twelve months.

124C Initial and transitional arrangements.

- (1) The Secretary of State shall be the appointing authority in relation to the appointment of the first members of a corporation established on or after the appointed day and, in determining the number of members to appoint within each variable category of members, he shall secure that at least half of all the members of the corporation as first constituted are independent members.
- (2) In subsection (1) above “variable category of members” and “independent members” have the same meaning as in Schedule 7A to this Act.
- (3) The following provisions apply where an instrument of government is made under section 124A of this Act for a higher education corporation with respect to which Schedule 7 to this Act has effect.
- (4) The instrument shall apply, subject to subsection (5) below, as if the persons who, immediately before its coming into effect, were the members of the corporation had been appointed in accordance with the instrument for the residue of the term of their then subsisting appointment.
- (5) Any local authority nominee, teacher nominee, general staff nominee or student nominee (within the meaning, in each case, of Schedule 7 to this Act) shall cease to hold office.

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124D Exercise of Powers by Privy Council.

- (1) This section applies in relation to the exercise of powers for the purposes of this Part of this Act.
 - (2) A power vested in the Privy Council may be exercised by any two or more of the lords and others of the Council.
 - (3) An act of the Privy Council shall be sufficiently signified by an instrument signed by the clerk of the Council.
 - (4) An order or act signified by an instrument purporting to be signed by the clerk of the Council shall be deemed to have been duly made or done by the Privy Council.
 - (5) An instrument so signed shall be received in evidence in all courts and proceedings without proof of the authority or signature of the clerk of the Council or other proof.”
- (2) In section 125 of that Act (articles of government) for “the Secretary of State” (in each place where it appears) there is substituted “ the Privy Council ”; but nothing in this subsection requires further approval to be given for anything approved by the Secretary of State under that section before the commencement of this subsection.
 - (3) In Schedule 7 to that Act (constitution of higher education corporations)—
 - (a) at the end of paragraph 7 (appointments) there is added—

“(8) If the number of independent members of the corporation falls below the number needed in accordance with its articles of government for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such number of independent members as is required for a quorum”, and
 - (b) in paragraph 18 (accounts) after sub-paragraph (2) there is inserted—

“(2A) The corporation shall supply a copy of the statement to any person who asks for it and, if the corporation so requires, pays a fee of such amount not exceeding the cost of supply as the corporation thinks fit.”
 - (4) After that Schedule there is inserted the Schedule set out in Schedule 6 to this Act.

Commencement Information

I43 S. 71 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Marginal Citations

M9 1988 c. 40.

72 Further power of designation. E+W

- (1) In section 129 of the ^{M10}Education Reform Act 1988 (designation of institutions)—
 - (a) for subsections (1) and (2) there is substituted—

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- “(1) The Secretary of State may by order designate as an institution eligible to receive support from funds administered by a higher education funding council—
- (a) any institution which appears to him to fall within subsection (2) below; and
 - (b) any institution which is, or is to be, conducted by a successor company to a higher education corporation.
- (2) An institution falls within this subsection if its full-time equivalent enrolment number for courses of higher education exceeds 55 per cent. of its total full-time equivalent enrolment number”, and
- (b) subsections (3) and (4) of that section are omitted.
- (2) An order in force immediately before the commencement of subsection (1) above designating an institution as falling within subsection (3) of that section shall have effect as if made under that section as amended by subsection (1) above.
- (3) In this Part of this Act “designated institution” means an institution in relation to which a designation made, or having effect as if made, under section 129 of that Act has effect.

Commencement Information

I44 S. 72 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

Marginal Citations

M10 [1988 c. 40.](#)

73 Government and conduct of designated institutions. **E+W**

- (1) After section 129 of the ^{M11}Education Reform Act 1988 there is inserted—

“129A Government and conduct of designated institutions.

- (1) This section has effect in relation to any designated institution, other than an institution conducted by a company.
- (2) For each such institution there shall be—
 - (a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government); and
 - (b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government),
each of which meets the requirements of subsection (3) below.
- (3) Those requirements are that the instrument—
 - (a) was in force when the designation took effect; or
 - (b) is made in pursuance of a power under a regulatory instrument, or is made under subsection (5) below,
and is approved for the purposes of this section by the Privy Council.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (4) In this section “regulatory instrument”, in relation to an institution, means any instrument of government or articles of government and any other instrument relating to or regulating the institution.
- (5) Where there is no such power as is mentioned in subsection (3)(b) above to make the instrument, it may be made by the body of persons responsible for the management of the institution and an instrument made by them under this subsection may replace wholly or partly any existing regulatory instrument.
- (6) If an instrument approved by the Privy Council for the purposes of this section—
- (a) falls within subsection (3)(a) above or was made in pursuance of a power under a regulatory instrument and, apart from this section, there is no power to modify it; or
 - (b) was made by the body of persons responsible for the management of the institution,
- the instrument may be modified by those persons.
- (7) Either of the instruments referred to in subsection (2) above may be modified by order of the Privy Council and no instrument approved by the Privy Council for the purposes of this section may be modified by any other person without the Privy Council’s consent.
- (8) Before exercising any power under subsection (7) above in relation to any instrument the Privy Council shall consult—
- (a) the governing body of the institution, and
 - (b) where there is such a power as is mentioned in subsection (3)(b) above to modify the instrument and the persons having that power are different from the governing body of the institution, the persons having the power,
- so far as it appears to them to be practicable to do so.
- (9) Nothing in this section requires further approval for any instrument approved by the Secretary of State for the purposes of section 156 of this Act, and references in this section to instruments approved by the Privy Council for the purposes of this section include instruments so approved by the Secretary of State.
- (10) In this section and section 129B “designated institution” means an institution in relation to which a designation made, or having effect as if made, under section 129 of this Act has effect but does not include any institution established by Royal Charter.

129B Designated institutions conducted by companies.

- (1) This section has effect in relation to any designated institution conducted by a company.
- (2) The articles of association of the company shall incorporate—
 - (a) provision with respect to the constitution of a governing body of the institution (to be known as the instrument of government of the institution); and

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- (b) provision with respect to the conduct of the institution (to be known as the articles of government of the institution).
- (3) The Privy Council may give to the persons who appear to them to have effective control over the company such directions as they think fit for securing that—
- (a) the memorandum or articles of association of the company; or
- (b) any rules or bye-laws made in pursuance of any power conferred by the articles of association of the company,
- are amended in such manner as they may specify in the direction.
- (4) No amendment of the memorandum or articles of association of the company (other than one required under subsection (3)(a) above) shall take effect until it has been submitted to the Privy Council for their approval and they have notified their approval to the company.
- (5) Before giving any directions under subsection (3) above the Privy Council shall consult the persons who appear to them to have effective control over the company.”
- (2) Section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated institutions.

Commencement Information

I45 S. 73 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Marginal Citations

M11 1988 c. 40.

74 Transfer of further education institutions to higher education sector. **E+W**

- (1) After section 122 of the ^{M12}Education Reform Act 1988 (orders incorporating higher education institutions maintained by [^{F15}local authorities]) there is inserted—

“122A Orders transferring further education corporations to higher education sector.

- (1) The Secretary of State may by order provide for the transfer of a further education corporation to the higher education sector if it appears to him that the full-time equivalent enrolment number of the institution conducted by the corporation for courses of higher education exceeds 55 per cent. of its total full-time equivalent enrolment number.
- (2) Where an order under this section is made in respect of a further education corporation, sections 124A and 125 of this Act shall have effect as if—
- (a) on the date the order has effect, the corporation were established as a higher education corporation, and
- (b) the Secretary of State were the appointing authority in relation to the first members of the higher education corporation.

