



# Higher Education Act 2004

## 2004 CHAPTER 8

### PART 5

#### MISCELLANEOUS AND GENERAL

##### *Staff disputes: jurisdiction of visitor*

#### **46 Exclusion of visitor's jurisdiction in relation to staff disputes**

- (1) The visitor of a qualifying institution has no jurisdiction in respect of—
  - (a) any dispute relating to a member of staff which concerns his appointment or employment or the termination of his appointment or employment,
  - (b) any other dispute between a member of staff and the qualifying institution in respect of which proceedings could be brought before any court or tribunal, or
  - (c) any dispute as to the application of the statutes or other internal laws of the institution in relation to a matter falling within paragraph (a) or (b).
- (2) In subsection (1) “qualifying institution” has the meaning given by section 11.
- (3) In determining whether a dispute falls within subsection (1)(b) it is to be assumed that the visitor does not have jurisdiction to determine the dispute.
- (4) Section 206 of the Education Reform Act 1988 (c. 40) (which is superseded by subsection (1)) shall cease to have effect.

#### **Commencement Information**

- 11** S. 46 in force for W. at 1.1.2005 by S.I. 2004/3144, Sch. Pt. 2 (with art. 6)
- 12** S. 46 in force for E. at 1.1.2005 by S.I. 2004/2781, art. 4 (with art. 5)

*Status: Point in time view as at 31/03/2011.*

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## General

### 47 Orders and regulations

- (1) Any power—
  - (a) of the Secretary of State or the Assembly to make an order or regulations under this Act, or
  - (b) of the Scottish Ministers to make an order under this Act, is exercisable by statutory instrument.
- (2) Any statutory instrument containing—
  - (a) an order made by the Secretary of State under section 18, or
  - (b) regulations made by the Secretary of State under any provision of this Act, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) does not apply to—
  - (a) regulations to which section 26(1) or (2)(a)(ii) or (b)(ii) applies,
  - (b) regulations to which paragraph 12(3) of Schedule 2 applies, or
  - (c) regulations to which subsection (4) applies.
- (4) A statutory instrument which contains (whether alone or with other provisions) regulations made by the Secretary of State by virtue of section 33(2), 34 or 37(3)(c) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Any order or regulations under this Act may—
  - (a) make different provision for different cases or different areas,
  - (b) make provision generally or only in relation to specified cases, and
  - (c) contain such incidental, supplemental, saving or transitional provisions as the person making the order or regulations thinks fit.
- (6) Nothing in this Act is to be regarded as affecting the generality of subsection (5).

### 48 General interpretation

In this Act—

“the 1992 Act” means the Further and Higher Education Act 1992 (c. 13);

<sup>F1</sup> ...

“the 1998 Act” means the Teaching and Higher Education Act 1998 (c. 30);

[<sup>F2</sup> “ the 2005 Act ” means the Education Act 2005; ]

“the Assembly” means the National Assembly for Wales.

#### Textual Amendments

**F1** Words in s. 48 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(3)(a), (b), **Sch. 19 Pt. 3**

**F2** Words in s. 48 inserted (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(3)(a), **Sch. 14 para. 36(b)**

### 49 Consequential amendments

Schedule 6 contains amendments related to the provisions of this Act.

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#### Commencement Information

- I3** S. 49 partly in force; s. 49 in force for certain purposes at Royal Assent, see s. 52(1)
- I4** S. 49 in force for specified purposes at 16.12.2004 by S.I. 2004/3255, **art. 2**
- I5** S. 49 in force for specified purposes at 1.4.2005 by S.I. 2005/767, **art. 2**
- I6** S. 49 in force for specified purposes for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(c)**
- I7** S. 49 in force at 14.1.2006 for specified purposes by S.I. 2006/51, **art. 2**
- I8** S. 49 in force at 31.3.2011 for specified purposes for W. by S.I. 2011/297, **art. 4(e)**

## 50 Repeals

Schedule 7 contains repeals.

#### Commencement Information

- I9** S. 50 in force for specified purposes for E. at 1.1.2005 by S.I. 2004/2781, **art. 4**
- I10** S. 50 in force for specified purposes for W. at 1.1.2005 by S.I. 2004/3144, **Sch. Pt. 2**
- I11** S. 50 in force for specified purposes at 1.4.2005 by S.I. 2005/767, **art. 2**
- I12** S. 50 in force for specified purposes for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(d)**
- I13** S. 50 in force at 14.1.2006 for specified purposes by S.I. 2006/51, **art. 2**
- I14** S. 50 in force at 31.3.2011 for specified purposes for W. by S.I. 2011/297, **art. 4(f)**

## 51 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenditure incurred by the Secretary of State by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money so provided.
- (2) There shall be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act.

## 52 Commencement

- (1) The following provisions come into force on the passing of this Act—
  - section 22, so far as relating to England;
  - section 24(6), so far as enabling regulations to be made;
  - section 26;
  - section 29, so far as relating to England;
  - section 30(1), so far as relating to England;
  - section 31;
  - section 32(1);
  - sections 33 and 34, so far as relating to England;
  - sections 35 to 37, so far as enabling regulations to be made in relation to England;
  - section 39, so far as relating to England;
  - section 40;
  - section 41, so far as relating to England;
  - section 42;

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- sections 47 and 48;  
section 51, this section and sections 53 and 54;  
Schedule 5; and  
paragraph 1 of Schedule 6 and, so far as relating to the Director of Fair Access to Higher Education, paragraphs 4 and 10 of that Schedule (and section 49 so far as relating to those provisions).
- (2) The following provisions (so far as not coming into force in accordance with subsection (1)) come into force in accordance with provision made by the Secretary of State by order—
- Part 1, except section 10(2) and (3);  
section 19;  
section 23;  
section 37;  
section 43;  
section 45;  
paragraphs 2 to 6 and 9 and 10 of Schedule 6 (and section 49 so far as relating to those paragraphs); and  
in Schedule 7, the repeals in the Superannuation Act 1972 (c. 11) and in section 22 of the 1998 Act (and section 50 so far as relating to those repeals).
- (3) The following provisions come into force in accordance with provision made by the Assembly by order—
- section 10(2);  
sections 27 and 28;  
section 30(2) and (3);  
section 32(4);  
section 38; and  
section 44.
- (4) The Assembly may not make an order under subsection (3) in relation to section 44 except with the agreement of the Secretary of State.
- (5) Section 10(3) comes into force in accordance with provision made by the Scottish Ministers by order.
- (6) Except as provided by subsections (1) to (5), the provisions of this Act come into force—
- (a) in relation to England, in accordance with provision made by the Secretary of State by order, and
- (b) in relation to Wales, in accordance with provision made by the Assembly by order.

### **53 Extent**

- (1) Subject to subsections (2) to (4), this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland and Northern Ireland—
- (a) Part 1,  
(b) section 45,  
(c) sections 47, 48, 51 and 52, and

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- (d) this section and section 54.
- (3) Subsections (1), (2) and (5) of section 42 also extend to Northern Ireland.
- (4) Any amendment or repeal made by this Act has the same extent within the United Kingdom as the enactment to which it relates.

#### **54 Short title, etc.**

- (1) This Act may be cited as the Higher Education Act 2004.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

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