



Further and Higher Education Act 1992

1992 CHAPTER 13

PART III

MISCELLANEOUS AND GENERAL

82 Joint exercise of functions.

- (1) Any two or more [^{F1}relevant authorities] may exercise jointly any of their functions where it appears to them that to do so—
- (a) will be more efficient, or
 - (b) will enable them more effectively to discharge any of their functions.

- (2) Any two or more [^{F1}relevant authorities] shall, if directed to do so by the Secretary of State, jointly make provision for the assessment by a person appointed by them of matters relating to the arrangements made by each institution in Great Britain which is within the higher education sector for maintaining academic standards in the institution.

[^{F2}(2A) The power of the Secretary of State to give directions under subsection (2) above shall, as regards the Scottish Higher Education Funding Council, be treated as exercisable in or as regards Scotland and may be exercised separately.]

- (3) In this section—
- [^{F3}(a) “relevant authority” means a higher education funding council, the [^{F4}YPLA, the Chief Executive of Skills Funding], the National Assembly for Wales to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000 or the Scottish Higher Education Funding Council, and]
 - (b) references to institutions within the higher education sector include institutions within the higher education sector within the meaning of Part II of the ^{M1}Further and Higher Education (Scotland) Act 1992.

Extent Information

E1 S. 82 extends to Great Britain see s. 94(5).

Status: Point in time view as at 14/03/2012.

Changes to legislation: Further and Higher Education Act 1992, Part III is up to date with all changes known to be in force on or before 09 August 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

- F1** Words in s. 82(1)(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. 25(a)** (with art. 7)
- F2** S. 82(2A) inserted (1.7.1999) by [The Scotland Act 1998 \(Modification of Functions\) Order 1999 \(S.I. 1999/1756\)](#), art. 2, **Sch. para. 13**; S.I. 1998/3178, **art. 3**
- F3** S. 82(3)(a) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 25(c)** (with art. 7)
- F4** Words in s. 82(3)(a) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 24** (with art. 2(3))

Modifications etc. (not altering text)

- C1** S. 82 modified (1.7.1999) by [S.I. 1999/672](#), art. 5, **Sch. 2**.
- C2** S. 82 amended (30.6.1999) by [S.I. 1999/1756](#), art. 2, **Sch. para. 13**.

Commencement Information

- I1** S. 82 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, **Sch. 1**

Marginal Citations

- M1** [1992 c. 37](#).

83 Efficiency studies.

[^{F5}(1) A person listed in an entry in column 1 of the table in subsection (1B) may arrange for efficiency studies to be promoted or carried out by any person in respect of an institution listed in the corresponding entry in column 2 of that table.

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

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

| <i>Person</i> | <i>Institution</i> |
|---------------------------------------|--|
| The Welsh Ministers | An institution in Wales within the further education sector. |
| The Chief Executive of Skills Funding | An institution in England within the further education sector, other than a sixth form college |
| The YPLA | A sixth form college |
| A higher education funding council | An institution within the higher education sector.] |

(2) A person promoting or carrying out [^{F6}efficiency studies] at the [^{F7}request of a person listed in an entry in column 1 of the table in subsection (1B)] may require the governing body of the institution concerned—

- (a) to furnish the person, or any person authorised by him, with such information, and

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- (b) to make available to him, or any person so authorised, for inspection their accounts and such other documents,
as the person may reasonably require for that purpose.

Textual Amendments

- F5** S. 83(1)-(1B) substituted for s. 83(1) (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(2\)](#) (with art. 2(3))
- F6** Words in s. 83(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(3\)\(a\)](#) (with art. 2(3))
- F7** Words in s. 83(2) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), [Sch. 1 para. 25\(3\)\(b\)](#) (with art. 2(3))

Modifications etc. (not altering text)

- C3** S. 83(2) modified (1.4.1993) by [S.I. 1993/563](#), art. 2, [Sch. 2](#)