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- (3) In determining in pursuance of subsection (2)(b) above the number of members to appoint within each variable category of members, the Secretary of State shall secure that at least half of all the members of the higher education corporation as first constituted are independent members; and in this subsection “variable category of members” and “independent members” have the same meaning as in Schedule 7A to this Act.
- (4) On such date as may be specified in the order the corporation shall cease to be a further education corporation and become a higher education corporation and any member of the further education corporation who is not re-appointed by the Secretary of State in pursuance of subsection (2)(b) above shall cease to hold office on that date.”
- (2) An order under section 129 of the ^{M13}Education Reform Act 1988 (designation of institutions for the purposes of the higher education sector) in respect of any institution may revoke any order in respect of that institution under section 28 of this Act.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 5\(2\)](#)

Commencement Information

I46 S. 74 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 3](#)

Marginal Citations

M12 1988 c. 40.

M13 1988 c. 40.

75 Variation of trust deeds. **E+W**

In section 157 of the ^{M14}Education Reform Act 1988 (variation of trust deeds, etc.) for subsections (1) to (3) (variations by Secretary of State in connection with institutions in the higher education sector or designated assisted institutions) there is substituted—

- “(1) An order of the Privy Council may modify any trust deed or other instrument—
- (a) relating to or regulating any such institution as is mentioned in subsection (2) below; or
 - (b) relating to any land or other property held by any person for the purposes of any such institution.
- (2) The institutions referred to in subsection (1) above are—
- (a) any institution conducted by a higher education corporation; and
 - (b) any institution in relation to which a designation made, or having effect as if made, under section 129 of this Act has effect, other than an institution established by Royal Charter.
- (3) Before making any modifications under subsection (1) above of any trust deed or other instrument the Privy Council shall so far as it appears to them to be practicable to do so consult—
- (a) the governing body of the institution;

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- (b) where that deed or instrument, or any other instrument relating to or regulating the institution concerned, confers power on any other persons to modify or replace that deed or instrument, those persons; and
- (c) where the instrument to be modified is a trust deed and the trustees are different from the persons mentioned in paragraphs (a) and (b) above, the trustees.”

Modifications etc. (not altering text)

C77 S. 75(3)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, Sch.2

Commencement Information

I47 S. 75 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Marginal Citations

M14 1988 c. 40.

76 Power to award degrees, etc. **E+W**

(1) The Privy Council may by order

- [^{F252}(a) specify any institution which provides higher education as competent to grant in pursuance of this section either or both of the kinds of award mentioned in subsection (2)(a) and (b) below][^{F253};
- (b) specify any institution ^{F254}... within the further education sector as competent to grant in pursuance of this section an award of the kind mentioned in subsection (2A) below.]

(2) The kinds of award referred to in [^{F255}subsection (1)(a)] above are—

- (a) awards granted to persons who complete an appropriate course of study and satisfy an appropriate assessment, and
- (b) awards granted to persons who complete an appropriate programme of supervised research and satisfy an appropriate assessment,

and in this section “award” means any degree, diploma, certificate or other academic award or distinction and “assessment” includes examination and test.

[^{F256}(2A) The kind of award referred to in subsection (1)(b) above is a foundation degree granted to persons who complete an appropriate course of study and satisfy an appropriate assessment.]

[^{F257}(2B) Where the Privy Council is considering whether to make an order under subsection (1) above specifying an institution as mentioned in subsection (1)(b) above, the Privy Council may not make the order unless—

- (a) the institution gives the Privy Council a statement setting out what it proposes to do as regards making arrangements for securing that any person granted an award under or by virtue of any power that would be conferred on the institution if the order were made (other than the power described in subsection (4A) below) has an opportunity to progress to one or more particular courses of more advanced study, and
- (b) the Privy Council considers that the proposals are satisfactory and are likely to be carried out.]

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) An institution for the time being specified in such an order may grant any award of a kind mentioned in subsection (2)(a) or (b) [^{F258}or (2A)] above which it is competent to grant by virtue of the order to persons who complete the appropriate course of study or, as the case may be, programme of supervised research on or after the date specified in the order.
- (4) An institution specified in such an order [^{F259}as competent to grant in pursuance of this section either or both of the kinds of award mentioned in subsection (2)(a) or (b) above] may also—
- (a) grant honorary degrees, and
 - (b) grant degrees to members of the academic and other staff of the institution.
- [^{F260}(4A) An institution specified in such an order as competent to grant in pursuance of this section the kind of award mentioned in subsection (2A) above may also—
- (a) grant honorary foundation degrees, and
 - (b) grant foundation degrees to members of the academic and other staff of the institution.]
- (5) [^{F261}Subject to subsection (5A) below, any] power conferred on an institution to grant awards in pursuance of this section includes power—
- (a) to authorise other institutions to do so on behalf of the institution,
 - (b) to do so jointly with another institution, and
 - (c) to deprive any person of any award granted to him by or on behalf of the institution in pursuance of this section (or, in the case of an award granted to him by the institution and another institution jointly, to do so jointly with the other institution).
- [^{F262}(5A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution's power to grant such awards does not include the power described in subsection (5)(a) above.]
- (6) [^{F263}Subject to subsection (6A) below, it] shall be for the institution to determine in accordance with any relevant provisions of the instruments relating to or regulating the institution the courses of study or programmes of research, and the assessments, which are appropriate for the grant of any award and the terms and conditions on which any of the powers conferred under this section may be exercised.
- [^{F264}(6A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution is not to grant such an award to a person unless he was enrolled at the institution at the time he completed the course of study for which the award is granted.]
- (7) Section 124D of the ^{M15}Education Reform Act 1988 applies in relation to orders under subsection (1) above as it applies in relation to the exercise of powers for the purposes of Part II of that Act.

Textual Amendments

F252 S. 76(1)(a) renumbered (1.5.2008) by Further Education and Training Act 2007 (c. 25), ss. 19(2)(a), 32(5); S.I. 2007/3505, art. 6

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- F253** S. 76(1)(b) and preceding semi-colon inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(2)(b)**, 32(5); S.I. 2007/3505, art. 6
- F254** Words in s. 76(1)(b) repealed (1.10.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 259(1)**, 269(3), **Sch. 16 Pt. 11**; S.I. 2010/2413, art. 2(c) (with arts. 3-5)
- F255** Words in s. 76(2) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(3)**, 32(5); S.I. 2007/3505, art. 6
- F256** S. 76(2A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(4)**, 32(5); S.I. 2007/3505, art. 6
- F257** S. 76(2B) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(5)**, 32(5); S.I. 2007/3505, art. 6
- F258** Words in s. 76(3) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(6)**, 32(5); S.I. 2007/3505, art. 6
- F259** Words in s. 76(4) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(7)**, 32(5); S.I. 2007/3505, art. 6
- F260** S. 76(4A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(8)**, 32(5); S.I. 2007/3505, art. 6
- F261** Words in s. 76(5) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(9)**, 32(5); S.I. 2007/3505, art. 6
- F262** S. 76(5A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(10)**, 32(5); S.I. 2007/3505, art. 6
- F263** Words in s. 76(6) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(11)**, 32(5); S.I. 2007/3505, art. 6
- F264** S. 76(6A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(12)**, 32(5); S.I. 2007/3505, art. 6

Commencement Information

- I48** S. 76 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M15** 1988 c. 40.

