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Education Reform Act 1988

1988 CHAPTER 40

[F1]PART I

. . . . . .

Textual Amendments

F1 Pt. I (ss. 1-119) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, Sch. 38 Pt.I, **Sch. 39**.

PART II

HIGHER AND FURTHER EDUCATION

Modifications etc. (not altering text)

C100 Pt. II (ss. 120-161) modified (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 84(2)**; S.I. 1992/831, art. 2, **Sch.1**.

CHAPTER I

LOCAL EDUCATION AUTHORITY FUNCTIONS WITH RESPECT TO HIGHER AND FURTHER EDUCATION

120

(1) A local education authority shall no longer be under a duty to secure the provision for their area of facilities for higher education, that is to say, education provided by means of a course of any description mentioned in Schedule 6 to this Act.

[F153](2) . . . . . .

(3) A local education authority shall have power—

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(a) to secure the provision for their area of such facilities for higher education as appear to them to be appropriate for meeting the needs of the population of their area;

(b) to secure the provision of higher education for persons **[**[F154]from other areas**]**; and

(c) to do anything which appears to them to be necessary or expedient for the purposes of or in connection with such provision.

(4) In exercising their power under subsection (3)(a) above a local education authority shall have regard to any facilities for higher education provided by **[**[F155]institutions within the higher education sector**][**[F156]or the further education sector**]** and other bodies which are provided for, or available for use by persons living in, their area.

[F157](5) . . . . . .

[F158](6) . . . . . .

[F158](7) . . . . . .

[F158](8) . . . . . .

[F157](9) . . . . . .

(10) The Secretary of State may by order amend Schedule 6 to this Act.

Textual Amendments

F153 S. 120(2) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 30(a), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

F154 Words in s. 120(3)(b) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 30(b)**; S.I. 1992/831, art. 2, **Sch. 3**.

F155 Words in s. 120(4) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 30(c)(i)**; S.I. 1992/831, art. 2, **Sch. 3**.

F156 Words in s. 120(4) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 30(c)(ii)**; S.I. 1992/831, art. 2, **Sch. 3**.

F157 S. 120(5)(9) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

F158 S. 120(6)-(8) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 30(d), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

Modifications etc. (not altering text)

C101 S. 120 explained (1.9.1999) by S.I. 1999/1494, **reg. 4(4)(b)**.

CHAPTER II

REORGANISATION OF PROVISION AND FUNDING OF HIGHER EDUCATION

Modifications etc. (not altering text)

C102 Pt. II Ch. II (ss. 121-138) modified (temp. until 31. 3. 1993) (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 64(1)**; S.I. 1992/831, art. 2, **Schs.1** and 3.

Status: *Point in time view as at 31/03/2002. This version of this Act contains provisions that are not valid for this point in time.*
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The higher education corporations

121 Initial incorporation of higher education institutions maintained by local education authorities.

(1) Before such date as may be appointed for the purposes of this section the Secretary of State shall by order specify each institution maintained by a local education authority which appears to him to fall within subsection (2) below; and on that date a body corporate shall be established for the purpose of conducting each institution so specified as from the transfer date applicable in relation to bodies corporate established under this section.

(2) An institution falls within this subsection if on 1st November 1985 either—
  (a) its full-time equivalent enrolment number for courses of advanced further education exceeded 350 and also exceeded 55 per cent. of its total full-time equivalent enrolment number; or
  (b) its full-time equivalent enrolment number for such courses exceeded 2,500.

(3) Where an institution maintained by a local education authority has been established since that date by a merger of two or more institutions existing on that date, the institution shall be treated as falling within subsection (2) above if it would have done so if the merger had taken place before that date.

(4) References in this Part of this Act to courses of advanced further education are references to courses designated by Schedule 2 to the [M3]Education (Schools and Further Education) Regulations 1981 as courses of advanced further education.

Marginal Citations
M3 S.I. 1981/1086.

122 Orders incorporating higher education institutions maintained by local education authorities.

(1) Subject to subsection (2) below, if at any time it appears to the Secretary of State, in the case of any institution maintained by a local education authority, that its full-time equivalent enrolment number for courses of higher education exceeds 55 per cent. of its total full-time equivalent enrolment number he may make an order under this section with respect to that institution.

[F159](2) . . . . . .

[F159](3) . . . . . .

[F159](4) . . . . . .

[F159](5) . . . . . .

(6) An order under this section with respect to any institution shall make provision for the establishment of a body corporate for the purpose of conducting that institution as from the transfer date applicable in relation to that body corporate.

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Textual Amendments

F159 S. 122(2)-(5) repealed (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 31, **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C103 S. 122 applied by S.I. 1991/1391, **art. 2**

[F160 122A Orders transferring further education corporations to higher education sector.

(1) The Secretary of State may by order provide for the transfer of a further education corporation to the higher education sector if it appears to him that the full-time equivalent enrolment number of the institution conducted by the corporation for courses of higher education exceeds 55 per cent. of its total full-time equivalent enrolment number.

(2) Where an order under this section is made in respect of a further education corporation, sections 124A and 125 of this Act shall have effect as if—

(a) on the date the order has effect, the corporation were established as a higher education corporation, and

(b) the Secretary of State were the appointing authority in relation to the first members of the higher education corporation.

(3) In determining in pursuance of subsection (2)(b) above the number of members to appoint within each variable category of members, the Secretary of State shall secure that at least half of all the members of the higher education corporation as first constituted are independent members; and in this subsection "variable category of members" and "independent members" have the same meaning as in Schedule 7A to this Act.

(4) On such date as may be specified in the order the corporation shall cease to be a further education corporation and become a higher education corporation and any member of the further education corporation who is not re-appointed by the Secretary of State in pursuance of subsection (2)(b) above shall cease to hold office on that date.

Textual Amendments

F160 S. 122A inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), **s. 74(1)**; S.I. 1992/831, art. 2, **Sch. 3**

123 Provisions supplementary to sections 121 and 122.]

(1) References in this Act to a higher education corporation are references to a body corporate established under section 121 or 122 of this Act **[**F161 or which has become a higher education corporation by virtue of section 122A of this Act**]**.

(2) In this Act "transfer date" means, in relation to a higher education corporation, the date appointed under section 126 of this Act in relation to the transfer under that section of property, rights and liabilities to that corporation.

[F162 (3) Schedule 7 to this Act has effect with respect to each higher education corporation established before the appointed day (within the meaning of section 124A of this Act)

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unless an instrument of government for the corporation made under that section has effect.

[F162](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.**]**

Textual Amendments

F160 S. 122A inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), **s. 74(1)**; S.I. 1992/831, art. 2, **Sch. 3**

F161 Words in s. 123(1) added (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 32(a)**; S.I. 1992/831, art. 2, **Sch.3**.

F162 S. 123(3)(4) substituted for s. 123(3) (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 32(b)**; S.I. 1992/831, art. 2, **Sch. 1**.

124 Powers of a higher education corporation.

(1) A higher education corporation shall have power—

(a) to provide higher education;

(b) to provide further education; and

[[F163](ba) to provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,

(bb) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),

(bc) to participate in the provision of secondary education at a school,**]**

(c) to carry out research and to publish the results of the research or any other material arising out of or connected with it in such manner as the corporation think fit.

[[F164](1A) A higher education corporation may not provide education of a kind specified in subsection (1)(ba) or (bb) above unless they have consulted such local education authorities as they consider appropriate.**]**

(2) A higher education corporation shall also have power to do anything which appears to the corporation to be necessary or expedient for the purpose of or in connection with the exercise of any of the powers conferred on the corporation by subsection (1) above, including in particular power—

(a) to conduct an educational institution for the purpose of carrying on activities undertaken in exercise of any of those powers and, in particular, to assume the conduct as from the transfer date applicable in relation to the corporation of the institution in respect of which the corporation is established and for that purpose to receive any property, rights and liabilities transferred to the corporation under section 126 of this Act;

(b) to provide facilities of any description appearing to the corporation to be necessary or expedient for the purposes of or in connection with carrying on any such activities (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of **[**[F165]students having learning difficulties [F166]. . .**]**);

(c) to supply goods and services;

(d) to acquire and dispose of land and other property;

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(e) to enter into contracts, including in particular—

(i) contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any such activities; and

(ii) contracts with respect to the carrying on by the corporation of any such activities;

[[F167](f) to subscribe for or otherwise aquire shares in or securities of a company for the purpose of carrying on any such activities;**]**

(g) to borrow such sums as the corporation think fit for the purposes of carrying on any activities they have power to carry on or meeting any liability transferred to them under section 126 of this Act and, in connection with such borrowing, to grant any mortgage, charge or other security in respect of any land or other property of the corporation;

(h) to invest any sums not immediately required for any of the purposes mentioned in paragraph (g) above;

(i) to accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes; and

(j) to do anything incidental to the conduct of an educational institution providing higher or further education.

(3) The power under subsection (2)(j) above includes in particular power—

(a) to found scholarships or exhibitions; and

(b) to make grants and give prizes.

[F168](4) . . . . . .

[[F169](5) For the purposes of subsection (2)(b) a person has a learning difficulty if—

(a) he has a significantly greater difficulty in learning than the majority of persons of his age, or

(b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions within the higher education sector for persons of his age.

(6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.**]**

Textual Amendments

F163 S. 124(1)(ba)-(bc) inserted (1.4.2001) by 2000 c. 21, **s. 142(2)(a)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F164 S. 124(1A) inserted (1.4.2001) by 2000 c. 21, **s. 142(2)(b)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F165 Words in s. 124(2)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 33(a)**; S.I. 1992/831, art. 2, **Sch. 3**.

F166 Words in s. 124(2)(b) repealed (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise 1.4.2001) by 2000 c. 21, ss. 149, 153, 154, Sch. 9 para. 15(a), **Sch. 11**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F167 S. 124(f) substituted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise 1.4.2001) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 15(b)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F168 S. 124(4) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para. 33(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

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F169 S. 124(5)(6) inserted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise 1.4.2001) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 15(c)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

[F170 124A Constitution and conduct of corporations.

(1) For each higher education corporation established on or after the appointed day there shall be an instrument (to be known as the instrument of government) providing for the constitution of the corporation and making such other provision as is required under this section.

(2) The initial instrument of government of a higher education corporation established on or after that day shall be such as is prescribed by an order of the Privy Council.

(3) An order of the Privy Council may—
   (a) make an instrument of government of any higher education corporation with respect to which Schedule 7 to this Act has effect or make a new instrument of government of any higher education corporation in place of the instrument prescribed under subsection (2) above; or
   (b) modify an instrument made in pursuance of this subsection.

(4) An instrument of government of a higher education corporation—
   (a) shall comply with the requirements of Schedule 7A to this Act; and
   (b) may make any provision authorised to be made by that Schedule and such other provision as may be necessary or desirable.

(5) An order under subsection (2) or (3) above may make such provision as appears to the Privy Council necessary or desirable to secure continuity in the government of the institution or institutions to which it relates.

(6) The validity of any proceedings of a higher education corporation for which an instrument of government has effect, or of any committee of such a corporation, shall not be affected by a vacancy amongst the members or by any defect in the appointment or nomination of a member.

(7) Every document purporting to be an instrument made or issued by or on behalf of a higher education corporation for which an instrument of government has effect and to be duly executed under the seal of the corporation, or to be signed or executed by a person authorised by the corporation 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.

(8) In relation to a higher education corporation for which an instrument of government has effect the members of the corporation for the time being shall be known as the board of governors of the institution conducted by the corporation.

(9) The Secretary of State may by order amend or repeal any of paragraphs 3 to 5 and 11 of Schedule 7A to this Act.

(10) In this section and section 124C "the appointed day" means the day appointed under section 94 of the Further and Higher Education Act 1992 for the commencement of section 71 of that Act.

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Textual Amendments

F170 Ss. 124A-124D inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(1)**; S.I. 1992/831, art. 2, **Sch. 1**

124B Accounts.

(1) It shall be the duty of each corporation—

(a) to keep proper accounts and proper records in relation to the accounts; and

(b) to prepare in respect of each financial year of the corporation a statement of accounts.

(2) The statement shall—

(a) give a true and fair account of the state of the corporation's affairs at the end of the financial year and of the corporation's income and expenditure in the financial year; and

(b) comply with any directions given by the higher education funding council as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.

(3) The corporation shall supply a copy of the statement to any person who asks for it and, if the corporation so requires, pays a fee of such amount not exceeding the cost of supply as the corporation thinks fit.

(4) The accounts (including any statement prepared under this section) shall be audited by persons appointed in respect of each financial year by the corporation.

(5) The corporation shall consult, and take into account any advice given by, the Audit Commission for Local Authorities and the National Health Service in England and Wales before appointing any auditor under subsection (4) above in respect of their first financial year.

(6) No person shall be qualified to be appointed auditor under that subsection 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.

(7) In this section, in relation to a corporation—

"the first financial year" means the period commencing with the date on which the corporation is established and ending with the second 31st March following that date; and

"financial year" means that period and each successive period of twelve months.

Textual Amendments

F170 Ss. 124A-124D inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(1)**; S.I. 1992/831, art. 2, **Sch. 1**

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Modifications etc. (not altering text)

C104 S. 124B(7): power to exclude conferred (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 78(2)**; S.I. 1992/831, art. 2, **Sch. 1**

124C Initial and transitional arrangements.

(1) The Secretary of State shall be the appointing authority in relation to the appointment of the first members of a corporation established on or after the appointed day and, in determining the number of members to appoint within each variable category of members, he shall secure that at least half of all the members of the corporation as first constituted are independent members.

(2) In subsection (1) above "variable category of members" and "independent members" have the same meaning as in Schedule 7A to this Act.

(3) The following provisions apply where an instrument of government is made under section 124A of this Act for a higher education corporation with respect to which Schedule 7 to this Act has effect.

(4) The instrument shall apply, subject to subsection (5) below, as if the persons who, immediately before its coming into effect, were the members of the corporation had been appointed in accordance with the instrument for the residue of the term of their then subsisting appointment.

(5) Any local authority nominee, teacher nominee, general staff nominee or student nominee (within the meaning, in each case, of Schedule 7 to this Act) shall cease to hold office.

Textual Amendments

F170 Ss. 124A-124D inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(1)**; S.I. 1992/831, art. 2, **Sch. 1**

124D Exercise of Powers by Privy Council.

(1) This section applies in relation to the exercise of powers for the purposes of this Part of this Act.

(2) A power vested in the Privy Council may be exercised by any two or more of the lords and others of the Council.

(3) An act of the Privy Council shall be sufficiently signified by an instrument signed by the clerk of the Council.

(4) An order or act signified by an instrument purporting to be signed by the clerk of the Council shall be deemed to have been duly made or done by the Privy Council.

(5) An instrument so signed shall be received in evidence in all courts and proceedings without proof of the authority or signature of the clerk of the Council or other proof.

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Textual Amendments

F170 Ss. 124A-124D inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(1)**; S.I. 1992/831, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C105 S. 124D extended (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 76(7)**; S.I. 1992/831, art. 2, **Sch. 1**

125 Articles of government.]

(1) Any institution conducted by a higher education corporation shall be conducted in accordance with articles of government, to be made by the corporation with the approval of **[**[F171]the Privy Council**]**.

(2) The articles of government—

(a) shall determine the functions to be exercised in relation to the institution by the board of governors of the institution, the principal of the institution and the academic board of the institution; and

(b) may regulate the constitution and functions of committees of the corporation and of the academic board of the institution and provide for the delegation of functions of the board of governors and the academic board to such committees, to the chairman of the corporation or to the principal.

(3) The articles of government shall also make provision with respect to the procedure for meetings of the board of governors, of the academic board and of committees of the corporation and the procedure in relation to the appointment of members of the corporation (including in either case quorum and proxies), and may make provision with respect to—

(a) procedures for the appointment, promotion, suspension and dismissal of staff;

(b) procedures for the admission, suspension and expulsion of students; and

(c) the appointment and functions of a clerk to the board of governors.

(4) The articles of government may also make provision authorising the board of governors to make rules or bye-laws for the government and conduct of the institution, including in particular rules or bye-laws with respect to—

(a) the conduct of students and staff or either of them; and

(b) any such procedures as are mentioned in subsection (3)(a) or (b) above.

(5) Articles of government made under this section may be varied or revoked by subsequent articles made by the corporation with the approval of **[**[F171]the Privy Council**]**.

(6) **[**[F171]The Privy Council**]** may by a direction under this section require higher education corporations, any class of such corporations specified in the direction or any particular higher education corporation so specified—

(a) to amend their articles of government; or

(b) to secure that any rules or bye-laws made in pursuance of their articles of government are amended by the board of governors;

in any manner so specified.

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(7) Before giving a direction under this section, **[**[F171]the Privy Council**]** shall consult the board of governors of the higher education corporation or (as the case may be) of each higher education corporation to which the direction applies.

Textual Amendments

F170 Ss. 124A-124D inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(1)**; S.I. 1992/831, art. 2, **Sch. 1**

F171 Words in s. 125(1)(5)-(7) substituted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 71(2)**; S.I. 1992/831, art. 2, **Sch. 1**

[[F172]125A Charitable status of a higher education corporation.

(1) A higher education corporation shall be a charity which is an exempt charity for the purposes of the [M4]Charities Act 1993.

(2) So far as it is a charity, any institution which—

(a) is administered by or on behalf of any higher education corporation, and

(b) is established for the general purposes of, or for any special purpose of or in connection with, that corporation,

shall also be an exempt charity for the purposes of the Charities Act 1993.

(3) In this section "charity" and "institution" have the same meaning as in the Charities Act 1993.

Textual Amendments

F172 S. 125A inserted (1.10.1998) by 1998 c. 30, **s. 41(1)**; S.I. 1998/2215, **art. 2**

Marginal Citations

M4 1993 c. 10.

126 Transfer of property, etc., to higher education corporations.]

(1) In the case of a higher education corporation established under section 121 of this Act the transfer under this section shall take effect on such date as the Secretary of State may by order appoint in relation to the corporations so established.

(2) In the case of a higher education corporation established under section 122 of this Act the transfer under this section shall take effect on such date as the Secretary of State may by order appoint in relation to that corporation.

(3) Subject to subsection (5) below and section 198 of this Act, on the transfer date applicable in relation to a higher education corporation the property, rights and liabilities mentioned in subsection (4) below shall be transferred to, and by virtue of this Act vest in, that corporation.

(4) The property, rights and liabilities referred to in subsection (3) above are—

(a) all land or other property which, immediately before that date, was property of any local education authority used or held for the purposes of the transferred institution; and

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(b) all rights and liabilities of any such authority subsisting immediately before that date which were acquired or incurred for those purposes.

(5) Subsection (3) above shall not apply to—

(a) rights and liabilities under any contract of employment;

(b) any liability of any such authority in respect of the principal of, or any interest on, any loan; or

(c) any liability of any such authority in respect of compensation for premature retirement of any person formerly employed by them.

(6) In this section "the transferred institution" means, in relation to any higher education corporation, the institution the corporation is established to conduct.

Textual Amendments

F172 S. 125A inserted (1.10.1998) by 1998 c. 30, **s. 41(1)**; S.I. 1998/2215, **art. 2**

127 Transfer of staff to higher education corporations.

(1) This section applies to any person who immediately before the transfer date applicable in relation to a higher education corporation—

(a) is employed by the transferor authority to work solely at the institution the corporation is established to conduct; or

(b) is employed by that authority to work at that institution and is designated for the purposes of this section by an order made by the Secretary of State.

(2) The contract of employment between a person to whom this section applies and the transferor authority shall have effect from the transfer date as if originally made between him and the corporation.

(3) Without prejudice to subsection (2) above—

(a) all the transferor authority's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred to the corporation on the transfer date; and

(b) anything done before that date by or in relation to the transferor authority in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the corporation.

(4) Subsections (2) and (3) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.

(5) An order under this section may designate a person either individually or as a member of a class or description of employees.

(6) References in this section, in relation to a higher education corporation, to the transferor authority, are references to the local education authority by whom the institution that corporation is established to conduct is maintained immediately before the transfer date.

