



# Further and Higher Education Act 1992

## CHAPTER 13

### FURTHER AND HIGHER EDUCATION ACT 1992

#### PART I

##### FURTHER EDUCATION

#### CHAPTER I

##### RESPONSIBILITY FOR FURTHER EDUCATION

###### *The new funding councils*

- 1 The Further Education Funding Councils.

###### *The new further education sector*

- 2 Full-time education for 16 to 18 year-olds.
- 3 Part-time education, and full-time education for those over 18.
- 4 Persons with learning difficulties.

###### *Finance*

- 5 Administration of funds by councils.
- 6 Administration of funds: supplementary.
- 7 Grants to councils.

###### *Further functions*

- 8 Supplementary functions.
- 9 Assessment of quality of education provided by institutions.

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*Adjustment of local education authority sector*

- 10 Functions of local education authorities in respect of secondary education.
- 11 Functions of local education authorities in respect of further education.

*Provision of further education in schools*

- 12 Provision of further education in maintained schools.
- 13 [Provision of further education in grant-maintained schools.

*General*

- 14 Meaning of “further education”, “secondary education”, “school” and “pupil”.

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INSTITUTIONS WITHIN THE FURTHER EDUCATION SECTOR

*The further education corporations*

- 15 Initial incorporation of existing institutions.
- 16 Orders incorporating further institutions.
- 17 “Further education corporation” and “operative date”.
- 18 Principal powers of a further education corporation.
- 19 Supplementary powers of a further education corporation.
- 20 Constitution of corporation and conduct of the institution.
- 21 Initial instruments and articles.
- 22 Subsequent instruments and articles.
- 22A Charitable status of a further education corporation.

*Transfer of property, etc., to further education corporations*

- 23 Transfer of property, etc.: institutions maintained by local education authorities.
- 24 Provisions supplementary to section 23.
- 25 Transfer of property, etc.: grant-maintained schools.
- 26 Transfer of staff to further education corporations.

*Dissolution of further education corporations*

- 27 Dissolution of further education corporations.

*Designation of institutions for funding by the councils*

- 28 Designation of institutions.
- 29 Government and conduct of designated institutions.
- 30 Special provision for voluntary aided sixth form colleges.
- 31 Designated institutions conducted by companies.
- 32 Transfer of property, etc., to designated institutions.
- 33 Provisions supplementary to section 32.

*Property, rights and liabilities: general*

- 34 Making additional property available for use.
- 35 Voluntary transfers of staff in connection with section 34.

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- 36 General provisions about transfers under Chapter II.
- 37 Attribution of surpluses and deficits.
- 38 Payments by council in respect of loan liabilities.
- 39 Control of disposals of land.
- 40 Wrongful disposals of land.
- 41 Control of contracts.
- 42 Wrongful contracts.
- 43 Remuneration of employees.

#### *Miscellaneous*

- 44 Collective worship.
- 45 Religious education.
- 46 Variation of trust deeds.
- 47 Transfer of higher education institutions to further education sector.
- 48 Statutory conditions of employment.
- 49 Avoidance of certain contractual terms.
- 50 Information with respect to institutions within the further education sector.
- 51 Publication of proposals.
- 52 Duty to provide for named individuals.
- 52A Duty to safeguard pupils receiving secondary education.
- 53 Inspection of accounts.

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- 54 Duty to give information.
- 55 Inspection etc. of local education authority institutions, other than schools, and advice to Secretary of State.
- 56 Directions.
- 57 Intervention in the event of mismanagement or breach of duty.
- 58 Reorganisations of schools involving establishment of further education corporation.
- 59 Reorganisations, affecting provision for further education, of schools.
- 60 Saving as to persons detained by order of a court.
- 60A Partnership arrangements to secure provision of certain further education in Wales.
- 61 Interpretation of Part I.
- 61A References to councils.

### **PART II**

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##### *The new funding councils*

- 62 The Higher Education Funding Councils.
- 63 Dissolution of existing councils.
- 64 Transitional arrangements.

##### *Funds*

- 65 Administration of funds by councils.

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- 66 Administration of funds: supplementary.
- 67 Payments in respect of persons employed in provision of higher or further education.
- 68 Grants to councils.

#### *Further functions*

- 69 Supplementary functions.
- 70 Assessment of quality of education provided by institutions.

#### *Institutions in the higher education sector*

- 71 Higher education corporations: constitution and conduct.
- 72 Further power of designation.
- 73 Government and conduct of designated institutions.
- 74 Transfer of further education institutions to higher education sector.
- 75 Variation of trust deeds.
- 76 Power to award degrees, etc.
- 77 Use of “university” in title of institution.
- 78 Financial years of higher education corporations.