77 Use of “university” in title of institution. **E+W**

- (1) Where—
- (a) power is conferred by any enactment or instrument to change the name of any educational institution or any body corporate carrying on such an institution, and
 - (b) the educational institution is within the higher education sector,
- then, if the power is exercisable with the consent of the Privy Council, it may (whether or not the institution would apart from this section be a university) be exercised with the consent of the Privy Council so as to include the word “university” in the name of the institution and, if it is carried on by a body corporate, in the name of the body.
- (2) The reference in subsection (1) above to a power to change the name of an institution or body includes any power (however expressed and whether or not subject to any conditions or restrictions) in the exercise of which the name of the institution or body may be changed; but the power as extended by that subsection has effect subject to any such conditions or restrictions.
- (3) In exercising any power exercisable by virtue of this section to consent to a change in any name the Privy Council shall have regard to the need to avoid names which are or may be confusing.

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- (4) Any educational institution whose name includes the word “university” by virtue of the exercise of any power as extended by subsection (1) above is to be treated as a university for all purposes [F265], unless in that name that word is immediately followed by the word “college” or “collegiate”.]

Textual Amendments

F265 Words in s. 77(4) added (1.10.1998) by 1998 c. 30, ss.40, 46(4) (with s. 42(8)); S.I. 1998/2215, art. 2

Commencement Information

I49 S. 77 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

78 Financial years of higher education corporations. **E+W**

- (1) If the Secretary of State directs that any financial year specified in the direction of the higher education corporations, and subsequent financial years, are to begin with a date specified in the direction, then—
- the financial year of the corporations immediately preceding the year specified in the direction shall end immediately before the date specified in the direction, and
 - the financial year specified in the direction and subsequent financial years shall be each successive period of twelve months.
- (2) Section 124B(7) of, and paragraph 18 of Schedule 7 to, the M16 Education Reform Act 1988 (financial years) shall have effect subject to this section.

Commencement Information

I50 S. 78 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Marginal Citations

M16 1988 c. 40.

General

79 Duty to give information to the funding councils. **E+W**

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 the Education Acts—

- a [F15]local authority],
- the governing body of any institution within the higher education sector, and
- the governing body of any institution at which prescribed courses of higher education are currently or have at any time been provided.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), Sch. 2 para. 5(2)

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.
Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C78 S. 79 modified (1.4.1993) by [S.I. 1993/563, art. 2, Sch.2](#)

Commencement Information

I51 S. 79 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

[^{F266}79A. Power to request information from higher education institutions that are exempt charities [U.K.](#)

The Higher Education Funding Council for England may direct any exempt charity in relation to which it is the principal regulator (within the meaning of [^{F267}section 25 of the Charities Act 2011]) to provide it with such information as it considers necessary for the purpose of discharging its duty under [^{F268}section 26(2) of that Act].

Textual Amendments

F266 S. 79A inserted (1.6.2010) by [The Charities Act 2006 \(Principal Regulators of Exempt Charities\) Regulations 2010 \(S.I. 2010/501\), reg. 1\(1\), Sch. para. 4](#)

F267 Words in s. 79A substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 64\(a\)](#) (with s. 20(2), Sch. 8)

F268 Words in s. 79A substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 64\(b\)](#) (with s. 20(2), Sch. 8)

^{F269}80 Dissolution of Council for National Academic Awards. [U.K.](#)

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Textual Amendments

F269 S. 80 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 5](#) Group 4

PROSPECTIVE

81 Directions. [E+W](#)

- (1) In exercising their functions under this Part of this Act, [^{F270}the HEFCW] shall comply with any directions under this section, and such directions shall be contained in an order made by the Secretary of State.
- (2) The Secretary of State may give general directions to [^{F271}the HEFCW] about the exercise of their functions.
- (3) If it appears to the Secretary of State that the financial affairs of any institution within the higher education sector have been or are being mismanaged he may, after consulting [^{F272}the HEFCW] and the institution, give such directions to [^{F272}the HEFCW] about the provision of financial support in respect of the activities carried on by the institution as he considers are necessary or expedient by reason of the mismanagement.

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Textual Amendments

- F270** Words in s. 81(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 22\(2\)](#); [S.I. 2018/241, reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 9)
- F271** Words in s. 81(2) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 22\(3\)](#); [S.I. 2018/241, reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 9)
- F272** Words in s. 81(3) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 22\(4\)](#); [S.I. 2018/241, reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 9)

Commencement Information

- I52** S. 81 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

PART III U.K.

MISCELLANEOUS AND GENERAL

82 Joint exercise of functions. **E+W+S**

- [^{F273}(1) A relevant authority may exercise any of its functions jointly with—
- (a) another relevant authority, or
 - (b) the Secretary of State, to the extent that the Secretary of State is discharging functions under section 14 of the Education Act 2002,
- where the condition in subsection (1B) is met.
- (1A) The Secretary of State may exercise functions under section 14 of the Education Act 2002 jointly with a relevant authority where the condition in subsection (1B) is met.
- (1B) The condition is that it appears to the persons who are to exercise functions jointly that to do so—
- (a) will be more efficient, or
 - (b) will enable them more effectively to discharge any of their functions.]

(2) [^{F274}A relevant authority must, if directed to do so by the Secretary of State, make provision jointly with another relevant authority or with the Secretary of State] for the assessment by a person appointed by them of matters relating to the arrangements made by each institution in Great Britain which is within the higher education sector for maintaining academic standards in the institution.

[^{F275}(2A) The power of the Secretary of State to give directions under subsection (2) above shall, as regards the Scottish Higher Education Funding Council, be treated as exercisable in or as regards Scotland and may be exercised separately.]

(3) In this section—

 - [^{F276}(a) “relevant authority” means a higher education funding council, ^{F277}... [^{F278} the Chief Executive of Skills Funding], the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000 or the Scottish Higher Education Funding Council, and]

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- (b) references to institutions within the higher education sector include institutions within the higher education sector within the meaning of Part II of the ^{M17}Further and Higher Education (Scotland) Act 1992.

Extent Information

E2 S. 82 extends to Great Britain see s. 94(5).

Textual Amendments

F273 S. 82(1)-(1B) substituted for s. 82(1) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 36(2)**; S.I. 2012/924, art. 2

F274 Words in s. 82(2) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 36(3)**; S.I. 2012/924, art. 2

F275 S. 82(2A) inserted (1.7.1999) by The Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), art. 2, **Sch. para. 13**; S.I. 1998/3178, art. 3

F276 S. 82(3)(a) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 25(c)** (with art. 7)

F277 Words in s. 82(3)(a) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 36(4)**; S.I. 2012/924, art. 2

F278 Words in s. 82(3)(a) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 24** (with art. 2(3))

Modifications etc. (not altering text)

C79 S. 82 modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**.

C80 S. 82 amended (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 13**.

Commencement Information

I53 S. 82 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M17 1992 c. 37.

83 Efficiency studies. **E+W**

[^{F279}(1) A person listed in an entry in column 1 of the table in subsection (1B) may arrange for efficiency studies to be promoted or carried out by any person in respect of an institution listed in the corresponding entry in column 2 of that table.

(1A) “Efficiency studies” are studies designed to improve economy, efficiency and effectiveness in the management or operations of an institution.

(1B) The table referred to in subsection (1) is—

<i>Person</i>	<i>Institution</i>
The Welsh Ministers	An institution in Wales within the further education sector.

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<i>Person</i>	<i>Institution</i>
The Chief Executive of Skills Funding	An institution in England within the further education sector, other than a sixth form college
The [^{F280} Secretary of State]	A sixth form college
A higher education funding council	An institution within the higher education sector.]