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Modifications etc. (not altering text)

C106 S. 127 applied (with modifications) (1.9.1992) by S.I. 1992/1849, **art.4**.
C107 S. 127 applied (with modifications) (1.10.1992) by S.I. 1992/2151, **art.4**.
C108 S. 127 applied (with modifications) (1.3.1995) by S.I. 1995/183, **art.4**.
C109 S. 127 applied (with modifications) (1.8.1996) by S.I. 1996/1225, **art.4**.
S. 127 applied (with modifications) (1.8.2000) by S.I. 2000/1383, **art. 3**
S. 127 applied (with modificaitons) (1.8.2000) by S.I. 2000/355, **art. 3**
S. 127 applied (with modifications) (1.8.2001) by S.I. 2001/1340, **art. 3**

128 Dissolution of higher education corporations.

(1) Subject to the following provisions of this section, the Secretary of State may by order provide for—
  (a) the dissolution of any higher education corporation; and
  (b) the transfer of property, rights and liabilities of the corporation to—
    (i) any person appearing to the Secretary of State to be wholly or mainly engaged in the provision of educational facilities or services of any description;
    (ii) any body corporate established for purposes which include the provision of such facilities or services;
    [[F173](iii) a higher education funding council**]**
    [[F174](v) the learning and Skills Council for England or the National Council for Education and Training for Wales.**]**

(2) An order under sub-paragraph (i) or (ii) of subsection (1)(b) above shall not provide for transferring the property, rights or liabilities of a higher education corporation to any person or body without the consent of that person or body; and where the recipient of a transfer under any order under subsection (1)(b) is not an educational charity any property transferred must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

(3) For the purposes of subsection (2) above, a charity is an educational charity if the charitable purposes for which it is established are exclusively educational purposes.

(4) Before making an order under this section in respect of a higher education corporation the Secretary of State shall consult—
  (a) the corporation; and
  [[F175](b) the higher education funding council**]**

(5) In this section "charity" and "charitable purposes" have the same meanings as in **[**[F176]the Charities Act 1993**]**.

[[F177](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.**]**

Textual Amendments

F173 S. 128(1)(b)(iii) substituted for s. 128(1)(b)(iii)(iv) (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 34(a)(i)**; S.I. 1992/831, art. 2, **Sch. 1**.

Status: *Point in time view as at 31/03/2002. This version of this Act contains provisions that are not valid for this point in time.*
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F174 S. 128(1)(b)(v) substituted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise 1.4.2001) by 2000 c. 21, ss. 149, **Sch. 9 para. 16** (with s. 150); S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F175 S. 128(4)(b) substituted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 34(b)**; S.I. 1992/831, art. 2, **Sch. 1**.

F176 Words in s. 128(5) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6**, para. 30

F177 S. 128(6) added (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 34(c)**; S.I. 1992/831, art. 2, **Sch. 1**.

Designation of certain institutions for funding by the Polytechnics and Colleges Funding Council, etc.

129 Designation of institutions.

[[F178](1) The Secretary of State may by order designate as an institution eligible to receive support from funds administered by a higher education funding council—

(a) any institution which appears to him to fall within subsection (2) below; and

(b) any institution which is, or is to be, conducted by a successor company to a higher education corporation.

[F178](2) An institution falls within this subsection if its full-time equivalent enrolment number for courses of higher education exceeds 55 per cent. of its total full-time equivalent enrolment number**]**

[F179](3) . . . . . .

[F179](4) . . . . . .

(5) For the purposes of subsection (1)(b) above, a company is a successor company to a higher education corporation if-

(a) it is a company limited by a guarantee formed and registered under the [M5]Companies Act 1985;

(b) at the time when it was formed the persons participating in its formation were all members of a higher education corporation and constituted a majority of the members of that corporation;

(c) its objects—

(i) are exclusively charitable according to the law of England and Wales; and

(ii) include the conduct of the institution which was at that time conducted by that corporation;

(d) its memorandum and articles of association have been approved by the Secretary of State; and

(e) an order has been made under section 128 of this Act dissolving the corporation and transferring the property, rights and liabilities of the corporation to the company (whether or not that order has taken effect before the order under this section is made).

Textual Amendments

F178 S. 129(1)(2) substituted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 72(1)(a)**; S.I. 1992/831, art. 2, **Sch. 1**

Status: *Point in time view as at 31/03/2002. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education Reform Act 1988 is up to date with all changes known to be in force on or before 17 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)*

F179 S. 129(3)(4) repealed (6.5.1992) by Further and Higher Education Act 1992 (c. 13), ss. 72(1)(b), 93(2), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C110 S. 129 extended (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), **s. 74(2)**; S.I. 1992/831, art. 2, **Sch.3**.

Marginal Citations

M5 1985 c. 6.

[F180 129A Government and conduct of designated institutions.

(1) This section has effect in relation to any designated institution, other than an institution conducted by a company.

(2) For each such institution there shall be—

(a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government); and

(b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government),

each of which meets the requirements of subsection (3) below.

(3) Those requirements are that the instrument—

(a) was in force when the designation took effect; or

(b) is made in pursuance of a power under a regulatory instrument, or is made under subsection (5) below,

and is approved for the purposes of this section by the Privy Council.

(4) In this section "regulatory instrument", in relation to an institution, means any instrument of government or articles of government and any other instrument relating to or regulating the institution.

(5) Where there is no such power as is mentioned in subsection (3)(b) above to make the instrument, it may be made by the body of persons responsible for the management of the institution and an instrument made by them under this subsection may replace wholly or partly any existing regulatory instrument.

(6) If an instrument approved by the Privy Council for the purposes of this section—

(a) falls within subsection (3)(a) above or was made in pursuance of a power under a regulatory instrument and, apart from this section, there is no power to modify it; or

(b) was made by the body of persons responsible for the management of the institution,

the instrument may be modified by those persons.

(7) Either of the instruments referred to in subsection (2) above may be modified by order of the Privy Council and no instrument approved by the Privy Council for the purposes of this section may be modified by any other person without the Privy Council's consent.

(8) Before exercising any power under subsection (7) above in relation to any instrument the Privy Council shall consult—

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(a) the governing body of the institution, and

(b) where there is such a power as is mentioned in subsection (3)(b) above to modify the instrument and the persons having that power are different from the governing body of the institution, the persons having the power,

so far as it appears to them to be practicable to do so.

(9) Nothing in this section requires further approval for any instrument approved by the Secretary of State for the purposes of section 156 of this Act, and references in this section to instruments approved by the Privy Council for the purposes of this section include instruments so approved by the Secretary of State.

(10) In this section and section 129B "designated institution" means an institution in relation to which a designation made, or having effect as if made, under section 129 of this Act has effect but does not include any institution established by Royal Charter.**]**

Textual Amendments

F180 Ss. 129A, 129B inserted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 73(1)**; S.I. 1992/831, art. 2, **Sch.1**.

129B [F181]Designated institutions conducted by companies.

(1) This section has effect in relation to any designated institution conducted by a company.

(2) The articles of association of the company shall incorporate—

(a) provision with respect to the constitution of a governing body of the institution (to be known as the instrument of government of the institution); and

(b) provision with respect to the conduct of the institution (to be known as the articles of government of the institution).

(3) The Privy Council may give to the persons who appear to them to have effective control over the company such directions as they think fit for securing that—

(a) the memorandum or articles of association of the company; or

(b) any rules or bye-laws made in pursuance of any power conferred by the articles of association of the company,

are amended in such manner as they may specify in the direction.

(4) No amendment of the memorandum or articles of association of the company (other than one required under subsection (3)(a) above) shall take effect until it has been submitted to the Privy Council for their approval and they have notified their approval to the company.

(5) Before giving any directions under subsection (3) above the Privy Council shall consult the persons who appear to them to have effective control over the company.

Textual Amendments

F181 Ss. 129A, 129B inserted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 73(1)**; S.I. 1992/831, art. 2, **Sch.1**.

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130 Transfer of property, etc., to certain designated institutions.

(1) This section applies to an institution designated under section 129 of this Act in any case where—

(a) the order designating the institution under that section so provides; and

(b) immediately before the date on which the designation takes effect (referred to below in this section, in relation to such an institution, as the designation date) the institution is an institution assisted by a local education authority (referred to below in this section as the former assisting authority).

(2) Subject to subsection (4) below and section 198 of this Act, on the designation date in relation to any institution to which this section applies the property, rights and liabilities mentioned in subsection (3) below shall be transferred to, and by virtue of this Act vest in, the appropriate transferee.

(3) The property, rights and liabilities referred to in subsection (2) above are—

(a) all land or other property which, immediately before that date, was property of the former assisting authority used or held for the purposes of that institution; and

(b) all rights and liabilities of that authority subsisting immediately before that date which were acquired or incurred for those purposes.

(4) Subsection (2) above shall not apply to—

(a) any liability of the former assisting authority in respect of the principal of, or any interest on, any loan; or

(b) any liability of that authority in respect of compensation for premature retirement of any person formerly employed by them.

(5) In subsection (2) above, "the appropriate transferee" means—

(a) in relation to an institution conducted by a body corporate, that body; and

(b) in relation to an institution not so conducted, any persons specified in the order designating the institution as persons appearing to the Secretary of State to be trustees holding property for the purposes of that institution.

(6) Subject to subsection (7) below, where any persons so specified are the appropriate transferee for the purposes of subsection (2) above—

(a) any land or other property or rights transferred to them under this section shall be held by them on the trusts applicable under such trust deed relating to or regulating that institution (if any) as may be so specified or, if no such trust deed is so specified, on trust for the purposes of the institution; and

(b) they shall incur no personal liability by virtue of any liability so transferred, but may apply any property held by them on trust for the purposes of the institution in meeting any such liability.

(7) Subsection (6)(a) above shall not apply in relation to any land or other property or rights which immediately before the designation date in relation to the institution concerned were vested in the former assisting authority as trustees for any particular purposes or (as the case may be) for the general purposes of the institution.

(8) In this Act, "transfer date" means, in relation to an institution to which this section applies, the designation date in relation to that institution.

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New arrangements for funding higher education

[F182]131 . . . . . .

Textual Amendments

F182 S. 131 repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 35, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F183]132 . . . . . .

Textual Amendments

F183 S. 132 repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 35, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

133 Payments by Polytechnics and Colleges Funding Council in respect of persons employed in the provision of higher or further education.

[[F184](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 local education 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 (1) above "relevant expenditure" means—

(a) in relation to a local education authority **[**[F185]the London Residuary Body or the London Pensions Fund Authority**]**, expenditure in making payments to or in respect of persons employed or formerly employed at an institution which provides or (in the case of an institution which has ceased to exist since the employment in question came to an end) formerly provided higher education or further education (or both); and

(b) in relation to the governing body of any institution so designated, expenditure in making payments to or in respect of persons employed or formerly employed at the institution.

(3) The reference in subsection (2)(a) above to higher education or further education (or both) shall be read, in the case of an institution which ceased to exist before the date on which section 120 of this Act comes into force, as a reference to further education within the meaning of section 41 of the 1944 Act as that section had effect immediately before that date **[**[F186]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**]**.

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(4) Each of the following, that is to say—

(a) a local education authority;

[F187(aa) the London Residuary Body;

F187(ab) the London Pensions Fund Authority; and]

(b) the governing body of any institution so designated;

shall give the Council such information as the Council may require for the purposes of the exercise of their power under subsection (1) above.

Textual Amendments

F184 S. 133(1) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), **s. 67(1)**; S.I. 1992/831, art. 2, **Sch.3**.

F185 Words in s. 133(2)(a) inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 67(2)**; S.I. 1992/831, art. 2, **Sch. 1**.

F186 Words in s. 133(3) added (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 67(3)**; S.I. 1992/831, art. 2, **Sch. 1**.

F187 S. 133(4)(aa)(ab) inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), **s. 67(4)**; S.I. 1992/831, art. 2, **Sch. 1**.

Modifications etc. (not altering text)

C111 S. 133 amended*(retrospectively)* (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 67(5)**; S.I. 1992/831, art. 2, **Sch. 1**.
S. 133 modified (1.4.1993) by S.I. 1993/563, art. 2(b)(i), **Sch.1**

F188134 . . . . . .

Textual Amendments

F188 S. 134 repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 35, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Supplementary

F189135 Inspection of accounts.

(1) The accounts of—

(a) any university;

(b) any higher education corporation; or

[F190(c) any designated institution within the meaning of section 129A of this Act]

shall be open to the inspection of the Comptroller and Auditor General.

(2) In the case of any higher education corporation or of any such institution as is mentioned in subsection (1)(a) or (c) above—

(a) the power conferred by subsection (1) above; and

(b) the powers under sections 6 and 8 of the M6National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies

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and access to documents and information) conferred on the Comptroller and Auditor General by virtue of section 6(3)(c) of that Act;

shall be exercisable only in, or in relation to accounts or other documents which relate to, any financial year in which expenditure is incurred by the corporation, or by the governing body of the institution in question, in respect of which **[**[F191]financial support has been given to them under section 65 of the Further and Higher Education Act 1992.**]**

Textual Amendments

F189 S. 135(2) modified by S.I. 1993/563 art. 2(b)(i), Sch.1 as amended (19.4.1993) by 1993/870, art.2

F190 S. 135(1)(c) substituted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 36(a)**; S.I. 1992/831, art. 2, **Sch. 1**.

F191 Words in s. 135(2) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 36(b)**; S.I. 1992/831, art. 2, **Sch.3**.

Marginal Citations

M6 1983 c. 44.

136 Transfer to Polytechnics and Colleges Funding Council of property and staff of NAB.

(1) In this section "NAB" means the company limited by guarantee registered under the Companies Acts 1948 to 1983 under the name of the National Advisory Body for Public Sector Higher Education.

(2) Notwithstanding anything in the memorandum of association of NAB, if upon the winding up or dissolution of NAB any property remains after the satisfaction of all its debts and liabilities the property shall be transferred to, and by virtue of this Act vest in, the **[**[F192]Higher Education Funding Council for England**]**.

[F193](3) . . . . . .

[F193](4) . . . . . .

[F193](5) . . . . . .

[F193](6) . . . . . .

[F193](7) . . . . . .

Textual Amendments

F192 Words in s. 136(2) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 37(a)**; S.I. 1992/831, art. 2, **Sch.3**.

F193 S. 136(3)-(7) repealed (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 37(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 1**.

137 Control of disposals of land.

(1) Subject to subsection (9) below, this section applies to any disposal after 22nd July 1987—

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(a) of land which, immediately before that date, was used or held for the purposes of any relevant institution; or

(b) of land which was obtained before that date for the purpose of being so used or held and had not before that date been appropriated to any other use.

(2) For the purposes of subsection (1) above, an institution is a relevant institution if it falls within section 121(2) [F194]. . . of this Act.

(3) Except with the consent of the Secretary of State, no local education authority shall after the passing of this Act make a disposal to which this section applies; and if at any time after 22nd July 1987 and before the passing of this Act such an authority have made a disposal which would have been in contravention of the preceding provisions of this subsection if they had then been in force the same consequences shall follow as if those provisions had been contravened by that authority.

(4) Any consent for the purposes of subsection (3) above may be given either in respect of a particular disposal or in respect of disposals of any class or description and either unconditionally or subject to conditions.

(5) Any signification of consent, or of consent subject to specified conditions, given by the Secretary of State before the passing of this Act in respect of any disposal to which this section applies, shall be treated for the purposes of subsection (3) above as a consent, or a consent subject to those conditions, given under this section.

(6) This section has effect notwithstanding anything in section 123 of the [M7]Local Government Act 1972 (general power to dispose of land) or in any other enactment; and the consent required by this section shall be in addition to any consent required by subsection (2) of that section or by any other enactment.

(7) A disposal shall not be invalid or, in the case of a disposal which consists of a contract, void by reason only that it has been made or entered into in contravention of this section; and (subject to the provisions of section 201 of this Act) a person acquiring land, or entering into a contract to acquire land, from a local education authority shall not be concerned to enquire whether any consent required by this section has been given or complied with.

(8) In this section references to disposing of land include references to—

(a) granting or disposing of any interest in land;

(b) entering into a contract to dispose of land or to grant or dispose of any such interest; and

(c) granting an option to acquire any land or any such interest.

(9) This section does not apply to a disposal falling within subsection (8)(a) above if it is made in pursuance of a contract entered into, or an option granted, on or before 22nd July 1987.

Textual Amendments

F194 Words in s. 137(2) repealed (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 38, **Sch.9**; S.I. 1992/831, art. 2, **Sch.1**.

Marginal Citations

M7 1972 c. 70.

Status: *Point in time view as at 31/03/2002. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education Reform Act 1988 is up to date with all changes known to be in force on or before 17 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)*

138 Construction of references to land held for the purposes of an institution.

(1) This section applies for the purpose of the construction of the following provisions of this Act—

(a) section 126(4)(a);

(b) section 130(3)(a); and

(c) section 137(1)(a).

(2) Where at any time any land is used for the purposes of an institution to which any of those provisions applies, any interest of a local education authority in that land subsisting at that time shall be taken for the purposes of that provision to be land held for the purposes of that institution (whether or not it is by virtue of that interest that the land is so used).

[F195]CHAPTER III

Textual Amendments

F195 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Further and higher education funding schemes

[F196]139 . . . . . .

Textual Amendments

F196 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F197]140 . . . . . .

Textual Amendments

F197 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F198]141 . . . . . .

Textual Amendments

F198 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

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[F199]142 . . . . . .

Textual Amendments

F199 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F200]143 . . . . . .

Textual Amendments

F200 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F201]144 . . . . . .

Textual Amendments

F201 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F202]145 . . . . . .

Textual Amendments

F202 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F203]146 . . . . . .

Textual Amendments

F203 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F204]147 . . . . . .

Textual Amendments

F204 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

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Appointment and dismissal of staff during financial delegation

[F205]148 . . . . . .

Textual Amendments

F205 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F206]149 . . . . . .

Textual Amendments

F206 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Withdrawal of delegated powers

[F207]150 . . . . . .

Textual Amendments

F207 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Government and conduct of maintained further and higher education institutions

[F208]151 . . . . . .

Textual Amendments

F208 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F209]152 . . . . . .

Textual Amendments

F209 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

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Government of designated assisted institutions

[F210]153 . . . . . .

Textual Amendments

F210 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Miscellaneous and supplementary

[F211]154 . . . . . .

Textual Amendments

F211 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

[F212]155 . . . . . .

Textual Amendments

F212 Pt. II Ch. III (ss. 139-155) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), ss. 85(1), 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

CHAPTER IV

MISCELLANEOUS AND SUPPLEMENTARY

[F213]156 Government and conduct of certain further and higher education institutions.

. . . . . .

Textual Amendments

F213 S. 156 repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(2), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

Modifications etc. (not altering text)

C112 S. 156: by Further and Higher Education Act 1992 (c. 13), **s. 85(1)**; S.I. 1992/831, art. 2, **Sch.3**, it is provided (1. 4. 1993) that s. 156 shall cease to have effect in relation to designated assisted institutions.

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157 Variation of trust deeds, etc.

[[F214](1) An order of the Privy Council may modify any trust deed or other instrument—

(a) relating to or regulating any such institution as is mentioned in subsection (2) below; or

(b) relating to any land or other property held by any person for the purposes of any such institution.

[F214](2) The institutions referred to in subsection (1) above are—

(a) any institution conducted by a higher education corporation; and

(b) any institution in relation to which a designation made, or having effect as if made, under section 129 of this Act has effect, other than an institution established by Royal Charter.

[F214](3) Before making any modifications under subsection (1) above of any trust deed or other instrument the Privy Council shall so far as it appears to them to be practicable to do so consult—

(a) the governing body of the institution;

(b) where that deed or instrument, or any other instrument relating to or regulating the institution concerned, confers power on any other persons to modify or replace that deed or instrument, those persons; and

(c) where the instrument to be modified is a trust deed and the trustees are different from the persons mentioned in paragraphs (a) and (b) above, the trustees.**]**

(4) Any provision of any instrument relating to any land or other property held for the purposes of any institution maintained [F215]. . . by a local education authority to which this subsection applies which—

(a) confers on any person an option to acquire an interest in that land or other property; or

(b) provides (in whatever terms) for the determination or forfeiture of any such interest;

in the event of the institution's ceasing to be maintained [F215]. . . by a local education authority or (as the case may be) by the authority in question shall, if the institution becomes **[**[F216]an institution within the further education sector**]** an institution within **[**[F217]the higher education sector**]** or a grant-aided institution, have effect as if the event referred to were the institution's ceasing to be a publicly funded institution.

(5) Subsection (4) above applies—

(a) to an institution maintained by a local education authority if it is an institution providing full-time education which is maintained by the authority in exercise of their further or higher education functions; and

[F218](b) . . . . . .

(6) In that subsection "publicly funded institution" means an institution which is an institution of any one or more of the following descriptions, that is to say—

(a) an institution maintained or assisted by a local education authority;

(b) **[**[F219]an institution within the further education sector or**]**an institution within **[**[F220]the higher education sector**]**; and

(c) a grant-aided institution.

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Textual Amendments

F214 S. 157(1)-(3) substituted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), **s. 75**; S.I. 1992/831, art. 2, **Sch. 1**.

F215 Words in s. 157(4) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 39(a)(i), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

F216 Words in s. 157(4) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(a)(ii)**; S.I. 1992/831, art. 2, **Sch.3**.

F217 Words in s. 157(4) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(a)(iii)**; S.I. 1992/831, art. 2, **Sch.3**.

