



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART II

#### HIGHER EDUCATION

##### *Funds*

#### 65 Administration of funds by <sup>[F1]</sup>the HEFCW].

- (1) <sup>[F2]</sup>The HEFCW] shall be responsible, subject to the provisions of this Part of this Act, for administering funds made available to <sup>[F3]</sup>the HEFCW] by the Secretary of State and others for the purposes of providing financial support for activities eligible for funding under this section.
- (2) The activities eligible for funding under this section are—
  - (a) the provision of education and the undertaking of research by higher education institutions in <sup>[F4]</sup>the HEFCW's] area,
  - (b) the provision of any facilities, and the carrying on of any other activities, by higher education institutions in their area which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purpose of or in connection with education or research,
  - (c) the provision—
    - (i) by institutions in their area maintained or assisted by <sup>[F5]</sup>local authorities], or
    - (ii) by such institutions in their area as are within the further education sector,of prescribed courses of higher education, and
  - (d) the provision by any person of services for the purposes of, or in connection with, the provision of education or the undertaking of research by institutions within the higher education sector.
- (3) <sup>[F6]</sup>The HEFCW] may—

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- (a) make grants, loans or other payments to the governing body of any higher education institution in respect of expenditure incurred or to be incurred by them for the purposes of any activities eligible for funding under this section by virtue of subsection (2)(a) or (b) above, and
- (b) make grants, loans or other payments to any persons in respect of expenditure incurred or to be incurred by them for the purposes of the provision as mentioned in subsection (2)(c) above of prescribed courses of higher education or the provision of services as mentioned in subsection (2)(d) above,

subject in each case to such terms and conditions as [<sup>F7</sup>the HEFCW] think fit.

[<sup>F8</sup>(3A) In the application of subsection (3) above to any grants, loans or other payments by [<sup>F9</sup>the HEFCW], the reference to expenditure incurred or to be incurred by the governing body of a higher education institution as mentioned in paragraph (a) of that subsection includes a reference to expenditure incurred or to be incurred by any connected institution to which the governing body propose, with the consent of [<sup>F10</sup>the HEFCW], to pay the whole or part of any such grants, loans or other payments.

(3B) In subsection (3A) “connected institution”, in relation to a higher education institution, means any college, school, hall or other institution which [<sup>F11</sup>the HEFCW] are satisfied has a sufficient connection with that institution for the purposes of that subsection.]

(4) The terms and conditions on which [<sup>F12</sup>the HEFCW] may make any grants, loans or other payments under this section may in particular—

- (a) enable [<sup>F13</sup>the HEFCW] to require the repayment, in whole or in part, of sums paid by [<sup>F13</sup>the HEFCW] if any of the terms and conditions subject to which the sums were paid is not complied with, and
- (b) require the payment of interest in respect of any period during which a sum due to [<sup>F13</sup>the HEFCW] in accordance with any of the terms and conditions remains unpaid,

but shall not relate to the application by the body to whom the grants or other payments are made of any sums derived otherwise than from [<sup>F13</sup>the HEFCW].

<sup>F14</sup>(4A) .....

<sup>F14</sup>(4B) .....

(5) In this section and section 66 of this Act “higher education institution” means a university, an institution conducted by a higher education corporation or a designated institution.

#### Textual Amendments

- F1** Words in s. 65 heading substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 15\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F2** Words in s. 65(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 15\(3\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F3** Words in s. 65(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 15\(3\)\(b\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

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- F4** Words in s. 65(2)(a) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F5** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**
- F6** Words in s. 65(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(5)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F7** Words in s. 65(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(5)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F8** S. 65(3A)(3B) inserted (retrospectively) by 1998 c. 30, **ss. 27, 46(3)** (with s. 42(8))
- F9** Words in s. 65(3A) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(6)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F10** Words in s. 65(3A) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(6)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F11** Words in s. 65(3B) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(7)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F12** Words in s. 65(4) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(8)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F13** Words in s. 65(4) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(8)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F14** S. 65(4A)(4B) repealed (1.9.2002) by 2001 c. 10, s. 42(6), Sch. 9 (with s. 43(13)); S.I. 2002/2217, **art. 3, Sch. 1 Pt. 1**

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

- C1** S. 65(3)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 1**

#### Commencement Information

- I1** S. 65 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

## 66 Administration of funds: supplementary.

- (1) Before exercising their discretion under section 65(3)(a) of this Act with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, [<sup>F15</sup>the HEFCW] shall consult such of the following bodies as appear to [<sup>F16</sup>the HEFCW] to be appropriate to consult in the circumstances—
- such bodies representing the interests of higher education institutions as appear to [<sup>F16</sup>the HEFCW] to be concerned, and
  - the governing body of any particular higher education institution which appears to [<sup>F16</sup>the HEFCW] to be concerned.
- (2) In exercising their functions in relation to the provision of financial support for activities eligible for funding under section 65 of this Act [<sup>F17</sup>the HEFCW] shall have regard to the desirability of not discouraging any institution for whose activities financial support is provided under that section from maintaining or developing its funding from other sources.

