



# Further Education Act 1985

## 1985 CHAPTER 47

An Act to empower local education authorities to supply goods and services through further education establishments and to make loans to certain other persons to enable them to do so; to repeal section 28(b) of the Sex Discrimination Act 1975; and for connected purposes. [16th July 1985]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act except ss. 4 and 5 amended by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), s. **163(1)**
- C2 Act except ss. 4 and 5 modified by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), s. **236(2)(a)**
- C3 Act applied (provinces of Canterbury and York except Channel Islands and Isle of Man)(1.8.1991) by [Diocesan Boards of Education Measure 1991 \(No. 2\)](#), s. **7(3)**; Archbishops' Instrument made 26.7.1991
- C4 Act: certain functions transferred (1.7.1999) by S.I. 1999/672, art. 2, **Sch.1**  
Act (except ss. 4, 5) applied (1.6.2001) by S.I. 2001/1507, reg. 2, **Sch. 2 para. 2**
- C5 Act applied (E.W.) (1.4.2005) by [Central Sussex College \(Government\) Regulations 2005 \(S.I. 2005/397\)](#), reg. 1, **Sch. 2 para. 2**
- C6 Act modified in part (7.4.2005) by [Education Act 2005 \(c. 18\)](#), ss. **96(2)**, 125(1)(b)
- C7 Act: Education Acts modified (temp.) (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 6 para. 3(3)**; S.I. 2007/935, art. 5(bb)

### Commencement Information

- I1 Act partly in force at Royal Assent; Act wholly in force at 16.9.1985 see s. 7

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*Changes to legislation: There are currently no known outstanding effects for the Further Education Act 1985. (See end of Document for details)*

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### *Further education establishments*

## **1 Supply of goods and services through further education establishments.**

- (1) For the purposes of this Act goods are supplied through [<sup>F1</sup>an institution which provides higher education or further education (or both)] if they result—
- (a) from its educational activities;
  - (b) from the use of its facilities and the expertise of persons employed at it in the fields in which they are so employed;
  - (c) from ideas of a person employed at it, or of one of its students, arising out of its educational activities.
- (2) For the purposes of this Act services are supplied through such an [<sup>F2</sup>institution]—
- (a) if they are provided by making available—
    - (i) its facilities;
    - (ii) the expertise of persons employed at it in the fields in which they are so employed;
  - (b) if they result—
    - (i) from its educational activities;
    - (ii) from ideas such as are mentioned in subsection (1)(c) above.
- (3) For the purposes of this Act educational activities are—
- (a) the provision of teaching and industrial and vocational training;
  - (b) the carrying out of research; and
  - (c) any activity incidental or ancillary to any activity mentioned in paragraph (a) or (b) above.

<sup>F3</sup>[( 4 ) In this Act “ institution ” does not include a school. ]

#### **Textual Amendments**

- F1** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 92\(2\)](#)
- F2** Word substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 92\(3\)](#)
- F3** S. 1(4) added (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), [Sch. 8 Pt. I para.20](#); S.I. 1992/831, art. 2, [Sch. 3](#)

## **2 Powers of [<sup>F4</sup>local authorities].**

- (1) A [<sup>F4</sup>local authority] shall have power—
- (a) to enter into an agreement for the supply of goods or services or both through [<sup>F5</sup>an institution which is maintained by them and provides higher education or further education (or both)];
  - (b) to lend money for the purposes of such an agreement to a body corporate in which they have a holding such as is mentioned in subsection (8) below.
- (2) A [<sup>F4</sup>local authority] shall also have power to lend money—

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- <sup>F6</sup>[( a) to a higher education corporation [<sup>F7</sup>, further education corporation or sixth form college 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 [<sup>F8</sup> or a sixth form college corporation]; or
  - (iii) an institution which provides higher education or further education and is assisted by a [<sup>F4</sup> local 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],

if the loan is for the purposes of an agreement for the supply of goods or services or both through the [<sup>F9</sup> institution conducted by the corporation, company or governing body].

- (3) Subject to the following provisions of this section, a [<sup>F4</sup> local authority] shall not under an agreement under subsection (1)(a) above supply goods or services for less than their open market value.
- (4) Subsection (3) above does not apply to the supply of goods or services where the goods are produced, or the goods or services are supplied, in the normal course of any of the educational activities mentioned in section 1(3)(a) above, or where the supply is—
- (a) for a body which is a Research Council for the purposes of the <sup>M1</sup>Science and Technology Act 1965 [<sup>F10</sup> or for [<sup>F11</sup> United Kingdom Research and Innovation]] ; or
  - (b) for a body specified in an order under subsection (5) below.
- (5) The Secretary of State may by order made by statutory instrument provide that any person who is specified in the order or is of a description so specified, being a person or description of persons appearing to the Secretary of State to be exercising functions of a public nature, shall be a public body for the purposes of this Act; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (5) above may contain such provisions as the Secretary of State considers appropriate—
- (a) for restricting the application of subsection (4)(b) above to agreements of a description specified in the order;
  - (b) without prejudice to paragraph (a) above, for securing the inclusion of terms imposing restrictions in any agreement to which subsection (4)(b) above applies and which is made by a body to which the order applies.
- (7) For the purposes of this Act the open market value of goods or services shall be taken to be the amount of the consideration in money that would be payable for the supply by a person standing in no such relationship with any person as would affect that consideration.