F218 S. 157(5)(b) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 39(b), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

F219 Words in s. 157(6)(b) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(c)(i)**; S.I. 1992/831, art. 2, **Sch.3**.

F220 Words in s. 157(6)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(c)(ii)**; S.I. 1992/831, art. 2, **Sch.3**.

158 Reports and returns to Secretary of State.

(1) The persons mentioned in subsection (2) below shall make such reports and returns, and give such information, to the Secretary of State as he may require for the purposes of the exercise of any of his functions in relation to education.

(2) Those persons are—

(a) the governing body of—

F221(i) . . . . . .

(ii) any institution providing full-time education which is maintained by a local education authority in exercise of their further or higher education functions; or

F221(iii) . . . . . .

F221(b) . . . . . .

Textual Amendments

F221 S. 158(2)(a)(i)(iii)(b) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 40, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

159 Information with respect to educational provision in institutions providing further or higher education.

(1) The Secretary of State may make regulations requiring every local education authority to publish, in relation to each relevant institution maintained or assisted by the authority, such information with respect to the matters mentioned in subsection (3) below as may be prescribed.

(2) For the purposes of this section, an institution is a relevant institution in relation to a local education authority if it is either—

(a) an institution providing full-time education which is maintained by that authority in exercise of their further or higher education functions; or

F222(b) . . . . . .

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(3) The matters referred to in subsection (1) above are—

(a) the educational provision made by the institution for students at the institution; and

(b) the educational achievements of students at the institution (including the results of examinations, tests and other assessments of those students).

(4) The information shall be published in such form and manner and at such times as may be prescribed; and the regulations may provide for a local education authority to make arrangements with the governing body of any relevant institution for the publication by that governing body of the information required to be published in accordance with the regulations in the case of that institution.

Textual Amendments

F222 S. 159(2)(b) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 41, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

160 Adjustments of block grant in respect of expenditure on advanced further education.

(1) The block grant payable to a local authority in England for any year beginning on or after the date appointed for the purposes of section 126(1) of this Act shall not be subject to adjustment in accordance with paragraph 6 of Schedule 10 to the [M8]Local Government, Planning and Land Act 1980 (which relates to adjustments of block grant in respect of expenditure on advanced further education as between local authorities).

(2) In relation to any expenditure incurred by such an authority on or after that date in the exercise of the authority's functions as a local education authority, sub-paragraphs (3)(a) and (5)(b) of paragraph 5 of that Schedule (which define certain expenditure for the purposes of that paragraph) shall each have effect as if the words "other than that to which paragraph 6 below applies" were omitted.

(3) On that date Part I of that Schedule (which relates to adjustments of block grant in respect of expenditure on advanced further education as between England and Wales) shall cease to have effect.

(4) Anything done by the Secretary of State before the passing of this Act for the purpose of making in the block grant payable to a local authority in England adjustments under paragraph 5 or 6 of that Schedule in respect of expenditure incurred in the years beginning in 1985, 1986 and 1987 by local authorities in England in connection with further education of an advanced character (including the training of teachers) shall be deemed to have been done in accordance with that paragraph.

(5) In this section—

"local authority" means a body which is a local authority for the purposes of Part VI of that Act; and

"year" has the same meaning as in that Part.

Marginal Citations

M8 1980 c. 65.

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161 Interpretation of Part II.

(1) In this Part of this Act, except where the context otherwise requires—

(a) references to courses of advanced further education shall be read in accordance with section 121(4);

[[F223](b) references to the further or higher education functions of a local education authority are references to the functions of the authority (except in so far as they relate to secondary education) under sections 15A and 15B of the Education Act 1996 (post-16 education) and section 120 of this Act (higher education);**]**

[F224](c) . . . . . .

(d) "governing body" includes, in relation to any institution, a board of governors of the institution or any persons responsible for the management of the institution (but not formally constituted as such a body or board).

(2) References in this Part of this Act to the total full-time equivalent enrolment number of any institution at any time are references to the aggregate of its full-time equivalent enrolment numbers at that time for courses of all descriptions then offered by that institution.

(3) For the purposes of this Part of this Act the full-time equivalent enrolment number at any time of any institution for courses of any description shall be determined in accordance with Schedule 9 to this Act.

Textual Amendments

F223 S. 161(1)(b) substituted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 17**; S.I. 2001/654, art. 2(2), **Sch. Pt. II**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

F224 S. 161(1)(c) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 42, **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

PART III

EDUCATION IN INNER LONDON

Reorganisation of provision of education in inner London

162 Abolition of ILEA.

(1) On 1st April 1990 the following shall cease to exist—

(a) the Inner London Education Authority (in this Part referred to as "ILEA") and any education committee established by that Authority; and

(b) the Inner London Education Area.

(2) That date is in this Part referred to as the "abolition date".

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163 New local education authorities for areas in inner London.

(1) On the abolition date each inner London council shall become the local education authority for its area, and references to a local education authority in **[**[F225]the Education Act 1996**]** or in any other enactment shall be construed accordingly.

(2) In this Part, "inner London council" means the council of an inner London borough or (in their capacity as a local authority) the Common Council of the City of London.

Textual Amendments

F225 Words in s. 163(1) substituted (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para.72** (with ss. 1(4), 561, 562, Sch. 39).

164 Extension of functions of London Residuary Body.

(1) For the purpose of enabling it to discharge the functions conferred or imposed on it by or under the following provisions of this Part in connection with the abolition of ILEA, the London Residuary Body shall not be required in accordance with section 67 of the 1985 Act to submit to the Secretary of State a scheme for its winding up, but shall, subject to the provisions of this Part, continue in existence notwithstanding the completion of its work under that Act and the disposal of any of its functions, property, rights and liabilities to which that section applies.

(2) That section shall apply in relation to the London Residuary Body with the following modifications—

(a) references to its functions and work shall not apply to its functions and work under this Part;

(b) references to property, rights and liabilities shall not apply to property, rights and liabilities transferred to it, or held, acquired or incurred by it by virtue of, or in the exercise of any of its functions under, this Part; and

(c) in subsection (1)(b) the words "the winding up of the residuary body and" shall be omitted.

(3) In this Part "the 1985 Act" means the [M9]Local Government Act 1985.

Marginal Citations

M9 1985 c. 51.

Disposal of functions and property of ILEA

165 Development plans for education.

(1) Not later than such date as the Secretary of State may direct each inner London council shall prepare and publish a plan (referred to in this section as a "development plan")—

(a) describing the manner in which the council proposes to perform the functions of a local education authority for its area (in this Part referred to, in relation to each such council, as the council's "LEA functions"); and

(b) giving the additional information required by subsection (2) below.

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(2) A council's development plan shall—

(a) list the property belonging to ILEA which, in the council's opinion, needs to be transferred to it for the purpose of enabling it properly to perform its LEA functions;

(b) specify—

(i) all schools situated inside the council's area which are currently maintained by ILEA; and

(ii) any schools situated outside the council's area which are currently so maintained and which the council would wish to maintain in exercise of its LEA functions; and

(c) give particulars of the management structure (within the meaning of section 169 of this Act) which the council proposes to adopt for the purpose of the exercise of those functions.

(3) In preparing a development plan, a council shall—

(a) consult the local authorities for adjacent areas; and

(b) take into account any guidance given by the Secretary of State (whether as to the contents of the plan or as to consultation with any other persons, and whether as to such plans generally or as to the particular council's plan).

(4) Guidance given by the Secretary of State for the purposes of subsection (3)(b) above shall be published in such manner as the Secretary of State thinks fit.

(5) A development plan shall be published in such manner as the council concerned considers likely to bring it to the attention of persons (both inside and outside its area) who may be affected by the performance by the council of its LEA functions, and the council shall make copies of the plan readily available, during office hours, to persons wishing to inspect it.

[F226]166 . . . . . .

Textual Amendments

F226 Ss. 166-167 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**.

[F227]167 . . . . . .

Textual Amendments

F227 Ss. 166-167 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**.

168 Transfers of property, rights and liabilities.

(1) The Secretary of State may by an order or orders made at any time before the abolition date provide for the transfer to each inner London council of—

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(a) such of the property, rights and liabilities of ILEA (other than excepted rights and liabilities) as, in his opinion, need to be so transferred for the purpose of enabling that council properly to perform its LEA functions; and

(b) such of the rights and liabilities of ILEA (other than excepted rights and liabilities) as, in his opinion, it is appropriate to transfer to that council for the purposes of or in connection with the exercise by that council by virtue of section 166 of this Act of functions in relation to, or in relation to registered pupils at, any grant-maintained school which were formerly exercisable by ILEA.

(2) The Secretary of State may by such an order or orders provide for the transfer to any local authority other than an inner London council of such of the property, rights and liabilities of ILEA (other than excepted rights and liabilities) as do not in his opinion fall to be transferred to such a council by virtue of subsection (1) above.

(3) Any transfer for which provision is made by order under this section may be on such terms, including financial terms, as the Secretary of State thinks fit and the Secretary of State may by order create or impose such new rights or liabilities in respect of what is transferred as appear to him to be necessary or expedient.

(4) The Secretary of State may by order confer on any inner London council or local authority to which property is transferred by or under the order any statutory functions which before the abolition date were exercisable in relation to that property by ILEA.

(5) In this section "excepted rights and liabilities" means rights and liabilities arising under contracts of employment between ILEA and its employees.

169 Approval of management structure and senior appointments in initial period.

(1) References in this section to the management structure of an inner London council for the purpose of the exercise of its LEA functions are references to any aspect of the council's organisation and its arrangements for managing its affairs in relation to the exercise of those functions which the Secretary of State determines ought to be subject to approval under this section with a view to securing the proper performance by the council of those functions during the initial period.

In this section "the initial period" means the period of five years beginning with the abolition date.

(2) The reference in subsection (1) above to a council's organisation and its arrangements for managing its affairs in relation to the exercise of its LEA functions includes in particular its staffing arrangements and the determination of the duties to be performed by its employees concerned in the exercise of those functions.

(3) It shall be the duty of each inner London council to adopt and to maintain during the initial period a management structure for the purpose of the exercise of its LEA functions which is for the time being approved by the Secretary of State under this section.

(4) Such a council shall not before the end of the initial period make an appointment to which this subsection applies except after consultation with the Secretary of State.

(5) Subsection (4) above applies to the appointment of a person—

(a) to be the chief education officer of the council; or

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(b) to any designated post forming part of the management structure of the council for the time being approved under this section.

(6) In subsection (5)(b) above "designated" means designated for the purposes of subsection (4) above by a direction given by the Secretary of State.

(7) For the purposes of the consultation required by subsection (4) above a council proposing to make an appointment to which that subsection applies shall send to the Secretary of State particulars showing the name, previous experience and qualifications of the persons from whom the council proposes to make a selection.

(8) If the Secretary of State is of opinion that any person whose name is submitted to him under subsection (7) above is not a fit person to hold the appointment in question, he may give a direction prohibiting that person's appointment.

Staff

170 Establishment and functions of staff commission.

(1) The Secretary of State shall establish a staff commission for the purpose of—
- (a) advising the Secretary of State on the steps necessary to safeguard the interests of the staff employed by relevant authorities so far as affected by any provision made by or under this Part;
- (b) considering and keeping under review—
  - (i) the arrangements for the recruitment of staff by those authorities in consequence of any such provision; and
  - (ii) the arrangements for any transfer of the staff of those authorities in consequence of any such provision; and
- (c) considering such staffing problems arising in consequence of, and such other matters relating to staff of any body affected by, any such provision as may be referred to the commission by the Secretary of State.

(2) The Secretary of State may give directions to the staff commission as to their procedure and to any relevant authority with respect to—
- (a) the implementation of any advice given by the commission; and
- (b) the payment by a relevant authority of any expenses incurred by the commission in doing anything requested by the authority;

and it shall be the duty of the commission and of a relevant authority to comply with any direction given to it under this subsection.

(3) Any expenses incurred by the staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State.

(4) The relevant authorities for the purposes of this section are—
- (a) ILEA and the inner London councils;
- (b) the London Residuary Body; and
- (c) any local authority other than an inner London council to which functions or property of ILEA will be or have been transferred by order under section 168 of this Act.

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171 Remuneration of employees.

(1) If—

(a) ILEA proposes to fix for any employee or class of employees of ILEA a rate of remuneration greater than the rate for the time being applicable to that employee or class of employees; and

(b) the new rate is to take effect as from a date ("the proposed date of increase") falling after 30th September 1989;

ILEA shall notify each inner London council in writing of the proposal and the proposed date of increase.

(2) The employee or class of employees to whom any such proposal relates shall not be paid at the new rate—

(a) until the end of the period of four weeks beginning with the date immediately following the notification date; and

(b) where a complaint is made in accordance with subsection (3) below, unless payment at the new rate is authorised by the Secretary of State.

(3) Before the end of the period of two weeks beginning with the date immediately following the notification date, any three or more of the inner London councils may complain to the Secretary of State if they consider that the new rate is excessive having regard to levels of remuneration applicable in the case of persons employed by local authorities on work comparable to that on which the employee or class of employees concerned is employed.

(4) On receipt of such a complaint the Secretary of State—

(a) shall notify ILEA in writing of the complaint; and

(b) shall afford—

(i) to ILEA;

(ii) to each of the inner London councils; and

(iii) to such persons appearing to him to be representative of employees of ILEA as he considers appropriate in relation to the employee or class of employees concerned;

an opportunity of making representations to him with respect to the proposal.

(5) After considering any representations made to him under subsection (4)(b) above, the Secretary of State may—

(a) authorise payment at the new rate; or

(b) refuse to authorise such payment.

(6) The Secretary of State shall give written notification of his decision to ILEA, to each of the inner London councils, and to any other persons who made representations to him with respect to the proposal under subsection (4)(b) above.

(7) Subsection (8) below applies where by virtue of subsection (2) above the employee or class of employees to whom any proposal to which subsection (1) above relates is not paid at the new rate until after the proposed date of increase, and either—

(a) no complaint is made in accordance with subsection (3) above in respect of the new rate; or

(b) such a complaint is made but payment at the new rate is authorised by the Secretary of State.

(8) In any case to which this subsection applies, for the purpose of determining—

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(a) the terms of any contract affected by section 172 of this Act; and
(b) any compensation payable in accordance with section 173 of this Act;

the employee or class of employees concerned shall be regarded as having been entitled under his or their contracts of employment with ILEA to remuneration at the new rate as from the proposed date of increase.

(9) In this section "the notification date" means, in relation to any proposal to which subsection (1) above applies, the date by which all the inner London councils have received notification of the proposal under that subsection.

172 Power to transfer staff.

(1) This section applies to any person who—
(a) immediately before the abolition date is in the service of ILEA under a contract of employment which would have continued but for the abolition of ILEA; and
(b) is designated for the purposes of this section by an order made by the Secretary of State.

(2) The contract of employment between a person to whom this section applies and ILEA shall not be terminated by the abolition of ILEA but shall have effect as from the abolition date as if originally made between him and such successor authority ("the new employer") as may be specified in relation to that person by the order designating him for the purposes of this section.

(3) Without prejudice to subsection (2) above—
(a) all ILEA's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred on the abolition date to the new employer; and
(b) anything done before that date by or in relation to ILEA in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the new employer.

(4) Subsections (2) and (3) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.

(5) An order under this section may designate a person either individually or as a member of a class or description of employees.

(6) In this section "successor authority" means—
(a) an inner London council;
(b) the London Residuary Body; and
(c) any local authority other than an inner London council to which functions or property of ILEA are transferred by order under section 168 of this Act.

173 Compensation for loss of employment or loss or diminution of emoluments.

(1) This section applies to any person who suffers loss of employment or loss or diminution of emoluments which—
(a) is attributable to any provision made by or under this Part; and

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(b) occurs in the circumstances mentioned in subsection (2) below.

(2) Those circumstances are—

(a) in the case of loss of employment, the employment in question is employment with ILEA or the London Residuary Body and the loss is suffered on or after the abolition date; and

(b) in the case of loss or diminution of emoluments, the loss or diminution arises from the termination of the employment of the person concerned with ILEA or that Body and is suffered on or after such date as may be specified in regulations made for the purposes of this section under section 24 of the [M10]Superannuation Act 1972 ("compensation regulations").

(3) Compensation in respect of any such loss or diminution suffered by a person to whom this section applies shall, subject to subsection (4) below, be paid only in accordance with compensation regulations; and accordingly neither ILEA nor the London Residuary Body shall pay any such compensation under any other statutory provision, by virtue of any provision in a contract or otherwise.

(4) Subsection (3) above shall not preclude the making of any payment to which a person is entitled by virtue of contractual rights acquired by him before 21st November 1987.

(5) Compensation regulations shall not provide compensation for a person to whom this section applies in respect of any such loss or diminution as is mentioned in subsection (1) above so far as attributable to the termination on or before the abolition date of a contract made after 17th February 1988 which provides for the employment of that person for a fixed term extending beyond the abolition date.

[F228](6) . . . . . .

(7) [F229]. . ., nothing in this section shall be construed as affecting any entitlement to [F229]. . .any payment by virtue of any provision of the Act of 1972 mentioned above other than section 24.

Textual Amendments

F228 S. 173(6) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt.I** (with ss. 191-195, 202).

F229 Words in s. 173(7) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt.I** (with ss. 191-195, 202).

Marginal Citations

M10 1972 c. 11.

174 Continuity of employment in certain cases of voluntary transfer.

(1) This section applies to a person who at any time on or after such date as may be specified by order made by the Secretary of State ceases to be employed by ILEA or the London Residuary Body (his "former employer") if—

(a) the termination of his employment is attributable to any provision made by or under this Part;

(b) he is subsequently employed by another person (his "new employer"); and

(c) by virtue of section 84, 94 or 95 of the [M11]Employment Protection (Consolidation) Act 1978 (renewal or re-engagement) that subsequent

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employment precludes his receiving any redundancy payment under Part VI of that Act.

(2) Where this section applies to a person **[**[F230]Chapter I of Part XIV of the Employment Rights Act 1996**]** (computation of period of employment for the purposes of that Act) shall have effect in relation to that person as if it included the following provisions, that is to say—

(a) the period of employment of that person with his former employer shall count as a period of employment with his new employer; and

(b) the change of employer shall not break the continuity of the period of employment.

(3) Where this section applies to a person the period of his employment with his former employer shall count as a period of employment with his new employer for the purposes of any provision of his contract of employment with his new employer which depends on his length of service with that employer.

Textual Amendments

F230 Words in s. 174(2) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 37(2)**.

Marginal Citations

M11 1978 c. 44.

175 Offers of employment by inner London councils.

(1) If at any time after such date as may be specified for the purposes of this section by an order made by the Secretary of State ("the specified date") an inner London council proposes to engage a person who is currently in the employment of ILEA it shall, if reasonably practicable, enter into, or offer to enter into, a contract of employment with him that meets the requirements of subsection (2) below.

(2) The contract must be such that the employment of the person concerned by the council will or would take effect either immediately on the ending of his employment by ILEA or after an interval of not more than four weeks after the ending of that employment.

[F231](3) . . . . . .

[F231](4) . . . . . .

[F231](5) . . . . . .

(6) A former member of an inner London council shall not be disqualified by virtue of section 116 of the [M12]Local Government Act 1972 for being appointed by that council to a paid office if—

(a) he is, or at any time between the passing of this Act and the abolition date has been, in the employment of ILEA; and

(b) he is appointed not later than twelve months after that date and with the consent of the Secretary of State.

(7) For the purposes of subsection (2) above employment ending on a Friday or a Saturday shall be treated as ending immediately before the following Monday and the interval of four weeks shall be calculated as if any such employment had ended at that time.

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Textual Amendments

F231 S. 175(3)-(5) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt.I**.

Marginal Citations

M12 1972 c. 70.

Functions of London Residuary Body

176 Provision of services and facilities by London Residuary Body.

(1) Subject to subsection (3) below, the Secretary of State may at any time by a direction require the London Residuary Body to provide, for the inner London councils and such other authorities or bodies or classes of authorities or bodies as may be specified in the direction, services or facilities of any description so specified.

(2) Any such direction shall specify the date (which must be a date falling on or after the abolition date) as from which the services or facilities in question are to be provided.

(3) The descriptions of services or facilities that may be so specified—

(a) must be services or facilities of a description provided by ILEA at the date of the direction or (where the direction is given on or after the abolition date) immediately before the abolition date; and

(b) subject to paragraph (a) above, include services or facilities of any description involving the provision for any council, authority or body of supplies required by them for the purposes of or in connection with the exercise of any of their functions (whether or not relating to education).

(4) It shall be the duty of the London Residuary Body to provide any services or facilities to which a direction under subsection (1) above relates—

(a) as from the date specified in the direction under subsection (2) above; and

(b) on such terms (including terms requiring the making of payments to the London Residuary Body by any council, authority or body to whom such services or facilities are provided) as may be specified in the direction.