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- 79 Duty to give information to the funding councils.
- 80 Dissolution of Council for National Academic Awards.
- 81 Directions.

### **PART III**

#### MISCELLANEOUS AND GENERAL

- 82 Joint exercise of functions.
- 83 Efficiency studies.
- 84 Effect of agreements made before date of transfer.
- 85 Finance and government of locally funded further and higher education.
- 85A Nuisance or disturbance on educational premises
- 86 Temporary exclusion of section 5 of Data Protection Act 1984 in relation to data transferred to new bodies.
- 87 Transfers of property, etc: supplementary provision.
- 88 Stamp duty.
- 89 Orders, regulations and directions.
- 90 Interpretation.
- 91 Interpretation of Education Acts.
- 92 Index.
- 93 Amendments and repeals.
- 94 Short title, commencement, etc.

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### SCHEDULES

#### SCHEDULE 1 — The Further and Higher Education Funding Councils

##### *Supplementary powers*

- 1 (1) Subject to sub-paragraph (2) below, the council may do...

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### *Chief officer*

- 2 (1) One of the members of the council shall be...

### *Tenure of members of councils*

- 3 (1) A person shall hold and vacate office as a...  
4 If the Secretary of State is satisfied that a member...

### *Salaries, allowances and pensions*

- 5 (1) The council— (a) shall pay to their members such...

### *House of Commons disqualification*

- 6 In Part III of Schedule 1 to the House of...

### *Staff*

- 7 (1) The council may appoint such employees as they think...

### *Committees*

- 8 (1) The council may establish a committee for any purpose....

### *Further Education Funding Council for England: regional committees*

- 9 (1) There shall be established for each region of England...

### *Delegation of Functions*

- 10 The council may authorise the chairman, the chief officer or...

### *Proceedings*

- 11 Without prejudice to any other rights the Secretary of State...  
12 The validity of any proceedings of the council or of...  
13 Subject to the preceding provisions of this Schedule, the council...

### *Application of seal and proof of instruments*

- 14 The application of the seal of the council shall be...  
15 Every document purporting to be an instrument made or issued...

### *Accounts*

- 16 (1) It shall be the duty of the council—

### *Status of council*

- 17 The council shall not be regarded as the servant or...

## SCHEDULE 2 — Courses of Further Education

The descriptions of courses of further education referred to in...

## SCHEDULE 3 — Calculation of Enrolment Numbers

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### *Enrolment numbers*

- 1 (1) The enrolment number for any institution at any time...

*Table for calculating enrolment numbers for sandwich courses, etc.*

- 2 The following table applies for the purpose of determining the...

### *Interpretation of paragraphs 1 and 2*

- 3 (1) For the purposes of paragraph 1(1)(a) and (2)(a) above...

### *Amendment of paragraphs 1 to 3*

- 4 The Secretary of State may by order amend paragraphs 1...

### *Exclusion of non-EEC students*

- 5 For the purpose of calculating under those paragraphs any enrolment...

## SCHEDULE 4 — Instruments and articles of government for further education corporations

- 1 References in this Schedule to an instrument are to an...
- 1A Provision made by an instrument under this Schedule in relation...
- 2 (1) An instrument shall provide for the number of members...
- 3 An instrument shall provide for one or more officers to...
- 4 An instrument may provide for the corporation to establish committees...
- 5 An instrument may provide for the delegation of functions of...
- 6 An instrument may provide for the corporation to pay allowances...
- 7 An instrument shall provide for the authentication of the application...
- 8 An instrument shall require the corporation to keep proper accounts...
- 9 An instrument shall provide for the appointment of a principal...
- 10 An instrument shall make provision about the procedures of the...
- 11 An instrument shall provide— (a) for the appointment, promotion, suspension...
- 12 An instrument may make provision authorising the corporation to make...

## SCHEDULE 5 — Identification and apportionment, etc., of property

### *Division and apportionment of property etc.*

- 1 (1) Any property, rights and liabilities of a transferor authority...

### *Identification of property, rights and liabilities*

- 2 (1) It shall be the duty of the transferor and...
- 3 (1) The Education Assets Board may, in the case of...
- 4 (1) The transferor or transferee, if dissatisfied with a determination...
- 5 (1) Regulations may prescribe the procedure to be followed in...

### *Documents of title*

- 6 (1) Where a transfer to which this Schedule applies relates...

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*Third parties affected by vesting provisions*

7 (1) Without prejudice to the generality of paragraphs 2 to...