Commencement Information

- I2** S. 83 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

84 Effect of agreements made before date of transfer.

- (1) This section applies where—
- (a) (apart from this section) any land or other property of a local authority would on any date (“the date of transfer”) be transferred under Part I of this Act or Part II of the ^{M2}Education Reform Act 1988 to the governing body of an institution within the further education sector or the higher education sector, and
- (b) at any time before that date the authority, the governing body of the institution and the governing body of any other institution which will on that date be an institution within the further education sector or the higher education sector have agreed in writing that the land or property should be transferred on that or a subsequent date to the governing body of that other institution.
- (2) If the Secretary of State has approved the agreement at any time before the date of transfer, Part I of this Act or, as the case may be, Part II of the ^{M3}Education Reform Act 1988 shall have effect as if they required the property to be transferred in accordance with the agreement.
- (3) References in this section to anything done include anything done before the passing of this Act.
- [^{F8}(4) In this section “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

- F8** S. 84(4) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 5\(7\)](#)

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Modifications etc. (not altering text)

C4 S. 84(1) modified (1.4.1993) by [S.I. 1993/563, art. 2, Sch.1](#)

Commencement Information

I3 S. 84 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

Marginal Citations

M2 1988 c. 40.

M3 1988 c. 40.

85 Finance and government of locally funded further and higher education.

- (1) Chapter III of Part II of the ^{M4}Education Reform Act 1988 (finance and government of locally funded further and higher education) shall cease to have effect; and section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated assisted institutions.
- (2) A [^{F9}local authority] shall have the following powers in relation to any institution, not within the further education sector or the higher education sector, which is maintained by them in the exercise of their further or higher education functions.
- (3) The authority may—
 - (a) make such provision as they think fit in respect of the government of the institution (including replacing any instrument of government or articles of government of the institution made under that Chapter or that section), and
 - (b) delegate to the governing body of the institution such functions relating to the management of the finances of the institution, and such other functions relating to the management of the institution (including the appointment and dismissal of staff), as the authority may determine.

Textual Amendments

F9 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

I4 S. 85 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

Marginal Citations

M4 1988 c. 40.

[^{F10}85A Nuisance or disturbance on educational premises

- (1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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- (2) This section applies to premises, including playing fields and other premises for outdoor recreation, of—
- (a) any institution (other than a school) which is maintained by a [^{F9}local authority] and provides further education or higher education (or both), and
 - (b) any institution within the further education sector.
- (3) If—
- (a) a police constable, or
 - (b) a person whom the appropriate authority have authorised to exercise the power conferred by this subsection,
- has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.
- (4) In subsection (3) “the appropriate authority” means—
- (a) in relation to premises of an institution such as is mentioned in subsection (2) (a), a [^{F9}local authority], and
 - (b) in relation to premises of an institution within the further education sector, the governing body.
- (5) No proceedings under this section shall be brought by any person other than—
- (a) a police constable, or
 - (b) an authorised person.
- (6) In subsection (5) “authorised person” means—
- (a) in relation to an offence committed on premises of an institution such as is mentioned in subsection (2)(a), a [^{F9}local authority], and
 - (b) in relation to an offence committed on premises of an institution within the further education sector, a person whom the governing body have authorised to bring such proceedings.]

Textual Amendments

- F9** 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)**
- F10** S. 85A inserted (1.10.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 20 para. 2** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 5, Sch. Pt. II

[^{F11}85A] Power of members of staff to search students for prohibited items: England

- (1) This section applies where a member of staff of an institution within the further education sector in England—
- (a) has reasonable grounds for suspecting that a student at the institution may have a prohibited item with him or her or in his or her possessions; and
 - (b) falls within section 85AB(1).
- (2) The member of staff may search the student (“S”) or S’s possessions for that item (but this is subject to subsection (5)).
- (3) For the purposes of this section and section 85AC each of the following is a “prohibited item”—

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- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);
 - (b) an offensive weapon, within the meaning of the Prevention of Crime Act 1953;
 - (c) alcohol, within the meaning of section 191 of the Licensing Act 2003;
 - (d) a controlled drug, within the meaning of section 2 of the Misuse of Drugs Act 1971, which section 5(1) of that Act makes it unlawful for S to have in S's possession;
 - (e) a stolen article;
 - (f) an article of a kind specified in regulations.
- (4) In subsection (3)(e) “stolen”, in relation to an article, has the same meaning as it has by virtue of section 24 of the Theft Act 1968 in the provisions of that Act relating to goods which have been stolen.
- (5) A member of staff may not under this section search S or S's possessions for alcohol if S is aged 18 or over.
- (6) In this section and section 85AB—
 “member of staff”, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;
 “possessions”, in relation to S, includes any goods over which S has or appears to have control.
- (7) The powers conferred by this section and sections 85AB and 85AC are in addition to any powers exercisable by the member of staff in question apart from those sections and are not to be construed as restricting such powers.

