

Status: Point in time view as at 01/01/2006.

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SCHEDULES

SCHEDULE 1

Sections 1, 9, 62 and 70.

THE FURTHER AND HIGHER EDUCATION FUNDING COUNCILS

Commencement Information

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

Supplementary powers

- 1 (1) Subject to sub-paragraph (2) below, the council may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property,
 - (b) entering into contracts,
 - (c) investing sums not immediately required for the purpose of the discharge of their functions, and
 - (d) accepting gifts of money, land or other property.
- (2) The council shall not borrow money.

Commencement Information

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

Chief officer

- 2 (1) One of the members of the council shall be the chief officer.
- (2) The first chief officer shall be appointed as such by the Secretary of State and shall hold and vacate office in accordance with the terms of his appointment.
- (3) Each subsequent chief officer shall be appointed by the council with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the council may with the approval of the Secretary of State determine.
- (4) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the council and the terms and conditions of his appointment, the Secretary of State shall—
- (a) if that person is not already a member of the council, appoint him as a member for the same term as the term of his appointment as chief officer, or
 - (b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of

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appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

Commencement Information

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

Tenure of members of councils

- 3 (1) A person shall hold and vacate office as a member or as chairman or chief officer of the council in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman of the council.

Commencement Information

I4 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

- 4 If the Secretary of State is satisfied that a member of the council—
- (a) has been absent from meetings of the council for a period longer than six consecutive months without the permission of the council, or
 - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may by notice in writing to that member remove him from office and thereupon the office shall become vacant.

Commencement Information

I5 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Salaries, allowances and pensions

- 5 (1) The council—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and
 - (b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of the council and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the council to make to that person a payment of such amount as the Secretary of State may determine.
- (3) The council shall pay to the members of any of their committees who are not members of the council such travelling, subsistence and other allowances as the Secretary of State may determine.

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- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

Commencement Information

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

House of Commons disqualification

- 6 In Part III of Schedule 1 to the ^{M1}House of Commons Disqualification Act 1975 (disqualifying offices) there are inserted at the appropriate places—

“Any member of the Further Education Funding Council for England in receipt of remuneration.

Any member of the Further Education Funding Council for Wales in receipt of remuneration.

Any member of the Higher Education Funding Council for England in receipt of remuneration.

Any member of the Higher Education Funding Council for Wales in receipt of remuneration.”

Commencement Information

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

Marginal Citations

M1 1975 c. 24.

Staff

- 7 (1) The council may appoint such employees as they think fit.
- (2) The council shall pay to their employees such remuneration and allowances as the council may determine.
- (3) The employees shall be appointed on such other terms and conditions as the council may determine.
- (4) A determination under sub-paragraph (2) or (3) above requires the approval of the Secretary of State given with the consent of the Treasury.
- (5) Employment with the council shall be included among the kinds of employment to which a scheme under section 1 of the ^{M2}Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed), at the end of the list of “Other Bodies” there is inserted—
- “Further Education Funding Council for England.
Further Education Funding Council for Wales.
Higher Education Funding Council for England.
Higher Education Funding Council for Wales.”

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- (6) The council shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to subparagraph (5) above in the sums payable out of money provided by Parliament under that Act.
- (7) Where an employee of the council is, by reference to that employment, a participant in a scheme under section 1 of that Act and is also a member of the council, the Treasury may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the council (whether or not any benefits are payable to or in respect of him by virtue of paragraph 5 above).

Commencement Information

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

Marginal Citations

M2 1972 c. 11.

Committees

- 8 (1) The council may establish a committee for any purpose.
- (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the council.
- (3) Such a committee may include persons who are not members of the council.
- (4) The council shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Commencement Information

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

Further Education Funding Council for England: regional committees

- [^{F19} (1) There shall be established for each region of England determined by the Secretary of State a committee of the Further Education Funding Council for England to advise the council on such matters relating to the facilities for the population of the region—
- (a) for further education, or
- (b) for full-time education (other than further education) suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years,
- as the council may from time to time require.
- (2) The number of the members of a committee established under this paragraph shall be determined by the Secretary of State and he shall appoint the members of the committee.
- (3) Paragraphs 3 and 4 above apply to members of a committee established under this paragraph as they apply to members of a council.]

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Textual Amendments

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

Commencement Information

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

Delegation of Functions

- 10 The council may authorise the chairman, the chief officer or any committee established under paragraph 8 above to exercise such of their functions as they may determine.

Commencement Information

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

Proceedings

- 11 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to the council under this Act—
- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the council or of any committee of the council, and
 - (b) the council shall provide the Secretary of State with such copies of any documents distributed to members of the council or of any such committee as he may require.

Commencement Information

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

- 12 The validity of any proceedings of the council or of any committee of the council shall not be affected by a vacancy among the members or by any defect in the appointment of a member.

Commencement Information

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

- 13 Subject to the preceding provisions of this Schedule, the council may regulate their own procedure and that of any of their committees.

Commencement Information

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

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Application of seal and proof of instruments

- 14 The application of the seal of the council shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specially by the council to act for that purpose, and
 - (b) of one other member.

Commencement Information

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

- 15 Every document purporting to be an instrument made or issued by or on behalf of the council and to be duly executed under the seal of the council, or to be signed or executed by a person authorised by the council 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.

Commencement Information

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

Accounts

- 16 (1) It shall be the duty of the council—
- (a) to keep proper accounts and proper records in relation to the accounts,
 - (b) to prepare in respect of each financial year of the council a statement of accounts, and
 - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,
 - (b) the manner in which the information contained in it is to be presented, or
 - (c) the methods and principles according to which the statement is to be prepared,
- and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the council is established and ending with the second 31st March following that date, and each successive period of twelve months.

Commencement Information

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

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Status of council

- 17 The council shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the council shall not be regarded as property of, or property held on behalf of, the Crown.

Commencement Information

I18 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

[^{F2}SCHEDULE 2

Sections 3 and 6.]

Textual Amendments

F2 Sch. 2 repealed (1.4.2001) by 2000 c. 21, s. 153, Sch. 11; S.I. 2001/654, art. 2, Sch. Pt. II (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, Sch. Pt. I

Commencement Information

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

SCHEDULE 3

Sections 15 and 16.

CALCULATION OF ENROLMENT NUMBERS

Commencement Information

I20 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Enrolment numbers

- 1 (1) The enrolment number for any institution at any time is the aggregate of—
- (a) the number of full-time students enrolled at that institution at that time to follow courses of further or higher education, and
 - (b) the numbers arrived at under sub-paragraph (3) below for each mode of attendance at such courses specified in the first three entries in column 1 of the table in paragraph 2 below.
- (2) The total enrolment number for any institution at any time is the aggregate of—
- (a) the number of full-time students enrolled at that institution at that time to follow courses of further or higher education, and
 - (b) the numbers arrived at under sub-paragraph (3) below for each mode of attendance at such courses specified in column 1 of the table in paragraph 2 below.

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- (3) The number for any mode of attendance at a course is that arrived at by multiplying by the appropriate multiplier the number of students enrolled at the institution at the time in question to follow the course by that mode of attendance.
- (4) In sub-paragraph (3) above “the appropriate multiplier” means, in relation to a mode of attendance, the figure given in relation to that mode of attendance in column 2 of the table.

Commencement Information

I21 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Table for calculating enrolment numbers for sandwich courses, etc.