(5) Any such direction may require such services or facilities to be provided on different terms for—

(a) the inner London councils and any other authorities or bodies or classes of authorities or bodies specified in the direction; and

(b) different authorities or bodies or classes of authorities or bodies so specified.

(6) Subject to subsection (7) below, the London Residuary Body may by agreement with one or more inner London councils, and on such terms as to payment or otherwise as the parties consider appropriate, provide the council or councils concerned with services or facilities of any description it would be within the power of the council or councils concerned to provide themselves in the exercise of any of their functions (whether or not relating to education).

(7) Any such agreement shall be subject to the approval of the Secretary of State.

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177 Repayment by London Residuary Body of loans to ILEA.

(1) Except so far as otherwise provided by any provision made under this Part, all the rights and liabilities of ILEA on the abolition date in respect of money borrowed by ILEA shall on that date become rights and liabilities of the London Residuary Body and those liabilities (both as respects principal and interest) shall be charged on the revenues of that body.

(2) For the purpose of providing the London Residuary Body with money to discharge those liabilities each inner London council shall on the abolition date be deemed to have borrowed from that body such sum as may be specified by or determined in accordance with an order made by the Secretary of State.

(3) That sum shall be deemed to have been borrowed on such terms as to repayment and the payment of interest as may be so specified or determined.

(4) . . . . . [F232]

(5) An inner London council may, during the period within which it is required to discharge its liabilities in respect of principal under subsection (2) above, borrow money for the purpose of discharging those liabilities.

(6) In subsection (1) above the reference to money borrowed by ILEA includes a reference to any money borrowed by any other authority whose rights and liabilities in respect of that money have been transferred to ILEA.

Textual Amendments

F232 S. 177(4) repealed with saving by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**, S.I. 1990/431, Sch. 1 para. 1(a) (as amended by S.I. 1990/762, **art. 4(a)**)

Modifications etc. (not altering text)

C113 S. 177(2)(3) restricted (1. 4. 1992) by S.I. 1992/501, **arts. 1(1)**, 4(1)(2) (revoking S.I. 1990/775)

178 Liability of London Residuary Body for redundancy and compensation payments.

[F233](1) . . . . . .

[F233](2) . . . . . .

(3) Any person who—

(a) immediately before the abolition date is in the service of ILEA under a contract of employment made on or before 17th February 1988 which is a contract for a fixed term extending beyond the abolition date; and

(b) is not designated for the purposes of section 172 of this Act;

shall, if the contract made no provision for its prior termination by ILEA, be entitled to receive from the London Residuary Body an amount equal to any damages which he would have been entitled to recover from ILEA if ILEA had not been abolished but had dismissed him immediately before the abolition date.

(4) Any person who—

(a) immediately before the abolition date is in the service of ILEA under a contract of employment (whether or not for a fixed term) providing for its

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termination by ILEA on payment of compensation for loss of employment; and

(b) is not designated for the purposes of section 172 of this Act;

shall be entitled to receive from the London Residuary Body an amount equal to the compensation which he would have been entitled to receive from ILEA if ILEA had not been abolished but had terminated the contract immediately before that date.

(5) In subsection (4) above "compensation for loss of employment" does not include any payment to be made under the contract in lieu of notice.

(6) Where the amount of compensation payable under a contract differs according to the reasons for its termination the amount payable under subsection (4) above shall be determined on the assumption that the contract was terminated by reason of redundancy within the meaning of the [M13]Employment Protection (Consolidation) Act 1978.

Textual Amendments

F233 S. 178(1)(2) repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt.I**.

Marginal Citations

M13 1978 c. 44.

179 Payment of pensions and pensions increase by London Residuary Body.

(1) All liabilities of ILEA in respect of pensions payable by it shall on the abolition date become liabilities of the London Residuary Body.

(2) The reference in subsection (1) above to pensions includes a reference to allowances, grants or other benefits in respect of past service, death, injury or disease (whether of the pensioner or another person) and any such compensation as is mentioned in section 8(1)(b) or (c) of the [M14]Pensions (Increase) Act 1971.

(3) At the end of Part II of Schedule 2 to that Act (pensions payable out of local funds) there shall be inserted—

"64C A pension payable by the London Residuary Body, being a pension which would fall within any of the foregoing paragraphs of this Part of this Schedule if references to a local authority had continued to include references to the Inner London Education Authority."

(4) In paragraph 1(5) of Schedule 3 to that Act (cases where increase of pension is to be reimbursed by the last employing authority) after "64B" there shall be inserted the words "and 64C".

(5) The London Residuary Body shall pay—

(a) any increase which by virtue of regulations under section 5(2) of that Act would have been payable on or after the abolition date by ILEA; and

(b) any payment which is analogous to a pensions increase and would have been payable on or after that date by ILEA by virtue of regulations under section 13(3) of that Act.

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Modifications etc. (not altering text)

C114 S. 179: functions, rights and liabilities of the London Residuary Body transferred to the London Pension Fund Authority (1. 4. 1992) by S.I. 1992/331, **arts. 1(1)**, 2(1)(e)(4), 3, 7

Marginal Citations

M14 1971 c. 56.

180 Custody of residuary property, etc.

(1) On the abolition date all residuary property, rights and liabilities of ILEA shall vest in the London Residuary Body.

(2) In subsection (1) above "residuary property, rights and liabilities" means—

(a) any property for the vesting of which provision is not otherwise made by or under this Part; and

(b) subject to subsection (3) below, any rights and liabilities which are not transferred, extinguished or otherwise dealt with by any provision so made.

(3) This section shall not be construed—

(a) as continuing in force any contract of employment made by ILEA; or

(b) as imposing any liability on the London Residuary Body in respect of the termination of any such contract by the abolition of ILEA;

but the rights and liabilities to which this section applies shall include any rights and liabilities attributable to anything done or omitted under or in respect of such a contract before the abolition date except any liability to make a payment prohibited by section 173(3) of this Act.

(4) The Secretary of State may by order confer on the London Residuary Body any statutory functions which before the abolition date were exercisable by ILEA in relation to any property, rights or liabilities which are vested in that body by this section.

(5) Without prejudice to section 232(5) of this Act, the provision that may be made by an order under subsection (4) above includes provision amending any enactment or any instrument made under any enactment.

181 Power of London Residuary Body to pay compensation.

(1) The London Residuary Body may pay compensation—

(a) to any former officer of ILEA who sustained an injury in the course of his employment with ILEA; or

(b) to the widow or widower or child of any former officer of ILEA who, in the course of his employment with ILEA, died or sustained an injury resulting in death.

(2) Subsection (1) above applies irrespective of whether the employment with ILEA of the officer in question came to an end on or before the abolition date.

(3) The London Residuary Body may pay compensation to any person in respect of loss suffered by him in consequence of any damage to property in respect of which it

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appears to them that a claim might have been brought against ILEA had ILEA not been abolished.

(4) Any compensation payable under this section may be paid either—
  (a) by way of a lump sum; or
  (b) by way of periodical payments of such amounts and payable at such times and for such periods as the London Residuary Body may from time to time determine having regard to all the circumstances of the case.

(5) The payment of compensation under this section shall not affect any right or claim to damages or compensation which—
  (a) any such officer as is mentioned in subsection (1)(a) or (b) above or his widow or widower or child; or
  (b) any such person as is mentioned in subsection (3) above;

may have against any person other than the London Residuary Body or, except so far as may be agreed when the compensation is granted, against the London Residuary Body by virtue of section 180 of this Act.

Modifications etc. (not altering text)

C115 S. 181: functions, rights and liabilities of the London Residuary Body transferred to the London Pensions Fund Authority (1. 4. 1992) by S.I. 1992/331, **arts. 1(1)**, 2(1)(f)(4), 3, 7

182 Preparation of ILEA's final accounts.

(1) It shall be for the London Residuary Body to discharge in relation to ILEA's accounts for any period ending before the abolition date—
  (a) any functions under the regulations in force under **[**[F234]the Audit Commission Act 1998**]** which would have fallen to be discharged on or after that date by ILEA or any of its officers; and
  (b) any functions under those regulations which fell to be so discharged before that date but have not been discharged.

(2) As respects anything falling to be done on or after the abolition date in relation to those accounts the provisions of **[**[F235]that Act**]**shall have effect as if those accounts were accounts of the London Residuary Body but so that—
  (a) the documents to which an auditor has the right of access under **[**[F236]section 6(1)**]** shall include any documents relating to ILEA which are in the possession of an inner London council; and
  (b) the persons who may be required to give information or an explanation under **[**[F237]section 6(4) or 48(1)**]** shall include any person who was an officer or member of ILEA at any time during the period to which the accounts relate and who is an officer or member of such a council.

(3) Any requirement under **[**[F238]section 28**]**of that Act in respect of a claim, return or account of ILEA, and any consent under **[**[F239]section 49(1)(a)**]** of that Act in respect of information relating to ILEA, may, on or after the abolition date, be made or given by the London Residuary Body.

(4) That body shall have a right of access at all reasonable times to all such documents as are mentioned in subsection (2)(a) above which appear to it to be needed for the purpose of discharging its functions under this section and may require any such

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person as is mentioned in subsection (2)(b) above to give it any such information or explanation as it thinks necessary for that purpose.

(5) Any person who without reasonable excuse fails to comply with any requirement under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and to an additional fine not exceeding £40 for each day on which the offence continues after his conviction of the offence.

Textual Amendments

F234 Words in s. 182(1)(a) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(2)**.
F235 Words in s. 182(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(3)(a)**.
F236 Words in s. 182(2)(a) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(3)(b)**.
F237 Words in s. 182(2)(b) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(3)(c)**.
F238 Words in s. 182(3) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(4)(a)**.
F239 Words in s. 182(3) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 16(4)(b)**.

183 Directions of Secretary of State.

(1) In exercising the functions conferred on it by or under this Part the London Residuary Body shall comply with any directions given to it by the Secretary of State.

(2) No transaction entered into by that body in exercise of any of those functions shall be invalid by reason only of a failure to comply with any direction given under this section.

(3) The Secretary of State shall publish any directions given by him under this section.

Financial provisions and winding up of London Residuary Body

184 Preparatory expenditure of inner London councils.

(1) Without prejudice to the powers conferred by section 137 of the [M15]Local Government Act 1972 (which authorises a local authority to incur expenditure which it considers is in the interests of its area or inhabitants of its area), an inner London council may incur expenditure in making preparations for the exercise on and after the abolition date of its LEA functions.

(2) Where before the passing of this Act any such council has incurred such expenditure, that expenditure shall be treated after the passing of this Act as authorised by subsection (1) above.

(3) The Secretary of State may pay grants to an inner London council in respect of such expenditure incurred or to be incurred by the council in any financial year ending before the abolition date.

(4) The Secretary of State may make any payment in respect of such a grant subject to compliance by the council concerned with such conditions as he may determine.

Marginal Citations

M15 1972 c. 70.

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185 London Residuary Body: financial provisions.

(1) The London Residuary Body may in respect of any financial year beginning on or after the abolition date make levies on the rating authorities in inner London to meet all liabilities falling by virtue of this Part to be discharged by it for which provision is not otherwise made.

(2) The amount to be levied by that body in respect of any financial year from each such authority shall be determined by apportioning the total amount to be levied by that body under this section in respect of that year between those authorities in proportion to the population of their respective areas.

(3) For the purposes of subsection (2) above the population of any area shall be taken to be—

(a) in relation to any financial year in respect of which the London Residuary Body makes any levy under section 74 of the 1985 Act, the number applicable by virtue of subsection (2) of that section; and

(b) in relation to any other financial year, the number estimated by the Registrar General and certified by him to the Secretary of State by reference to such date as the Secretary of State may from time to time direct.

(4) In section 74 of the 1985 Act, as it applies in relation to the London Residuary Body—

(a) subsection (1) shall not apply in relation to liabilities of that body to which subsection (1) above applies; and

(b) the reference in subsection (2) to the total amount to be levied by that body in respect of any financial year shall not include any amount to be so levied by virtue of this section;

but subsections (3) to (5) of that section (procedure for the levy and application of enactments relating to precepts and rates) shall apply in relation to a levy under this section as they apply in relation to a levy under that section.

(5) A demand issued under subsection (3) of that section to a rating authority in inner London relating to a payment or payments in respect of a levy under that section may relate also to a payment or payments in respect of a levy under this section, but if it does so shall state separately the payment or payments required in respect of each levy.

(6) Without prejudice to the borrowing powers of the London Residuary Body by virtue of section 75 of the 1985 Act but subject to subsection (7) below, that body may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may require for the purpose of defraying any expenses incurred by it before the abolition date which are attributable to any provision made by or under this Part.

(7) The sums borrowed by that body under subsection (6) above—

(a) shall not exceed such amount as the Secretary of State may determine; and

(b) shall be repaid before the end of the financial year beginning with the abolition date.

(8) Section 77 of the 1985 Act (treatment and distribution of capital and other money) shall apply in relation to capital money received by the London Residuary Body of any description specified for the purposes of this section by an order made by the Secretary of State as if—

(a) subsection (2) were omitted and any reference to an authority or authorities to which subsection (1) of that section applies were a reference to a **[**[F240]charging

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authority] or (as the case may be) the [[F240]charging authorities] in inner London; and

(b) the references in subsection (4) of that section to the area for which that body is established and to a levy were respectively references to inner London and to a levy under this section.

(9) Except as provided by subsection (8) above section 77 shall not apply in relation to capital money of a description within that subsection.

(10) The Secretary of State may by order provide, in relation to capital money received by the London Residuary Body of any description not within subsection (8) above, for the application of that money, or of such part of that money as may be specified in the order, for such purposes connected with the abolition of ILEA as may be so specified.

(11) In this section—

(a) references to inner London are references to the area comprising the areas of all the inner London councils; and

(b) "capital money" has the same meaning as in section 77 of the 1985 Act.

Textual Amendments

F240 Words substituted by S.I. 1990/268, art. 2(1), **Sch.**

186 Transitional functions of London Residuary Body in respect of block grant.

(1) Any payment which by virtue of any provision of Part VI of the [M16]Local Government, Planning and Land Act 1980 would but for this Act have fallen to be made on or after the abolition date by or to ILEA in respect of block grant payable for a year ending before that date shall instead be made by or to the London Residuary Body.

(2) Any information, notice, representation or request under section 65, 66 or 67 of that Act which but for this Act would have fallen to be given or made by or to ILEA on or after the abolition date in respect of block grant payable for a year ending before that date shall instead be given or made by or to the London Residuary Body.

Marginal Citations

M16 1980 c. 65

187 Winding-up of London Residuary Body.

(1) Except as respects any of its functions under this Part for the discharge of which provision will be or is likely to be required after the end of the period of three years beginning with the abolition date, it shall be the duty of the London Residuary Body to use its best endeavours to secure that its work under this Part is completed as soon as practicable and in any event before the end of that period.

(2) As respects—

(a) any such functions; and

(b) any property, rights and liabilities transferred to it, or held, acquired or incurred by it by virtue of, or in the exercise of any of its functions under, this Part;

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that body shall if it considers it appropriate to do so make such arrangements as are practicable for their transfer to a local authority or to some other body or bodies or submit proposals to the Secretary of State for effecting such transfers by orders made by him for the purpose.

(3) Any such arrangements or proposals shall be made or (as the case may be) submitted, so far as practicable, before the end of the period of two years beginning with the abolition date.

(4) Not later than the end of that period of two years, the London Residuary Body shall submit to the Secretary of State a scheme for the winding up of that body and the disposal of its remaining functions, property, rights and liabilities so far as not dealt with in pursuance of subsection (2) above.

(5) The Secretary of State may by order provide—
   (a) for any such transfer or disposal as is mentioned in subsection (2) above; and
   (b) for giving effect (with or without modifications) to any scheme submitted to him under subsection (4) above.

(6) The power under subsection (5)(a) above applies irrespective of whether or not the London Residuary Body has submitted proposals with respect to the transfer or disposal in question and, if it has, whether the provision made is in accordance with those proposals or not.

(7) Without prejudice to the generality of the power under subsection (5) above and to section 232(5) of this Act, the provision that may be made by an order under subsection (5) above includes provision—
   (a) amending any enactment or any instrument made under an enactment; or
   (b) establishing new bodies corporate to receive any functions, property, rights or liabilities transferred by the order.

Control of ILEA's contracts and disposals

188 Control of contracts.

(1) This section applies to any contract in respect of which the consideration exceeds £15,000 and which is entered into after 22nd July 1987.

(2) Except with the consent of the Secretary of State, ILEA shall not after the passing of this Act enter into a contract to which this section applies.

(3) Subject to section 191(3)(b) of this Act, if at any time after 22nd July 1987 and before the passing of this Act ILEA has entered into a contract which would have been in contravention of the provisions of subsection (2) above if they had then been in force, the same consequences shall follow as if those provisions had been contravened by ILEA.

(4) Any consent for the purposes of this section may be given either in respect of a particular contract or in respect of contracts of any class or description and either unconditionally or subject to conditions.

(5) Any signification of consent, or of consent subject to specified conditions, given by the Secretary of State before the passing of this Act in respect of any contract to which

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this section applies shall be treated for the purposes of this section as a consent, or a consent subject to those conditions, given under this section.

(6) A contract shall not be void by reason only that it has been entered into in contravention of this section and (subject to section 190(2) of this Act) a person entering into a contract with ILEA shall not be concerned to enquire whether any consent required by this section has been given or complied with.

(7) Where the consideration or any of the consideration under a contract is not in money, the limit specified in subsection (1) above shall apply to the value of the consideration.

(8) This section does not apply to—
  (a) a contract to dispose of land or to grant or dispose of any interest in land; or
  (b) a contract of employment between ILEA and a person employed by it.

189 Control of disposals.

(1) Subject to subsection (9) below, this section applies to any disposal of land which is made after 22nd July 1987.

(2) Except with the consent of the Secretary of State, ILEA shall not after the passing of this Act make a disposal to which this section applies.

(3) Subject to section 191(3)(b) of this Act, if at any time after 22nd July 1987 and before the passing of this Act ILEA has made a disposal which would have been in contravention of the provisions of subsection (2) above if they had then been in force, the same consequences shall follow as if those provisions had been contravened by ILEA.

(4) Any consent for the purposes of this section may be given either in respect of a particular disposal or in respect of disposals of any class or description and either unconditionally or subject to conditions.

(5) Any signification of consent, or of consent subject to specified conditions, given by the Secretary of State before the passing of this Act in respect of any disposal to which this section applies shall be treated for the purposes of this section as a consent, or a consent subject to those conditions, given under this section.

(6) This section has effect notwithstanding anything in section 123 of the [M17]Local Government Act 1972 (general power to dispose of land) or in any other enactment; and the consent required by this section shall be in addition to any consent required by subsection (2) of that section or by any other enactment.

(7) A disposal shall not be invalid or, in the case of a disposal which consists of a contract, void by reason only that it has been made or entered into in contravention of this section; and (subject to the provisions of section 190 of this Act) a person acquiring land, or entering into a contract to acquire land, from ILEA shall not be concerned to enquire whether any consent required by this section has been given or complied with.

(8) In this section references to disposing of land include references to—
  (a) granting or disposing of any interest in land;
  (b) entering into a contract to dispose of land or to grant or dispose of any such interest; and
  (c) granting an option to acquire any land or any such interest.

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(9) This section does not apply to a disposal falling within subsection (8)(a) above if it is made in pursuance of a contract entered into, or an option granted, on or before 22nd July 1987.

Marginal Citations

M17 1972 c. 70.

190 Wrongful contracts or disposals.

(1) This section applies where ILEA—

(a) has entered into any contract to which section 188 of this Act applies; or

(b) has made any disposal to which section 189 of this Act applies;

in contravention of that section (referred to below in this section as a wrongful contract or, as the case may be, a wrongful disposal).

(2) In the case of a wrongful contract or a wrongful disposal which consists in entering into a contract to dispose of any land or to grant or dispose of any interest in land, the aggrieved body may by notice in writing served on the other party to the contract repudiate the contract—

(a) in the case of a wrongful contract, at any time before the contract is performed;

(b) in the case of a wrongful disposal, at any time before the conveyance or grant of the land or interest in land to which it relates is completed or executed.

(3) In the case of a wrongful disposal which consists in granting an option to acquire any land or interest in land, the aggrieved body may by notice in writing served on the option holder repudiate the option at any time before it is exercised.

(4) A repudiation under subsection (2) or (3) above shall have effect as if made by ILEA.