Textual Amendments

F11 Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\)](#), 269(4); [S.I. 2010/303](#), art. 6, [Sch. 5](#) (as amended (26.7.2010) by [S.I. 2010/1891](#), art. 2(2) (with art. 3))

85AB Power of search under section 85AA: supplementary

- (1) A person may carry out a search under section 85AA only if that person—
 - (a) is the principal of the institution; or
 - (b) has been authorised by the principal to carry out the search.
- (2) An authorisation for the purposes of subsection (1)(b) may be given in relation to—
 - (a) searches under section 85AA generally;
 - (b) a particular search under that section;
 - (c) a particular description of searches under that section.
- (3) Nothing in any enactment, instrument or agreement shall be construed as authorising a principal of an institution within the further education sector in England to require a person other than a member of the security staff of the institution to carry out a search under section 85AA.
- (4) A search under section 85AA may be carried out only where—
 - (a) the member of staff and S are on the premises of the institution; or

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- (b) they are elsewhere and the member of staff has lawful control or charge of S.
- (5) A person exercising the power in section 85AA may use such force as is reasonable in the circumstances for exercising that power.
- (6) A person carrying out a search of S under section 85AA—
 - (a) may not require S to remove any clothing other than outer clothing;
 - (b) must be of the same sex as S;
 - (c) may carry out the search only in the presence of another member of staff; and
 - (d) must ensure that the other member of staff is of the same sex as S if it is reasonably practicable to do so.
- (7) S's possessions may not be searched under section 85AA except in the presence of—
 - (a) S; and
 - (b) another member of staff.
- (8) In this section—
 - “member of the security staff”, in relation to an institution, means a member of staff whose work at the institution consists wholly or mainly of security-related activities;
 - “outer clothing” means—
 - (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf.

Textual Amendments

F11 Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), **ss. 244(1)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

85AC Power to seize items found during search under section 85AA

- (1) A person carrying out a search under section 85AA may seize any of the following found in the course of the search—
 - (a) anything which that person has reasonable grounds for suspecting is a prohibited item;
 - (b) any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence,but may not seize alcohol from S under this section where S is aged 18 or over.
- (2) A person exercising the power in subsection (1) may use such force as is reasonable in the circumstances for exercising that power.
- (3) A person who seizes alcohol under subsection (1) may retain or dispose of the alcohol and its container.
- (4) A person who seizes a controlled drug under subsection (1)—
 - (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may dispose of it if the person thinks that there is a good reason to do so.

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- (5) A person who seizes a stolen article under subsection (1)—
- (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may return it to its owner (or, if returning it to its owner is not practicable, may retain it or dispose of it) if the person thinks that there is a good reason to do so.
- (6) In determining, for the purposes of subsections (4) and (5), whether there is a good reason to dispose of a controlled drug or to return a stolen article to its owner, retain it or dispose of it, the person must have regard to any guidance issued by the Secretary of State.
- (7) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under section 85AA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).
- (8) A person who, under subsection (1), seizes—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);
 - (b) an offensive weapon; or
 - (c) anything which that person has reasonable grounds for suspecting is evidence in relation to an offence;
- must deliver it to a police constable as soon as reasonably practicable.
- (9) Subsection (8)(c) is subject to subsections (3), (4) and (5) and regulations made under subsection (7).
- (10) In subsections (3) to (8), references to alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies and an offensive weapon include references to anything which a person has reasonable grounds for suspecting is alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies or an offensive weapon.

Textual Amendments

F11 Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\)](#), 269(4); S.I. 2010/303, [art. 6](#), [Sch. 5](#) (as amended (26.7.2010) by S.I. 2010/1891, [art. 2\(2\)](#) (with [art. 3](#)))

85AD Section 85AC: supplementary

- (1) The Police (Property) Act 1897 (disposal of property in the possession of the police) applies to property which has come into the possession of a police constable under section 85AC(4)(a), (5)(a) or (8) as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (2) Subsection (3) applies where a person—
- (a) seizes, retains or disposes of alcohol or its container, a controlled drug or a stolen article under section 85AC; and
 - (b) proves that the seizure, retention or disposal was lawful.