- 2 The following table applies for the purpose of determining the numbers mentioned in paragraph 1(1)(b) and (2)(b) above—

(1) Mode of attendance	(2) Multiplier
1. Sandwich course	0.7
2. Block release	1.0
3. Day release	0.3
4. Part-time (other than day release but including some day-time study)	0.2
5. Part-time (evening only study)	0.1
6. Open or distance learning	0.075

Commencement Information

I22 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Interpretation of paragraphs 1 and 2

- 3 (1) For the purposes of paragraph 1(1)(a) and (2)(a) above a student is a full-time student in relation to a course of any description if all his studies for the purposes of that course are full-time studies.
- (2) For the purposes of paragraph 2 above—
- (a) a student’s mode of attendance at a course of any description is by way of a sandwich course if—
- (i) in following that course, he engages in periods of full-time study for the purposes of the course alternating with periods of full-time work experience which form part of that course, and
- (ii) his average period of full-time study for the purposes of the course for each academic year included in the course is nineteen weeks or more,
- (b) a student’s mode of attendance at a course of any description is by way of block release if—

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- (i) the course involves a period of full-time study interrupted by a period of industrial training or employment (whether or not it also includes study on one or two days a week during any other period), and
 - (ii) his average period of full-time study for the purposes of the course for each academic year included in the course is less than nineteen weeks,
- (c) a student's mode of attendance at a course of any description is by way of day release if—
- (i) he is in employment, and
 - (ii) he is released by his employer to follow that course during any part of the working week, and
- (d) a student's mode of attendance at a course of any description is by way of open or distance learning if—
- (i) he is provided for the purposes of the course with learning material for private study, and
 - (ii) his written work for the purposes of the course is subject to a marking and comment service provided for students following the course by private study (whether or not any additional advisory or teaching services are also provided for such students as part of the course).

Commencement Information

I23 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Amendment of paragraphs 1 to 3

- 4 The Secretary of State may by order amend paragraphs 1 to 3 above except so far as they apply for calculating an institution's enrolment number, or total enrolment number, on 1st November 1990.

Commencement Information

I24 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

Exclusion of non-EEC students

- 5 For the purpose of calculating under those paragraphs any enrolment number at any time of any institution, any student enrolled at the institution whose ordinary place of residence then was or is in a country or territory other than a member State shall be disregarded.

Commencement Information

I25 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

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SCHEDULE 4

Section 20.

INSTRUMENTS AND ARTICLES OF GOVERNMENT FOR FURTHER EDUCATION CORPORATIONS

Commencement Information

I26 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

- 1 References in this Schedule to an instrument are to an instrument of government or articles of government.

Commencement Information

I27 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

- [^{F4}1A Provision made by an instrument under this Schedule in relation to the appointment of members shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
- (b) the National Council for Education and Training for Wales under section 39 of that Act.]

Textual Amendments

F4 Sch. 4 para. 1A inserted (1.4.2001) by [2000 c. 21, s. 149, Sch. 9 para. 44\(2\)](#); [S.I. 2001/654, art. 2, Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); [S.I. 2001/1274, art. 2, Sch. Pt. I](#)

- 2 (1) An instrument shall provide for the number of members of the further education corporation, the eligibility of persons for membership and the appointment of members.
- (2) An instrument may provide for the nomination of any person for membership by another, including by a body nominated by the Secretary of State.

Commencement Information

I28 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

- 3 An instrument shall provide for one or more officers to be chosen from among the members.

Commencement Information

I29 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

- 4 An instrument may provide for the corporation to establish committees and permit such committees to include persons who are not members of the corporation.

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Commencement Information

I30 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 5 An instrument may provide for the delegation of functions of the corporation to officers or committees [^{F5}or to the principal of the institution].

Textual Amendments

F5 Words in Sch. 4 para. 5 inserted (retrospectively) by 2000 c. 21, s. 149, Sch. 9 para. 44(3)(4); S.I. 2000/2559, art. 2(1), Sch. Pt. I; S.I. 2000/3230, art. 2, Sch.

Commencement Information

I31 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 6 An instrument may provide for the corporation to pay allowances to its members.

Commencement Information

I32 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 7 An instrument shall provide for the authentication of the application of the seal of the corporation.

Commencement Information

I33 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 8 An instrument shall require the corporation to keep proper accounts and proper records in relation to the accounts and to prepare in respect of each financial year of the corporation a statement of accounts.

Commencement Information

I34 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 9 An instrument shall provide for the appointment of a principal of the institution and determine which functions exercisable in relation to the institution are to be exercised by the corporation, its officers or committees and which by the principal of the institution.

Commencement Information

I35 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 10 An instrument shall make provision about the procedures of the corporation and of the institution.

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Commencement Information

I36 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 11 An instrument shall provide—
- (a) for the appointment, promotion, suspension and dismissal of staff, and
 - (b) for the admission, suspension and expulsion of students.

Commencement Information

I37 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 12 An instrument may make provision authorising the corporation to make rules or bye-laws for the government and conduct of the institution, including in particular rules or bye-laws about the conduct of students, staff or both.

Commencement Information

I38 Sch. 4 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

SCHEDULE 5

Section 36.

IDENTIFICATION AND APPORTIONMENT, ETC., OF PROPERTY

Modifications etc. (not altering text)

C1 Sch. 5 modified (1.1.2001) by S.I. 2000/3209, regs. 8(2), 11, Sch. 2 (with savings in regs. 13, 14)

Commencement Information

I39 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S. I. 1992/831, art. 2, Sch. 2

Division and apportionment of property etc.

- 1 (1) Any property, rights and liabilities of a transferor authority held or used, or subsisting—
- (a) for the purposes of more than one relevant institution, or
 - (b) partly for the purposes of one or more relevant institutions and partly for other purposes of the transferor authority,
- shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferees, or (as the case may be) between the transferor authority and the transferee or transferees, in such proportions as may be appropriate.
- (2) Where any estate or interest in land falls to be so divided—
- (a) any rent payable under a lease in respect of that estate or interest, and
 - (b) any rent charged on that estate or interest,
- shall be correspondingly divided or apportioned so that each part is payable in respect of, or charged on, only one part of the estate or interest and the other part or parts

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are payable in respect of, or charged on, only the other part or parts of the estate or interest.

- (3) Any property, right or liability held or used, or subsisting, as mentioned in subparagraph (1) above the nature of which does not permit its division or apportionment as so mentioned shall be transferred to the transferee (or to one or other of the transferees) or retained by the transferor authority according to—
- (a) in the case of an estate or interest in land, whether on the operative date the transferor authority or the transferee (or one or other of the transferees) appears to be in greater need of the security afforded by that estate or interest or, where none of them appears to be in greater need of that security, which of them appears on that date to be likely to make use of the land to the greater extent, or
 - (b) in the case of any other property or any right or liability, which of them appears on the operative date to be likely to make use of the property or (as the case may be) to be affected by the right or liability to the greater extent, subject (in either case) to such arrangements for the protection of the other person or persons concerned as may be agreed between the transferor authority and the Education Assets Board or determined by the Board under paragraph 3 below.
- (4) In this paragraph—
- (a) references to a relevant institution are references to—
 - (i) any institution a body corporate is established under this Act to conduct, and
 - (ii) any institution in relation to which section 32 of this Act has effect, and
 - (b) references to a transferor authority are references to a local authority who are the transferor for the purposes of any transfer to which this Schedule applies.

Commencement Information

I40 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 2](#)

Identification of property, rights and liabilities

- 2 (1) It shall be the duty of the transferor and the Education Assets Board, whether before or after the operative date, so far as practicable to arrive at such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the transferee or retained by the transferor or for making any such arrangements as are mentioned in paragraph 1(3) above and as will—
- (a) afford to the transferor and the transferee as against one another such rights and safeguards as they may require for the proper discharge of their respective functions, and
 - (b) make as from such date, not being earlier than the operative date, as may be specified in the agreement or instrument such clarifications and modifications of the effect of the provision of this Act under which the transfer is required on the property, rights and liabilities of the transferor as will best serve the proper discharge of the respective functions of the transferor and the transferee.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

- (2) Any such agreement or instrument shall provide so far as it is expedient—
- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not,
 - (b) for the granting of indemnities in connection with the severance of leases and other matters,
 - (c) for responsibility for registration of any matter in any description of statutory register.