(5) In the case of a wrongful disposal which consists in granting or disposing of any interest in land (whether or not in pursuance of any earlier disposal of a description falling within subsection (2) or (3) above)—

(a) the aggrieved body may be authorised by the Secretary of State to purchase compulsorily the interest in land which was the subject of the disposal; . . . [F241]

(b) . . . . . [F242]

(6) The [M18]Acquisition of Land Act 1981 shall apply in relation to the compulsory purchase of land under subsection (5) above by an aggrieved body (other than the London Residuary Body) as if references in sections 12 and 13 of that Act to every owner of the land included references to the London Residuary Body.

(7) Where an aggrieved body (other than the London Residuary Body) acquires any interest in land by a compulsory purchase under subsection (5) above, the body shall be entitled to recover from the London Residuary Body an amount equal to the aggregate of—

(a) the amount of compensation agreed or awarded in respect of that purchase, together with any interest payable by the council in respect of that compensation in accordance with section 11 of the [M19]Compulsory Purchase Act 1965; and

(b) the amount of the costs and expenses incurred by the body in connection with the making of the compulsory purchase order.

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(8) A body is an aggrieved body for the purposes of this section—

(a) in relation to a wrongful contract, if rights or liabilities under the contract have been transferred to, or have vested in, the body by or under this Part;

(b) in relation to a wrongful disposal of a description falling within subsection (2) or (3) above, if the land proposed to be disposed of, or in which an interest is proposed to be granted, has been so transferred or has so vested;

(c) in relation to a disposal of a description falling within subsection (5) above, if (but for the disposal)—

(i) the interest disposed of would have been so transferred or would have so vested; or

(ii) where the disposal consists in the granting of an interest in land, the land in which the interest was granted would have been so transferred, or would have so vested, free of the interest.

Textual Amendments

F241 Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**

F242 Ss. 190(5)(b), 201(5)(b) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**

Marginal Citations

M18 1981 c. 67.

M19 1965 c. 56.

191 Penalties for contravention of section 188 or 189.

(1) If, on an application under this section, it appears to the High Court that ILEA has entered into a contract in contravention of section 188 of this Act or has made a disposal in contravention of section 189 of this Act, the court may order any person responsible for authorising the contract or disposal who is, or was at the time of the conduct in question, a member of ILEA—

(a) to be disqualified for being a member of ILEA; and

(b) to be disqualified for a specified period for being a member of any local authority.

(2) Where the court has power to make an order under subsection (1) above in respect of any person, it may also order him to pay to ILEA or, in the case of an order made on or after the abolition date, to the London Residuary Body a sum not exceeding—

(a) in the case of a contract in contravention of section 188, an amount equal to the amount or value of the consideration under the contract;

(b) in the case of a disposal in contravention of section 189, an amount equal to the amount or value of the consideration for the disposal or, if there is no consideration or it is less than the market value of what was disposed of, an amount equal to that market value.

(3) No order shall be made under this section in respect of any person—

(a) if the court is satisfied that he acted in the belief that the contract or disposal had the consent of the Secretary of State and that any conditions attached to the consent had been complied with; or

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(b) where the contract was entered into, or the disposal was made, on or before 17th February 1988.

(4) An application under this section may be made by any of the following—
(a) an inner London council;
(b) a local government elector for the area of such a council;
(c) the London Residuary Body; and
(d) any local authority other than an inner London council to which property, rights or liabilities of ILEA will be or have been transferred by order under section 168 of this Act.

(5) In sections 80(1)(e), 86(b) and 87(1)(d) of the [M20]Local Government Act 1972 references to **[**[F243]the Audit Commission Act 1998**]** shall include references to this section.

Textual Amendments
F243 Words in s. 191(5) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para.17**.

Marginal Citations
M20 1972 c. 70.

Miscellaneous and supplementary

192 Charities.

(1) Where immediately before the abolition date—
(a) any property is held exclusively for charitable purposes by ILEA as sole trustee; and
(b) the charity is primarily for the benefit of the area of a single inner London council;

that property shall on that date vest for the like purposes in that council.

(2) Where immediately before that date any power with respect to any such charity as is mentioned in subsection (1)(b) above was under the trusts of the charity vested in, or in the holder of any office connected with, ILEA, that power shall on that date vest in, or in the holder of the corresponding office connected with, the inner London council concerned.

(3) Where in the case of any such power vested in the holder of any office connected with ILEA there is no corresponding office connected with the inner London council concerned, that power shall on that date vest in the holder of such other office connected with that council as the Charity Commissioners may with the consent of that council and the office-holder concerned appoint.

(4) Where immediately before that date—
(a) any property is held exclusively for charitable purposes by ILEA as sole trustee; and
(b) subsection (1) above does not apply to that property;

that property shall on that date vest for the like purposes in the London Residuary Body or in such other person as the Charity Commissioners may appoint.

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(5) Where immediately before that date any power with respect to any charity, other than any such charity as is mentioned in subsection (1)(b) above, was under the trusts of the charity vested in, or in the holder of any office connected with, ILEA, that power shall on that date vest in the London Residuary Body or in such other person as the Charity Commissioners may appoint.

(6) References above in this section to a power with respect to a charity shall not include references to any power of any person by virtue of being a charity trustee of that charity; but where under the trusts of any charity the charity trustees immediately before the abolition date included ILEA or the holder of an office connected with ILEA then, as from that date, those trustees shall instead include—

(a) such of the inner London councils;

(b) the holder of such office connected with such of those councils; or

(c) such other person;

as the Charity Commissioners may appoint.

(7) If in any case an appointment is not made by the Charity Commissioners for the purposes of any of subsections (3) to (6) above before the abolition date, the London Residuary Body shall be treated as having been so appointed pending the making of such an appointment by those Commissioners; but an appointment made by those Commissioners after the abolition date must be made before the end of the period of two years beginning with that date.

(8) References in subsections (2), (5) and (6) above to a charity shall not include a charity which is a company within the meaning of the [M21]Companies Act 1985 or incorporated by charter.

(9) For the purposes of this section, a charity is a charity primarily for the benefit of the area of a single inner London council if the charity is established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of an area which falls wholly or mainly within that council's area.

(10) Nothing in this section shall affect the power of Her Majesty, the court or any other person to alter the trusts of any charity.

(11) In this section "charity", "charitable purposes", "charity trustees", "court" and "trusts" have the same meanings as in **[**[F244]the Charities Act 1993**]**.

Textual Amendments

F244 Words in s. 192(11) substituted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6**, para.30

Marginal Citations

M21 1985 c. 6.

193 Information and access to documents.

(1) For the purpose of facilitating the implementation of any provision made by or under this Part, ILEA and its officers shall furnish any body mentioned in subsection (2) below or, as the case may be, the Secretary of State with all such information relating to ILEA or its functions as that body or the Secretary of State may request.

(2) The bodies referred to in subsection (1) above are—

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(a) an inner London council;
(b) the London Residuary Body;
(c) any local authority other than an inner London council to which functions, property, rights or liabilities of ILEA will be transferred by order under section 168 of this Act; and
(d) the staff commission established by section 170 of this Act.

(3) Any information required to be furnished under subsection (1) above shall be furnished within one month of the making of the request or, if that is not reasonably practicable, as soon as reasonably practicable after the expiry of that month.

(4) Any person authorised in that behalf by the London Residuary Body shall be entitled on producing, if so required, evidence of his authority—
(a) at all reasonable times to inspect and make copies of any document belonging to or under the control of ILEA; and
(b) to require copies of any such document to be delivered to him.

(5) References in subsection (4) above to copies of a document include references to copies of part of it.

(6) In subsections (4) and (5) above "document" includes any record of information and, where the record is not in legible form, the rights conferred by subsection (4) above include the right to require the information to be made available in legible form for inspection or copying and to require copies of it in that form to be delivered.

194 Concurrent employment.

(1) A person in the service of ILEA may enter into a contract of employment with a successor authority for the rendering of services by him to that authority concurrently with his service to ILEA.

(2) Subsection (1) above has effect notwithstanding anything in a person's contract of employment with ILEA and neither his entering into a contract of employment with a successor authority nor anything done by him in pursuance of such a contract shall be a ground for ILEA to terminate his employment.

(3) In this section "successor authority" means—
(a) an inner London council;
(b) the London Residuary Body; and
(c) any local authority other than an inner London council to which functions or property of ILEA will be transferred by order under section 168 of this Act.

195 Continuity of exercise of functions.

(1) The abolition of ILEA shall not affect the validity of anything done by ILEA before the abolition date.

(2) Anything which at that date is in process of being done by or in relation to ILEA in the exercise of or in connection with any statutory functions which by virtue of any provision made by or under this Part become functions of the inner London councils in respect of their respective areas or (as the case may be) of some other local authority or of the London Residuary Body may be continued by or in relation to the successor authority.

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(3) References in this section, in relation to any statutory functions, to the successor authority are references to the inner London council or other local authority or body by which those functions become exercisable or (as the case may be) become exercisable in respect of the area in question.

(4) Any instrument made by ILEA in exercise of or in connection with any functions to which subsection (2) above applies, and any other thing done by or in relation to ILEA before the abolition date in exercise of or in connection with any such functions shall, so far as required for continuing its effect on and after that date, have effect as if made by, or done by or in relation to, the successor authority.

(5) Any reference above in this section to any instrument made by, or to any other thing done by or in relation to, ILEA includes a reference to any instrument or other thing which by virtue of any enactment is treated as having been made by, or done by or in relation to, ILEA.

(6) So far as is required for giving effect to the preceding provisions of this section—
- (a) any reference in any document to ILEA shall be construed as a reference to the successor authority; and
- (b) any reference in any document to ILEA's area (whether as the Inner London Education Area or otherwise), or to any part of that area comprising the successor authority's area, shall be construed as a reference to the successor authority's area.

(7) For the purposes of subsection (6)(b) above, the London Residuary Body's area shall be taken to be the area comprising the areas of all the inner London councils.

(8) Any question under this section as to which is the successor authority in respect of any particular functions may be determined by a direction given by the Secretary of State.

(9) The preceding provisions of this section—
- (a) are without prejudice to any provision made by this Part in relation to any particular functions; and
- (b) shall not be construed as continuing in force any contract of employment made by ILEA.

(10) The Secretary of State may, in relation to any particular functions, by order exclude, modify or supplement any of the preceding provisions of this section or make such other transitional provision as he thinks necessary or expedient.

Modifications etc. (not altering text)
C116 S. 195(2), (4)–(8) modified by S.I. 1990/124, **art. 12(2)**

196 Interpretation of Part III.

(1) In this Part—

"the 1985 Act" has the meaning given by section 164(3);
"the abolition date" has the meaning given by section 162(2);
"ILEA" has the meaning given by section 162(1)(a);
"inner London council" has the meaning given by section 163(2); and

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"statutory functions" means functions conferred or imposed by an enactment or a statutory instrument.

(2) References in this Part, in relation to an inner London council, to its LEA functions shall be read in accordance with section 165(1)(a).

PART IV

MISCELLANEOUS AND GENERAL

Establishment and functions of Education Assets Board

197 Education Assets Board.

(1) There shall be established a body corporate to be known as the Education Assets Board.

(2) The Board shall consist of a chairman and not less than two nor more than ten other members appointed by the Secretary of State.

(3) In appointing the members of the Board the Secretary of State shall have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, property management, local government or education.

(4) The principal functions of the Board are those conferred or imposed on them under sections 198 to 201 of and Schedule 10 to this Act **[**[F245]and section 36 of and Schedule 5 to the Further and Higher Education Act 1992**]**; and the Board may also undertake such other activities as they consider it necessary or expedient to undertake for the purposes of or in connection with carrying out any of their functions.

(5) The Secretary of State may make grants to the Board of such amounts and subject to such conditions as he may determine.

(6) In exercising their functions under **[**[F246]the Education Acts**]** the Board shall comply with any directions given to them by the Secretary of State.

(7) Any local education authority **[**[F247]and any governing body of a maintained [F248]. . . school**]** shall give the Board such information as the Board may require for the purposes of the exercise of any of their functions under **[**[F249]the Education Acts**]**.

[[F250](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.

[F250](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 **[**[F251]the Education Acts**]**.**]**

(8) The Board 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 Board's property shall not be regarded as property of, or property held on behalf of, the Crown.

(9) Schedule 8 to this Act has effect with respect to the Board.

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[[F252](10) In this section "the Education Acts" has the meaning given by section 578 of the Education Act 1996.**]**

Textual Amendments

F245 Words in s. 197(4) inserted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 43(a)**; S.I. 1992/831, art. 2, **Sch. 1**.

F246 Words in s. 197(6) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 1 Pt. I para. 74(2)** (with ss. 1(4), 561, 562, Sch. 39).

F247 Words in s. 197(7) inserted (1.1.1994) by 1993 c. 35, **s. 47(5)**; S.I. 1993/3106, art. 4, **Sch. 1** (as amended by S.I. 1994/436, **art. 2**); (which insertion is continued after the repeal of 1993 c. 35 by 1996 c. 56, ss. 582(2)(3), 583, Sch. 38 Pt. I (with ss. 1(4), 561, 562, **Sch. 39**)).

F248 Words in s. 197(7) 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**.

F249 Words in s. 197(7) substituted (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 74(3)** (with ss. 1(4), 561, 562, Sch. 39).

F250 S. 197(7A)(7B) inserted (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 43(c)**; S.I. 1992/831, art. 2, **Sch. 1**.

F251 Words in s. 197(7B) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 74(4)** (with ss. 1(4), 561, 562, Sch. 39).

F252 S. 197(10) added (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 74(5)** (with ss. 1(4), 561, 562, Sch. 39).

Modifications etc. (not altering text)

C117 Power to amend s. 197 conferred (1.2.1999) by 1998 c. 31, **s. 137(4)(a)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1**.

C118 S. 197(7) applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**.

C119 S. 197(7) applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt. I**.

C120 S. 197(7B) modified (1.4.1993) by S.I. 1993/563, art. 2(b)(ii), **Sch. 2**

198 Transfers under Parts I and II.

[[F253](1) This section applies to any transfer under any of the following provisions, namely—

(a) section 126 or 130 of this Act,

(b) Schedule 21 to the School Standards and Framework Act 1998 ("the 1998 Act"), or

(c) any regulations made—

(i) under section 21(5) or (9) of that Act, or

(ii) under paragraph 10 of Schedule 2 or paragraph 5 of Schedule 8 to that Act;

and those provisions, so far as relating to transfers under them, shall in each case have effect subject to Schedule 10 to this Act.

(1A) However, nothing in—

(a) the provisions of that Schedule other than paragraph 2(4), or

(b) subsection (3) below,

applies in relation to any transfer agreement falling to be made under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act.

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(2) Schedule 10 to this Act has effect for the purpose of—

(a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;

(b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;

(c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and

(d) making supplementary and consequential provisions in relation to such transfers.

(3) In carrying out the functions conferred or imposed on them by that Schedule—

(a) the Education Transfer Council—

(i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but

(ii) shall seek to ensure that all such persons' interests are protected; and

(b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.

(4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—

(a) it may not be done by the transferee; and

(b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;

and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act or the 1998 Act.**]**

(5) Not later than the end of the period of six months beginning with the transfer date applicable in relation to any transfer to a higher education corporation under section 126 of this Act, **[**[F254]the Council**]** shall provide **[**[F255]the higher education funding council**]** with a written statement giving such particulars of all property, rights and liabilities transferred to that corporation as are then available to **[**[F254]the Council**]**.

(6) If in any case within subsection (5) above full particulars of all property, rights and liabilities transferred to the corporation concerned are not given in the statement required under that subsection, **[**[F254]the Council**]** shall provide that Council with a further written statement giving any such particulars omitted from the earlier statement as soon as it is possible for them to do so.

Textual Amendments

F253 S. 198(1)-(4) substituted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 2(2)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1**.

F254 Words in s. 198(5)(6) substituted (1.2.1999) by 1998 c. 31, s. 137, **Sch. 29 para. 2(3)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).

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F255 Words in s. 198(5) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 44**; S.I. 1992/831, art. 2, **Sch. 3**.

Modifications etc. (not altering text)

C121 S. 198 modified (1.1.1994) by 1993 c. 35, **s. 45(4)(5)** (with s. 155(11)); S.I. 1993/3106, art. 4, **Sch. 1** (as amended by S.I. 1994/436, **art. 2**).

C122 S. 198 modified (1.11.1996) by 1996 c. 56, **ss. 208(4)(5)**, 583 (with ss. 1(4), 561, 562, Sch. 39).
S. 198 modified (E.) (1.1.2001) by 2000/3209, regs. 15, 16, Sch. 3

C123 Power to amend conferred (1.2.1999) by School Standards and Framework Act 1998 c. 31, **s. 137(4)(a)** (with ss. 138(9), 144(6)); S.I. 1999/120, art. 2(1), **Sch. 1** (with art. 4).

C124 S. 198 applied (with modifications) (1.9.1999) by School Standards and Framework Act 1998 c. 31, s. 74, **Sch. 21 Pt. I para. 2(3)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

C125 S. 198 applied (with modifications) (10.3.1999) by The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999 (S.I. 1999/362), **regs. 54(6)(a)**, 54A, 54C (as amended (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**; and (W.) (31.7.2000) by S.I. 2000/1867, reg. 2, **Sch.**)
S. 198 applied (with modifications) (1.1.2001) by The Education (New Procedures for Property Transfers) Regulations 2000 (S.I. 2000/3209), regs. 5, 6, 15, 16, Sch. 1, Sch. 3

C126 S. 198(3) applied (with modifications) (E.)(31.12.1999) by S.I. 1999/362, **reg. 54A(1)**, 54C(1) (as substituted (E.) (31.12.1999) by S.I. 1999/3297, **reg. 2**).
S. 198(3) applied (with modifications) (W.) (31.7.2000) by S.I. 1999/362, **reg. 54A** (as substituted (W.) (31.7.2000) by 2000/1867, reg. 2, Sch.)
S. 198(3) applied (with modifications) (1.1.2001) by S.I. 2000/3209, reg. 5(2), **Sch. 1**

199 Loan liabilities excepted from transfer under Part II.

(1) The amount of any liability of a local education authority in respect of the principal of any loan which is an excepted liability in relation to an institution to which this section applies shall be treated on and after the operative date as having been borrowed from that authority by the default on such terms as to repayment and the payment of interest as may be agreed between the Education Assets Board and the authority or determined by the Secretary of State under this section.

(2) This section applies to any institution conducted by a higher education corporation and any institution designated under section 129 of this Act; and in relation to any such institution—

(a) a liability is an excepted liability for the purposes of this section if it would have been transferred under section 126(3) but for subsection (5)(b) of that section or (as the case may be) under section 130(2) of this Act but for subsection (4)(a) of that section; and

(b) references, in relation to an excepted liability, to the default transferee and the operative date are references respectively to the body or persons to whom and the date on which that liability would have been so transferred.

(3) It shall be the duty of the authority and the Board, whether before or after the operative date, so far as practicable to arrive at such written agreements as may be necessary for determining the amount of any excepted liability and the terms to apply in relation to the liability imposed on the default transferee under this section by reference to that liability.

(4) Notwithstanding any terms agreed or determined as mentioned in subsection (1) above, any liability in respect of any sum treated by virtue of that subsection as having

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been borrowed from a local education authority may at any time be discharged by a single payment of a sum equal to the aggregate of—

(a) the amount of the principal of the loan outstanding at the time of the payment; and

(b) the amount of any interest accrued before that time.

(5) The Board shall notify the Secretary of State if it appears to them that it is unlikely the case of any matter on which agreement is required to be reached under subsection (3) above that such an agreement will be reached.

(6) Where the Secretary of State has received a notification from the Board under subsection (5) above he may, whether before or after the operative date, give a direction determining the matter, and may include in the direction any provision which might have been included in an agreement under subsection (3) above.

(7) The Secretary of State shall consult the authority before giving a direction under this section.

(8) The Board shall give the Secretary of State such assistance and advice as he may require for the purpose of determining any matter under this section.

(9) The Board shall deliver any agreement made under subsection (3) above to the default transferee.

(10) Any such agreement shall be treated as made between the authority and the default transferee.

Modifications etc. (not altering text)

C127 S. 199(1)(3): functions conferred by S.I. 1991/1457, **arts.2**, 3

[F256]200 Grant-maintained schools: school property.

. . . . . .

Textual Amendments

F256 S. 20 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 135, **Sch. 21P**t. I; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2) (amended by S.I. 1994/436, **art.2**).

201 Wrongful disposals.

(1) This section applies where a local education authority have made any disposal to which section 137 of this Act applies in contravention of that section (referred to below in this section as a wrongful disposal).

(2) Where a wrongful disposal consists in entering into a contract to dispose of any land or to grant or dispose of any interest in land, the Education Assets Board may by a notice in writing served on the other party to the contract repudiate the contract at any time before the conveyance or grant of the land or interest in land to which it relates is completed or executed.