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- (3) That person is not liable in any proceedings in respect of—
 - (a) the seizure, retention or disposal; or
 - (b) any damage or loss which arises in consequence of it.
- (4) Subsections (2) and (3) do not prevent any person from relying on any defence on which the person is entitled to rely apart from those subsections.
- (5) Regulations under section 85AC(7) may make provision corresponding to any provision of this section.]

Textual Amendments

- F11** Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 244(1), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

[^{F12}85B Power to search further education students for weapons]^{F13}: Wales]

- (1) A member of staff of an institution within the further education sector [^{F14}in Wales] who has reasonable grounds for suspecting that a student at the institution may have with him or in his possessions—
 - (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),may search that student or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where—
 - (a) the member of staff and the student are on the premises of the institution; or
 - (b) they are elsewhere and the member of staff has lawful control or charge of the student.
- (3) A person may carry out a search under this section only if—
 - (a) he is the principal of the institution; or
 - (b) he has been authorised by the principal to carry out the search.
- (4) A person who carries out a search of a student under this section—
 - (a) may not require the student to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the student; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the student.
- (5) A student's possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
 - (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,

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he may seize and retain it.

- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
‘member of staff’, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;
‘outer clothing’ means—
(a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
(b) a hat, shoes, boots, gloves or a scarf;
‘possessions’, in relation to a student of an institution within the further education sector, includes any goods over which he has or appears to have control.
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff in question apart from this section and are not to be construed as restricting such powers.]

Textual Amendments

- F12** S. 85B inserted (31.5.2007 for E., 31.10.2010 for W.) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 46, 66(2); S.I. 2007/858, art. 3(b); S.I. 2010/2426, art. 2
- F13** Word in s. 85B heading inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), ss. 245(2), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F14** Words in s. 85B(1) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), ss. 245(3), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

[^{F15}85C Power of members of staff to use force

- (1) A member of the staff of an institution which is within the further education sector may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely—
(a) committing any offence,
(b) causing personal injury to, or damage to the property of, any person (including the student himself), or

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- (c) prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.
- (2) The power conferred by subsection (1) may be exercised only where—
 - (a) the member of the staff and the student are on the premises of the institution, or
 - (b) they are elsewhere and the member of the staff has lawful control or charge of the student.
- (3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.
- (4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.
- (5) In this section, “member of the staff”, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee.]

Textual Amendments

F15 S. 85C inserted (1.4.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 165**, 188(3); S.I. 2007/935, **art. 4(b)**

F1686

Textual Amendments

F16 S. 86 repealed (1.3.2000) by [1998 c. 29](#), s. 74(2), **Sch. 16 Pt. I**; S.I. 2000/183, **art. 2(1)**

87 Transfers of property, etc: supplementary provision.

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

Commencement Information

I5 S. 87 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), **art. 2**, **Sch. 2**

88 Stamp duty.

- (1) Subject to subsection (2) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following sections of this Act: 23, 25, 27, 32, [^{F17}33N,] 34, 40(5) and (7), 63 and 80.
- (2) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the ^{M5}Finance Act 1982), be liable or it has, in

Status: Point in time view as at 14/03/2012.

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accordance with the provisions of section 12 of the ^{M6}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

Textual Amendments

F17 Word in s. 88(1) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 9**; S.I. 2010/303, art. 3, Sch. 2

Commencement Information

I6 S. 88 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M5 1982 c. 39.

M6 1891 c. 39.

