

FURTHER EDUCATION AND TRAINING ACT 2007

EXPLANATORY NOTES

COMMENTARY

Part 2: Further Education Institutions

Sections 19 and 20: Foundation degrees

85. The Privy Council has a statutory power, under section 76 of the 1992 Act, to make orders that enable institutions providing higher education to grant one or both of two groups of awards. Institutions providing higher education can be given a power to grant awards to students who complete a course of study or a power to grant awards to students who complete a programme of research or both. These are commonly referred to as taught and research degree awarding powers respectively.
86. A number of further education institutions provide courses leading to foundation degrees. However, only institutions with full taught degree awarding powers can award foundation degrees in their own right. At the time of Royal Assent, no further education institutions had such powers, and foundation degrees for courses provided by further education institutions were awarded by other institutions with full, taught degree-awarding powers. Section 19 amends section 76 so as to enable the Privy Council to make orders granting further education institutions in England the power to award only foundation degrees (see *subsection (5)*). In order to be granted this power, institutions would have to meet certain non-statutory criteria, which were published in draft during the passage of the Bill. As with taught and research degree awarding powers, the Quality Assurance Agency for Higher Education will advise on whether an institution meets the criteria.
87. As a result of this provision, further education institutions in England providing courses leading to foundation degrees are able to apply for powers to award foundation degrees themselves.
88. In order to grant a further education institution in England the power to award foundation degrees, the Privy Council must first have received a statement from that institution setting out how it proposes to secure an opportunity for progression to one or more courses of more advanced study for any person awarded one of its foundation degrees. Before it can grant the power to award foundation degrees, the Privy Council must consider that these proposals are satisfactory and are likely to be carried out before it can grant foundation degree-awarding powers (see section 76(2B) as inserted by subsection (5)). The proposals do not have to cover honorary foundation degrees.
89. If the Privy Council by order gives a further education institution the power to award foundation degrees, it may in the same order specify that the power does not include the power to authorise other institutions to do so on its behalf (see section 76(5A), as inserted by *subsection (10)*). The Privy Council may in such an order provide that foundation degrees are not to be awarded unless a person is enrolled at the

*These notes refer to the Further Education and Training Act
2007 (c.25) which received Royal Assent on 23 October 2007*

institution when he completes the course of study for which the degree is granted (see section 76(6A), as inserted by *subsection (12)*).

90. It is envisaged that the Quality Assurance Agency for Higher Education will advise that a further education institution's powers to award foundation degrees should initially be granted for a 'probationary period' of six years. The Quality Assurance Agency would also recommend that, during this probationary period, the further education institution's powers to award foundation degrees should be restricted to foundation degrees granted to persons enrolled at the institution and should exclude the power to authorise other institutions to award foundation degrees on its behalf.
91. The provision in this section applies to further education institutions in England as defined under section 91 of the 1992 Act. According to this definition, references to institutions within the further education sector are to institutions conducted by further education corporations and 'designated institutions'. Section 28 of the 1992 Act lists the criteria that an institution must meet in order to be designated as a further education institution.
92. [Section 20](#) requires the Secretary of State to lay before Parliament a report about the effect of section 19 within a period of four years of section 19 coming into force.