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(3) Where a wrongful disposal consists in granting an option to acquire any land or any interest in land, the Education Assets Board may by a notice in writing served on the option holder repudiate the option at any time before it is exercised.

(4) A repudiation under subsection (2) or (3) above shall have effect as if made by the local education authority concerned.

(5) Where a wrongful disposal consists in granting or disposing of any interest in land (whether or not in pursuance of any earlier disposal of a description falling within subsection (2) or (3) above)—

(a) the Education Assets Board may be authorised by the Secretary of State to purchase compulsorily the interest in land which was the subject of the disposal; . . . [F257]

(b) . . . . . [F258]

(6) The [M22]Acquisition of Land Act 1981 shall apply in relation to the compulsory purchase of land under subsection (5) above as if references in sections 12 and 13 of that Act to every owner of the land included references to the local education authority concerned.

(7) On completion of a compulsory purchase under that subsection of any interest in land, the Education Assets Board shall convey that interest to the appropriate transferee.

(8) In subsection (7) above, "the appropriate transferee" means—

(a) where the interest disposed of, or the land in which the interest was granted, was—

(i) used or held by the local education authority concerned for the purposes of an institution falling within section 121(2) of this Act; or

(ii) obtained by that authority for the purpose of being so used or held;

the higher education corporation established under this Act to conduct that institution; and

(b) where the interest disposed of, or the land in which the interest was granted, was—

(i) so used or held for the purposes of an institution falling within section 129(3) of this Act; or

(ii) obtained by the authority concerned for the purpose of being so used or held;

the appropriate transferee within the meaning of section 130(2) of this Act in relation to that institution.

(9) Where the Education Assets Board acquire any interest in land by a compulsory purchase under subsection (5) above the Board shall be entitled to recover from the local education authority concerned an amount equal to the aggregate of—

(a) the amount of compensation agreed or awarded in respect of that purchase, together with any interest payable by the Board in respect of that compensation in accordance with section 11 of the [M23]Compulsory Purchase Act 1965; and

(b) the amount of the costs and expenses incurred by the Board in connection with the making of the compulsory purchase order.

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Textual Amendments

F257 Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**

F258 Ss. 190(5)(b), 201(5)(b) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**

Marginal Citations

M22 1981 c. 67.

M23 1965 c. 56.

Academic tenure

202 The University Commissioners.

(1) There shall be a body of Commissioners known as the University Commissioners (in this section and sections 203 to 207 of this Act referred to as "the Commissioners") who shall exercise, in accordance with subsection (2) below, in relation to qualifying institutions, the functions assigned to them by those sections.

(2) In exercising those functions, the Commissioners shall have regard to the need—

(a) to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions;

(b) to enable qualifying institutions to provide education, promote learning and engage in research efficiently and economically; and

(c) to apply the principles of justice and fairness.

(3) The following are qualifying institutions for the purposes of this section and sections 203 to 206 of this Act, namely—

(a) any university or other institution to which, during the period of three years beginning 1st August 1987, grants in aid are or have been made by the Universities Funding Council, or by the Secretary of State acting on the advice of the University Grants Committee;

(b) any constituent college, school or hall or other institution of a university falling within paragraph (a) above; and

(c) any institution not falling within paragraph (a) above which is authorised by charter to grant degrees and to which, during the period of three years beginning 1st August 1987, grants are or have been made by the Secretary of State.

(4) Schedule 11 to this Act shall have effect with respect to the Commissioners.

203 Duty of Commissioners.

(1) The Commissioners shall exercise the powers conferred by section 204 of this Act with a view to securing that the statutes of each qualifying institution include—

(a) provision enabling an appropriate body, or any delegate of such a body, to dismiss any member of the academic staff by reason of redundancy;

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(b) provision enabling an appropriate officer, or any delegate of such an officer, acting in accordance with procedures determined by the Commissioners, to dismiss any member of the academic staff for good cause;

(c) provision establishing disciplinary procedures determined by the Commissioners for dealing with any complaints made against any member of the academic staff relating to his appointment or employment;

(d) provision establishing procedures determined by the Commissioners for hearing and determining appeals by any members of the academic staff who are dismissed or under notice of dismissal (whether or not in pursuance of such provision as is mentioned in paragraph (a) or (b) above) or who are otherwise disciplined; and

(e) provision establishing procedures determined by the Commissioners for affording to any member of the academic staff opportunities for seeking redress for any grievances relating to his appointment or employment.

(2) No provision such as is mentioned in subsection (1)(a) or (b) above which is included in the statutes of a qualifying institution by virtue of section 204 of this Act shall enable any member of the academic staff to be dismissed unless the reason for his dismissal may in the circumstances (including the size and administrative resources of the institution) reasonably be treated as a sufficient reason for dismissing him.

(3) Where any such provision as is mentioned in subsection (1) above is included in the statutes of a qualifying institution (whether by virtue of section 204 of this Act or otherwise) and—

(a) there is no requirement for any instrument which would have the effect of modifying the provision to be approved by Her Majesty in Council or to be laid before both Houses of Parliament; and

(b) but for this subsection, there would be no requirement for such an instrument to be approved by the Privy Council;

the Commissioners shall exercise the powers conferred by that section with a view to securing that no instrument which would have the effect of modifying the provision shall have that effect unless it has been approved by the Privy Council.

(4) Any reference in this section to academic staff includes a reference to persons whose terms of appointment or contracts of employment are, in the opinion of the Commissioners, so similar to those of academic staff as to justify their being treated as academic staff for the purposes of this section.

(5) For the purposes of this section the dismissal of a member of staff shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to—

(a) the fact that the institution has ceased, or intends to cease, to carry on the activity for the purposes of which he was appointed or employed by the institution, or has ceased, or intends to cease, to carry on that activity in the place in which he carried out his work; or

(b) the fact that the requirements of that activity for members of staff to carry out work of a particular kind, or for members of staff to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.

(6) For the purposes of this section “good cause”, in relation to a member of the academic staff of a qualifying institution, means a reason which is related to his conduct or to his capability or qualifications for performing work of the kind which he was appointed or employed to do; and in this subsection—

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(a) "capability", in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and

(b) "qualifications", in relation to such a member, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by him.

(7) In this section—

"appropriate", in relation to a body or officer of a qualifying institution, means appearing to the Commissioners to be appropriate having regard to the nature and circumstances of the institution;

"dismiss" and "dismissal"—

(a) include remove or, as the case may be, removal from office; and

(b) in relation to employment under a contract, shall be construed in accordance with **[**[F259]Part X of the Employment Rights Act 1996**]**.

(8) In this section and sections 204 to 206 of this Act "statutes", in relation to an institution, includes any regulations, ordinances or other instruments which, in the opinion of the Commissioners, serve as statutes for the purposes of that institution and are designated as such by the Commissioners.

Textual Amendments

F259 Words in s. 203(7) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 37(3)** (with ss. 191-195, 202).

204 Powers of Commissioners.

(1) For the purpose of performing the duty imposed on them by section 203 of this Act, the Commissioners may make such modifications of the statutes of any qualifying institution as they consider necessary or expedient.

(2) Modifications made for the purpose of securing that the statutes of a qualifying institution comply with the requirements of section 203(1)(a) of this Act shall not apply in relation to a person unless—

(a) his appointment is made, or his contract of employment is entered into, on or after 20th November 1987; or

(b) he is promoted on or after that date.

(3) For the purposes of this section a person shall be taken to be promoted on or after 20th November 1987 if (and only if) immediately before that date he is paid on a scale which provides for a maximum rate of remuneration (his former pay scale) and on or after that date the terms of his appointment, or of his contract of employment, are varied (whether with effect before or after that date) so that—

(a) his rate of remuneration is increased to a rate which exceeds the highest point on his former pay scale at the date on which the increase takes effect; or

(b) he is paid on another scale on which the highest point at the date the variation takes effect exceeds the highest point on his former pay scale at that date; or

(c) he is paid on a basis which does not provide for a maximum rate of remuneration.

(4) For the purposes of subsection (3) above references, in relation to a pay scale, to the highest point on the scale at any date are references to the maximum rate of

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remuneration payable at that date in accordance with the scale whether on a regular or a discretionary basis.

(5) For the purposes of this section a person holding an office or position of any description shall not be taken to be promoted by reason only of any general variation of the terms of appointment or of contracts of employment of persons holding offices or positions of that description.

(6) Modifications such as are mentioned in subsection (2) above shall not apply in relation to a person who held an office or position at the institution in question immediately before 20th November 1987 by reason only of the fact that—

(a) he is appointed to, or employed in, a different office or position at the institution instead of his former office or position if the terms of his appointment or of his contract of employment which relate to remuneration are the same as those of his former appointment or contract of employment;

(b) he is appointed to, or employed in, an additional office or position at the institution which carries no remuneration; or

(c) he is promoted or is appointed to, or employed in, a different office or position at the institution if he is so promoted, appointed or employed only on a temporary basis for a particular purpose with an expectation that the promotion will cease to have effect, or that he will resume his former office or position, when that purpose is accomplished.

(7) Modifications made for the purpose of securing that the statutes of a qualifying institution comply with the requirements of section 203(1)(b) of this Act shall not apply in relation to anything done or omitted to be done before the date on which the instrument making the modifications is approved under subsection (9) below.

(8) Subject to subsections (2) to (7) above, the Commissioners' powers under this section include power to make such incidental, supplementary and transitional provision as they consider necessary or expedient.

(9) No instrument made in the exercise of the Commissioners' powers under this section shall have effect unless it has been approved by Her Majesty in Council.

205 Procedure for exercise of Commissioners' powers.

(1) This section applies where the Commissioners propose to exercise the powers conferred on them by section 204 of this Act in relation to a qualifying institution.

(2) The Commissioners shall send a copy of the proposed modifications to each of the following persons, namely—

(a) the body appearing to the Commissioners to have responsibility for the management and administration of the institution's revenue and property and the conduct of its affairs;

(b) such bodies representing qualifying institutions as appear to them to be concerned;

(c) such organisations representing staff of such institutions as appear to them to be concerned;

[[F260](d) the higher education funding council**]**

(e) such other persons appearing to the Commissioners to be concerned as they consider it would be appropriate to consult;

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and shall afford those persons a reasonable opportunity of making representations as to the issues arising.

(3) After taking into account any representations made by those persons, the Commissioners shall submit the modifications, with or without revisions, to Her Majesty in Council.

(4) Her Majesty in Council may remit for reconsideration by the Commissioners any modifications submitted under subsection (3) above; and any remission under this subsection shall be accompanied by a declaration of the reasons for it.

(5) The Commissioners shall reconsider and revise any modifications remitted under subsection (4) above; and subsections (2) to (4) above shall apply in relation to any modifications so revised as they apply in relation to modifications originally proposed.

F261(6) . . . . . .

Textual Amendments

F260 S. 205(2)(d) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 45(a)**; S.I. 1992/831, art. 2, **Sch.3**.

F261 S. 205(6) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 45(b), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.

206 Exclusion of visitor's jurisdiction.

(1) The visitor of a qualifying institution shall not have jurisdiction in respect of any dispute relating to a member of the academic staff which concerns his appointment or employment or the termination of his appointment or employment.

(2) Subsection (1) above does not apply in relation to any dispute which is referred to the visitor of a qualifying institution before—

(a) the relevant date; or

(b) the date on which this section comes into force;

whichever is the later.

(3) Subsection (1) above shall not be taken to prevent any person who is the visitor of a qualifying institution—

(a) from hearing or determining appeals; or

(b) from hearing or redressing grievances;

in accordance with procedures established in pursuance of section 203(1)(d) and (e) of this Act.

(4) In this section—

(a) "the relevant date", in relation to a qualifying institution, means the date on which the statutes of the institution include such provision as is mentioned in section 203(1)(d) and (e) of this Act; and

(b) the reference to a member of the academic staff includes a reference to a person who is treated as such a member for the purposes of that section.

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207 Power to make incidental, etc., provisions by Order in Council.

(1) Her Majesty may at any time by Order in Council make such incidental, consequential or supplementary provision as appears to Her necessary or expedient—
  (a) for the general purposes or any particular purposes of any exercise of the Commissioners' powers under section 204 of this Act;
  (b) in consequence of any exercise of those powers or for the purpose of giving full effect to any such exercise; or
  (c) in consequence of the provisions of section 206 of this Act.

(2) An Order in Council under this section may in particular amend, repeal or revoke (with or without savings) any provision of—
  (a) an Act passed or a charter granted; or
  (b) an instrument under an Act or charter made,
  before the passing of this Act.

208 Corresponding provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M24]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is only made for purposes corresponding to the purposes of sections 202 to 207 of, and Schedule 11 to, this Act—
  (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 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 of Parliament.

Marginal Citations
M24 1974 c. 28.

Grants

[F262]209 . . . . . .

Textual Amendments
F262 S. 209 repealed (1.1.1999) by 1998 c. 30, s. 44(2), **Sch.4** (with s. 42(8)); S.I. 1998/3237, **art.2** (with art. 3).

210 Grants for the education of travellers and displaced persons.

(1) The Secretary of State may by regulations provide for the payment to [F263]. . . **[**[F264F263]. . . institutions within the further education sector**]** of grants in respect of expenditure incurred or to be incurred by them in making provision the purpose (or main purpose) of which is to promote and facilitate the education of persons to whom this subsection applies. [M25]

(2) Subsection (1) above applies to a person if—

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(a) by reason of his way of life or, in the case of a child, his parent's way of life he either has no fixed abode or leaves his main abode to live elsewhere for significant periods in each year;

(b) he fell within paragraph (a) above within a prescribed period immediately preceding the making of the provision in question; or

(c) he is for the time being resident in a camp or other accommodation or establishment provided for refugees or for displaced or similar persons.

(3) Regulations under subsection (1) above may—

(a) prescribe classes or descriptions of expenditure in respect of which grants are payable under the regulations;

(b) provide for the determination of the amount of any grant so payable;

(c) provide for the payment of any such grant to be dependent on the fulfilment of such conditions as may be determined by or in accordance with the regulations; and

(d) provide for requiring [F263]. . . **[**[F264F263]. . . institutions within the further education sector**]** to whom payments have been made under the regulations to comply with such requirements as may be so determined.

Textual Amendments

F263 Words in s. 210(1)(3)(d) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

F264 Words in s. 210(1)(3)(d) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 Pt. I para. 46**; S.I. 1992/831, art. 2, **Sch. 3**.

Marginal Citations

M25 1962 c. 12.

211 Grants in respect of special provision for immigrants

The power conferred by section 11 of the [M26]Local Government Act 1966 shall apply in relation to the payment of grants by the Secretary of State to—

[F265](a) . . . . . .

[F265](b) . . . . . .

[F266](c) . . . . . .

who, in his opinion, make special provision in consequence of the presence within the locality of [F267]. . . the institution of substantial numbers of such immigrants as are described in section 11 of that Act as it applies in relation to the payment of grants to a local authority who in his opinion are required to make such provision in exercise of any of their functions in consequence of the presence within their area of substantial numbers of such immigrants.

Textual Amendments

F265 S. 211(a)(b) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39).

F266 S. 211(c) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 47(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

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F267 Words in s. 211 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

Modifications etc. (not altering text)

C128 S. 211 (1)(ba) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 1**

C129 S. 211 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**.

C130 S. 211 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt. I**.

Marginal Citations

M26 1966 c. 42.

[F268]212 . . . . . .

Textual Amendments

F268 S. 212 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I**. (with ss. 1(4), 561, 562, Sch. 39).

[F269]213 . . . . . .

Textual Amendments

F269 S. 213 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

Unrecognised degrees

214 Unrecognised degrees.

(1) Any person who, in the course of business, grants, offers to grant or issues any invitation relating to any award—

(a) which may reasonably be taken to be an award granted or to be granted by a United Kingdom institution; and

(b) which either—

(i) is described as a degree; or

(ii) purports to confer on its holder the right to the title of bachelor, master or doctor and may reasonably be taken to be a degree;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Subsection (1) above does not apply as respects anything done in relation to any recognised award; and for the purposes of this section a "recognised award" means—

(a) any award granted or to be granted by a university, college or other body which is authorised by Royal Charter or **[**[F270]by or under**]**Act of Parliament to grant degrees;

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(b) any award granted or to be granted by any body for the time being permitted by any body falling within paragraph (a) above to act on its behalf in the granting of degrees; or

(c) such other award as the Secretary of State may by order designate as a recognised award for the purposes of this section.

(3) An order under subsection (2)(c) above may designate as a recognised award either—

(a) a specified award granted or to be granted by a person named in the order; or

(b) any award granted or to be granted by such a person.

(4) Where in any proceedings for an offence under this section it is shown—

(a) that the defendant granted, offered to grant or issued an invitation relating to an award; and

(b) that an address in the United Kingdom was given in any document issued by the defendant certifying the granting of the award or containing the offer or invitation in question;

the award shall be presumed to fall within subsection (1)(a) above unless it is shown that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer or invitation was addressed that the award was not granted or to be granted by a United Kingdom institution.

(5) In any proceedings for an offence under this section it shall be a defence for the defendant to show—

(a) that the award in question was granted or to be granted by virtue of authority conferred on or before 5th July 1988 by a foreign institution on the body granting the award; and

(b) that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer was addressed that the award was granted or was to be granted by virtue of authority conferred by a foreign institution.

(6) For the purposes of subsection (5) above, where—

(a) on or before 5th July 1988 authority was conferred by a foreign institution on a body to grant awards of any description for a period expiring after that date; and

(b) new authority is conferred by the institution (whether before or after the expiry of that period) on the body to grant awards of that description;

the new authority shall be taken to have been granted on or before that date.

(7) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(8) Proceedings for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of a local weights and measures authority or the chief officer of police for a police area.

(9) Nothing in this section shall apply in relation to the granting of an award to a candidate who—

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(a) before 12th May 1988 began to undertake a course of education approved by the person granting the award in preparation for an examination to qualify for the award; and

(b) whether before or after that date, passes the examination;

and in this subsection "examination" includes any form of assessment and the reference to passing an examination shall be construed accordingly.

[[F271](9A) For the purposes of this section and section 215, as they extend to Scotland, the reference to the Secretary of State is to be read as a reference to the Scottish Ministers.**]**

(10) For the purposes of this section—

(a) a "United Kingdom institution" means any institution established in the United Kingdom, other than one which is, or is affiliated to or forms part of, an institution whose principal establishment is situated outside the United Kingdom;

(b) a "foreign institution" means any institution other than a United Kingdom institution; and

(c) the reference to issuing an invitation relating to any award includes in particular the issuing of any circular, prospectus or advertisement relating to an award, whether addressed to the public generally, to any section of the public, or to any particular individual or individuals.

Textual Amendments

F270 Words in s. 214(2)(a) inserted (6.5.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 48**; S.I. 1992/831, art. 2, **Sch. 1**.

F271 S. 214(9A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 91(2)**; S.I. 1998/3178, **art. 3**

215 Unrecognised degrees: enforcement.

(1) It shall be the duty of every local weights and measures authority to enforce the provisions of section 214 of this Act within their area; and such an authority shall, whenever the Secretary of State so directs, make to him a report on the exercise of their functions under this section and section 214 of this Act in such form and containing such particulars as he may direct.

(2) A duly authorised officer of a local weights and measures authority may, at all reasonable hours and on production, if required, of his credentials, exercise the following powers, that is to say—

(a) he may, for the purpose of ascertaining whether any offence under section 214 of this Act has been committed, enter and search any premises which he reasonably believes may be used for or in connection with the carrying on of a business which is concerned with the granting of awards which are not recognised awards;

(b) he may, for that purpose, require any person carrying on or employed in connection with any such business to produce any documents or other items relating to the business and may take copies of any such document;

(c) he may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken

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away and in which it is visible and legible if he has reason to believe that it may be evidence of the commission of an offence under that section; and

(d) he may seize and detain anything which he has reason to believe may be evidence of the commission of an offence under that section.

(3) In subsection (2) above "recognised award" has the same meaning as in section 214 of this Act.

(4) If a justice of the peace, on sworn information in writing—

(a) is satisfied that there is reasonable ground to believe that any documents or other items which a duly authorised officer has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under section 214 of this Act; and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of a local weights and measures authority to enter the premises, if need be by force.

In the application of this subsection to Scotland, "justice of the peace" shall be construed as including a sheriff.

(5) An officer seizing any documents or other items in the exercise of his powers under this section shall inform the person from whom they are seized.

(6) An officer entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under subsection (4) above he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

(7) Section 29 of the [M27]Trade Descriptions Act 1968 (penalty for obstruction of authorised officers) shall apply as respects the obstruction of an officer acting in pursuance of this section as it applies as respects the obstruction of an officer acting in pursuance of that Act but with the substitution in subsection (1)—

(a) of a reference to this section for the reference to section 28 of that Act; and

(b) of a reference to his functions under this section for the reference to his functions under that Act.

