



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART I **E+W+S**

#### FURTHER EDUCATION

### 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 [<sup>F1</sup>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.

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- (6) Where an educational institution, being an institution maintained by a [<sup>F1</sup>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, 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

- F1** 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

- I1** 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.
- [<sup>F2</sup>(2) Subsection (1) above does not apply to an institution which is maintained by a [<sup>F1</sup>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 [<sup>F1</sup>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

- F1** 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)**
- F2** 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**

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#### 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](#)

### [<sup>F3</sup>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

**F3** 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 [<sup>F4</sup>or which has become a further education corporation by virtue of section [<sup>F5</sup>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

**F4** 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](#)

**F5** 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](#)

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**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
  - [<sup>F6</sup>(aa) provide secondary education [<sup>F7</sup>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 <sup>M1</sup>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, [<sup>F8</sup>and those powers are referred to in section 19 of this Act as the corporation’s principal powers].

[<sup>F9</sup>(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 [<sup>F1</sup>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.

- <sup>F10</sup>(4) .....
- <sup>F10</sup>(5) .....
- <sup>F10</sup>(6) .....

**Textual Amendments**

- F1** 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)**
- F6** 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**

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- F7** 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](#)
- F8** 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](#)
- F9** 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](#)
- F10** 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](#))

#### Modifications etc. (not altering text)

- C2** S. 18(3)(c) modified (W.) (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), regs. 1(1), [3\(b\)](#)

#### 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<sup>F11</sup> ...).
- (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,
  - [<sup>F12</sup>(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 [<sup>F13</sup>(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

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to them under sections [F14]27] to [F15]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.

F16(4A) .....

F17(4AA) .....

F18(4AB) .....

F19(4AC) .....

F20(4B) .....

F21(4C) .....

F22(5) .....

[F23(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.]

[F24(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.]

[F25(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

- F11** 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**
- F12** 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))
- F13** 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**)
- F14** Word in s. 19(4)(c) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(a)**

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- F15** 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
- F16** S. 19(4A) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(a)**, 11(2); S.I. 2014/1706, art. 3(a)
- F17** S. 19(4AA) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(b)**, 11(2); S.I. 2014/1706, art. 3(a)
- F18** S. 19(4AB) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(c)**, 11(2); S.I. 2014/1706, art. 3(a)
- F19** 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
- F20** S. 19(4B) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(d)**, 11(2); S.I. 2014/1706, art. 3(a)
- F21** S. 19(4C) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(e)**, 11(2); S.I. 2014/1706, art. 3(a)
- F22** S. 19(5) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(f)**, 11(2); S.I. 2014/1706, art. 3(a)
- F23** 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**
- F24** S. 19(8) inserted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(6)**, 32(1)
- F25** 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**

## <sup>F26</sup>19A Duty in relation to promotion of well-being of local area **E+W**

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#### Textual Amendments

- F26** 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).

- [<sup>F27</sup>(2) Instruments of government and articles of government of further education corporations—
- (a) must comply with the requirements of Schedule 4, and
  - (b) subject to that, may make such other provision as may be necessary or desirable.]

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- (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

**F27** S. 20(2) substituted for s. 20(2)(2A) (1.9.2014) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), **ss. 2(1), 11(2)**; S.I. 2014/1706, art. 3(b)

#### 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—
- <sup>F28</sup>(a) . . . . .
- <sup>F29</sup>. . . shall be such as is prescribed by regulations.
- (2) Such <sup>F30</sup>. . . regulations—
- (a) may provide for all or any of the persons who, on the date on which a corporation is established to conduct the <sup>F31</sup>. . . 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 <sup>F32</sup>. . . 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 [<sup>F33</sup>a maintained school, the governing body incorporated under [<sup>F34</sup>section 19 of the Education Act 2002]] shall, on the operative date, be dissolved.

#### Textual Amendments

**F28** 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**.

**F29** 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**.

**F30** 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**.

**F31** 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**.

**F32** 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**.



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**F33** 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**.

**F34** 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**

**[<sup>F35</sup>22 Subsequent instruments and articles E+W**

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

**Textual Amendments**

**F35** S. 22 substituted for ss. 22, 22ZA (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 2(3), 11(2)**; S.I. 2014/1706, art. 3(b)

**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**

**[<sup>F36</sup>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**

**F36** 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*

**<sup>F37</sup>23 Transfer of property, etc.: institutions maintained by local authorities E+W**

.....