- (2) A person promoting or carrying out [^{F281}efficiency studies] at the [^{F282}request of a person listed in an entry in column 1 of the table in subsection (1B)] may require the governing body of the institution concerned—
- to furnish the person, or any person authorised by him, with such information, and
 - to make available to him, or any person so authorised, for inspection their accounts and such other documents,
- as the person may reasonably require for that purpose.

Textual Amendments

F279 S. 83(1)-(1B) substituted for s. 83(1) (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(2\)](#) (with art. 2(3))

F280 Words in s. 83(1B) table substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 37](#); [S.I. 2012/924](#), art. 2

F281 Words in s. 83(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(3\)\(a\)](#) (with art. 2(3))

F282 Words in s. 83(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(3\)\(b\)](#) (with art. 2(3))

Modifications etc. (not altering text)

C81 S. 83(2) modified (1.4.1993) by [S.I. 1993/563](#), art. 2, [Sch. 2](#)

Commencement Information

I54 S. 83 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

84 Effect of agreements made before date of transfer. **E+W**

- (1) This section applies where—
- (apart from this section) any land or other property of a local authority would on any date (“the date of transfer”) be transferred under Part I of this Act or Part II of the ^{M18}Education Reform Act 1988 to the governing body of an institution within the further education sector or the higher education sector, and
 - at any time before that date the authority, the governing body of the institution and the governing body of any other institution which will on that date be an institution within the further education sector or the higher education sector

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have agreed in writing that the land or property should be transferred on that or a subsequent date to the governing body of that other institution.

- (2) If the Secretary of State has approved the agreement at any time before the date of transfer, Part I of this Act or, as the case may be, Part II of the^{M19} Education Reform Act 1988 shall have effect as if they required the property to be transferred in accordance with the agreement.
- (3) References in this section to anything done include anything done before the passing of this Act.
- [^{F283}(4) In this section “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

F283 S. 84(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 5(7)**

Modifications etc. (not altering text)

C82 S. 84(1) modified (1.4.1993) by [S.I. 1993/563](#), art. 2, **Sch.1**

Commencement Information

I55 S. 84 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 1**

Marginal Citations

M18 1988 c. 40.

M19 1988 c. 40.

85 Finance and government of locally funded further and higher education. **E+W**

- (1) Chapter III of Part II of the^{M20} Education Reform Act 1988 (finance and government of locally funded further and higher education) shall cease to have effect; and section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated assisted institutions.
- (2) A [^{F15}local authority] shall have the following powers in relation to any institution, not within the further education sector or the higher education sector, which is maintained by them in the exercise of their further or higher education functions.
- (3) The authority may—
 - (a) make such provision as they think fit in respect of the government of the institution (including replacing any instrument of government or articles of government of the institution made under that Chapter or that section), and
 - (b) delegate to the governing body of the institution such functions relating to the management of the finances of the institution, and such other functions relating to the management of the institution (including the appointment and dismissal of staff), as the authority may determine.

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Textual Amendments

F15 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

Commencement Information

I56 S. 85 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), **art. 2**, **Sch. 3**

Marginal Citations

M20 [1988 c. 40](#).

[^{F284}85A Nuisance or disturbance on educational premises **U.K.**

- (1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) This section applies to premises, including playing fields and other premises for outdoor recreation, of—
 - (a) any institution (other than a school) which is maintained by a [^{F15}local authority] and provides further education or higher education (or both), ^{F285} ...
 - (b) any institution within the further education sector [^{F286}], and
 - (c) any 16 to 19 Academy.]
- (3) If—
 - (a) a police constable, or
 - (b) a person whom the appropriate authority have authorised to exercise the power conferred by this subsection,
 has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.
- (4) In subsection (3) “the appropriate authority” means—
 - (a) in relation to premises of an institution such as is mentioned in subsection (2) (a), a [^{F15}local authority], ^{F287} ...
 - (b) in relation to premises of an institution within the further education sector, the governing body [^{F288}], and
 - (c) in relation to premises of a 16 to 19 Academy, the proprietor.]
- (5) No proceedings under this section shall be brought by any person other than—
 - (a) a police constable, or
 - (b) an authorised person.
- (6) In subsection (5) “authorised person” means—
 - (a) in relation to an offence committed on premises of an institution such as is mentioned in subsection (2)(a), a [^{F15}local authority], ^{F289} ...
 - (b) in relation to an offence committed on premises of an institution within the further education sector, a person whom the governing body have authorised to bring such proceedings [^{F290}], and

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- (c) in relation to an offence committed on premises of a 16 to 19 Academy, a person whom the proprietor has authorised to bring such proceedings.]

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F284** S. 85A inserted (1.10.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 20 para. 2** (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), art. 3; [S.I. 2003/1718](#), art. 5, Sch. Pt. II
- F285** Word in s. 85A(2) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(a)**; [S.I. 2012/924](#), art. 2
- F286** S. 85A(2)(c) and word inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(a)**; [S.I. 2012/924](#), art. 2
- F287** Word in s. 85A(4) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(b)**; [S.I. 2012/924](#), art. 2
- F288** S. 85A(4)(c) and word inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(b)**; [S.I. 2012/924](#), art. 2
- F289** Word in s. 85A(6) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(c)**; [S.I. 2012/924](#), art. 2
- F290** S. 85A(6)(c) and word inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(2)(c)**; [S.I. 2012/924](#), art. 2

[^{F291}85A] **Power of members of staff to search students for prohibited items:** England **U.K.**

- (1) This section applies where a member of staff of an institution within the further education sector in England [^{F292}, or a 16 to 19 Academy,] —
- has reasonable grounds for suspecting that a student at the institution may have a prohibited item with him or her or in his or her possessions; and
 - falls within section 85AB(1).
- (2) The member of staff may search the student (“S”) or S's possessions for that item (but this is subject to subsection (5)).
- (3) For the purposes of this section and section 85AC each of the following is a “prohibited item” —
- an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);
 - an offensive weapon, within the meaning of the Prevention of Crime Act 1953;
 - alcohol, within the meaning of section 191 of the Licensing Act 2003;
 - a controlled drug, within the meaning of section 2 of the Misuse of Drugs Act 1971, which section 5(1) of that Act makes it unlawful for S to have in S's possession;
 - a stolen article;
 - [an article that the member of staff reasonably suspects has been, or is likely to be, used —
- ^{F293}(ea)
- to commit an offence, or
 - to cause personal injury to, or damage to the property of, any person (including S);]
- an article of a kind specified in regulations.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In subsection (3)(e) “stolen”, in relation to an article, has the same meaning as it has by virtue of section 24 of the Theft Act 1968 in the provisions of that Act relating to goods which have been stolen.
- (5) A member of staff may not under this section search S or S's possessions for alcohol if S is aged 18 or over.
- (6) In this section and section 85AB—
 - “member of staff”, in relation to an institution within the further education sector [^{F294}or a 16 to 19 Academy] , means any person who works at that institution whether or not as its employee;
 - “possessions”, in relation to S, includes any goods over which S has or appears to have control.
- (7) The powers conferred by this section and sections 85AB and 85AC are in addition to any powers exercisable by the member of staff in question apart from those sections and are not to be construed as restricting such powers.