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- (8) The holding referred to in subsections (1)(b) [<sup>F12</sup>and [<sup>F13</sup>( 2)(c)]] above is a holding of not less than 20 per cent. of the issued shares comprised in the share capital of the body corporate and carrying rights to vote in all circumstances at general meetings of the body corporate.
- (9) Money may be lent under this section for the purposes of an agreement either before the agreement is made or during its currency.
- (10) Nothing in this section shall be construed as derogating from any powers exercisable by a [<sup>F4</sup>local authority] apart from this section.

#### Textual Amendments

- F4** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 2(2)**
- F5** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 93(2)**
- F6** S. 2(2)(a)-(c) substituted (30.9.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. 1 para. 21** (1); S.I. 1992/831, art. 2, **Sch. 2**
- F7** Words in s. 2(2)(a) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 87(a)** (with art. 2(3))
- F8** Words in s. 2(2)(b)(ii) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 87(b)** (with art. 2(3))
- F9** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 93(4)**
- F10** Words in s. 2(4)(a) inserted (16.12.2004) by [Higher Education Act 2004 \(c. 8\)](#), s. 52(2), **Sch. 6 para. 6**; S.I. 2004/3255, art. 2
- F11** Words in s. 2(4)(a) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 12 para. 14**; S.I. 2018/241, reg. 2(t)
- F12** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 237(1), **Sch. 12 para. 93(5)**
- F13** Words in s. 2(8) substituted (30.9.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. 1 para. 21(2)**; S.I. 1992/831, art. 2, **Sch. 2**

#### Marginal Citations

- M1** 1965 c. 4.

### <sup>F143</sup> **Financial and accounting provisions.**

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#### Textual Amendments

- F14** S. 3 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(h), **Sch. 15 para. 1**

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*Changes to legislation: There are currently no known outstanding effects for the Further Education Act 1985. (See end of Document for details)*

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*Teachers of physical training*

**F15 4 Repeal of s.28(b) of Sex Discrimination Act 1975.**

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**Textual Amendments**

**F15** S. 4 repealed (1.10.2010) by Equality Act 2010 (c. 15), Sch. 27 Pt. 1 (as substituted by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#)), art. 1(2), **Sch. 2**

**5 Power to make corresponding provision for Northern Ireland.**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M2</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of section 4 above—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

**Marginal Citations**

**M2** 1974 c. 28.

*Supplementary*

**6 Extent.**

- (1) Sections 1 to 3 above extend to England and Wales only.
- (2) Section 4 above extends to England and Wales and Scotland.
- (3) Section 5 above extends to Northern Ireland only.
- (4) This section and sections 7 and 8 below extend to England and Wales, Scotland and Northern Ireland.

**7 Commencement.**

- (1) Section 4 above shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed under this subsection for England and Wales and for Scotland.
- (2) Sections 5 and 6 above, this section and section 8 below shall come into force on the day this Act is passed.
- (3) Subject to subsections (1) and (2) above, this Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

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**Changes to legislation:** There are currently no known outstanding effects for the Further Education Act 1985. (See end of Document for details)

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

**C8** Power of appointment conferred by s. 7(1) partly exercised: [S.I. 1985/1429](#), [art. 2](#); 1987/1335

**8 Citation etc.**

(1) This Act may be cited as the Further Education Act 1985.

<sup>F16</sup>(2) .....

(3) This Act, except sections 4 and 5 above, shall be construed as one with the [<sup>F17</sup>the Education Act 1996.].

**Textual Amendments**

**F16** S. 8(2) repealed (1.11.1996) by [1996 c. 56](#), ss. 582(2), 583(2), [Sch. 38 Pt.1](#) (with ss. 1(4), 561, 562, [Sch. 39](#)).

**F17** Words in s. 8(3) substituted (1.11.1996) by [1996 c. 56](#), ss. 582(1), 583(2), [Sch. 37 Pt.1](#) (with ss. 1(4), 561, 562, [Sch. 39](#)).

**Changes to legislation:**

There are currently no known outstanding effects for the Further Education Act 1985.