**Textual Amendments**

**F37** Ss. 23-26 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(2)**

**<sup>F37</sup>24 Provisions supplementary to section 23. E+W**

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**Textual Amendments**

**F37** Ss. 23-26 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), **Sch. 15 para. 4(2)**

**<sup>F37</sup>25 Transfer of property, etc. from foundation bodies. E+W**

.....

**Textual Amendments**

**F37** Ss. 23-26 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), **Sch. 15 para. 4(2)**

**<sup>F37</sup>26 Transfer of staff to further education corporations. E+W**

.....

**Textual Amendments**

**F37** Ss. 23-26 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), **Sch. 15 para. 4(2)**

*Dissolution of further education corporations*

**[<sup>F38</sup>27 Proposals for dissolution of further education corporations E+W**

- (1) This section applies if a further education corporation propose that the corporation should be dissolved.
- (2) The corporation must publish—
  - (a) details of the proposal, and
  - (b) such other information as may be prescribed by regulations made by the appropriate authority.
- (3) The publication is to be in accordance with regulations made by the appropriate authority.
- (4) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations made by the appropriate authority.
- (5) In this section, “the appropriate authority” means—
  - (a) in relation to a further education corporation in England, the Secretary of State, and
  - (b) in relation to a further education corporation in Wales, the Welsh Ministers.]

*Status: Point in time view as at 26/05/2015.*

*Changes to legislation: Further and Higher Education Act 1992, Chapter II is up to date with all changes known to be in force on or before 03 September 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

**F38** Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), [ss. 3, 11\(2\)](#); S.I. 2014/1706, [art. 2](#), [art. 3\(c\)](#)

#### Commencement Information

**I9** S. 27 wholly in force at 30.9.1992, see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 2](#)

### [<sup>F38</sup> 27A Dissolution of further education corporations **E+W**

- (1) This section and section 27B apply if, after complying with section 27, a further education 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 appropriate authority of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.
- (5) In this section, “the appropriate authority” has the meaning given in section 27.]

#### Textual Amendments

**F38** Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), [ss. 3, 11\(2\)](#); S.I. 2014/1706, [art. 2](#), [art. 3\(c\)](#)

### [<sup>F38</sup> 27B Dissolution of further education corporations: 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 by regulations made by the appropriate authority.
- (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.
- (6) In this section, “the appropriate authority” has the meaning given in section 27.]

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### Textual Amendments

**F38** Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), **ss. 3, 11(2)**; S.I. 2014/1706, art. 2, art. 3(c)

### *Designation of institutions for funding by the councils*

## 28 Designation of institutions. **E+W**

- (1) The Secretary of State may by order designate [<sup>F39</sup>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 [<sup>F40</sup>(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)],
  - <sup>F41</sup>(b) .....
  - (c) an institution which is grant-aided or eligible to receive aid by way of grant [<sup>F42</sup>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 [<sup>F41</sup>local authorities] who—
- (a) receive any grants under regulations made under [<sup>F43</sup>section 485 of the Education Act 1996], or
  - (b) are eligible to receive such grants.
- <sup>F44</sup>(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 [<sup>F41</sup>local authority].]
- (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

**F1** 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)**

**F39** 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**

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- F40** 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**.
- F41** 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**
- F42** 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**
- F43** 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**)
- F44** 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

- I10** S. 28 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

## 29 Government and conduct of designated institutions **E+W**

- (1) This section applies to a designated institution, other than—
- an institution conducted by a company, or
  - 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—
- an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government), and
  - 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—
- an instrument of government or articles of government, or
  - any other instrument relating to or regulating the institution.