Textual Amendments

- F291** Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\)](#), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F292** Words in s. 85AA(1) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), s. 82(3), [Sch. 13 para. 8\(3\)](#) (a); S.I. 2012/924, art. 2
- F293** S. 85AA(3)(ea) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(2\)](#), 82(3); S.I. 2012/924, art. 2
- F294** Words in s. 85AA(6) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), s. 82(3), [Sch. 13 para. 8\(3\)](#) (b); S.I. 2012/924, art. 2

85AB Power of search under section 85AA: supplementary **U.K.**

- (1) A person may carry out a search under section 85AA only if that person—
 - (a) is the principal of the institution; or
 - (b) has been authorised by the principal to carry out the search.
- (2) An authorisation for the purposes of subsection (1)(b) may be given in relation to—
 - (a) searches under section 85AA generally;
 - (b) a particular search under that section;
 - (c) a particular description of searches under that section.
- (3) Nothing in any enactment, instrument or agreement shall be construed as authorising a principal of an institution within the further education sector in England [^{F295}, or a principal of a 16 to 19 Academy,] to require a person other than a member of the security staff of the institution to carry out a search under section 85AA.
- (4) A search under section 85AA may be carried out only where—
 - (a) the member of staff and S are on the premises of the institution; or
 - (b) they are elsewhere and the member of staff has lawful control or charge of S.
- (5) A person exercising the power in section 85AA may use such force as is reasonable in the circumstances for exercising that power.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (6) A person carrying out a search of S under section 85AA—
- (a) may not require S to remove any clothing other than outer clothing;
 - (b) must be of the same sex as S [^{F296}, unless the condition in subsection (6A) is satisfied] ;
 - (c) may carry out the search only in the presence of another member of staff [^{F297}, unless the condition in subsection (6A) is satisfied] ; and
 - (d) must ensure that the other member of staff is of the same sex as S if it is reasonably practicable to do so.

[The condition is satisfied if—

- ^{F298}(6A)
 - (a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and
 - (b) in the time available it is not reasonably practicable for the search to be carried out by a person of the same sex as S or in the presence of another member of staff (as the case may be).]

- (7) S's possessions may not be searched under section 85AA except in the presence of—

- (a) S; and
- (b) another member of staff [^{F299}, unless the condition in subsection (7A) is satisfied] .

[The condition is satisfied if—

- ^{F300}(7A)
 - (a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and
 - (b) in the time available it is not reasonably practicable for the search to be carried out in the presence of another member of staff.]

- (8) In this section—

“member of the security staff”, in relation to an institution, means a member of staff whose work at the institution consists wholly or mainly of security-related activities;

“outer clothing” means—

- (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
- (b) a hat, shoes, boots, gloves or a scarf.

Textual Amendments

F291 Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\)](#), 269(4); [S.I. 2010/303](#), [art. 6](#), [Sch. 5](#) (as amended (26.7.2010) by [S.I. 2010/1891](#), [art. 2\(2\)](#) (with [art. 3](#)))

F295 Words in s. 85AB(3) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [s. 82\(3\)](#), [Sch. 13 para. 8\(4\)](#); [S.I. 2012/924](#), [art. 2](#)

F296 Words in s. 85AB(6)(b) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(3\)\(a\)\(i\)](#), 82(3); [S.I. 2012/924](#), [art. 2](#)

F297 Words in s. 85AB(6)(c) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(3\)\(a\)\(ii\)](#), 82(3); [S.I. 2012/924](#), [art. 2](#)

F298 S. 85AB(6A) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(3\)\(b\)](#), 82(3); [S.I. 2012/924](#), [art. 2](#)

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F299 Words in s. 85AB(7)(b) inserted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 3\(3\)\(c\), 82\(3\); S.I. 2012/924, art. 2](#)

F300 S. 85AB(7A) inserted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 3\(3\)\(d\), 82\(3\); S.I. 2012/924, art. 2](#)

85AC Power to seize items found during search under section 85AA **U.K.**

- (1) A person carrying out a search under section 85AA may seize any of the following found in the course of the search—
 - (a) anything which that person has reasonable grounds for suspecting is a prohibited item;
 - (b) any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence,
 but may not seize alcohol from S under this section where S is aged 18 or over.
 - (2) A person exercising the power in subsection (1) may use such force as is reasonable in the circumstances for exercising that power.
 - (3) A person who seizes alcohol under subsection (1) may retain or dispose of the alcohol and its container.
 - (4) A person who seizes a controlled drug under subsection (1)—
 - (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may dispose of it if the person thinks that there is a good reason to do so.
 - (5) A person who seizes a stolen article under subsection (1)—
 - (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may return it to its owner (or, if returning it to its owner is not practicable, may retain it or dispose of it) if the person thinks that there is a good reason to do so.
 - (6) In determining, for the purposes of subsections (4) and (5), whether there is a good reason to dispose of a controlled drug or to return a stolen article to its owner, retain it or dispose of it, the person must have regard to any guidance issued by the Secretary of State.
- [A person who seizes an item that is a prohibited item by virtue of section 85AA(3)
- ^{F301}(6A) (ea) (article used in commission of offence or to cause personal injury or damage to property) under subsection (1) must—
- (a) deliver the item to a police constable as soon as reasonably practicable,
 - (b) return the item to its owner,
 - (c) retain the item, or
 - (d) dispose of the item.
- In deciding what to do with an item under this subsection, the person who seized it must have regard to guidance issued for the purpose of this section by the Secretary of State.
- (6B) Subsections (6C) and (6D) apply to an item that—
- (a) has been seized under subsection (1),
 - (b) is a prohibited item by virtue of section 85AA(3)(ea), and
 - (c) is an electronic device.

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- (6C) The person who seized the item may examine any data or files on the device, if the person thinks there is a good reason to do so.
- (6D) Following an examination under subsection (6C), if the person has decided to return the item to its owner, retain it or dispose of it, the person may erase any data or files from the device if the person thinks there is a good reason to do so.
- (6E) In determining whether there is a good reason for the purposes of subsection (6C) or (6D), the person must have regard to any guidance issued for the purposes of this section by the Secretary of State.]
- (7) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under section 85AA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).
- (8) A person who, under subsection (1), seizes—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);
 - (b) an offensive weapon; or
 - (c) anything which that person has reasonable grounds for suspecting is evidence in relation to an offence;
- must deliver it to a police constable as soon as reasonably practicable.
- (9) Subsection (8)(c) is subject to subsections (3), (4) [F302 and (5)] and regulations made under subsection (7).
- (10) In subsections (3) to (8), references to alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies and an offensive weapon include references to anything which a person has reasonable grounds for suspecting is alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies or an offensive weapon.

Textual Amendments

F291 Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\), 269\(4\)](#); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F301 Ss. 85AC(6A)-(6E) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(4\)\(a\)](#), 82(3); S.I. 2012/924, art. 2

F302 Words in s. 85AC(9) substituted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(4\)\(b\)](#), 82(3); S.I. 2012/924, art. 2

85AD Section 85AC: supplementary **U.K.**

- (1) The Police (Property) Act 1897 (disposal of property in the possession of the police) applies to property which has come into the possession of a police constable under section 85AC(4)(a), (5)(a) [F303, (6A)(a)] or (8) as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (2) Subsection (3) applies where a person—
- (a) seizes, retains or disposes of [F304 an item within subsection (2A)] under section 85AC; and

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(b) proves that the seizure, retention or disposal was lawful.

[The items referred to in subsection (2)(a) are—

- ^{F305}(2A) (a) alcohol or its container;
 (b) a controlled drug;
 (c) a stolen article;
 (d) an article that is a prohibited item by virtue of section 85AA(3)(ea).

(2B) Subsection (3) also applies where a person—

- (a) erases data or a file from an electronic device under section 85AC(6D); and
 (b) proves that the erasure was lawful.]