[^{F18}88A. Stamp duty land tax

- (1) A land transaction effected under or by virtue of section 25, 27, 32[^{F19}, 33N] or 34 of this Act is exempt from charge for the purposes of stamp duty land tax.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this section—
 - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

Textual Amendments

F18 S. 88A inserted (1.12.2003) by The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867), reg. 1, **Sch. para. 18**

F19 Word in s. 88A(1) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 10**; S.I. 2010/303, art. 3, Sch. 2

89 Orders, regulations and directions.

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.
- (2) For the purposes of subsection (1) above the excepted provisions are sections 22, 29(6) and (8), [^{F20}30(2)(b),][^{F21}33A(5)(b),] 38, [^{F22}44(2)(c),] 46 and 57; but section 14 of the ^{M7}Interpretation Act 1978 (implied power to amend) applies to orders made under those sections [^{F23}or section 33L] as it applies to orders made by statutory instrument.
- (3) A statutory instrument containing any order or regulations under this Act, other than [^{F24}one falling within subsection (3A) or] an order under section 94, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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[^{F25}(3A) A statutory instrument which contains (whether alone or with other provision) regulations under section 85AA or 85AC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]

(4) Orders or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the [^{F26}person or body making the order or regulations] thinks fit.

[^{F27}(5) Section 570 of the Education Act 1996 (revocation and variation) applies to directions given by any person or body under this Act as it applies to directions given by the Secretary of State or a [^{F9}local authority] under that Act.]

Textual Amendments

- F9** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), **Sch. 2 para. 5(2)**
- F20** Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(a)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F21** Word in s. 89(2) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), **Sch. 8 para. 11(2)(a)**; S.I. 2009/3317, art. 2, Sch.
- F22** Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(b)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F23** Words in s. 89(2) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), **Sch. 8 para. 11(2)(b)**; S.I. 2010/303, art. 3, Sch. 2
- F24** Words in s. 89(3) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), **ss. 244(2)(a)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F25** S. 89(3A) inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), **ss. 244(2)(b)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F26** Words in s. 89(4) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), **Sch. 8 para. 11(3)**; S.I. 2010/303, art. 3, **Sch. 2**
- F27** S. 89(5) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), **Sch. 8 para. 11(4)**; S.I. 2010/303, art. 3, Sch. 2

Commencement Information

- I7** S. 89 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M7** 1978 c. 30.

90 Interpretation.

(1) In this Act—

“contract of employment”, “employee” and “employer” have the same meaning as in [^{F28}the Employment Rights Act 1996], and “employed” means employed under a contract of employment,

“the Education Acts” [^{F29}has the meaning given by section 578 of the Education Act 1996],

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[^{F30}“further education” has the meaning given by section 2(3) to (5) of that Act;]

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

- (a) in the case of an institution conducted by a further education corporation [^{F31}, a sixth form college corporation] or a higher education corporation, the corporation,
- (b) in the case of a university not falling within paragraph (a) above, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs,
- (c) in the case of any other institution not falling within paragraph (a) or (b) above for which there is an instrument of government providing for the constitution of a governing body, the governing body so provided for, and
- (d) in any other case, any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors,

“higher education” has the same meaning as in the ^{M8}Education Reform Act 1988,

“higher education corporation” means a body corporate established under section 121 or 122 of the ^{M9}Education Reform Act 1988, including those sections as applied by section 227(4) of that Act (application to Wales), or a body corporate which has become a higher education corporation by virtue of section 122A of that Act,

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

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

“liability” includes obligation, and

[^{F32}“local authority” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act).]

[^{F33}“the relevant sixth form college”, in relation to a sixth form college corporation, means the educational institution specified in the order under this Act designating the corporation as a sixth form college corporation or establishing it as such,]

[^{F33}“the responsible [^{F9}local authority]”—

- (a) in relation to a proposal relating to the establishment of a sixth form college corporation, means the [^{F9}local authority] in whose area the relevant sixth form college, or its main site, is proposed to be situated;
- (b) in relation to a sixth form college corporation, means the [^{F9}local authority] in whose area the relevant sixth form college, or its main site, is situated;
- (c) in relation to a sixth form college, means the [^{F9}local authority] in whose area the sixth form college, or its main site, is situated,]

[^{F33}“sixth form college corporation” means a body corporate—

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

[^{F33}“the YPLA” means the Young People's Learning Agency for England.]