*Delivery of documents to transferee*

8 When it appears to the Education Assets Board, in the...

SCHEDULE 5A — Further provision about partnership arrangements in Wales

*Interpretation*

1 In this Schedule— “ the participating bodies ”, in relation...

*Approval by the Secretary of State*

2 (1) An application for approval of an arrangement by the...

*Termination of arrangement etc*

3 (1) Subject to any provision of the arrangement to the...

*Variation of arrangement*

4 (1) The parties to a partnership arrangement to which section...

*Interpretation of existing enactments*

5 (1) Regulations may provide— (a) for any reference in an...

SCHEDULE 6 — New Schedule 7A to the Education Reform Act 1988

SCHEDULE 7 — Transfers: supplementary provisions

*Proof of title by certificate*

1 The Education Assets Board may issue a certificate stating that...

*Construction of agreements*

2 (1) Where any rights or liabilities transferred by virtue of...

3 (1) Without prejudice to the generality of paragraph 2 above,...

4 The provisions of paragraphs 2 and 3 above shall have...

SCHEDULE 8 — Minor and Consequential Amendments

Part I — AMENDMENTS OF THE EDUCATION ACTS

*The Education Act 1944 (c. 31)*

1 The Education Act 1944 is amended as follows.

2 The duty imposed on local education authorities by section 7...

3 Section 8(3) is omitted.

4 In section 9(1) for “duties” there is substituted “ functions...

5 In section 55 (provision of transport and other facilities)—

[6 At the end of section 56 (power to provide primary...

7 In section 62(1) (duties of Secretary of State and of...

8 Section 67(4A) (determination of disputes and questions - part-time senior...

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- 9 Section 68 (power of Secretary of State to prevent unreasonable...
- 10 Section 77 (inspection of educational establishments) shall cease to have...
- 11 In section 81 (power of local education authorities to give...
- 12 In section 85(2) and (3) (power of local education authorities...
- 13 (1) Section 114 (interpretation) is amended as follows.

*The Education Act 1946 (c. 50)*

- 14 In the First Schedule to the Education Act 1946 (maintenance...

*The Education (Miscellaneous Provisions) Act 1948 (c. 40)*

- 15 Section 3(3) of the Education (Miscellaneous Provisions) Act 1948 (allocation...
- 16 In section 5(3) of that Act (amendment and consolidation of...

*The Education Act 1980 (c. 20)*

- 17 After section 22(3A) of the Education Act 1980 (school meals...

*The Education Act 1981 (c. 60)*

- 18 In section 14(2) of the Education Act 1981 (discontinuance of...

*The Education (Fees and Awards) Act 1983 (c. 40)*

- 19 In section 1(3) of the Education (Fees and Awards) Act...

*The Further Education Act 1985 (c. 47)*

- 20 At the end of section 1 of the Further Education...
- 21 (1) In section 2(2) of that Act (power of LEAs...

*The Education (No. 2) Act 1986 (c. 61)*

- 22 In section 43 of the Education (No. 2) Act 1986...
- 23 In section 49(3) of that Act (appraisal of performance of...
- 24 In section 51 of that Act (recoupment)—
- 25 In section 52(1)(a) and (3) of that Act (recoupment :...
- 26 In section 58 of that Act (travelling and subsistence allowances...

*The Education Reform Act 1988 (c. 40)*

- 27 The Education Reform Act 1988 is amended as follows.
- 28 In section 24(1)(b) (extension of certain provisions)—
- 29 In section 100 (provision of benefits and services for pupils...
- 30 In section 120 (functions of local education authorities with respect...
- 31 In section 122 (orders incorporating higher education institutions maintained by...
- 32 In section 123 (provisions supplementary to sections 121 and 122)—...
- 33 In section 124 (powers of a higher education corporation)—
- 34 In section 128 (dissolution of higher education corporations)—
- 35 Sections 131, 132 and 134 (Universities Funding Council and Polytechnics...
- 36 In section 135 (inspection of accounts)— (a) for subsection (1)(c)...
- 37 In section 136 (transfer to Polytechnics and Colleges Funding Council...