(8) Nothing in this section shall be taken to compel the production by a solicitor of a document or other item containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such item which is in his possession.

(9) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

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Marginal Citations
M27 1968 c. 29.

216 Identification of bodies granting or providing courses for recognised awards.

(1) For the purposes of sections 214 and 215 of this Act, any body for the time being designated by order made by the Secretary of State as appearing to him to be a recognised body shall be conclusively presumed to be such a body.

(2) The Secretary of State shall compile, maintain and publish by order a list including the name of every body which appears to him to fall for the time being within subsection (3) below.

[[F272](2A) For the purposes of this section, as it extends to Scotland, the references in subsections (1) and (2) above to the Secretary of State are to be read as references to the Scottish Ministers.**]**

(3) A body falls within this subsection if it is not a recognised body and either—
- (a) provides any course which is in preparation for a degree to be granted by a recognised body and is approved by or on behalf of the recognised body; or
- (b) is a constituent college, school or hall or other institution of a university which is a recognised body.

(4) In this section "recognised body" means a body falling within section 214(2)(a) or (b) of this Act.

Textual Amendments
F272 S. 216(2A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 91(3)**; S.I. 1998/3178, **art. 3**.

217 Unrecognised degrees: Northern Ireland and Channel Islands.

(1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M28]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is only made for purposes corresponding to the purposes of sections 214 to 216 of this Act—
- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule; but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Her Majesty may by Order in Council direct that those sections shall extend to any of the Channel Islands with such adaptations and modifications (if any) as may be specified in the Order.

Marginal Citations
M28 1974 c. 28.

Status: *Point in time view as at 31/03/2002. This version of this Act contains provisions that are not valid for this point in time.*
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Miscellaneous provisions

VALID FROM 01/06/2003

[F273218 School and further and higher education regulations.

(1) The Secretary of State may by regulations make provision—

(a) for requiring persons employed as teachers at schools, subject to such exceptions as may be provided for by or under the regulations, to be qualified teachers;

F274[(aa) for requiring persons employed as teachers at schools, subject to such exceptions as may be provided for by or under the regulations, to be registered in accordance with section 3 of the Teaching and Higher Education Act 1998 by the General Teaching Council for England or (after their establishment) by the General Teaching Council for Wales;]

F275[(ab) for requiring persons employed as head teachers at schools, subject to such exceptions as may be provided for by or under the regulations, to possess a professional headship qualification;]

(b) for requiring persons employed as teachers at institutions falling within subsection (10) below to possess such qualifications as may be determined by or under the regulations;

(c) for requiring persons employed as teachers at F276. . . such institutions to serve probationary periods;

(d) with respect to the teaching staff to be provided in schools and such institutions;

(e) for requiring the approval of the Secretary of State to be obtained for the use in F277. . . such institutions of such materials or apparatus as may be specified in the regulations, being materials or apparatus which could or might involve a serious risk to health;

(f) with respect to the keeping, disclosure and transfer of educational records about [F278persons receiving education] at F277. . . such institutions and the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations;

F279(g) . . . . . .

(2) In subsection (1) above "qualified teacher" means a person who—

(a) is a qualified teacher in accordance with any provision made by or under the regulations; or

(b) is determined to be a qualified teacher by the Secretary of State in accordance with any provision so made;

and the regulations may provide for any determination by the Secretary of State under the regulations with respect to a person's status as a qualified teacher to be made so as to have effect, in such cases or circumstances as may be specified in the regulations, from a date earlier than the determination.

F280[(2A) Regulations under subsection (2)(a) above may make provision—

(a) by reference to the successful completion of a course of initial training for teachers in schools at an accredited institution; and

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(b) conferring on the Teacher Training Agency or the Higher Education Funding Council for Wales such functions in relation to accreditation or otherwise as may be prescribed.**]**

F281 **[** (2AA) Before making any regulations under subsection (2) or (2A) or making any provision by virtue of regulations made under those subsections as to the standards required of a person who wishes to become a qualified teacher, the Secretary of State shall consult either or both of the following (as appropriate)—

(a) the General Teaching Council for England, and

(b) after their establishment, the General Teaching Council for Wales.**]**

F282 **[** (2B) Regulations under subsection (2) above may impose requirements on persons carrying on city technology colleges **[**F283, city colleges for the technology of the arts or city academies**]]** as to the training and teaching experience of persons employed as teachers at such colleges **[**F284or academies**]** who seek to become (in relation to schools) qualified teachers.

F285 **[** (2C) In subsection (1)(ab) above "professional headship qualification" means a qualification which—

(a) is a professional headship qualification in accordance with any provision made by or under the regulations; or

(b) is determined to be a professional headship qualification by the Secretary of State in accordance with any provision so made;

and the regulations may provide for any determination by the Secretary of State under the regulations with respect to the status of a qualification as a professional headship qualification to be made so as to have effect, in such cases or circumstances as may be specified in the regulations, from a date earlier than the determination.

(2D) The requirement imposed by virtue of subsection (1)(ab) above shall (subject to the exceptions mentioned in that provision) apply to every person who is appointed as head teacher of a school on or after the date when that requirement comes into force unless he has held such an appointment before that date.

(2E) Regulations under subsection (2C) above may make provision conferring, or enabling the Secretary of State to confer, on bodies or persons determined by or in accordance with the regulations such functions in relation to the accreditation of courses or the awarding of qualifications or otherwise as may be so determined.

(2F) Regulations under that subsection may require any body or person who awards a professional headship qualification (within the meaning of that subsection) to notify the Secretary of State, or such other body or person as he may determine, of—

(a) the name of any person awarded that qualification, and

(b) such other information relating to that person as may be prescribed.**]**

(3) The provision authorised by paragraph (a) of subsection (1) above with respect to exceptions from any requirement imposed by virtue of that paragraph includes in particular provision permitting the employment as there mentioned, in such cases or circumstances and subject to such conditions as may be specified in or determined under the regulations, of **[**F286persons licensed or otherwise authorised to teach by the Secretary of State or the Teacher Training Agency**]** in accordance with any provision made by or under the regulations.

(4) Regulations made by virtue of subsection (1)(f) above may authorise persons who in pursuance of the regulations supply copies of any such records as are there mentioned

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to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

(5) The Secretary of State may by regulations make provision for imposing requirements as to the health and physical capacity of—

(a) teachers at schools and institutions falling within subsection (10) or (11) below;

(b) teachers employed by local education authorities otherwise than at schools or such institutions; and

(c) persons employed—

(i) by local education authorities; or

(ii) by the governing bodies of schools or such institutions;

in work otherwise than as teachers which brings them regularly into contact with persons who have not attained the age of nineteen years.

(6) The Secretary of State may by regulations make provision for prohibiting or restricting the employment or further employment of persons—

(a) as teachers at schools and institutions falling within subsection (10) or (11) below;

(b) by local education authorities as teachers otherwise than at schools or such institutions; [F287]. . .

(c) by local education authorities or by the governing bodies of schools or such institutions in such work as is mentioned in subsection (5)(c) above; **[**[F288]or**]**

[F289]**[** (d) by the proprietors of independent schools or at such schools as teachers or in any such work**]**

[[F290]on the grounds mentioned in subsection (6ZA) below**]**.

[F291]**[** (6ZA) The grounds are—

(a) medical grounds;

(b) the grounds of misconduct;

(c) the grounds that the persons concerned are not fit and proper persons to be employed as teachers or in such work as is mentioned in subsection (5)(c) above;

(d) the grounds that the persons concerned are included (otherwise than provisionally) in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999 (list of individuals considered unsuitable to work with children); and

(e) as respects employment or further employment as teachers, educational grounds.**]**

[F292]**[** (6A) The Secretary of State may by regulations impose requirements on—

(a) local education authorities,

(b) the governing bodies of schools or institutions falling within subsection (10) below, or

(c) the proprietors of independent schools,

for the purpose of prohibiting or restricting, **[**[F293]on the grounds mentioned in subsection (6ZA)(a) to (d) above**]]** access to persons who have not attained the age of nineteen years by persons (not falling within subsection (6) above) who provide services falling within subsection (6B).

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(6B) Those services are services provided in relation to the school or institution or persons attending it which—

(a) are provided by whatever means and whether under contract or otherwise, and

(b) bring the persons providing them regularly into contact with persons who have not attained the age of nineteen years.

(7) The Secretary of State may by regulations make provision requiring his approval [F294]. . .to be obtained for the provision of new premises for, or the alteration of the premises of—

(a) any [F295]. . . institution falling within subsection (10) below; or

(b) any boarding hostel provided by a local education authority for **[**[F296]persons receiving education at**]**. . .any such institution;

and for the inspection of any such hostel.

[F297](8) . . . . . .

(9) The Secretary of State may by regulations make provision—

(a) with respect to the fees to be charged for courses of further education at institutions falling within subsection (10) or (11) below;

(b) for requiring his approval to be obtained for the provision at such institutions of courses designated by or under the regulations as courses of initial teacher training **[**[F298]or courses leading to a professional headship qualification for the purposes of subsection (1)(ab) above**]**;

(c) for enabling him to give directions for the discontinuance of any such course at such an institution or as to the number and categories of students to be admitted to such courses at such institutions; and

(d) with respect to institutions in Wales falling within subsection (10) below—

(i) for requiring his approval to be obtained for the provision at such institutions of courses of higher education; and

(ii) for enabling him to give directions for the discontinuance of any such course at such an institution or as to the number and categories of students to be admitted to such courses at such institutions.

(10) An institution falls within this subsection if it provides higher education or futher education (or both) and either—

(a) it is maintained by a local education authority; or**[**[F299](aa) it is within the further education sector**]**

[F300](b) . . . . . .

(11) An institution falls within this subsection if it is an institution within **[**[F301]the higher education sector in receipt of financial support under section 65 of the Further and Higher Education Act 1992**]**.

[F302](12) **[** In this section (except in subsection (6)(d) or (6A) above) "school" means any school maintained by a local education authority or any special school not so maintained.**]**

[F303](13) **[** For the purposes of this section—

(a) any reference to persons employed as teachers includes a reference to persons engaged to provide their services as teachers otherwise than under contracts of employment; and

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(b) any reference to teachers or other persons employed by local education authorities or by any description of governing bodies or proprietors includes a reference to teachers or other persons engaged to provide their services for such authorities, governing bodies or proprietors (as the case may be) otherwise than under contracts of employment;

and any reference to employment (or further employment) shall be construed accordingly.**]**

[In this section "head teacher" does not include an acting head teacher.**]]**

F304(14)

Textual Amendments

F273 S. 218 repealed (31.3.2003 (W) and otherwise*prosp.*) by 2002 c. 32, ss. 146, 215(2), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, **Sch. Pt. I**

F274 S. 218(1)(aa) inserted (5.4.2000) by 1998 c. 30, **s. 11** (with ss. 42(8)); S.I. 2000/970, **art. 2**

F275 S. 218(1)(ab) inserted (*prosp.*) by 1998 c. 30, **ss. 18(2)**, 46(4) (with ss. 42(8)).

F276 S. 218(1)(c) repealed (1.10.1998) by 1998 c. 30, s. 44(2), **Sch. 4** (with s. 42(8)); S.I. 1998/2215, **art. 2**.

F277 Words in s. 218(1)(e)(f) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, Sch. 37 Pt. I para. 76(2)(a), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F278 Words in s. 218(1)(f) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 49(a)**; S.I. 1992/831, art. 2, **Sch. 3**.

F279 S. 218(1)(g) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, Sch. 37 Pt. I para. 76(2)(b), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F280 S. 218(2A) inserted (21.9.1994) by 1994 c. 30, **s. 14(1)**; S.I. 1994/2204, **art. 2(1)**.

F281 S. 218(2AA) inserted (1.9.2000) by 1998 c. 30, **s. 13** (with s. 42(8)); S.I. 2000/970, **art. 3**

F282 S. 218(2B) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 76(3)** (with ss. 1(4), 561, 562, Sch. 39).

F283 Words in s. 218(2B) substituted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 18(a)**

F284 Words in s. 218(2B) inserted (28.7.2000 insofar as consequential on ss. 130, 131, Sch. 8 of the amending Act and otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 18(b)**

F285 S. 218(2C)-(2F) inserted (*prosp.*) by 1998 c. 30, **ss. 18(3)**, 46(4) (with s. 42(8)).

F286 Words in s. 218(3) substituted (21.9.1994) by 1994 c. 30, **s. 14(3)**; S.I. 1994/2204, **art. 2(1)**.

F287 Word in s. 218(6)(b) omitted by virtue of s. 290(3)(a); S.I. 1993/3106, art. 9, **Sch. 1** (amended by S.I. 1994/436, **art. 2**).

F288 Word in s. 218(6)(c) inserted (1.1.1994) by 1993 c. 35, **s. 290(3)(b)**; S.I. 1993/3106, art. 9, **Sch. 1** (amended by S.I. 1994/436, **art. 2**) (which insertion is continued after the repeal of 1993 c. 35 (1.11.1996) by 1996 c. 56, ss. 582(2), 583, Sch. 38 Pt. I (with ss. 1(4), 561, 562, **Sch. 39**).

F289 S. 218(6)(d) inserted (1.1.1994) by 1993 c. 35, **s. 290(3)(b)**; S.I. 1993/3106, art. 9, **Sch. 1** (amended by S.I. 1994/436, **art. 2**); (which insertion is continued after the repeal of 1993 c. 35 (1.11.1996) by 1996 c. 56, ss. 582(2), 583, Sch. 38 Pt. I (with ss. 1(4), 561, 562, **Sch. 39**).

F290 Words in s. 218(6) substituted (1.9.2000) by 1999 c. 14, **s. 5(1)**; S.I. 2000/2337, **art. 2(1)(c)**

F291 S. 218(6ZA) inserted (1.9.2000) by S.I. 1999 c. 14, **s. 5(2)**; S.I. 2000/2337, **art. 2(1)(c)**

F292 S. 218(6A)(6B) inserted (1.10.1997) by 1997 c. 44, **s. 49(2)**; S.I. 1997/1468, art. 2(3), **Sch. Pt. III**.

F293 Words in s. 218(6A) substituted (1.9.2000) by 1999 c. 14, **s. 5(3)**; S.I. 2000/2337, **art. 2(1)(c)**

F294 Words in s. 218(7) repealed (1.11.1996) by virtue of 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F295 Words in s. 218(7) repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583, Sch. 37 Pt. I para. 76(4), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F296 Words in s. 218(7)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 49(b)**; S.I. 1992/831, art. 2, **Sch. 3**.

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F297 S. 218(8) repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583, Sch. 37 Pt. I para. 76(5), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).
F298 Words in s. 218(9)(b) inserted (*prosp.*) by 1998 c. 30, **ss. 18(4)**, 46(4) (with s. 42(8)).
F299 S. 218(10)(aa) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 49(c)(i)**; S.I. 1992/831, art. 2, **Sch. 3**.
F300 S. 218(10)(b) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 49(c)(ii), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.
F301 Words in s. 218(11) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 Pt. I para. 49(d)**; S.I. 1992/831, art. 2, **Sch. 3**.
F302 S. 218(12) substituted (1.9.1999) by 1998 c. 31, s. 140, **Sch. 30 para. 17** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.
F303 S. 218(13) inserted (1.3.1998) by 1997 c. 44, **s. 49(4)**; S.I. 1998/386, art. 2(1), **Sch. 1 Pt. I**.
F304 S. 218(14) added (*prosp.*) by 1998 c. 30, **ss. 18(5)**, 46(4) (with s. 42(8)).

Modifications etc. (not altering text)
C131 S. 218(2)(3) modified (1.9.2000) by 1998 c. 30, **s. 10(1)** (with s. 42(8)); S.I. 2000/970, **art. 3**
C132 S. 218(2B) modified (1.11.1996) by 1996 c. 56, **ss. 482(5)**, 583 (with ss. 1(4), 561, 562, Sch. 39).
C133 S. 218(6) extended (1.9.2000) by 1999 c. 14, **s. 6**; S.I. 2000/2337, **art. 2(1)(d)**
S. 218(6): functions exercisable by the Assembly concurrently with the Secretary of State (W.) (1.8.2000) by virtue of S.I. 1999/672, **Sch. 1** (as substituted (1.8.2000) by S.I. 2000/1829, **art. 2**)
C134 S. 218(13) applied (12.3.2002 for E. and W. otherwise*prosp.*) by 1997 c. 50, **s. 113(3A)** (as inserted (12.3.2002 for E. and W. otherwise*prosp.*) by 1999 c. 14, **ss. 8(1)**, 14(2); S.I. 2002/1436, **art. 2**).

[F305 218A Regulations under section 218(6): further provision.

(1) The power to make regulations under subsection (6) of section 218 above includes power to provide that a person may appeal to the Tribunal against—
  (a) a decision to prohibit or restrict the person's employment or further employment on the grounds mentioned in subsection (6ZA)(a) to (d) of that section; or
  (b) a decision not to revoke or vary such a decision as is mentioned in paragraph (a) above.

(2) The regulations may—
  (a) make provision as to the circumstances in which the Tribunal shall allow an appeal under the regulations and as to the powers available to it on allowing such an appeal;
  (b) provide that, where a person has been convicted of an offence involving misconduct, no finding of fact on which the conviction must be taken to have been based shall be challenged on an appeal under the regulations.

(3) The power to make regulations under subsection (6) of that section also includes power to make provision for a person who has been subject, for a prescribed period, to a prohibition or restriction imposed by virtue of that subsection on relevant grounds to apply, with the leave of the Tribunal, for a review of the prohibition or restriction.

(4) The regulations may make provision as to—
  (a) the circumstances in which an application for leave, or a review, under the regulations shall be determined in the person's favour;
  (b) the powers available to the Tribunal on determining a review in the person's favour.

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(5) In this section—

(a) "relevant grounds" means the grounds mentioned in section 218(6ZA)(c) above;

(b) "the Tribunal" means the Tribunal established under section 1 of the [M29]Protection of Children Act 1999.**]**

Textual Amendments

F305 S. 218A inserted (11.1.2001) by 2000 c. 43, ss. 74, **Sch. 7 Pt. II para. 83**; S.I. 2000/3302, **art. 2(b)**

Marginal Citations

M29 1999 c. 14.

[[F306]219 Powers of the Secretary of State in relation to certain educational institutions.

(1) This section applies to any institution which is maintained by a local education authority and provides higher education or further education (or both).

(2) Section 495(1) of the Education Act 1996 (determination of disputes by the Secretary of State) shall apply in relation to the governing body of an institution to which this section applies as it applies in relation to the governing body of a school.

(3) Each of sections 496 and 497 of that Act (power of Secretary of State to prevent unreasonable exercise of functions and Secretary of State's general default powers) shall have effect as if any reference to a body to which that section applies included a reference to the governing body of an institution to which this section applies.

(4) Section 498 of that Act (powers of Secretary of State where there is no properly constituted governing body) shall have effect as if any reference to a school to which that section applies included a reference to an institution to which this section applies.**]**

Textual Amendments

F306 S. 219 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para.77** (with ss. 1(4), 561, 562, Sch. 39).

[F307]220 Extension of functions of Audit Commission.

. . . . . .

Textual Amendments

F307 S. 220 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch.5**.

221 Avoidance of certain contractual terms.

(1) This section applies to any contract made after 20th November 1987 between—

(a) a local education authority in their capacity as such an authority;

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(b) the governing body of **[**[F308]a foundation, voluntary aided or foundation special school;**]**; or

[F309](c) . . . . . .

and any person employed by them, not being a contract made in contemplation of the employee's pending dismissal by reason of redundancy.

(2) In so far as a contract to which this section applies provides that the employee—

(a) shall not be dismissed by reason of redundancy; or

(b) if he is so dismissed, shall be paid a sum in excess of the sum which the employer is liable to pay him under **[**[F310]section 135 of the Employment Rights Act 1996**]**,

the contract shall be void and of no effect.

(3) In this section—

"governing body", in relation to an institution, includes a body corporate established for the purpose of conducting that institution;

[F311] . . .

(a) provides higher education or further education (or both); and

(b) is either a designated assisted institution or an institution which is grant-aided or eligible to receive aid by way of grant.

Textual Amendments

F308 Words in s. 221(1)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.18** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

F309 S. 221(1)(c) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 52, **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

F310 Words in s. 221(2)(b) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 37(4)** (with ss. 191-195, 202).

F311 Definition in s. 221(3) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 52, **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

Modifications etc. (not altering text)

C135 S. 221 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**.

C136 S. 221 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. Pt. I**.

[F312]222 . . . . . .

Textual Amendments

F312 S. 222 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

[F313]223 . . . . . .