(3) That person is not liable in any proceedings in respect of—

- (a) the seizure, retention [^{F306}, disposal or erasure] ; or
 (b) any damage or loss which arises in consequence of it.

(4) Subsections (2) [^{F307}, (2B)] and (3) do not prevent any person from relying on any defence on which the person is entitled to rely apart from those subsections.

(5) Regulations under section 85AC(7) may make provision corresponding to any provision of this section.]

Textual Amendments

F291 Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 244(1), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F303 Words in s. 85AD(1) inserted (1.4.2012) by Education Act 2011 (c. 21), ss. 3(5)(a), 82(3); S.I. 2012/924, art. 2

F304 Words in s. 85AD(2)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), ss. 3(5)(b), 82(3); S.I. 2012/924, art. 2

F305 S. 85AD(2A)(2B) inserted (1.4.2012) by Education Act 2011 (c. 21), ss. 3(5)(c), 82(3); S.I. 2012/924, art. 2

F306 Words in s. 85AD(3)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), ss. 3(5)(d), 82(3); S.I. 2012/924, art. 2

F307 Words in s. 85AD(4) inserted (1.4.2012) by Education Act 2011 (c. 21), ss. 3(5)(e), 82(3); S.I. 2012/924, art. 2

[^{F308} 85B Power to search further education students for weapons]^{F309}: Wales] **E+W**

(1) A member of staff of an institution within the further education sector [^{F310}in Wales] who has reasonable grounds for suspecting that a student at the institution may have with him or in his possessions—

- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),

may search that student or his possessions for such articles and weapons.

(2) A search under this section may be carried out only where—

- (a) the member of staff and the student are on the premises of the institution; or

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- (b) they are elsewhere and the member of staff has lawful control or charge of the student.
- (3) A person may carry out a search under this section only if—
- (a) he is the principal of the institution; or
 - (b) he has been authorised by the principal to carry out the search.
- (4) A person who carries out a search of a student under this section—
- (a) may not require the student to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the student; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the student.
- (5) A student's possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
- (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,
- he may seize and retain it.
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
- ‘member of staff’, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;
- ‘outer clothing’ means—
- (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
- ‘possessions’, in relation to a student of an institution within the further education sector, includes any goods over which he has or appears to have control.
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff in question apart from this section and are not to be construed as restricting such powers.]

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Textual Amendments

- F308** S. 85B inserted (31.5.2007 for E., 31.10.2010 for W.) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), **ss. 46, 66(2)**; [S.I. 2007/858, art. 3\(b\)](#); [S.I. 2010/2426, art. 2](#)
- F309** Word in s. 85B heading inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 245(2), 269(4)**; [S.I. 2010/303, art. 6, Sch. 5](#) (as amended (26.7.2010) by [S.I. 2010/1891, art. 2\(2\)](#) (with art. 3))
- F310** Words in s. 85B(1) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), **ss. 245(3), 269(4)**; [S.I. 2010/303, art. 6, Sch. 5](#) (as amended (26.7.2010) by [S.I. 2010/1891, art. 2\(2\)](#) (with art. 3))

[^{F311}85C Power of members of staff to use force **U.K.**

- (1) A member of the staff of an institution which is within the further education sector [^{F312}or is a 16 to 19 Academy] may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely—
- committing any offence,
 - causing personal injury to, or damage to the property of, any person (including the student himself), or
 - prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.
- (2) The power conferred by subsection (1) may be exercised only where—
- the member of the staff and the student are on the premises of the institution, or
 - they are elsewhere and the member of the staff has lawful control or charge of the student.
- (3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.
- (4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.
- (5) In this section, “member of the staff”, in relation to an institution within the further education sector [^{F313}or a 16 to 19 Academy], means any person who works at that institution whether or not as its employee.]

Textual Amendments

- F311** S. 85C inserted (1.4.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 165, 188(3)**; [S.I. 2007/935, art. 4\(b\)](#)
- F312** Words in s. 85C(1) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(5)(a)**; [S.I. 2012/924, art. 2](#)
- F313** Words in s. 85C(5) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 8(5)(b)**; [S.I. 2012/924, art. 2](#)

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Textual Amendments

F314 S. 86 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch. 16 Pt. I**; S.I. 2000/183, **art. 2(1)**

87 Transfers of property, etc: supplementary provision. **E+W**

Schedule 7 to this Act has effect to supplement the provisions of this Act relating to the transfer of property, rights and liabilities.

Commencement Information

I57 S. 87 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, **art. 2, Sch. 2**

88 Stamp duty. **U.K.**

- (1) Subject to subsection (2) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following sections of this Act: 23, 25, [^{F315}27B, 27C], 32, [^{F316}33P], 34, 40(5) and (7), 63 and 80.
- (2) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the ^{M21}Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the ^{M22}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

Textual Amendments

F315 Words in s. 88 substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 38(a)**; S.I. 2012/924, **art. 2**

F316 Word in s. 88 substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 38(b)**; S.I. 2012/924, **art. 2**

Commencement Information

I58 S. 88 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, **art. 2, Sch. 1**

Marginal Citations

M21 1982 c. 39.

M22 1891 c. 39.

[^{F317}88A. Stamp duty land tax **U.K.**

- (1) A land transaction effected under or by virtue of section 25, [^{F318}27B, 27C], 32, [^{F319}33P] or 34 of this Act is exempt from charge for the purposes of stamp duty land tax.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) In this section—

“land transaction” has the meaning given by section 43(1) of the Finance Act 2003;

“land transaction return” has the meaning given by section 76(1) of that Act.]

Textual Amendments

F317 S. 88A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 18**

F318 Words in s. 88A substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 39(a)**; [S.I. 2012/924](#), art. 2

F319 Word in s. 88A substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 39(b)**; [S.I. 2012/924](#), art. 2

89 Orders, regulations and directions. **E+W**

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.
- (2) For the purposes of subsection (1) above the excepted provisions are sections ^{F320}22ZA(1) and (4), 29A(3)(c), 29C(4)] , ^{F321}30(2)(b),] ^{F322}33A(5)(b),] ^{F323}33J(2), 33K(1),] 38, ^{F324}44(2)(c),] 46 and 57; but section 14 of the ^{M23}Interpretation Act 1978 (implied power to amend) applies to orders made under those sections ^{F325}... as it applies to orders made by statutory instrument.
- (3) A statutory instrument containing any order or regulations under this Act, other than ^{F326}one falling within subsection (3A) ^{F327}or (3B)] or] an order under section 94, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- ^{F328}(3A) A statutory instrument which contains (whether alone or with other provision) regulations under section 85AA or 85AC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]
- ^{F329}(3B) An order falls within this subsection if—
 - (a) it is an order revoking (wholly or in part) an order under section 15 or 16 and is made by virtue of section 27A(4), or
 - (b) it is an order revoking (wholly or in part) an order under section 33A, 33B or 33C and is made by virtue of section 33O(4).]
- (4) Orders or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the ^{F330}person or body making the order or regulations] thinks fit.
- ^{F331}(5) Section 570 of the Education Act 1996 (revocation and variation) applies to directions given by any person or body under this Act as it applies to directions given by the Secretary of State or a ^{F15}local authority] under that Act.]