Commencement Information

I41 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 3 (1) The Education Assets Board may, in the case of any matter on which agreement is required to be reached under paragraph 2(1) above—
- (a) if it appears to them that it is unlikely that such an agreement will be reached, or
 - (b) if such an agreement has not been reached within such period as may be prescribed by regulations,
- give a direction determining that matter, and may include in the direction any provision which might have been included in an agreement under paragraph 2(1).
- (2) A direction under sub-paragraph (1) above may be given before or after the operative date.
- (3) Any property, rights or liabilities required by a direction under this paragraph to be transferred to the transferee shall be regarded as having been transferred to, and by virtue of this Act vested in, the transferee accordingly.
- (4) The Board shall, before giving a direction under this paragraph, give the transferor and the transferee such opportunity as may be prescribed by regulations to make written representations.

Commencement Information

I42 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 4 (1) The transferor or transferee, if dissatisfied with a determination under paragraph 3 above, may appeal to the Secretary of State.
- (2) An appeal under this paragraph shall be made in accordance with regulations.
- (3) The Secretary of State shall, before determining an appeal under this paragraph, give the appellant and the respondent such opportunity as may be prescribed by regulations to make written representations.
- (4) On an appeal under this paragraph the Secretary of State may—
- (a) allow or dismiss the appeal or vary the determination of the Board, and
 - (b) give a direction accordingly under paragraph 3 above.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

Commencement Information

I43 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

- 5
- (1) Regulations may prescribe the procedure to be followed in making any determination under paragraphs 3 and 4 above.
 - (2) The regulations may in particular—
 - (a) provide for a time limit within which written representations and any supporting documents must be submitted,
 - (b) empower the determining authority to proceed to a determination taking into account only such written representations and supporting documents as were submitted within the time limit, and
 - (c) empower the determining authority to proceed to a determination, after giving the transferor and the transferee or, as the case may be, the appellant and the respondent written notice of their intention to do so, notwithstanding that no written representations were made within the time limit, if it appears to the determining authority that they have sufficient material before them to enable them to make a determination.
 - (3) In sub-paragraph (2) above the “determining authority” means the Board or the Secretary of State, as the case may be.

Commencement Information

I44 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

Documents of title

- 6
- (1) Where a transfer to which this Schedule applies relates to registered land, it shall be the duty of the transferor to execute any such instrument under the [^{F6}Land Registration Act 2002], to deliver any such certificate under [^{F7}that Act] and to do such other things under those Acts as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
 - (2) Where on any transfer to which this Schedule applies the transferor is entitled to retain possession of any documents relating in part to the title to any land or other property transferred to the transferee, the transferor shall be treated as having given to the transferee an acknowledgment in writing of the right of the transferee to production of that document and to delivery of copies of it; and section 64 of the ^{M3}Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

Textual Amendments

F6 Words in Sch. 5 para. 6(1) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 27\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

F7 Words in Sch. 5 para. 6(1) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 27\(b\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

Commencement Information

I45 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

Marginal Citations

M3 1925 c. 20.

Third parties affected by vesting provisions

- 7 (1) Without prejudice to the generality of paragraphs 2 to 4 of Schedule 7 to this Act, any transaction effected between a transferor and a transferee in pursuance of paragraph 2(1) or of a direction under paragraph 3 above shall be binding on all other persons, and notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any person other than the transferor and the transferee.
- (2) If as a result of any such transaction any person's rights or liabilities become enforceable as to part by or against the transferor and as to part by or against the transferee, the Education Assets Board shall give that person written notification of that fact.
- (3) If in consequence of a transfer to which this Schedule applies or of anything done in pursuance of the provisions of this Schedule—
- (a) the rights or liabilities of any person other than the transferor or the transferee which were enforceable against or by the transferor become enforceable as to part against or by the transferor and as to part against or by the transferee, and
 - (b) the value of any property or interest of that person is thereby diminished,
- such compensation as may be just shall be paid to that person by the transferor, the transferee or both.
- (4) Any dispute as to whether and if so how much compensation is payable under sub-paragraph (3) above, or as to the person to whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Lord Chancellor.
- (5) Where the transferor or the transferee under a transfer to which this Schedule applies purports by any conveyance or transfer to transfer to some person other than the transferor or the transferee for consideration any land or other property which before the operative date belonged to the transferor, or which is an interest in property which before that date belonged to the transferor, the conveyance or transfer shall be as effective as if both the transferor and the transferee had been parties to it and had thereby conveyed or transferred all their interest in the property conveyed or transferred.
- (6) A court shall have the power set out in sub-paragraph (7) below if at any stage in proceedings before it to which the transferor or transferee under a transfer to which this Schedule applies and a person other than the transferor or the transferee are parties it appears to it that the issues in the proceedings—
- (a) depend on the identification or definition of any of the property, rights or liabilities transferred which the transferor and the Education Assets Board have not yet effected, or
 - (b) raise a question of construction on the relevant provisions of this Act which would not arise if the transferor and the transferee constituted a single person.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

- (7) In any such case the court may, if it thinks fit on the application of a party to the proceedings other than the transferor or the transferee, hear and determine the proceedings on the footing that such one of the transferor and the transferee as is a party to the proceedings represents and is answerable for the other of them, and that the transferor and the transferee constitute a single person.
- (8) Any judgment or order given by a court in proceedings determined on that footing shall bind both the transferor and the transferee accordingly.
- (9) It shall be the duty of the transferor and of the Education Assets Board to keep one another informed of any case where the transferor or the transferee under a transfer to which this Schedule applies may be prejudiced by sub-paragraph (5) above or any judgment or order given by virtue of sub-paragraph (8) above.
- (10) If either the transferor or the transferee claims that he has been so prejudiced and that the other of them ought to indemnify or make a payment to him on that account and has unreasonably failed to meet that claim, he may refer the matter to the Secretary of State for determination by the Secretary of State.

Commencement Information

I46 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

Delivery of documents to transferee

- 8 When it appears to the Education Assets Board, in the case of any transfer, that any agreements and instruments required to be made or executed in pursuance of paragraph 2(1) above or in pursuance of a direction under paragraph 3 above have been made or executed, the Board shall deliver those agreements and instruments (if any) to the transferee.

Commencement Information

I47 Sch. 5 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

^{F8}SCHEDULE 5A

Textual Amendments

F8 Sch. 5A repealed (28.7.2000 for specified purposes, 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 45, Sch. 11; S.I. 2000/3230, art. 2, Sch.; S.I. 2001/654, art. 2, Sch. Pt. III (with transitional provisions in art. 3)

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

SCHEDULE 6

Section 71.

NEW SCHEDULE 7A TO THE EDUCATION REFORM ACT 1988

Commencement Information

I48 Sch. 6 in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

“SCHEDULE 7A

INSTRUMENTS OF GOVERNMENT MADE BY PRIVY COUNCIL

Name of corporation

- 1 The instrument shall empower the corporation to change their name with the consent of the Privy Council.

Membership

- 2 The instrument shall make provision for the membership of the corporation which meets all the requirements of paragraphs 3 to 5 below.
- 3 (1) The corporation shall consist of—
- (a) not less than twelve and not more than twenty-four members appointed in accordance with the following provisions; and
 - (b) the person who is for the time being the principal of the institution, unless he chooses not to be a member.
- (2) Of the appointed members—
- (a) up to thirteen (referred to below in this Schedule as the “independent members”) shall be persons appearing to the appointing authority to have experience of, and to have shown capacity in, industrial, commercial or employment matters or the practice of any profession;
 - (b) up to two may be teachers at the institution nominated by the academic board and up to two may be students at the institution nominated by the students at the institution; and
 - (c) at least one and not more than nine (referred to below in this Schedule as the “co-opted members”) shall be persons nominated by the members of the corporation who are not co-opted members.
- (3) The co-opted member required by sub-paragraph (2)(c) above shall be a person who has experience in the provision of education.
- (4) A person (other than a person appointed in pursuance of sub-paragraph (2)(b) above) who is—
- (a) employed at the institution (whether or not as a teacher);
 - (b) a full-time student at the institution; or
 - (c) an elected member of any local authority,
- is not eligible for appointment as a member of the corporation otherwise than as a co-opted member.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

- (5) For the purposes of this paragraph, a person who is not for the time being enrolled as a student at the institution shall be treated as such a student during any period when he has been granted leave of absence from the institution for the purposes of study or travel or for carrying out the duties of any office held by him in the student union at the institution.
- (6) It shall be for the appointing authority to determine any question as to whether any person is qualified in accordance with the preceding provisions of this paragraph for appointment as a member of the corporation of any description or category.