#### Commencement Information

- I11** S. 29 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

## 29A First post-designation instruments and articles of designated institutions<sup>F45</sup> ... **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)<sup>F46</sup>....
- (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—
- the instrument was in force when the designation took effect and is approved for the purposes of this section by the appropriate authority;

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- (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.
- <sup>F47</sup>(6) . . . . .
- (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**

- F45** Words in s. 29A heading omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\), ss. 4\(1\)\(c\), 11\(2\)](#); S.I. 2014/1706, art. 3(d)
- F46** Words in s. 29A(1) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\), ss. 4\(1\)\(a\), 11\(2\)](#); S.I. 2014/1706, art. 3(d)
- F47** S. 29A(6) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\), ss. 4\(1\)\(b\), 11\(2\)](#); S.I. 2014/1706, art. 3(d)

#### **[<sup>F48</sup>29B Changes to instruments and articles E+W**

- (1) This section applies to a designated 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) If the institution is in Wales and is an institution to which section 30 applies, the governing body may do any of the things mentioned in subsection (2) only with the consent of the trustees of the institution.
- (4) The instrument of government and articles of government (as modified or replaced)—
  - (a) must comply with the requirements of Schedule 4, and
  - (b) subject to that, may make such other provision as may be necessary or desirable.]

*Status: Point in time view as at 26/05/2015.*

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#### Textual Amendments

**F48** S. 29B substituted for ss. 29B, 29C (1.9.2014) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), **ss. 4(2)**, 11(2); S.I. 2014/1706, art. 3(d)

### [<sup>F49</sup>30] **Special provision for certain institutions.** **E+W**

- (1) Notwithstanding anything in sections 29 to [<sup>F50</sup>29B] of this Act, the instrument of government of a designated institution to which this section applies must provide—
  - (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

**F49** 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**

**F50** Word in s. 30(1) substituted (1.9.2014) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), **Sch. 2 para. 1(a)**; S.I. 2014/1706, art. 3(h)

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

- [<sup>F51</sup>(1) This section has effect in relation to any designated institution [<sup>F52</sup>in Wales] 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).

<sup>F53</sup>(2A) .....

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- (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 [<sup>F54</sup>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 he may specify in the direction.
- (4) No amendment of the [<sup>F55</sup>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

- F51** S. 31 ceases to have effect (E.) (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 5\(1\)](#)
- F52** Words in s. 31(1) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 5\(2\)](#)
- F53** S. 31(2A) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), [ss. 4\(3\)](#), 11(2); S.I. 2014/1706, art. 3(d)
- F54** 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)
- F55** 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

- I12** S. 31 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, [Sch. 1](#)

### <sup>F56</sup>32 **Transfer of property, etc., to designated institutions.** E+W

.....

#### Textual Amendments

- F56** S. 32 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 4\(3\)](#)

### <sup>F57</sup>33 **Provisions supplementary to section 32.** E+W

.....

#### Textual Amendments

- F57** S. 33 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 4\(3\)](#)



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### *f<sup>58</sup>Sixth form college corporations: England*

#### **Textual Amendments**

**F58** 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.
- (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—

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- (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;
  - (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 [<sup>F59</sup>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—

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- (a) the [<sup>F60</sup>proposer has] published the proposal by the prescribed time and in the prescribed manner;
  - (b) the proposal as published contained prescribed information;
  - (c) the [<sup>F61</sup>proposer has] considered any representations about the proposal made to [<sup>F62</sup>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.

#### Textual Amendments

- F59** 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
- F60** 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
- F61** 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
- F62** 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, <sup>F63</sup> ...  
<sup>F63</sup> .....
- (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.
- <sup>F64</sup>(4) .....
- (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—

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- (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.

#### Textual Amendments

**F63** S. 33D(2)(b) and preceding word omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 6\(a\)](#)

**F64** S. 33D(4) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 6\(b\)](#)

### 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.
- (2) The powers conferred by subsection (1) [<sup>F65</sup>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 [<sup>F1</sup>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.

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### Textual Amendments

- F1** 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)**
- F65** 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.
- (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 [<sup>F66</sup>(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 [<sup>F67</sup>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,

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- (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.

<sup>F68</sup>(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 <sup>F69</sup>... 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.

**Textual Amendments**

**F66** 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**)

**F67** 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

**F68** 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

**F69** 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

<sup>F70</sup>**33G Further provision about supplementary powers** **E+W+S**

.....

**Textual Amendments**

**F70** 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

<sup>F71</sup>**33H Duty in relation to promotion of well-being of local area** **E+W+S**

.....