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 5\(2\)](#)
- F320** Words in s. 89(2) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 40\(2\)\(a\)](#); [S.I. 2012/924](#), art. 2
- F321** Words in s. 89(2) inserted (1.4.2001) by [2000 c. 21](#), s. 149, [Sch. 9 para. 40\(a\)](#) (with s. 150); [S.I. 2001/654](#), art. 2, [Sch. Pt. II](#) (with transitional provisions in art. 3); [S.I. 2001/1274](#), art. 2, [Sch. Pt. I](#)
- F322** Word in s. 89(2) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 11\(2\)\(a\)](#); [S.I. 2009/3317](#), art. 2, Sch.
- F323** Words in s. 89(2) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 40\(2\)\(b\)](#); [S.I. 2012/924](#), art. 2
- F324** Words in s. 89(2) inserted (1.4.2001) by [2000 c. 21](#), s. 149, [Sch. 9 para. 40\(b\)](#) (with s. 150); [S.I. 2001/654](#), art. 2, [Sch. Pt. II](#) (with transitional provisions in art. 3); [S.I. 2001/1274](#), art. 2, [Sch. Pt. I](#)
- F325** Words in s. 89(2) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 40\(2\)\(c\)](#); [S.I. 2012/924](#), art. 2
- F326** Words in s. 89(3) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [ss. 244\(2\)\(a\)](#), 269(4); [S.I. 2010/303](#), art. 6, Sch. 5 (as amended (26.7.2010) by [S.I. 2010/1891](#), art. 2(2) (with art. 3))
- F327** Words in s. 89(3) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 40\(3\)](#); [S.I. 2012/924](#), art. 2
- F328** S. 89(3A) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [ss. 244\(2\)\(b\)](#), 269(4); [S.I. 2010/303](#), art. 6, Sch. 5 (as amended (26.7.2010) by [S.I. 2010/1891](#), art. 2(2) (with art. 3))
- F329** S. 89(3B) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 12 para. 40\(4\)](#); [S.I. 2012/924](#), art. 2
- F330** Words in s. 89(4) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 11\(3\)](#); [S.I. 2010/303](#), art. 3, [Sch. 2](#)
- F331** S. 89(5) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 8 para. 11\(4\)](#); [S.I. 2010/303](#), art. 3, Sch. 2

Commencement Information

- I59** S. 89 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

Marginal Citations

- M23** [1978 c. 30](#).

90 Interpretation. **E+W+S**

(1) In this Act—

“contract of employment”, “employee” and “employer” have the same meaning as in ^[F332]the [Employment Rights Act 1996](#), and “employed” means employed under a contract of employment,

“the Education Acts” ^[F333]has the meaning given by section 578 of the [Education Act 1996](#),

^[F334]“further education” has the meaning given by section 2(3) to (5) of that Act;

^[F335]“further education corporation in England” means a further education corporation established to conduct an institution in England;

“further education corporation in Wales” means a further education corporation established to conduct an institution in Wales;

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“governing body”, in relation to an institution, means, subject to subsection (2) below—

- (a) in the case of an institution conducted by a further education corporation^{F336}, a sixth form college corporation] or a higher education corporation, the corporation,
- (b) in the case of a university not falling within paragraph (a) above, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs,
- (c) in the case of any other institution not falling within paragraph (a) or (b) above for which there is an instrument of government providing for the constitution of a governing body, the governing body so provided for, and
- (d) in any other case, any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors,

“higher education” has the same meaning as in the ^{M24}Education Reform Act 1988,

“higher education corporation” means a body corporate established under section 121 or 122 of the ^{M25}Education Reform Act 1988, including those sections as applied by section 227(4) of that Act (application to Wales), or a body corporate which has become a higher education corporation by virtue of section 122A of that Act,

“interest in land” includes any easement, right or charge in, to or over land,

“land” includes buildings and other structures, land covered with water and any interest in land,

“liability” includes obligation, and

^{F337}“local authority” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act).]

^{F338}“the relevant sixth form college”, in relation to a sixth form college corporation, means the educational institution specified in the order under this Act designating the corporation as a sixth form college corporation or establishing it as such,]

^{F339}
...

- (a) ^{F338}in relation to a proposal relating to the establishment of a sixth form college corporation, means the ^{F15}local authority] in whose area the relevant sixth form college, or its main site, is proposed to be situated;
- (b) in relation to a sixth form college corporation, means the ^{F15}local authority] in whose area the relevant sixth form college, or its main site, is situated;
- (c) in relation to a sixth form college, means the ^{F15}local authority] in whose area the sixth form college, or its main site, is situated,]

^{F338}“sixth form college corporation” means a body corporate—

- (a) designated as a sixth form college corporation under section 33A or 33B, or
- (b) established under section 33C,]

^{F339}
...

- (2) The Secretary of State may by order provide for any reference in the Education Acts to the governing body of an institution, in relation to an institution which is—

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- (a) a designated institution for the purposes of Part I or Part II of this Act, and
 - (b) conducted by a company,
- to be read as a reference to the governing body provided for in the instrument of government, or to the company or to both.

^{F340}(2ZA)

^{F341}(2A)

^{F342}(2B)

- (3) In this Act “university” includes a university college and any college, or institution in the nature of a college, in a university [^{F343}(except where the context otherwise requires)]; but where a college or institution would not, apart from this subsection, fall to be treated separately it shall not be so treated for the purpose of determining whether any institution is in England or in Wales.

[^{F344}(3A) In this Act references to a voluntary aided school are—

- (a) in relation to any time before the appointed day within the meaning of the ^{M26}School Standards and Framework Act 1998, references to a voluntary aided school within the meaning of the Education Act 1996; or
- (b) in relation to any time on or after that day, references to a voluntary aided school within the meaning of the 1998 Act.]

- (4) References in this Act to institutions within the PCFC funding sector are to be construed in accordance with section 132(6) of the ^{M27}Education Reform Act 1988.

- (5) Subject to the provisions of this Act, expressions used in this Act and in [^{F345}the Education Act 1996] have the same meaning in this Act as in that Act [^{F346}and section 140(2) of the School Standards and Framework Act 1998 has effect for defining the expressions there mentioned.].

Textual Amendments

- F15** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F332** Words in s. 90(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(4)** (with ss. 191-195, 202)
- F333** Words in s. 90(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2) (a)** (with ss. 1(4), 561, 562, Sch. 39)
- F334** Definition in s. 90(1) inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2) (b)** (with ss. 1(4), 561, 562, Sch. 39)
- F335** Words in s. 90(1) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 41(2)(a)**; S.I. 2012/924, art. 2
- F336** Words in s. 90(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 12(2)**; S.I. 2009/3317, art. 2, Sch.
- F337** Words in s. 90(1) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 5(8)**
- F338** Words in s. 90(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 12(3)**; S.I. 2009/3317, art. 2, Sch.
- F339** Words in s. 90(1) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 41(2)(b)**; S.I. 2012/924, art. 2
- F340** S. 90(2ZA) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 12 para. 41(3)**; S.I. 2012/924, art. 2

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- F341** S. 90(2A) omitted (1.4.2006) by virtue of [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), [Sch. 1 para. 27\(a\)](#) (with art. 7)
- F342** S. 90(2B) omitted (1.4.2006) by virtue of [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), [Sch. 1 para. 27\(b\)](#) (with art. 7)
- F343** Words in s. 90(3) inserted (1.10.1998) by 1998 c. 30, s. 44(1), [Sch. 3 para. 8](#) (with s. 48(2)); S.I. 1998/2215, [art. 2](#)
- F344** S. 90(3A) inserted (1.9.1999) by 1998 c. 31, s. 140(1), [Sch. 30 para. 46\(a\)](#) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), [Sch. 1](#).
- F345** Words in s. 90(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), [Sch. 37 Pt. I para. 115\(3\)](#) (with ss. 1(4), 561, 562, [Sch. 39](#))
- F346** Words in s. 90(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), [Sch. 30 para. 46\(b\)](#) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), [Sch. 1](#).