Numbers

- 4 (1) The corporation shall make a determination with respect to their membership numbers.
- (2) Such a determination shall fix the number of members of each variable category of which the corporation are to consist, subject to the limits applicable in relation to that category in accordance with paragraph 3 above.
- (3) In making such a determination, the corporation shall secure that at least half of all the members of the corporation, when constituted in accordance with the determination, will be independent members.
- (4) Such a determination shall not have effect so as to terminate the appointment of any person who is a member of the corporation at the time when it takes effect.
- (5) Such a determination may be varied by a subsequent determination.

Appointments

- 5 (1) Subject to section 124C of this Act, no appointment of members of the corporation may be made before the first determination of the corporation in accordance with paragraph 4 above takes effect.
- (2) Subject to that section, the corporation are the appointing authority in relation to the appointment of any member of the corporation other than an independent member.
- (3) Where an appointment of an additional independent member of the corporation falls to be made in consequence of a determination in accordance with paragraph 4 above, the appointing authority in relation to the appointment—
 - (a) shall be the corporation if the appointment is made within the period of three months beginning with the date of the determination; or
 - (b) if the appointment is not made within that period, shall be the current independent members of the corporation.
- (4) Where a vacancy in the office of an independent member of the corporation arises on any existing independent member ceasing to hold office on the expiry of his term of office—
 - (a) his successor shall not be appointed more than six months before the expiry of that term; and
 - (b) the appointing authority in relation to the appointment of his successor—
 - (i) shall be the corporation if the appointment is made not less than three months before the expiry of that term; or
 - (ii) if the appointment is not so made, shall be the current independent members of the corporation.

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

- (5) Where a vacancy in the office of an independent member of the corporation arises on the death of any such member or on any such member ceasing to hold office in accordance with the instrument, the appointing authority in relation to the appointment of his successor—
- (a) shall be the corporation if the appointment is made within the period of three months beginning with the date of death or the the date on which the office becomes vacant (as the case may be); or
 - (b) if the appointment is not made within that period, shall be the current independent members of the corporation.
- (6) No appointment of an independent member of the corporation by the corporation in accordance with sub-paragraph (3)(a), (4)(b)(i) or (5)(a) above shall be made unless the appointment has been approved by the current independent members of the corporation.
- (7) If the number of independent members of the corporation falls below the number needed in accordance with its articles of government for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such number of independent members as is required for a quorum.

Tenure of office etc.

- 6 Subject to any other requirements of this Act, the instrument may provide for the eligibility of persons for membership of the corporation and shall provide for their period of office and the circumstances in which they are to cease to hold office.

Officers

- 7 The instrument shall provide for one or more officers to be chosen from among the members.

Committees

- 8 The instrument may provide for the corporation to establish committees and permit such committees to include persons who are not members of the corporation.

Allowances

- 9 The instrument may provide for the corporation to pay allowances to its members.

Seal of corporation

- 10 The instrument shall provide for the authentication of the application of the seal of the corporation.

Interpretation

- 11 References in this Schedule, in relation to a corporation, to a variable category of members are references to any category of members in relation to which the number applicable in accordance with paragraph 3 above is subject to variation.”

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

SCHEDULE 7

Section 87.

TRANSFERS: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

C2 Sch. 7 modified (1.1.2001) by S.I. 2000/3209, reg. 12 (with savings in regs. 13, 14)

Commencement Information

I49 Sch. 7 wholly in force 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

Proof of title by certificate

- 1 The Education Assets Board may issue a certificate stating that any property specified in the certificate, or any such interest in or right over any such property as may be so specified, or any right or liability so specified, was or was not transferred by virtue of this Act to any body corporate or persons so specified; and any such certificate shall be conclusive evidence for all purposes of that fact.

Commencement Information

I50 Sch. 7 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

Construction of agreements

- 2 (1) Where any rights or liabilities transferred by virtue of this Act are rights or liabilities under an agreement to which the transferor was a party immediately before the date on which the transfer took effect (referred to in this Schedule as the “transfer date”), the agreement shall, unless the context otherwise requires, have effect on and after the transfer date as if—
- (a) the transferee had been a party to the agreement,
 - (b) for any reference (whether express or implied and, if express, however worded) to the transferor there were substituted, as respects anything falling to be done on or after the transfer date, a reference to the transferee,
 - (c) any reference (whether express or implied and, if express, however worded) to a specified officer of the transferor or a person employed by the transferor in a specified capacity were, as respects anything falling to be done on or after the transfer date, a reference to such person as the transferee may appoint or, in default of appointment, to an officer or employee of the transferee who corresponds as closely as possible to the person referred to in the agreement,
 - (d) where the agreement refers to property, rights or liabilities which fall to be apportioned or divided between the transferor and the transferee, the agreement constituted two separate agreements separately enforceable by and against the transferor and the transferee as regards the part of the property, rights or liabilities retained by the transferor or (as the case may be) the part vesting in the transferee, and not as regards the other part,
- and paragraph (d) above shall apply in particular to the covenants, stipulations and conditions of any lease by or to the transferor.

Status: Point in time view as at 01/01/2006.

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- (2) This paragraph applies to any agreement whether in writing or not and whether or not of such a nature that rights and liabilities under it could be assigned by the transferor.

Commencement Information

I51 [Sch. 7](#) wholly in force at 30.9.1992 see [s. 94\(3\)](#) and [S.I. 1992/831, art. 2, Sch. 2](#)

- 3 (1) Without prejudice to the generality of paragraph 2 above, the transferee under a transfer made by virtue of this Act and any other person shall, as from the transfer date, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing any right or liability transferred to and vested in the transferee by virtue of this Act as he would have had if that right or liability had at all times been a right or liability of the transferee.
- (2) Any legal proceedings or applications to any authority pending on the transfer date by or against the transferor, in so far as they relate to any property, right or liability transferred to the transferee by virtue of this Act, or to any agreement relating to any such property, right or liability, shall be continued by or against the transferee to the exclusion of the transferor.

Commencement Information

I52 [Sch. 7](#) wholly in force at 30.9.1992 see [s. 94\(3\)](#) and [S.I. 1992/831, art. 2, Sch. 2](#)

- 4 The provisions of paragraphs 2 and 3 above shall have effect for the interpretation of agreements subject to the context, and shall not apply where the context otherwise requires.

Commencement Information

I53 [Sch. 7](#) wholly in force at 30.9.1992 see [s. 94\(3\)](#) and [S.I. 1992/831, art. 2, Sch. 2](#)

SCHEDULE 8

Section 93

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

I54 [Sch. 8](#) wholly in force: 6.5.1992, 1.9.1992, 30.9.1992, 1.4.1993, 1.8.1993 appointed by [s. 94\(3\)](#), [S.I. 1992/831, art. 2, Schs.](#) and [S.I. 1992/2377, art. 3](#)

Status: Point in time view as at 01/01/2006.

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PART I

AMENDMENTS OF THE EDUCATION ACTS

The Education Act 1944 (c. 31)

F19¹

Textual Amendments

F19 Sch. 8 para. 1 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)

F20²

Textual Amendments

F20 Sch. 8 para. 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)

F21³

Textual Amendments

F21 Sch. 8 para. 3 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)

F22⁴

Textual Amendments

F22 Sch. 8 para. 4 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)

F23⁵

Textual Amendments

F23 Sch. 8 para. 5 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)

F24⁶

Textual Amendments

F24 Sch. 8 para. 6 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)

F25⁷

Status: Point in time view as at 01/01/2006.