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- (2) The Secretary of State may by order provide for any reference in the Education Acts to the governing body of an institution, in relation to an institution which is—
- (a) a designated institution for the purposes of Part I or Part II of this Act, and
 - (b) conducted by a company,
- to be read as a reference to the governing body provided for in the instrument of government, or to the company or to both.
- [^{F34}(2ZA) The Secretary of State may give guidance on which of a sixth form college's sites is to be taken to be its main site for the purposes of the definition of “the responsible [^{F9}local authority]” in subsection (1).]
- ^{F35}(2A)
- ^{F36}(2B)
- (3) In this Act “university” includes a university college and any college, or institution in the nature of a college, in a university [^{F37}(except where the context otherwise requires)]; but where a college or institution would not, apart from this subsection, fall to be treated separately it shall not be so treated for the purpose of determining whether any institution is in England or in Wales.
- [^{F38}(3A) In this Act references to a voluntary aided school are—
- (a) in relation to any time before the appointed day within the meaning of the ^{M10}School Standards and Framework Act 1998, references to a voluntary aided school within the meaning of the Education Act 1996; or
 - (b) in relation to any time on or after that day, references to a voluntary aided school within the meaning of the 1998 Act.]
- (4) References in this Act to institutions within the PCFC funding sector are to be construed in accordance with section 132(6) of the ^{M11}Education Reform Act 1988.
- (5) Subject to the provisions of this Act, expressions used in this Act and in [^{F39}the Education Act 1996] have the same meaning in this Act as in that Act [^{F40}and section 140(2) of the School Standards and Framework Act 1998 has effect for defining the expressions there mentioned.].

Textual Amendments

- F9** 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)**
- F28** Words in s. 90(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(4)** (with ss. 191-195, 202)
- F29** Words in s. 90(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2) (a)** (with ss. 1(4), 561, 562, Sch. 39)
- F30** Definition in s. 90(1) inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2) (b)** (with ss. 1(4), 561, 562, Sch. 39)
- F31** Words in s. 90(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 12(2)**; S.I. 2009/3317, art. 2, Sch.
- F32** Words in s. 90(1) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 5(8)**
- F33** Words in s. 90(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 8 para. 12(3)**; S.I. 2009/3317, art. 2, Sch.

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- F34** S. 90(2ZA) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 12(4)**; S.I. 2009/3317, art. 2, Sch.
- F35** S. 90(2A) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 27(a)** (with art. 7)
- F36** S. 90(2B) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 27(b)** (with art. 7)
- F37** Words in s. 90(3) inserted (1.10.1998) by 1998 c. 30, s. 44(1), **Sch. 3 para. 8** (with s. 48(2)); S.I. 1998/2215, **art. 2**
- F38** S. 90(3A) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 46(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
- F39** Words in s. 90(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(3)** (with ss. 1(4), 561, 562, Sch. 39)
- F40** Words in s. 90(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 46(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

Commencement Information

- I8** S. 90 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M8** 1988 c. 40.
M9 1988 c. 40.
M10 1996 c. 56.
M11 1988 c. 40.

91 Interpretation of Education Acts.

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

^{F41}(2)

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

- (a) institutions conducted by further education corporations, and
- (b) designated institutions for the purposes of Part I of this Act (defined in section 28(4) of this Act), [^{F42}and
- (c) sixth form colleges,]

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

[^{F43}(3A) References to sixth form colleges are to institutions conducted by sixth form college corporations.]

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

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

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

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

- (6) References, in relation to a further education corporation or higher education corporation, to the institution—
- (a) in relation to any time before the operative date for the purposes of Part I of this Act (defined in section 17 of this Act) or, as the case may be, the transfer date for the purposes of the ^{M12}Education Reform Act 1988 (defined in section 123 of that Act), are to the institution the corporation is established to conduct, and
 - (b) in relation to any later time or to any corporation which is a further education corporation by virtue of section 47 of this Act or a higher education corporation by virtue of section 122A of that Act, are to any institution for the time being conducted by the corporation in the exercise of their powers under this or that Act.

Textual Amendments

- F41** S. 91(2) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 42, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)
- F42** S. 91(3)(c) and word inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(2)**; S.I. 2009/3317, art. 2, Sch.
- F43** S. 91(3A) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(3)**; S.I. 2009/3317, art. 2, Sch.