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- (3) In exercising those functions [<sup>F18</sup>the HEFCW] shall have regard (so far as they think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining—
- (a) what appears to them to be an appropriate balance in the support given by them as between institutions which are of a denominational character and other institutions, and
  - (b) any distinctive characteristics of any institution within the higher education sector for whose activities financial support is provided under that section.
- (4) For the purposes of subsection (3) above an institution is an institution of a denominational character if it appears to [<sup>F19</sup>the HEFCW] that either—
- (a) at least one quarter of the members of the governing body of the institution are persons appointed to represent the interests of a religion or religious denomination,
  - (b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned shall be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or
  - (c) any of the property held for the purposes of the institution is held on trust for or in connection with—
    - (i) the provision of education, or
    - (ii) the conduct of an educational institution,
 in accordance with the tenets of a religion or religious denomination.

#### Textual Amendments

- F15** Words in s. 66(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 16\(2\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F16** Words in s. 66(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 16\(2\)\(b\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F17** Words in s. 66(2) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 16\(3\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F18** Words in s. 66(3) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 16\(3\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F19** Words in s. 66(4) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 16\(4\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

#### Commencement Information

- I2** S. 66 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

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## 67 Payments in respect of persons employed in provision of higher or further education.

- (1) In section 133 of the <sup>M1</sup>Education Reform Act 1988 (payments by PCFC in respect of persons employed in the provision of higher or further education) for subsection (1) there is substituted—

“(1) A higher education funding council shall have power to make payments, subject to such terms and conditions as the council think fit, to—

- (a) any [<sup>F5</sup>local authority] in their area;
- (b) the London Residuary Body;
- (c) the London Pensions Fund Authority; and
- (d) the governing body of any institution designated under section 129 of this Act, as originally enacted;

in respect of relevant expenditure incurred or to be incurred by that authority or body of any class or description prescribed for the purposes of this section.”

- (2) In subsection (2)(a) of that section (meaning of relevant expenditure) after “education authority” there is inserted “ the London Residuary Body or the London Pensions Fund Authority ”.
- (3) At the end of subsection (3) of that section (meaning of references to higher and further education) there is added “ and in any other case the reference to further education shall be read as a reference to further education within the meaning of section 41 of the 1944 Act as that section had effect on that date ”.
- (4) In subsection (4) of that section (duty to give information) after paragraph (a) there is inserted—
- “(aa) the London Residuary Body;
  - (ab) the London Pensions Fund Authority”.
- (5) That section as originally enacted shall have effect, or be treated as having had effect, as if—
- (a) in subsection (1), in relation to anything done before regulations for the purposes of that subsection were in force, the words “of any class or description prescribed for the purposes of this section” were omitted, and
  - (b) in subsections (1) and (2) the references to a [<sup>F5</sup>local authority] included the London Residuary Body and the London Pensions Fund Authority.

### Textual Amendments

- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

### Commencement Information

- I3** S. 67 wholly in force: s. 67(2)-(5) in force at 6.5.1992; s. 67(1) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Schs. 1, 3](#)

### Marginal Citations

- M1** 1988 c. 40.

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## 68 Grants to [<sup>F20</sup>the HEFCW].

- (1) The Secretary of State may make grants to [<sup>F21</sup>the HEFCW] of such amounts and subject to such terms and conditions as he may determine.
- (2) The terms and conditions subject to which grants are made by the Secretary of State to [<sup>F22</sup>the HEFCW]—
  - (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of any amount or description so specified is provided by [<sup>F23</sup>the HEFCW] in respect of activities carried on by the institution, but
  - (b) shall not otherwise relate to the provision of financial support by [<sup>F23</sup>the HEFCW] in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to particular courses of study or programmes of research (including the contents of such courses or programmes and the manner in which they are taught, supervised or assessed) or to the criteria for the selection and appointment of academic staff and for the admission of students.
- (4) Such terms and conditions may in particular—
  - (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.

### Textual Amendments

- F20** Words in s. 68 heading substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 17\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F21** Words in s. 68(1) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 17\(3\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F22** Words in s. 68(2) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 17\(4\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F23** Words in s. 68(2) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 17\(4\)\(b\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

### Modifications etc. (not altering text)

- C2** S. 68 excluded (1.9.2005) by [Education Act 2005 \(c. 18\), ss. 88\(5\), 125\(3\)\(a\)](#)
- C3** S. 68 modified (14.1.2006) by [Higher Education Act 2004 \(c. 8\), ss. 23, 52\(2\)](#) (with ss. 24-29); S.I. 2006/51, art. 2
- C4** S. 68(1) extended (16.7.1998) by [1998 c. 30, ss. 26\(3\), 46\(3\)](#) (with s. 42(8))
- C5** S. 68(1) extended (31.3.2011) by [Higher Education Act 2004 \(c. 8\), ss. 27, 52\(3\)](#); S.I. 2011/297, art. 3(a)

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#### **Commencement Information**

**I4** S. 68 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 1](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16(6) inserted by [2007 c. 25 s. 14\(4\)](#)
- s. 17(2)(aa) inserted by [2007 c. 25 s. 14\(5\)\(b\)](#)
- s. 27(3A)(3B) inserted by [2007 c. 25 s. 15\(4\)](#)
- s. 27(9) inserted by [2007 c. 25 s. 15\(7\)](#)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by [2007 c. 25 s. 16\(2\)](#)
- s. 76(8)(9) inserted by [2017 c. 29 s. 52\(4\)](#)
- s. 85D inserted by [2009 c. 22 s. 247](#)
- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)