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Textual Amendments

F25 Sch. 8 para. 7 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)

F26₈

Textual Amendments

F26 Sch. 8 para. 8 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)

F27₉

Textual Amendments

F27 Sch. 8 para. 9 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)

F28₁₀

Textual Amendments

F28 Sch. 8 para. 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F29₁₁

Textual Amendments

F29 Sch. 8 para. 11 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F30₁₂

Textual Amendments

F30 Sch. 8 para. 12 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F31₁₃

Textual Amendments

F31 Sch. 8 para. 13 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Status: Point in time view as at 01/01/2006.

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The Education Act 1946 (c. 50)

F32 14

Textual Amendments

F32 Sch. 8 para. 14 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

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

F33 15

Textual Amendments

F33 Sch. 8 para. 15 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)

F34 16

Textual Amendments

F34 Sch. 8 para. 16 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)

The Education Act 1980 (c. 20)

F35 17

Textual Amendments

F35 Sch. 8 para. 17 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)

The Education Act 1981 (c. 60)

F36 18

Textual Amendments

F36 Sch. 8 para. 18 repealed (1.4.1994) by 1993 c. 35, ss. 303, 307(1)(3), Sch. 19 para. 171(a), **Sch. 21 Pt.I**; S.I. 1994/507, art. 4, **Sch. 2**Appendix

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

19 In section 1(3) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments)—
(a) for paragraph (b) there is substituted—

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“ (b) any institution within the higher education sector ”, and
(b) after paragraph (c) there is inserted—

“ (ca) any institution within the further education sector ”.

Commencement Information

I55 Sch. 8, para. 19 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

The Further Education Act 1985 (c. 47)

20 At the end of section 1 of the Further Education Act 1985 (supply of goods and services through further education establishments) there is added—

“(4) In this Act “institution” does not include a school.”

Commencement Information

I56 Sch. 8, para. 20 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

21 (1) In section 2(2) of that Act (power of LEAs to lend money for those purposes) for paragraphs (a) to (d) there is substituted—

“(a) to a higher education corporation or further education corporation (within the meaning of the Further and Higher Education Act 1992);

(b) in the case of the following institutions—

(i) an institution within the higher education sector which is not conducted by a higher education corporation;

(ii) an institution within the further education sector which is not conducted by a further education corporation; or

(iii) an institution which provides higher education or further education and is assisted by a local education authority,

to the governing body of the institution or, if it is conducted by a company, to the company; or

(c) to a body corporate in which such a corporation or company as is mentioned in paragraph (a) or (b) above has a holding such as is mentioned in subsection (8) below”.

(2) In subsection (8) of that section for “(2)(d)” there is substituted “ (2)(c) ”.

Commencement Information

I57 Sch. 8, para. 21 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 2

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

22 In section 43 of the Education (No. 2) Act 1986 (freedom of speech in universities, etc.)—

(a) in subsection (5)—

(i) for paragraph (aa) there is substituted-

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- “(aa) any institution other than a university within the higher education sector”,
- (ii) after paragraph (b) there is inserted—
- “(ba) any institution within the further education sector”, and
- (iii) paragraph (c) is omitted, and
- (b) in subsection (7) paragraph (b) and “or authorities maintaining or (as the case may be) assisting the establishment” are omitted.

Commencement Information

I58 Sch. 8, para. 22 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

- 23 In section 49(3) of that Act (appraisal of performance of teachers)—
- (a) paragraphs (d) and (da) are omitted,
 - (b) after paragraph (da) there is inserted—
- “(db) at any institution within the further education sector”, and
- (c) in paragraph (e) for “(da)” there is substituted “(db)”.

Commencement Information

I59 Sch. 8, para. 23 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

F37 24

Textual Amendments

F37 Sch. 8 para. 24 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)

F38 25

Textual Amendments

F38 Sch. 8 para. 25 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)

F39 26

Textual Amendments

F39 Sch. 8 para. 26 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)

The Education Reform Act 1988 (c. 40)

27 The Education Reform Act 1988 is amended as follows.

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Commencement Information

I60 Sch. 8 para. 27 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

^{F40}28

Textual Amendments

F40 Sch. 8 para. 28 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](#))

^{F41}29

Textual Amendments

F41 Sch. 8 para. 29 repealed (1.4.1994) by 1993 c. 35, ss. 303, 307(1)(3), [Sch. 19 para. 171\(a\), Sch. 21 Pt.I](#); [S.I. 1994/507, art. 4, Sch. 2](#) Appendix

- 30 In section 120 (functions of local education authorities with respect to higher and further education)—
- (a) subsection (2) is omitted,
 - (b) in subsection (3)(b) for “living outside their area” there is substituted “ from other areas ”,
 - (c) in subsection (4)—
 - (i) for “universities, institutions within the PCFC funding sector” there is substituted “ institutions within the higher education sector ”, and
 - (ii) after “sector” there is inserted “ or the further education sector ”, and
 - (d) subsections (6), (7), (8), (9)(a)(ii) and (9)(b) are omitted.

Commencement Information

I61 Sch. 8, para. 30 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

- 31 In section 122 (orders incorporating higher education institutions maintained by local education authorities) subsections (2) to (5) are omitted.

Commencement Information

I62 Sch. 8, para. 31 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, sch. 1](#)

- 32 In section 123 (provisions supplementary to sections 121 and 122)—
- (a) at the end of subsection (1) there is added “ or which has become a higher education corporation by virtue of section 122A of this Act ”, and
 - (b) for subsection (3) there is substituted—

“(3) Schedule 7 to this Act has effect with respect to each higher education corporation established before the appointed day (within

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the meaning of section 124A of this Act) unless an instrument of government for the corporation made under that section has effect.

- (4) A higher education corporation established under section 122 of this Act on or after that day for the purpose of conducting any institution shall be established initially under the name given in the order under that section establishing the corporation.”

Commencement Information

I63 Sch. 8, para. 32 wholly in force: Sch. 8, para. 32(b) in force at 6.5.1992; Sch. 8, para. 32(a) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Schs. 1, 3](#)

- 33 In section 124 (powers of a higher education corporation)—
- (a) in subsection (2)(b) for “disabled students” there is substituted “ students having learning difficulties within the meaning of section 41(9) of the Education Act 1944 ”, and
 - (b) subsection (4) is omitted.

Commencement Information

I64 Sch. 8, para. 33 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

- 34 In section 128 (dissolution of higher education corporations)—
- (a) in subsection (1)(b)—
 - (i) for sub-paragraphs (iii) and (iv) there is substituted—
“(iii) a higher education funding council”, and
 - (ii) after those sub-paragraphs there is inserted—
“ (v) a further education funding council”,
 - (b) for subsection (4)(b) there is substituted—
“ (b) the higher education funding council ”, and
 - (c) after subsection (5) there is added—
“ (6) An order under this section may apply section 127 of this Act with such modifications as the Secretary of State may consider necessary or desirable.”

Commencement Information

I65 Sch. 8, para. 34 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

- 35 Sections 131, 132 and 134 (Universities Funding Council and Polytechnics and Colleges Funding Council) are omitted.

Commencement Information

I66 Sch. 8, para. 35 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

- 36 In section 135 (inspection of accounts)—
- (a) for subsection (1)(c) there is substituted—

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- “ (c) any designated institution within the meaning of section 129A of this Act ”, and
 (b) in subsection (2) for the words from “grants” to the end there is substituted
 “ financial support has been given to them under section 65 of the Further
 and Higher Education Act 1992. ”

Commencement Information

I67 Sch. 8, para. 36 wholly in force: Sch. 8, para. 36(a) in force at 6.5.1992; Sch. 8, para. 36(b) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Schs. 1, 3](#)

F42 37

Textual Amendments

F42 Sch. 8 para. 37 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 4

Commencement Information

I68 Sch. 8, para. 37 wholly in force: Sch. 8, para. 37(b) in force at 6.5.1992; Sch. 8, para. 37(a) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Schs. 1, 3](#)

38 In section 137(2) (control of disposals of land) “or 129(3)” is omitted.

Commencement Information

I69 Sch. 8, para. 38 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

39 In section 157 (construction of instruments providing for institution ceasing to be maintained or assisted by local education authority)—

- (a) in subsection (4)—
- (i) the words “or assisted” in both places are omitted,
 - (ii) after “becomes” there is inserted “ an institution within the further education sector ”, and
 - (iii) for “the PCFC funding sector” there is substituted “ the higher education sector ”,
- (b) subsection (5)(b) is omitted, and
- (c) in subsection (6)—
- (i) at the beginning of paragraph (b) there is inserted “ an institution within the further education sector or ”, and
 - (ii) in that paragraph for “the PCFC funding sector” there is substituted “ the higher education sector ”.

