



Education Reform Act 1988

1988 CHAPTER 40

PART II

HIGHER AND FURTHER EDUCATION

CHAPTER III

FINANCE AND GOVERNMENT OF LOCALLY FUNDED FURTHER AND HIGHER EDUCATION

Government and conduct of maintained further and higher education institutions

151 Instrument and articles of government required for maintained further and higher education institutions

- (1) For every institution providing full-time education which is maintained by a local education authority in exercise of their further or higher education functions 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).
- (2) Subject to subsection (4) below, the instrument of government and articles of government shall be made by order of the local education authority with the approval of the Secretary of State (which may be given subject to such conditions as the Secretary of State thinks fit).
- (3) The Secretary of State may direct a local education authority to amend the instrument or articles of government of any institution to which this section applies in such manner, or for such purpose, as may be specified in the direction; and any amendment made in pursuance of such a direction shall be made by order under subsection (2) above.

Status: This is the original version (as it was originally enacted).

- (4) The Secretary of State may by order amend the instrument or articles of government of any institution to which this section applies.
- (5) An order made under subsection (4) above may relate to all such institutions, to any category of such institutions specified in the order, or to any institution so specified.
- (6) Before giving any direction under subsection (3) above or making any order under subsection (4) above the Secretary of State shall consult such persons as he thinks fit.

152 Provision required in instrument and articles of government

- (1) The instrument of government of any institution to which section 151 of this Act applies shall provide for the governing body to consist of not more than twenty-five members selected and appointed or (as the case may be) co-opted in accordance with the instrument of government, of whom—
 - (a) not less than fifty per cent. shall be members of one or other of the categories mentioned in subsection (2) below; and
 - (b) not more than twenty per cent. shall be persons selected and appointed by the local education authority.
- (2) The categories of members referred to in subsection (1)(a) above are—
 - (a) members selected from among persons appearing to the person or persons selecting them—
 - (i) to be, or to have been, engaged or employed in business, industry or any profession or in any other field of employment relevant to the activities of the institution; or
 - (ii) to represent persons so engaged or employed; and
 - (b) members co-opted by the governing body.
- (3) The instrument of government shall provide that persons who are—
 - (a) members of, or of any committee or sub-committee of, any local authority or local education authority; or
 - (b) employed by any local authority or local education authority;
 are disqualified for being members of the governing body of either category mentioned in subsection (2) above.
- (4) The provision made by the instrument of government by virtue of subsection (3)(a) above shall not be such as to disqualify a member of the governing body for being such a member by reason only of the fact that he becomes, by virtue of that office, a member of a committee or sub-committee of a local authority or local education authority.
- (5) The articles of government of any such institution—
 - (a) shall determine the functions to be exercised respectively, in relation to the institution, by the local education authority, the governing body, the principal, and the academic board (if any); and
 - (b) may regulate the constitution and functions of committees of the governing body and of any academic board of the institution, and of sub-committees of such committees, and provide for the delegation of functions of the governing body and any such academic board to such committees, to the principal or to such other persons as may be specified by or determined in accordance with the articles.

- (6) Notwithstanding any provision made by the instrument of government by virtue of any of the preceding provisions of this section, the local education authority concerned shall appoint all the members of the governing body of any such institution as first constituted in accordance with this section.
- (7) In making those appointments, the authority—
- (a) shall first appoint all members other than members of the category mentioned in subsection (2)(b) above; and
 - (b) shall appoint as the members of that category persons nominated in accordance with the instrument of government by the members already appointed.
- (8) In the case of the initial members within the category mentioned in subsection (2)(a) above, the local education authority shall appoint persons nominated by bodies—
- (a) determined by the authority in accordance with subsection (9) below; and
 - (b) approved by the Secretary of State.
- (9) In determining the bodies who are to be entitled to nominate such persons for appointment, the authority shall consult—
- (a) the governing body of the institution; and
 - (b) such bodies representing business or industrial interests, the professions, trade unions or persons engaged in any field of employment relevant to the activities of the institution as the authority consider appropriate.
- (10) In determining the provision to be included in any instrument or articles of government for an institution to which section 151 of this Act applies, a local education authority shall take into account any guidance given by the Secretary of State as to the provisions he regards as appropriate for inclusion in any such instrument or articles.