Modifications etc. (not altering text)

- C5** S. 91 applied (30.6.1999) by 1991 c. 56, s. 1(2), **Sch. 4A para. 11(2)** (as inserted (30.6.1999) by 1999 c. 9, ss. 1(2), 17(2), **Sch. 1**)
- C6** S. 91(3)(a)(b) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c) (i) (with Sch. 13 para. 2)
- C7** S. 91(5) applied by 1973 c. 50, s. 8(4) (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, s. 45; S.I. 1993/2503, art. 2(3)(a)(b), **Sch. 3**)
- C8** S. 91(5)(b)(c) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c) (i) (with Sch. 13 para. 2)

Commencement Information

- I9** S. 91 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M12** 1988 c. 40.

92 Index.

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

| <i>Expression</i> | <i>Relevant provision</i> |
|---|---------------------------|
| appropriate further education funding council | section 1(6) |
| contract of employment, etc. | section 90(1) |

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| | |
|---|--|
| [^{F44} council (in Part I), or learning and skills council | sections 61A(1) and 90(2A)] |
| council (in Part II), or higher education funding council | sections 61(3)(b), 62(5) and (6) and 91(4) |
| designated institution (in Part I) | section 28(4) |
| designated institution (in Part II) | section 72(3) |
| the Education Acts | section 90(1) |
| functions | section 61(1) |
| further education | ^{F45} [section 90(1)] |
| further education corporation | section 17(1) |
| governing body | section 90(1) and (2) |
| higher education | section 90(1) |
| higher education corporation | section 90(1) |
| institution in England or in Wales (in relation to higher education funding councils) | section 62(7) |
| institutions within or outside the further education sector | section 91(3) |
| institutions within or outside the higher education sector | sections 61(3)(a) and 91(5) |
| institutions within the PCFC funding sector | section 90(4) |
| interest in land | section 90(1) |
| land | section 90(1) |
| liability | section 90(1) |
| local authority | section 90(1) |
| modification | section 61(1) |
| operative date | sections 17 and 33(4) |
| ^{F46} | ^{F46} |
| . . . | . . . |
| regulations | section 61(1) |
| [^{F47} relevant sixth form college | section 90(1)] |
| [^{F47} responsible local education authority | section 90(1)] |
| [^{F47} sixth form college | section 91(3A)] |
| [^{F47} sixth form college corporation | section 90(1)] |
| ^{F46} | ^{F46} |
| . . . | . . . |
| ^{F46} | ^{F46} |

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| | |
|-----------------------------------|----------------|
| ... | ... |
| transfer of rights or liabilities | section 61(2) |
| university | section 90(3) |
| [^{F47} the YPLA | section 90(1)] |

Textual Amendments

- F44** Entry in s. 92 substituted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 43**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)
- F45** Words in the entry for “further education” in s. 92 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 116(a)** (with ss. 1(4), 561, 562, Sch. 39)
- F46** Entries in s. 92 repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 116(b), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)
- F47** Words in s. 92 inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 14**; S.I. 2009/3317, art. 2, Sch.

Commencement Information

- I10** S. 92 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

93 Amendments and repeals.

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

Commencement Information

- I11** S. 93 wholly in force; s. 93 not in force at Royal Assent see s. 94(3); s. 93(2) wholly in force and s. 93(1) in force for certain purposes at 6.5.1992, 30.9.1992, 1.4.1993, 1.8.1993 by S.I. 1992/831, art. 2, **Schs.** (as amended by S.I. 1992/2041, art. 2(b)); s. 93(1) in force (E.) for certain purposes at 7.12.1992 by S.I. 1992/3057, art. 2; s. 93(1) in force for certain purposes at 1.8.1996 by S.I. 1996/1897, art. 2

94 Short title, commencement, etc.

- (1) This Act may be cited as the Further and Higher Education Act 1992.
- ^{F48}(2)
- (3) This Act shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions and for different purposes.
- (4) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (5) Sections 63, 64 and 82 of this Act extend also to Scotland.
- (6) Section 80 extends also to Scotland and Northern Ireland.

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- (7) The amendment by this Act of an enactment which extends to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Subordinate Legislation Made

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

Textual Amendments

- F48** S. 94(2) repealed (1.11.1996) by [1996 c. 56, ss. 582\(2\)\(3\), 583\(2\), Sch. 38 Pt.I](#) (with [ss. 1\(4\), 561, 562, Sch. 39](#))

Commencement Information

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

Status:

Point in time view as at 14/03/2012.

Changes to legislation:

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