Commencement Information

I70 Sch. 8, para. 39 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

40 In section 158(2) (reports and returns) paragraphs (a)(i) and (iii) and (b) are omitted.

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Commencement Information

I71 Sch. 8, para. 40 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

41 Section 159(2)(b) (information with respect to educational provision in institutions providing further or higher education - designated assisted institutions) is omitted.

Commencement Information

I72 Sch. 8, para. 41 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

42 In section 161 (interpretation of Part II) subsection (1)(c) is omitted.

Commencement Information

I73 Sch. 8, para. 42 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

43 In section 197 (Education Assets Board)—

- (a) in subsection (4) after “this Act” there is inserted “ and section 36 of and Schedule 5 to the Further and Higher Education Act 1992 ”,
- ^{F43}(b)
- (c) after subsection (7) there is inserted—
 - “(7A) A local education authority shall give the Board, within such reasonable time as the Board may specify, such information as the Board may require for the purposes of the exercise of any of their functions under the Further and Higher Education Act 1992 or under section 126 or 130 of this Act.
 - (7B) The governing body of any institution within the further education sector or the higher education sector shall give the Board, within such reasonable time as the Board may specify, such information as the Board may require for the purpose of the exercise of any of their functions under the Education Acts 1944 to 1992.”

Textual Amendments

F43 Sch. 8 para. 43(b) 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

I74 Sch. 8, para. 43 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

44 In section 198(5) (transfers under Parts I and II) for “the Polytechnics and Colleges Funding Council” there is substituted “ the higher education funding council ”.

Commencement Information

I75 Sch. 8, para. 44 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

45 In section 205 (procedure for exercise of University Commissioners’ powers)—

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- (a) for subsection (2)(d) there is substituted—
“ (d) the higher education funding council ”, and
(b) subsection (6) is omitted.

Commencement Information

I76 Sch. 8, para. 45 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

^{F44}46

Textual Amendments

F44 Sch. 8 paras. 46, 47 repealed (1.4.2003 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2003/124, art. 4](#); [S.I. 2007/3611, Sch. Pt. 1](#)

^{F44}47

Textual Amendments

F44 Sch. 8 paras. 46, 47 repealed (1.4.2003 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2003/124, art. 4](#); [S.I. 2007/3611, Sch. Pt. 1](#)

48 In section 214(2)(a) (unrecognised degrees) after “Royal Charter or” there is inserted “ by or under ”.

Commencement Information

I77 Sch. 8, para. 48 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

- 49 In section 218 (school and further and higher education regulations)—
- (a) in subsection (1)(f) for “pupils” there is substituted “ persons receiving education ”,
(b) in subsection (7)(b) for “pupils attending” there is substituted “ persons receiving education at ”,
(c) in subsection (10)—
(i) after paragraph (a) there is inserted-
“ (aa) it is within the further education sector ”, and
(ii) paragraph (b) is omitted, and
(d) in subsection (11) for “the PCFC funding sector” there is substituted “ the higher education sector in receipt of financial support under section 65 of the Further and Higher Education Act 1992 ”.

Commencement Information

I78 Sch. 8, para. 49 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

^{F45}50

Status: Point in time view as at 01/01/2006.

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Textual Amendments

F45 Sch. 8 para. 50 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**)

F46 51

Textual Amendments

F46 Sch. 8 para. 51 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch.5**

52 In section 221 (avoidance of certain contractual terms) subsection (1)(c) and, in subsection (3), the definition of “relevant institution” are omitted.

Commencement Information

I79 Sch. 8, para. 52 wholly in force at 1.4.1993 see s. 94(3) and **S.I. 1992/831, art. 2, Sch. 3**

F47 53

Textual Amendments

F47 Sch. 8 para. 53 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**)

F48 54

Textual Amendments

F48 Sch. 8 para. 54 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**)

55 In section 230 (stamp duty)—
(a) in subsection (1) “section 136(2)” is omitted, and
(b) in subsection (3)—
(i) for paragraph (b) there is substituted—
“ (b) an institution within the higher education sector ”,
(ii) paragraph (c)(ii) is omitted, and
(iii) after paragraph (c) there is inserted—
“ (ca) an institution within the further education sector ”.

Commencement Information

I80 Sch. 8, para. 55 wholly in force at 1.4.1993 see s. 94(3) and **S.I. 1992/831, art. 2, Sch. 3**

F49 56

Status: Point in time view as at 01/01/2006.

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Textual Amendments

F49 Sch. 8 para. 56 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)

^{F50}57

Textual Amendments

F50 Sch. 8 para. 57 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)

58 In section 235 (general interpretation) subsection (2)(a) and (h) are omitted.

Commencement Information

I81 Sch. 8, para. 58 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

59 In Schedule 7 (Higher Education Corporations)—

(a) for paragraph 1(4) there is substituted—

“(4) A corporation may change their name with the consent of the Privy Council.”,

(b) in paragraph 18—

(i) in sub-paragraph (2)(b) for “the Polytechnics and Colleges Funding Council” there is substituted “ the higher education funding council ”, and

(ii) for sub-paragraph (5) there is substituted—

“(5) No person shall be qualified to be appointed auditor under that sub-paragraph except—

(a) an individual, or firm, eligible for appointment as a company auditor under section 25 of the Companies Act 1989;

(b) a member of the Chartered Institute of Public Finance and Accountancy; or

(c) a firm each of the members of which is a member of that institute.”, and

(c) paragraph 19 is omitted.

Commencement Information

I82 Sch. 8, para. 59 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

60 Schedule 8 (the funding councils and the assets board) shall cease to have effect so far as it relates to the Universities Funding Council and the Polytechnics and Colleges Funding Council.

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Commencement Information

I83 Sch. 8, para. 60 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

^{F51}61

Textual Amendments

F51 Sch. 8 para. 61 repealed (1.9.1999) by 1998 c. 31, s. 140(3), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1.

^{F52}62

Textual Amendments

F52 Sch. 8 para. 62 repealed (1.9.1999) by 1998 c. 31, s. 140(3), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1.

^{F53}63

Textual Amendments

F53 Sch. 8 para. 63 repealed (1.9.1999) by 1998 c. 31, s. 140(3), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1.

^{F54}64

Textual Amendments

F54 Sch. 8 para. 64 repealed (1.9.1999) by 1998 c. 31, s. 140(3), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1.

65 In paragraph 4 of that Schedule at the beginning there is inserted—

“(1) Where a transfer by virtue of section 126 or 130 relates to registered land, it shall be the duty of the transferor to execute any such instrument under the Land Registration Acts 1925 to 1986, to deliver any such certificate under those Acts and to do such other things under those Acts as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

(2)”.

Commencement Information

I84 Sch. 8, para. 65 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

66 In Schedule 12 (minor and consequential amendments) paragraphs 68, 69(2), 70, 100(2) and 101(4) are omitted.

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Commencement Information

I85 Sch. 8, para. 66 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

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

- 67 In section 1(3)(a) of the Education (Student Loans) Act 1990 (loans for students)—
- (a) for “131 or 132 of the ^{M5}Education Reform Act 1988” there is substituted “65 of the Further and Higher Education Act 1992”, and
 - (b) for the words from “institutions designated” to “local education authorities” there is substituted “institutions receiving recurrent grants towards their costs from a further education funding council”.