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Textual Amendments

F313 S. 223 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch.16**; S.I. 2000/183, **art. 2(1)**

224 Superannuation for staff of Further Education Unit.

(1) The persons to whom section 1 of the [M30]Superannuation Act 1972 applies (persons to or in respect of whom benefits may be provided by schemes under that section) shall include—

(a) persons who at any time after the passing of this Act are serving in employment with the company formed and registered under the [M31]Companies Act 1948 and known at the passing of this Act as the Further Education Unit; and

(b) persons who at any time before the passing of this Act have ceased to serve in employment with that company;

and accordingly a reference to that company shall be inserted at the appropriate point in the alphabetical list of "Other Bodies" in Schedule 1 to that Act.

(2) That company 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 this section in the sums payable out of money provided by Parliament under that Act.

Marginal Citations

M30 1972 c. 11.

M31 1948 c. 38.

[F314]225 . . . . . .

Textual Amendments

F314 S. 225 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

226 Services for schools in other member States providing education for British children.

(1) This section applies to any school which—

(a) is situated in a member State other than the United Kingdom;

(b) provides education for pupils who are British citizens, have attained the age of five years but not the age of nineteen years and are residing in that member State;

(c) has a curriculum which, in the case of any pupil at the school, is broadly similar to the curriculum which he would follow if he were a pupil at a maintained school in England and Wales; and

(d) has such other characteristics as may be prescribed.

(2) In the case of a school to which this section applies the Secretary of State shall—

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(a) on a regular basis provide the persons responsible for the management of the school with such information relating to educational developments in England and Wales as he thinks appropriate; and

(b) if those persons so request, make arrangements for inspections to be made of the school **[**[F315]by, or under the direction of, one or more of Her Majesty's Inspectors of Schools for England**]**.

(3) The Secretary of State shall charge the persons at whose request any inspection of a school is made under this section such fees as will cover the full cost of the inspection.

(4) In this section "maintained school" means **[**[F316]any community, foundation or voluntary school.**]**.

Textual Amendments

F315 Words in s. 226(2)(b) substituted (31. 8. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 7**; S.I. 1992/1157, art. 2, **Sch.** (which amendment was continued first by School Inspections Act 1996 (c. 57), ss. 47(1), 48(2), **Sch. 6 para. 4** and subsequently by Education Act 2005 (c. 18), s. 125(4), Sch. 9 para. 5(1), **(2)**).

F316 Words in s. 226(4) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.19** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

Wales

[[F317]**227** . . . . . .

Textual Amendments

F317 S. 227 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

228 Transfer of property to grant-aided institutions in Wales.

(1) This section applies to any institution in Wales which—

(a) is conducted by a body corporate; and

(b) has a full-time equivalent enrolment number for courses of higher education which exceeds 55 per cent. of its total full-time equivalent enrolment number.

(2) Where in the case of any institution to which this section applies—

(a) the Secretary of State proposes to make to the body conducting the institution grants under regulations made under **[**[F318]section 485 of the Education Act 1996**]**; and

(b) any land or other property of a local education authority is for the time being used or held, or any subsisting rights or liabilities of such an authority were acquired or incurred, for the purposes of the institution;

the Secretary of State may by order designate the institution for the purposes of this section.

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(3) Subject to the following provisions of this section, on the date on which any designation of an institution under this section takes effect the property, rights and liabilities mentioned in subsection (4) below shall be transferred to, and by virtue of this Act vest in, the body corporate by whom the institution is conducted.

(4) The property, rights and liabilities referred to in subsection (3) above are—

(a) all land or other property which, immediately before that date, was property of any local education authority used or held for the purposes of the designated institution; and

(b) all rights and liabilities of any such authority subsisting immediately before that date which were acquired or incurred for those purposes.

(5) Subsection (3) above shall not apply to—

(a) any liability of any such authority in respect of the principal of, or any interest on, any loan; or

(b) any liability of any such authority in respect of compensation for premature retirement of any person formerly employed by them.

(6) Section 198 of this Act shall apply to a transfer under this section; and the preceding provisions of this section are subject to Schedule 10 to this Act.

(7) In the application of that Schedule in relation to a transfer under this section references in paragraph 1 to a relevant institution shall include references to an institution designated under this section.

(8) Section 199 of this Act shall apply to an institution designated under this section; and for the purposes of that section as it applies by virtue of this section subsection (2) of that section shall apply as if paragraph (a) defined an excepted liability as one which would have been transferred under subsection (3) of this section but for subsection (5)(a) of this section.

(9) Expressions used in this section to which a meaning is given for the purposes of Part II of this Act have the same meaning in this section; and section 138 of this Act shall apply for the purpose of the construction of subsections (2)(b) and (4)(a) above.

(10) In this Act "transfer date" means, in relation to an institution designated under this section, the date on which the designation of that institution takes effect.

Textual Amendments

F318 Words in s. 228(2)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para.79** (with ss. 1(4), 561, 562, Sch. 39).

229 Power to make different provision for Wales in regulations under the 1944 and 1967 Acts.

[F319](1) . . . . . .

(2) In section 4 of the [M32]Education Act 1967 (loans for capital expenditure for purposes of colleges of education), after subsection (3) there shall be inserted the following subsection—

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"(3A) Regulations under this section may make in relation to Wales provision different from that made in relation to England."

Textual Amendments

F319 S. 229(1) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

Marginal Citations

M32 1967 c. 3.

Supplementary

230 Stamp duty.

(1) Subject to subsection (4) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following provisions of this Act, namely—

F320 . . .

F321 . . .

F321 . . .

F321 . . .

section 126 (taken with Schedule 10);

section 128(1)(b);

section 130 (taken with Schedule 10);

F322 . . .

section 168(1) and (2);

section 180(1);

section 190(5);

section 192;

section 201(5) and (7); and

section 228 (taken with Schedule 10).

[F323(2) Subject to subsection (4) below, stamp duty shall not be chargeable in respect of any transfer to a local education authority under or by virtue of section 95(6) or (7) or 101(2) of this Act of property which immediately after the transfer is held by the authority for the purposes of an institution (or institutions) falling within subsection (3) below.**]**

[F323(3) An institution falls within this subsection if it is—

(a) a university;

F324(b) an institution within the higher education sector**]**

(c) an institution which provides higher education or further education (or both) and is either—

(i) maintained by a local education authority; or

F325(ii) . . . . . .

[F326(ca) an institution within the further education sector**]**

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(d) a school maintained by a local education authority; or

(e) a grant-maintained school.

(4) No instrument (other than a statutory instrument) made or executed—

(a) under or in pursuance of any of the provisions mentioned in subsection (1) above; or

[[F323](b) for the purpose of giving effect to any such transfer as is mentioned in subsection (2) above;**]**

shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the [M33]Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the [M34]Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

Textual Amendments

F320 Words in s. 230(1) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

F321 Words in s. 230(1) repealed (1.1.1994 in respect of repeals of "section 74(taken with Schedule 10)" and otherwise 1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19, para. 137(a), **Sch. 21**, Pt. I ; S.I. 1993/3106, art. 4, **Sch. 1** (with art. 5, Sch. 2) (amended by S.I. 1994/436, **art. 2**); S.I. 1994/507, art. 4, **Sch. 2**, Appendix.

F322 Words in s. 230(1) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 55(a), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

F323 S. 230(2)(3)(4b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 137(b), **Sch. 21**, Pt. I; S.I. 1994/507, art. 4, **Sch. 2**, Appendix.

F324 S. 230(3)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 55(b)(i)**; S.I. 1992/831, art. 2, **Sch. 3**.

F325 S. 230(3)(c)(ii) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 55(b)(ii), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

F326 S. 230(3)(ca) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 55(b)(iii)**; S.I. 1992/831, art. 2, **Sch. 3**.

Marginal Citations

M33 1982 c. 39.

M34 1891 c. 39.

231 Power to make incidental, consequential, transitional and supplementary provisions.

(1) The Secretary of State may at any time by order make such provision amending, repealing or revoking (with or without savings) any provision of a local Act passed, or an instrument under a local Act made, before the passing of this Act as appears to him to be necessary or expedient in consequence of any of the provisions of this Act.

(2) The Secretary of State may at any time by order make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or expedient for the general purposes or any particular purposes of Part III of this Act or in consequence of any of its provisions or for giving full effect to it.

(3) An order under subsection (2) above may in particular make provision—

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(a) for enabling any authority or body by whom any powers will become exercisable on the abolition date by virtue of any provision made by or under Part III of this Act to take before that date any steps (such as the establishment of committees, the making of arrangements with other authorities or bodies with respect to the exercise of those powers or the undertaking of consultations) which are necessary or expedient in preparation for the exercise of those powers;

(b) for enabling the Secretary of State to take before that date in relation to any such authority or body or in relation to anything done by that authority or body in accordance with any provision made by an order under that subsection any steps which are necessary or expedient for the purpose of the exercise by that authority or body of those powers;

(c) for the making before that date of arrangements for securing the satisfactory operation from that date of any provision made by or under that Part and for defraying the cost of any such arrangements;

(d) for amending, repealing or revoking (with or without savings) any provision of an Act passed, or an instrument under an Act made, before the abolition date, for applying any such provision (with or without modification) and for making savings or additional savings from the effect of any amendment or repeal made by this Act;

(e) with respect to the membership of any body so far as consisting of persons elected by, or appointed by or on the nomination of ILEA, whether alone or together with one or more other bodies.

(4) Without prejudice to the generality of paragraph (d) of subsection (3) above, an order under subsection (2) above making any such provision as is mentioned in any of paragraphs (a) to (c) of subsection (3) above—

(a) may apply in relation to any inner London council any enactment or instrument relating to the functions of local education authorities as if that council were such an authority; and

(b) may apply in relation to any such council any enactment or instrument relating to the functions of local authorities as if that council had before the abolition date any functions specified in the order, being functions which will on that date become exercisable by that council;

for such purposes and subject to such modifications (if any) as may be specified in the order.

(5) The amendments that may be made under subsection (3)(d) above—

(a) shall be in addition and without prejudice to those made by any other provision of this Act; and

(b) shall, in particular, include amendments in consequence of functions under provisions applying to the Inner London Education Area becoming exercisable in their respective areas by the inner London councils.

(6) In this section, expressions to which a meaning is given for the purposes of Part III of this Act have the same meaning as in that Part.

(7) No other provision of this Act shall be construed as prejudicing the generality of the powers conferred by this section.

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232 Orders and regulations.

(1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.

(2) For the purposes of subsection (1) above the excepted provisions are **[**[F327]section 157**]**, paragraph 1(4) of Schedule 7 and paragraph 4 of Schedule 9.

[F328](3) . . . . . .

(4) A statutory instrument containing—

(a) an Order in Council made under section 207 of this Act which amends or repeals any provision of an Act; or

(b) any order or regulations made by the Secretary of State under this Act, other than an order under section [F329]. . . [F330]. . ., 214, 216, [F331]. . . or 236;

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Orders or regulations under this Act may make different provision for different cases or circumstances and may contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.

(6) Without prejudice to subsection (5) above, orders under this Act, and regulations under any provision of this Act [F332]. . ., may make in relation to Wales provision different from that made in relation to England.

Textual Amendments

F327 Words in s. 232(2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 80(a)** (with ss. 1(4), 561, 562, Sch. 39).

F328 S. 232(3) repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583, Sch. 37 Pt. I para. 80(b), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F329 Words in s. 232(4)(b) repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583, Sch. 37 Pt. I para. 80(c), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F330 Words in s. 232(4)(b) repealed (1.1.1994) by 1993 c. 35, ss, 307(1)(3), Sch. 19 para. 138(b)(ii), Sch. 21 Pt. I; S.I. 1993/3106, art. 4, **Sch. 1** Appendix (amended by S.I. 1994/436, **art. 2**),

F331 Word in s. 232(4)(b) repealed (6. 5. 1992) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 56(c), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 1**.

F332 Words in s. 232(6) repealed (1.10.1998) by 1998 c. 30, s. 44(2), Sch. 3 para. 6, **Sch.4** (with s. 42(8)); S.I. 1998/2215, **art.2**.

Modifications etc. (not altering text)

C137 S. 232(4) restricted (1.9.1994) by 1993 c. 35, **s. 241(4)**; S.I. 1994/2038, art. 3(1), **Sch. 2**.

233 Expenses.

There shall be defrayed out of money provided by Parliament—

(a) any expenses incurred by the Secretary of State [F333]. . .under this Act; and

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

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Textual Amendments

F333 Words in s. 233(a) omitted (1.1.1996) by virtue of S.I. 1995/2985, art. 5(1), **Sch. para.5**.

[F334]**234** . . . . . .

Textual Amendments

F334 S. 234 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

235 General interpretation.

(1) In this Act, except where the context otherwise requires—

"the 1944 Act" means the [M35]Education Act 1944;

[F335]. . .

[F336]. . .

"the 1986 Act" means the [M36]Education (No. 2) Act 1986;

"contract of employment", "employee" and "employer" have the same meaning as in **[**[F337]the Employment Rights Act 1996**]**, and "employed" means employed under a contract of employment;

"financial year" means a period of twelve months ending with 31st March;

"functions" includes powers and duties;

"higher education" has the meaning given by section 120(1);

"land" includes buildings and other structures, land covered with water, and any interest in land;

"liability" includes obligation;

"local authority" means a county council, **[**[F338]a county borough council,**]**a district council, a London borough council or the Common Council of the City of London;

"modifications" includes additions, alterations and omissions and "modify" shall be construed accordingly;

"statutory provision" means a provision of an enactment or a statutory instrument;

"transfer date" has the meaning given by section [[F339]74(9)], 123(2), 130(8) or 228(10) as the context may require;

"university" includes a university college and any college, or institution in the nature of a college, in a university.

(2) In this Act—

[F340](a) . . . . . .

(b) references to a higher education corporation shall be read in accordance with section 123(1);

(c) references to an institution which is or was grant-aided at any time are references to an institution maintained by persons who have received any grants under regulations made under section 100(1)(b) of the 1944 Act **[**[F341]or section 485 of the Education Act 1996**]**in respect of expenditure incurred or

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to be incurred for any academic year of that institution current at the time in question;

(d) references to an institution which is eligible to receive aid by way of grant are references to an institution maintained by persons other than local education authorities who for the time being satisfy any requirements of regulations so made with respect to the eligibility of such persons to receive grants under those regulations;

(e) references to courses of higher education are references to courses of any description mentioned in Schedule 6 to this Act;

(f) references to dismissal by reason of redundancy shall, except in section 203, be read in accordance with **[**[F342]section 139 of the Employment Rights Act 1996**]**;

(g) references to an interest in land include references to any easement, right or charge in, to or over land; and

[F340](h) . . . . . .

(3) For the purposes of this Act—

(a) a person employed by a local education authority is to be regarded as employed to work at a school or other institution if his employment with the authority for the time being involves work at that school or institution; and

(b) [F343]. . . a person employed by such an authority is to be regarded as employed to work solely at a school or other institution if his only employment with the authority (disregarding any employment under a separate contract with the authority) is for the time being at that school or institution.

(4) For the purposes of this Act the City of London shall be deemed to include the Inner Temple and the Middle Temple.

(5) Any reference in section [F344]. . ., 126, 130 or 228 of this Act to liabilities incurred by a local education authority shall not be read as including liabilities of such an authority to make payments to or in respect of any person in pursuance of any duty imposed on the authority under any statutory provision.

[[F345](5A) Any reference in any provision of this Act which extends to Scotland to a higher education funding council shall, in the application of that provision to Scotland, be construed as a reference to the Scottish Higher Education Funding Council.**]**

(6) Nothing in any provision of this Act or of any order made under this Act relating to the trusts subject to which any land or other property or rights transferred under this Act are to be held by the transferee shall be taken as prejudicing any modification of those trusts after that transfer under any provision of this Act or otherwise.

(7) Subject to subsection (8) below, this Act shall be construed as one with the **[**[F346]the Education Act 1996**]**.

(8) Where an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of the 1944 Act, the meaning given for the purposes of the **[**[F346]the Education Act 1996**]**shall not apply for the purposes of that provision.

Textual Amendments

F335 Words in s. 235(1) repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583, Sch. 37 Pt. I para. 81(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

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F336 Definition in s. 235(1) repealed (1.9.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 139(a)(i), **Sch. 21 Pt. I**; S.I. 1994/2038, art. 3(1), **Sch. 2**.

F337 Words in s. 235(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 37(5)(a)** (with ss. 191-195, 202).

F338 Words in s. 235 inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 83** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art. 4, **Sch. 2**.

F339 Words in definition of "transfer date" in s. 235(1) repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 139(a)(ii), **Sch. 21**, Pt. I; S.I. 1993/3106, art. 4, **Sch. 1**, Appendix (with art. 5, Sch. 2) (amended by S.I. 1994/436, **art. 2**).

F340 S. 235(2)(a)(h) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 58, **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**.

F341 Words in s. 235(2)(c) inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 81(3)** (with ss. 1(4), 561, 562, Sch. 39).

F342 Words in s. 235(2)(f) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 37(5)(b)** (with ss. 191-195, 202).

F343 Words in s. 235(3)(b) repealed (1.1.1994) by 1993 c. 35,s. 307(1)(3), Sch. 19 para. 139(b), Sch. 21, Pt. I; S.I. 1993/3106, art. 4, **Sch. 1**, Appendix (with art. 5, Sch. 2) (amended by S.I. 1994/436, **art. 2**).

F344 Words in s. 235(5) repealed (1.1.1994) by 1993 c. 35, s. 307(1)(30), Sch. 19 para. 139(c), **Sch. 21**, Pt. I; S.I. 1993/3106, art. 4, **Sch. 1**, Appendix (with art. 5, Sch. 2) (amended by S.I. 1994/436, **art. 2**).

F345 S. 235(5A) inserted (1. 6. 1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), s. 62(2), **Sch. 9 para. 10**; S.I. 1992/817, art. 3(2), **Sch. 2**.

F346 Words in s. 235(7)(8) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 37 Pt. I para. 81(4)** (with ss. 1(4), 561, 562, Sch. 39).

Marginal Citations

M35 1944 c. 31.

M36 1986 c. 61.

236 Commencement.

(1) The following provisions of this Act, namely—

F347 . . .

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sections 137 to 151;

sections 153 to 201, Schedule 8 so far as relating to the Education Assets Board, Schedules 9 and 10 and paragraph 67 of Schedule 12;

sections 202 to 208 and Schedule 11;

F347 . . .

section 217;

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[F348] . . .

sections 221 to 225 and 227 (1);

sections 230 to 235 and Schedule 6;

this section;

Part I of Schedule 12, paragraphs 60, 81, 82 and 102 of that Schedule and section 237(1) so far as relating to those provisions; and

section 238;

shall come into force on the passing of this Act.

[F349](2) . . . . . .

[F349](3) . . . . . .

(4) Part II of Schedule 12, and section 237(1) so far as relating to that Part, shall come into force on 1st April 1990.

(5) Part I of Schedule 13, and section 237(2) so far as relating to that Part, shall come into force on 1st April 1990.

(6) Except as provided above in this section, this Act shall come into force on such date or dates as the Secretary of State may by order appoint.

(7) Different dates may be appointed in relation to different provisions of this Act and for different purposes of the same provision, including (in particular) for the purpose of bringing particular provisions into force only in relation to particular educational institutions or categories of educational institutions.

(8) Any order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions brought into force by the order.

(9) Any such order may include such adaptations of the provisions which it brings into force, or of any other provisions of this Act then in force, as appear to the Secretary of State to be necessary or expedient for the purpose or in consequence of the operation of any provision of this Act (including, in particular, the provisions which the order brings into force) before the coming into force of any other provision.

Textual Amendments

F347 Words in s. 236(1) repealed (1.11.1996) by 1996 c. 56, ss. 582(1), 583, **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

F348 Entry in s. 236(1) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch.31**; S.I. 1999/2323, art. 2(1), **Sch. 1**.

F349 S. 236(2)(3) repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583, **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39).

Modifications etc. (not altering text)

C138 Power of appointment conferred by s. 236(6) partly exercised: S.I. 1988/1459, 1794, 2002, 2271; 1989/164, 501, 719; 1990/391

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237 Amendments and repeals.

(1) Schedule 12 to this Act (which makes minor and consequential amendments) shall have effect.

(2) The enactments mentioned in Schedule 13 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

238 Citation, extent etc.

(1) This Act may be cited as the Education Reform Act 1988.

F350(2) . . . . . .

(3) Subject to subsections (4) to (6) below, this Act does not extend to Scotland or Northern Ireland.

(4) Sections 131, 134, 202 to 205, 207, 214 to 216, 231, 232, 235 and 236, this section and Schedules 8 and 11 extend to Scotland.

(5) Sections 208 and 217(1) extend to Northern Ireland.

(6) The amendment by this Act of an enactment which extends to Scotland or Northern Ireland also extends there.

Textual Amendments

F350 S. 238(2) repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583, **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

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