Commencement Information

- I60** S. 90 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, [Sch. 1](#)

Marginal Citations

- M24** 1988 c. 40.
M25 1988 c. 40.
M26 1996 c. 56.
M27 1988 c. 40.

91 Interpretation of Education Acts. **E+W**

(1) This section applies for the interpretation of the Education Acts.

^{F347}(2)

(3) References to institutions within the further education sector are to—

- (a) institutions conducted by further education corporations, and
- (b) designated institutions for the purposes of Part I of this Act (defined in section 28(4) of this Act), [^{F348}and
- (c) sixth form colleges,]

and references to institutions outside the further education sector are to be read accordingly.

[^{F349}(3A) References to sixth form colleges are to institutions conducted by sixth form college corporations.]

(4) References to a higher education funding council are to a council established under section 62 of this Act, subject to subsection (6) of that section.

(5) References to institutions within the higher education sector are to—

- (a) universities receiving financial support under section 65 of this Act,
- (b) institutions conducted by higher education corporations, and
- (c) designated institutions for the purposes of Part II of this Act (defined in section 72(3) of this Act),

and references to institutions outside the higher education sector are to be read accordingly.

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- (6) References, in relation to a further education corporation or higher education corporation, to the institution—
- (a) in relation to any time before the operative date for the purposes of Part I of this Act (defined in section 17 of this Act) or, as the case may be, the transfer date for the purposes of the ^{M28}Education Reform Act 1988 (defined in section 123 of that Act), are to the institution the corporation is established to conduct, and
 - (b) in relation to any later time or to any corporation which is a further education corporation by virtue of section 47 of this Act or a higher education corporation by virtue of section 122A of that Act, are to any institution for the time being conducted by the corporation in the exercise of their powers under this or that Act.

Textual Amendments

- F347** S. 91(2) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 42, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)
- F348** S. 91(3)(c) and word inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(2)**; S.I. 2009/3317, art. 2, Sch.
- F349** S. 91(3A) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(3)**; S.I. 2009/3317, art. 2, Sch.

Modifications etc. (not altering text)

- C83** S. 91 applied (30.6.1999) by 1991 c. 56, s. 1(2), **Sch. 4A para. 11(2)** (as inserted (30.6.1999) by 1999 c. 9, ss. 1(2), 17(2), **Sch. 1**)
- C84** S. 91(3)(a)(b) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c) (i) (with Sch. 13 para. 2)
- C85** S. 91(5) applied by 1973 c. 50, s. 8(4) (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, s. 45; S.I. 1993/2503, art. 2(3)(a)(b), **Sch. 3**)
- C86** S. 91(5)(b)(c) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c) (i) (with Sch. 13 para. 2)

Commencement Information

- I61** S. 91 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M28** 1988 c. 40.

92 Index. **E+W**

The expressions listed in the left-hand column below are respectively defined by or (as the case may be) are to be interpreted in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
appropriate further education funding council	section 1(6)
contract of employment, etc.	section 90(1)
[^{F350} council (in Part I), or learning and skills council	sections 61A(1) and 90(2A)]

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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council (in Part II), or higher education funding council	sections 61(3)(b), 62(5) and (6) and 91(4)
designated institution (in Part I)	section 28(4)
designated institution (in Part II)	section 72(3)
the Education Acts	section 90(1)
functions	section 61(1)
further education	F351 [section 90(1)]
further education corporation	section 17(1)
[^{F352} further education corporation in England	section 90(1)]
[^{F352} further education corporation in Wales	section 90(1)]
governing body	section 90(1) and (2)
higher education	section 90(1)
higher education corporation	section 90(1)
institution in England or in Wales (in relation to higher education funding councils)	section 62(7)
institutions within or outside the further education sector	section 91(3)
institutions within or outside the higher education sector	sections 61(3)(a) and 91(5)
institutions within the PCFC funding sector	section 90(4)
interest in land	section 90(1)
land	section 90(1)
liability	section 90(1)
local authority	section 90(1)
modification	section 61(1)
operative date	sections 17 and 33(4)
F353	F353
...	...
regulations	section 61(1)
[^{F354} relevant sixth form college	section 90(1)]
F355	F355
...	...
[^{F354} sixth form college	section 91(3A)]
[^{F354} sixth form college corporation	section 90(1)]

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.
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F353	F353
...	...
F353	F353
...	...
transfer of rights or liabilities	section 61(2)
university	section 90(3)
F355	F355
...	...

Textual Amendments

- F350** Entry in s. 92 substituted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 43**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)
- F351** Words in the entry for “further education” in s. 92 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 116(a)** (with ss. 1(4), 561, 562, Sch. 39)
- F352** Words in s. 92 inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 42(a)**; S.I. 2012/924, art. 2
- F353** Entries in s. 92 repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 116(b), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)
- F354** Words in s. 92 inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 14**; S.I. 2009/3317, art. 2, Sch.
- F355** Words in s. 92 omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 42(b)**; S.I. 2012/924, art. 2

Commencement Information

- I62** S. 92 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

93 Amendments and repeals. **E+W**

- (1) Schedule 8 (which makes minor and consequential amendments) shall have effect.
- (2) The enactments mentioned in Schedule 9 to this Act are repealed to the extent mentioned in the third column.

Commencement Information

- I63** S. 93 wholly in force; s. 93 not in force at Royal Assent see s. 94(3); s. 93(2) wholly in force and s. 93(1) in force for certain purposes at 6.5.1992, 30.9.1992, 1.4.1993, 1.8.1993 by S.I. 1992/831, art. 2, **Schs.** (as amended by S.I. 1992/2041, art. 2(b)); s. 93(1) in force (E.) for certain purposes at 7.12.1992 by S.I. 1992/3057, art. 2; s. 93(1) in force for certain purposes at 1.8.1996 by S.I. 1996/1897, art. 2

94 Short title, commencement, etc. **E+W**

- (1) This Act may be cited as the Further and Higher Education Act 1992.

^{F356}(2)

Status: Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

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- (3) This Act shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions and for different purposes.
- (4) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (5) Sections 63, 64 and 82 of this Act extend also to Scotland.
- (6) Section 80 extends also to Scotland and Northern Ireland.
- (7) The amendment by this Act of an enactment which extends to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Subordinate Legislation Made

- P1** S. 94(3) power partly exercised (16.3.1992): different dates appointed for specified provisions by [S.I. 1992/831](#) (with saving and transitional provisions);
- s. 94(3) power partly exercised (25.8.1992) by [S.I. 1992/2041](#) (amending [S.I. 1992/831](#));
- s. 94(3) power partly exercised (1.9.1992): 1.4.1993 appointed for specified provisions by [S.I. 1992/2377](#);
- s. 94(3) power partly exercised (7.12.1992): 7.12.1992 appointed (E.) for s. 93(1) for certain purposes by [S.I. 1992/3057](#);
- s. 94(3) power partly exercised (9.7.1996): 1.8.1996 appointed for certain purposes by [S.I. 1996/1897](#);

Textual Amendments

- F356** S. 94(2) repealed (1.11.1996) by [1996 c. 56, ss. 582\(2\)\(3\), 583\(2\)](#), [Sch. 38 Pt.I](#) (with [ss. 1\(4\), 561, 562, Sch. 39](#))

Commencement Information

- I64** S. 94 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

Status:

Point in time view as at 01/04/2012. This version of this Act contains provisions that are prospective.

Changes to legislation:

Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.