Commencement Information

I86 Sch. 8, para.67 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

Marginal Citations

M5 1988 c. 40.

PART II

AMENDMENTS OF OTHER ACTS

The Public Records Act 1958 (c. 51)

- 68 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 (organisations whose records are public records) there is inserted in the appropriate place—
- “Further Education Funding Council for England.
Further Education Funding Council for Wales.
Higher Education Funding Council for England.
Higher Education Funding Council for Wales.”

Commencement Information

I87 Sch. 8, para. 68 wholly in force at 6.5.1992 see s. 94(3) and S. I. 1992/831, art. 2, Sch. 1

The Charities Act 1960 (c. 58)

- ^{F55}69

Textual Amendments

F55 Sch. 8 para. 69 repealed (1.8.1993) by 1993 c. 10, s. 98(2), Sch.7

Status: Point in time view as at 01/01/2006.

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The Veterinary Surgeons Act 1966 (c. 36)

70 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions from restrictions on practice of veterinary surgery), in the definition of “recognised institution” after paragraph (a)(i) there is inserted—

“(iA) an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992”.

Commencement Information

188 Sch. 8, para. 70 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

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

71 (1) Subject to sub-paragraph (2) below, in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” shall include any institution within the further education sector or the higher education sector.

(2) The provisions of sub-paragraph (1) above shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person or description of persons shall be a public body for the purposes of that Act).

(3) An order under that section may accordingly vary or revoke the provisions of sub-paragraph (1) above as they apply to an institution within the further education sector or the higher education sector specified in the order.

Commencement Information

189 Sch. 8, para. 71 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

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

72 In section 8(2) of the Chronically Sick and Disabled Persons Act 1970 (access to, and facilities at, university and school buildings)—

(a) for paragraph (aa) there is substituted—

“(aa) institutions within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992”, and

(b) after paragraph (b) there is inserted—

“(ba) institutions within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992”.

Commencement Information

190 Sch. 8, para. 72 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

Status: Point in time view as at 01/01/2006.

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The Superannuation Act 1972 (c. 11)

- 73 In Schedule 1 to the Superannuation Act 1972 the entries relating to the Universities Funding Council and the Polytechnics and Colleges Funding Council are omitted.

Commencement Information

I91 Sch. 8, para. 73 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

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

- 74 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 the entries relating to the Polytechnics and Colleges Funding Council and the Universities Funding Council are omitted.

Commencement Information

I92 Sch. 8, para. 74 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

The Sex Discrimination Act 1975 (c. 65)

- 75 The Sex Discrimination Act 1975 is amended as follows.

Commencement Information

I93 Sch. 8, para. 75 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

- 76 (1) The Table in section 22 (discrimination by bodies in charge of educational establishments) is amended as follows.
- (2) After paragraph 3A there is inserted—
- “3B Institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).
- Governing body.”
- (3) For paragraph 4A there is substituted—
- “4A Institution, other than a university, within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).
- Governing body.”
- (4) In paragraph 5 for “to 4” there is substituted “ to 4A ”.

Commencement Information

I94 Sch. 8, para. 76 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

- 77 After that section there is inserted—

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

“22A Meaning of pupil in section 22.

For the purposes of section 22, “pupil” includes, in England and Wales, any person who receives education at a school or institution to which that section applies.”

Commencement Information

I95 Sch. 8, para. 77 wholly in force at 1.8.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 4](#)

78 After section 23 (other discrimination by local education authorities) there is inserted—

“23A Discrimination by Further Education and Higher Education Funding Councils

It is unlawful for the Further Education Funding Council for England, the Further Education Funding Council for Wales, the Higher Education Funding Council for England or the Higher Education Funding Council for Wales in carrying out their functions under the Education Acts 1944 to 1992, to do any act which constitutes sex discrimination.”

Commencement Information

I96 Sch. 8, para. 78 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

79 (1) In section 25(6) (general duty in public sector of education)—
(a) in paragraph (c)(i), for “4A” there is substituted “ 3B ”, and
(b) after paragraph (c) there is added—
“ (d) the Further Education Funding Council for England and the Further Education Funding Council for Wales. ”
(2) In relation to a further education corporation or a Further Education Funding Council the reference in section 25(2) to [^{F56}section 497 of the Education Act 1996] is to be read as a reference to section 57(3) of the Further and Higher Education Act 1992.

Textual Amendments

F56 Words in [Sch. 8 para. 79](#) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\), Sch. 37 Pt. I para. 117\(4\)\(a\)](#) (with [ss. 1\(4\), 561, 562, Sch. 39](#))

Commencement Information

I97 Sch. 8 para. 79 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

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

“(4) In this section, as it applies to an establishment in England and Wales, “pupil” includes any person who receives education at that establishment.”

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

Commencement Information

I98 Sch. 8, para. 80 wholly in force at 1.8.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 4](#)

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

“(6) In this section, as it applies to an establishment in England and Wales, “pupil” includes any person who receives education at that establishment.”

Commencement Information

I99 Sch. 8, para. 81 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

^{F57}82

Textual Amendments

F57 Sch. 8 para. 82 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](#))

83 For paragraph 4 of Schedule 2 (transitional exemption orders for educational admissions) there is substituted—

“4 Regulations under section 218 of the Education Reform Act 1988 may provide for the submission to the Secretary of State of an application for the making by him of a transitional exemption order in relation to any school or institution to which that section, or any part of that section, applies and which does not fall within paragraph 3 above, and for the making by him of the order.”

Commencement Information

I100 Sch. 8, para. 83 wholly in force at 1.4.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

The Race Relations Act 1976 (c. 74)

84 The Race Relations Act 1976 is amended as follows.

Commencement Information

I101 Sch. 8, para. 84 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

85 (1) The Table in section 17 (discrimination by bodies in charge of educational establishments) is amended as follows.

(2) After paragraph 3A there is inserted—

“3B Institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

Governing body.”

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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)

(3) For paragraph 4A there is substituted—

“4A Institution, other than a university, within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).
Governing body.”

(4) In paragraph 5 for “to 4” there is substituted “ to 4A ”.

Commencement Information

I102 Sch. 8, para. 85 wholly in force at 6.5.1992 see s. 94(3) and [S. I. 1992/831, art. 2, Sch. 1](#)

86 After that section there is inserted—

“17A Meaning of pupil in section 17.

For the purposes of section 17, “pupil” includes, in England and Wales, any person who receives education at a school or institution to which that section applies.”

Commencement Information

I103 Sch. 8, para. 86 wholly in force at 1.8.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 4](#)

87 After section 18 (other discrimination by local education authorities) there is inserted—

“18A Discrimination by Further Education and Higher Education Funding Councils

It is unlawful for the Further Education Funding Council for England, the Further Education Funding Council for Wales, the Higher Education Funding Council for England or the Higher Education Funding Council for Wales in carrying out their functions under the Education Acts 1944 to 1992, to do any act which constitutes racial discrimination.”

Commencement Information

I104 Sch. 8, para. 87 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

^{F58}88

Textual Amendments

F58 Sch. 8 para. 88 repealed (2.4.2001) by [2000 c. 34, s. 9\(2\), Sch. 3](#) (with s. 10(5)); [S.I. 2001/566, art. 2\(1\)](#)

^{F59}89
The Employment Protection (Consolidation) Act 1978 (c. 44)

Status: Point in time view as at 01/01/2006.

Changes to legislation: Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 07 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

F59 Sch. 8 para. 89 repealed (22.8.1998) by 1998 c. 18, ss. 242, 243, **Sch. 3 Pt.I** (with ss. 191-195, 202)

The Public Passenger Vehicles Act 1981 (c. 14)

^{F60}90

Textual Amendments

F60 Sch. 8 para. 90 repealed (20.1.2003 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2**; S.I. 2003/1718, **Sch. Pt. II**

Commencement Information

I105 Sch. 8, para. 90 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, **art. 2, Sch. 3**

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

91 (1) Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) is amended as follows.