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#### Textual Amendments

**F71** 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 <sup>F72</sup>...Schedule 4, and
  - [<sup>F73</sup>(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.
- (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

- F72** Words in s. 33I(2)(a) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), **Sch. 2 para. 1(b)**; S.I. 2014/1706, art. 3(h)
- F73** 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

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- (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)  
<sup>F74</sup>(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 [<sup>F75</sup>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, [<sup>F76</sup>references] to the character which the sixth form college is intended to have on its establishment.

#### Textual Amendments

- F74** 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
- F75** 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
- F76** 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

### 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 [<sup>F77</sup>Secretary of State by order] .

- [<sup>F78</sup>(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

- F77** 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
- F78** 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

### [<sup>F79</sup>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.



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- (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

**F79** 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 <sup>F80</sup>... [<sup>F81</sup>(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

- F80** 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\(1\)\(2\)\(f\)](#)
- F81** 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)

### [<sup>F82</sup>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.
- (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

**F82** 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)

### [<sup>F82</sup>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.

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**Textual Amendments**

**F82** 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).]

**Textual Amendments**

**F82** 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*

**F83 34 Making additional property available for use.** **E+W**

.....

**Textual Amendments**

**F83** S. 34 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), **Sch. 15 para. 4(4)**

**F84 35 Voluntary transfers of staff in connection with section 34.** **E+W+S**

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**Textual Amendments**

**F84** S. 35 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 4\(5\)\(b\)](#)

**<sup>F85</sup>36** **General provisions about transfers under Chapter II.** **E+W**

.....

**Textual Amendments**

**F85** S. 36 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 4\(5\)\(c\)](#)

**<sup>F86</sup>37** **Attribution of surpluses and deficits.** **E+W**

.....

**Textual Amendments**

**F86** 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))

**<sup>F87</sup>38** **Payments ... in respect of loan liabilities.** **E+W**

.....

**Textual Amendments**

**F87** S. 38 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), [Sch. 15 para. 4\(5\)\(d\)](#)

**39** **Control of disposals of land.** **E+W**

**<sup>F88</sup>** .....

**Textual Amendments**

**F88** 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**

**<sup>F89</sup>** .....

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#### Textual Amendments

**F89** 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**

**F90** .....

#### Textual Amendments

**F90** 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**

**F91** .....

#### Textual Amendments

**F91** 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

### <sup>F92</sup>43 Remuneration of employees. **E+W**

.....

#### Textual Amendments

**F92** 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))

#### *Miscellaneous*

### 44 Collective worship. **E+W**

[<sup>F93</sup>(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,

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- (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 [<sup>F94</sup>joined the further education sector].
- (4) In all [<sup>F95</sup>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 [<sup>F96</sup>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.
- <sup>F97</sup>(6) . . . . .
- [<sup>F98</sup>(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

- F93** 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**
- F94** 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**
- F95** 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**
- F96** 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**
- F97** 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**
- F98** 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**

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#### **Modifications etc. (not altering text)**

**C3** S. 44(2A) modified (W.) (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), regs. 1(1), **3(b)**

#### **Commencement Information**

**I13** 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**

- [<sup>F99</sup>(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 [<sup>F100</sup>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 [<sup>F101</sup>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 [<sup>F102</sup>joined the further education sector];
- (b) in the case of all [<sup>F103</sup>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.

<sup>F104</sup>(6) . . . . .

[<sup>F105</sup>(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**

**F99** 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)

*Status: Point in time view as at 26/05/2015.*

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- F100** 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)
- F101** 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)
- F102** 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)
- F103** 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)
- F104** 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)
- F105** 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

- I14** 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—
- relating to or regulating an institution within the further education sector, or
  - 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—
- the governing body of the institution,
  - 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
  - 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)

- C4** S. 46(2)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch.2**

#### Commencement Information

- I15** S. 46 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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**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 [<sup>F106</sup>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 <sup>M2</sup>Education Reform Act 1988 (designation of institutions).

**Textual Amendments**

**F106** 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**

**I16** S. 47 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

**Marginal Citations**

**M2** 1988 c. 40.

**48 Statutory conditions of employment. E+W**

<sup>F107</sup> .....

**Textual Amendments**

**F107** 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

**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 [<sup>F108</sup>Part XI of the Employment Rights Act 1996],
 the contract shall be void and of no effect.