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- 38 In section 137(2) (control of disposals of land) “or 129(3)”...
- 39 In section 157 (construction of instruments providing for institution ceasing...
- 40 In section 158(2) (reports and returns) paragraphs (a)(i) and (iii)...
- 41 Section 159(2)(b) (information with respect to educational provision in institutions...
- 42 In section 161 (interpretation of Part II) subsection (1)(c) is...
- 43 In section 197 (Education Assets Board)— (a) in subsection (4)...
- 44 In section 198(5) (transfers under Parts I and II) for...
- 45 In section 205 (procedure for exercise of University Commissioners’ powers)—...
- 46 In section 210 (grants for the education of travellers and...
- 47 In section 211 (grants in respect of special provision for...
- 48 In section 214(2)(a) (unrecognised degrees) after “Royal Charter or” there...
- 49 In section 218 (school and further and higher education regulations)—...
- 50 In section 219 (powers of Secretary of State in relation...
- 51 (1) Section 220 (extension of functions of Audit Commission) is...
- 52 In section 221 (avoidance of certain contractual terms) subsection (1) (c)...
- 53 In section 222 (application of employment law during financial delegation)...
- 54 In section 227 (application to Wales) subsections (2) to (4)...
- 55 In section 230 (stamp duty)— (a) in subsection (1) “section...
- 56 In section 232 (orders and regulations)— (a) in subsection (2)...
- 57 In section 234 (meaning of “assisted” for the purposes of...
- 58 In section 235 (general interpretation) subsection (2)(a) and (h) are...
- 59 In Schedule 7 (Higher Education Corporations)— (a) for paragraph 1(4)...
- 60 Schedule 8 (the funding councils and the assets board) shall...
- 61 Paragraphs 62 to 64 below shall have effect, in place...
- 62 (1) The Education Assets Board may, in the case of...
- 63 (1) The transferor or transferee, if dissatisfied with a determination...
- 64 (1) Regulations may prescribe the procedure to be followed in...
- 65 In paragraph 4 of that Schedule at the beginning there...
- 66 In Schedule 12 (minor and consequential amendments) paragraphs 68, 69(2),...

*The Education (Student Loans) Act 1990 (c. 6)*

- 67 In section 1(3)(a) of the Education (Student Loans) Act 1990...  
Part II — AMENDMENTS OF OTHER ACTS

*The Public Records Act 1958 (c. 51)*

- 68 In Schedule 1 to the Public Records Act 1958 (definition...

*The Charities Act 1960 (c. 58)*

- 69 (1) A further education corporation shall be an exempt charity...

*The Veterinary Surgeons Act 1966 (c. 36)*

- 70 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions...

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*The Local Authorities (Goods and Services) Act 1970 (c. 39)*

71 (1) Subject to sub-paragraph (2) below, in the Local Authorities...

*The Chronically Sick and Disabled Persons Act 1970 (c. 44)*

72 In section 8(2) of the Chronically Sick and Disabled Persons...

*The Superannuation Act 1972 (c. 11)*

73 In Schedule 1 to the Superannuation Act 1972 the entries...

*The House of Commons Disqualification Act 1975 (c. 24)*

74 In Part III of Schedule 1 to the House of...

*The Sex Discrimination Act 1975 (c. 65)*

75 The Sex Discrimination Act 1975 is amended as follows.

76 (1) The Table in section 22 (discrimination by bodies in...

77 After that section there is inserted— Meaning of pupil in...

78 After section 23 (other discrimination by local education authorities) there...

79 (1) In section 25(6) (general duty in public sector of...

80 After section 26(3) (exception for single-sex establishments) there is added—...

81 After section 27(5) (exception for single-sex establishments turning co-educational) there...

82 In section 82(1) (general interpretation provisions) in the definition of...

83 For paragraph 4 of Schedule 2 (transitional exemption orders for...

*The Race Relations Act 1976 (c. 74)*

84 The Race Relations Act 1976 is amended as follows.

85 (1) The Table in section 17 (discrimination by bodies in...

86 After that section there is inserted— Meaning of pupil in...

87 After section 18 (other discrimination by local education authorities) there...

88 (1) In section 19(6) (general duty in public sector of...

*The Employment Protection (Consolidation) Act 1978 (c. 44)*

89 In section 29(1) of the Employment Protection (Consolidation) Act 1978...

*The Public Passenger Vehicles Act 1981 (c. 14)*

90 In section 46(3) of the Public Passenger Vehicles Act 1981...

*The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

91 (1) Section 5 of the Disabled Persons (Services, Consultation and...

92 For section 6(1) of that Act (review of expected leaving...

*The Employment Act 1989 (c. 38)*

93 In section 5(6) of the Employment Act 1989 (exemption for...

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*The Town and Country Planning Act 1990 (c. 8)*

94 In section 76(1) of the Town and Country Planning Act...

*The Environmental Protection Act 1990 (c. 43)*

95 In section 98(2) of the Environmental Protection Act 1990 (definitions)  
—...

SCHEDULE 9 — Repeals

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