(2) for subsections (3) and (4) there is substituted—

“(3) In the following provisions of this section and in section 6 a person in respect of whom the appropriate officer has given his opinion that he is a disabled person is referred to as a “disabled student”.

(3A) The responsible authority shall give to the appropriate officer written notification for the purposes of subsection (5) of the date on which any disabled student will cease to be of compulsory school age, and the notification shall state—

- (a) his name and address; and
- (b) whether or not he intends to remain in full-time education and, if he does, the name of the school or other institution at which the education will be received;

and shall be given not earlier than twelve months, nor later than eight months, before that date.

(3B) Where, in the case of a disabled student over compulsory school age who is receiving relevant full-time education, that is—

- (a) full-time education at a school; or
- (b) full-time further or higher education at an institution other than a school;

it appears to the responsible authority that the student will cease to receive relevant full-time education on a date (“the leaving date”) on which he will be under the age of nineteen years and eight months, the responsible authority shall give written notification for the purposes of subsection (5) to the appropriate officer.

(3C) That notification shall state—

- (a) his name and address; and

Status: Point in time view as at 01/01/2006.

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- (b) the leaving date;
and shall be given not earlier than twelve months, nor later than eight months, before the leaving date.
- (4) If at any time it appears to the responsible authority—
 - (a) that a disabled student has ceased to receive relevant full-time education or will cease to do so on a date less than 8 months after that time, and
 - (b) that no notification has been given under subsection (3B), but
 - (c) that, had the responsible authority for the time being been aware of his intentions 8 months or more before that date, they would have been required to give notification under that subsection with respect to him,
that authority shall, as soon as is reasonably practicable, give written notification for the purposes of subsection (5) to the appropriate officer of his name and address and of the date on which he ceased to receive, or will cease to receive, that education.”
- (3) In subsection (5)—
 - (a) for “any person under subsection (3)” there is substituted “ a student under subsection (3A) that he does not intend to remain in full-time education or under subsection (3B) ”, and
 - (b) for “notification under subsection (3)” there is substituted “ notification under subsection (3A) or (3B) ”.
- (4) In subsection (6)—
 - (a) for “(3)” in both places there is substituted “ (3A) that he does not intend to remain in full-time education or under subsection (3B) ”, and
 - (b) for the words from “a local education authority” to “establishment of further or higher education” there is substituted “ the responsible authority that the person will be receiving relevant full-time education ”.
- (5) In subsection (9) (interpretation)—
 - (a) in the definition of “child” after “school or” there is inserted “ as a student at ”,
 - (b) in the definition of “the responsible authority” for paragraph (b) there is substituted—
 - “(b) in relation to a person receiving full-time further education or higher education at an institution within the further education sector or the higher education sector, means the governing body of the institution; and
 - (c) in relation to a person for whom a further education funding council has secured full-time further education at an institution (other than a school) outside the further education sector or the higher education sector, the council”,
 - (c) after “the Education Act 1944” there is inserted “ or the Further and Higher Education Act 1992 ”, and
 - (d) for “that Act” there is substituted “ those Acts ”.

Status: Point in time view as at 01/01/2006.

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Commencement Information

I106 Sch. 8, para. 91 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

92 For section 6(1) of that Act (review of expected leaving dates from full-time education of disabled persons) there is substituted—

“6 (1) The responsible authority shall for the purposes of section 5 above keep under review the date when any disabled student is expected to cease to receive relevant full-time education.”

Commencement Information

I107 Sch. 8, para. 92 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

The Employment Act 1989 (c. 38)

93 In section 5(6) of the Employment Act 1989 (exemption for discrimination in connection with certain educational appointments)—

(a) after paragraph (b) there is inserted—

“ (ba) any institution designated by order under section 28 of the Further and Higher Education Act 1992 ”, and

(b) for paragraph (c) there is substituted—

“ (c) any institution designated by order made or having effect as if made under section 129 of the Education Reform Act 1988. ”

Commencement Information

I108 Sch. 8, para. 93 wholly in force: Sch.8, para. 93(b) in force at 6.5.1992; Sch. 8, para. 93(a) in force at 1.4.1993, see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, 3

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

94 In section 76(1) of the Town and Country Planning Act 1990 (duty to draw attention to certain provisions for benefit of disabled)—

(a) in paragraph (d) for “the PCFC funding sector” there is substituted “ the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 ”, and

(b) after paragraph (e) there is inserted—

“ (f) of a building intended for the purposes of an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992 ”.

Commencement Information

I109 Sch. 8, para. 94 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

Status: Point in time view as at 01/01/2006.

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The Environmental Protection Act 1990 (c. 43)

- 95 In section 98(2) of the Environmental Protection Act 1990 (definitions)—
- (a) paragraph (a) is omitted,
 - (b) for paragraph (d) there is substituted—
 - “ (d) any institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 ”, and
 - (c) after paragraph (d) there is inserted—
 - “ (da) any institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992 ”.

Commencement Information

I110 Sch. 8, para. 95 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 3

SCHEDULE 9

Section 93.

REPEALS

Commencement Information

I111 Sch. 9 wholly in force: Sch. 9 in force so far as it relates to certain repeals at 6.5.1992, 1.4.1993, 1.8.1993; see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, 3, 4 (as amended by S.I. 1992/2041, art. 2(b))

Chapter	Short title	Extent of repeal
1944 c. 31.	The Education Act 1944.	Section 8(3). Section 67(4A). In section 85(2) and (3) “for providing primary or secondary education”. In section 114(1), the definitions of “part-time senior education” and “post- school age education”. Section 114(1A), (1B) and (1C).
1948 c. 40.	The Education (Miscellaneous Provisions) Act 1948.	Section 3(3).
1972 c. 11.	The Superannuation Act 1972.	In Schedule 1 the entries relating to the Universities Funding Council and the Polytechnics and Colleges Funding Council.

Status: Point in time view as at 01/01/2006.

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1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1 the entries relating to the Polytechnics and Colleges Funding Council and the Universities Funding Council.
1986 c. 61.	The Education (No. 2) Act 1986.	Section 43(5)(c) and, in subsection (7), paragraph (b) and “or authorities maintaining or (as the case may be) assisting the establishment”. Section 49(3)(d) and (da). In section 51, in subsection (2)(b) the words from “made” to the end and subsections (5) and (6). Section 58(3), (4) and (5) (a) and in subsection (5) (ab) “and are not designated establishments of higher or further education”.
1988 c. 40.	The Education Reform Act 1988. Section 122(2) to (5).	In section 105(2)(b) “but not the age of nineteen years”. Section 120(2), (6), (7), (8), (9)(a)(ii) and (9)(b). Section 124(4). Section 129(3) and (4). Sections 131 and 132. Section 134. Section 136(3) to (7). In section 137(2) “or 129(3)”. Chapter III of Part II. Section 156. In section 157 the words “or assisted” in both places in subsection (4) and subsection (5)(b). Section 158(2)(a)(i) and (iii) and (b). Section 159(2)(b). Section 161(1)(c).

Status: Point in time view as at 01/01/2006.

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Section 205(6).

Section 211(c).

Section 218(10)(b).

Section 219(1)(b), (2)(d) and (e) and (3)(c)(ii).

In section 221, subsection (1)(c) and, in subsection (3), the definition of “relevant institution”.

In section 222, subsection (2)(b) and, in subsection (3)(c), “or institutions required to be covered by schemes under section 139 of this Act”.

Section 227(2) to (4).

In section 230, in subsection (1) “section 136(2)” and subsection (3)(c)(ii).

In section 232, in subsection (2) “140(1), 141(6), 145(6), 151(4), 156(10)”, in subsection (3) “or 227” and in subsection (4)(b) “227”.

Section 234(2)(b).

Section 235(2)(a) and (h).

Paragraph 19 of Schedule 7.

Paragraphs 68, 69(2), 70, 100(2) and 101(4) of Schedule 12.

1990 c. 43.

The Environmental
Protection Act 1990.

Section 98(2)(a).

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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