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#### Textual Amendments

**F108** 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

**I17** S. 49 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

### [<sup>F109</sup>49A Consultation **E+W**]

[<sup>F110</sup>(1) In exercising their functions the governing body of an institution within the further education sector [<sup>F111</sup> in Wales] must have regard to any guidance given from time to time by the [<sup>F111</sup>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.

[<sup>F111</sup>(3) . . . . .]]

#### Textual Amendments

**F109** 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)

**F110** 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

**F111** 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

### [<sup>F112</sup>49B Destinations **E+W**]

(1) The Secretary of State may provide destination information to the governing body of an institution in England within the further education sector.

(2) The Welsh Ministers may provide destination information to the governing body of an institution in Wales within the further education sector.

(3) In this section “destination information”, in relation to an institution, means information which—

- (a) relates to a former student of the institution, and
- (b) includes information as to prescribed activities of the former student after leaving the institution.

(4) Regulations under subsection (3)(b) which prescribe activities as to which the Welsh Ministers may provide information are to be made by the Welsh Ministers.

(5) Subject to subsection (6)(a), information received under this section is not to be published in any form which identifies the individual to whom it relates.

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- (6) This section—
- (a) does not affect any power to provide or publish information which exists apart from this section, and
  - (b) is subject to any express restriction on the provision of information imposed by another enactment.]

#### Textual Amendments

**F112** S. 49B inserted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 80**, 164(3)(f)

## 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)

**C5** S. 50(1) modified (1.4.1993) by [S.I. 1993/563](#), **art. 2**, **Sch.2**

#### Commencement Information

**I18** S. 50 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), **art. 2**, **Sch. 3**

## <sup>F113</sup>51 **Publication of proposals.** **E+W**

.....

*Status: Point in time view as at 26/05/2015.*

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#### Textual Amendments

**F113** 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

**I19** S. 51 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 2](#)

### [<sup>F114</sup>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 [<sup>F1</sup>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 [<sup>F1</sup>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 [<sup>F1</sup>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 [<sup>F1</sup>local authority] in England must have regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

- F1** 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\(2\)](#)
- F114** 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[<sup>F115</sup>: Wales] **E+W**

- (1) This section applies where an institution [<sup>F116</sup>in Wales] within the further education sector provides <sup>F117</sup>... education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

*Status: Point in time view as at 26/05/2015.*

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- (2) [<sup>F118</sup>The <sup>F119</sup>... 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 [<sup>F120</sup>the <sup>F121</sup>... National Assembly for 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 [<sup>F122</sup>the <sup>F123</sup>... National Assembly for Wales] under subsection (2) above and has not been withdrawn.

#### Textual Amendments

- F115** 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
- F116** 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
- F117** 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**
- F118** 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)
- F119** 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))
- F120** 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)
- F121** 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))
- F122** 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)
- F123** 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)

- C6** S. 52 modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 2**

#### Commencement Information

- I20** S. 52 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

#### [<sup>F124</sup>52A Duty to safeguard pupils receiving secondary education. **E+W**

- (1) This section applies where secondary education is provided to [<sup>F125</sup>persons of compulsory school age]—

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- (a) by a further education corporation [<sup>F126</sup>by virtue of section 18(1)(aa) or (ab) of this Act],  
[<sup>F127</sup>(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 [<sup>F1</sup>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 person who has attained the age of nineteen years in a room in which any [<sup>F128</sup>persons of compulsory school age] are for the time being receiving secondary education.]

#### Textual Amendments

- F1** 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)**
- F124** 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**.
- F125** 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
- F126** 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
- F127** 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
- F128** 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,  
[<sup>F129</sup>(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 <sup>M3</sup>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 [<sup>F130</sup>section 15ZA [<sup>F131</sup>or 18A] of the Education Act 1996, section 14 of the Education Act 2002 or section <sup>F132</sup>... 100 of the Apprenticeships, Skills, Children and Learning Act 2009].

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#### Textual Amendments

- F129** 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))
- F130** 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))
- F131** 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
- F132** 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

#### Modifications etc. (not altering text)

- C7** 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

- I21** S. 53 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 2**

#### Marginal Citations

- M3** 1983 c. 44.

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