



Self-Governing Schools etc. (Scotland) Act 1989

1989 CHAPTER 39

PART II

FURTHER EDUCATION

Supply of goods and services

61 Powers of education authorities to enter agreements and to make loans

- (1) An education authority shall have power to enter into agreements for the supply of goods and services through a college of further education provided by them (such supply being construed in accordance with section 62 of this Act), and, in the exercise of that power, may—
 - (a) form companies under section 1 of the Companies Act 1985;
 - (b) for the purposes of such agreements, and subject to section 63 of this Act, make loans to those companies.
- (2) Subject to the following provisions of this section, an education authority shall not under an agreement made under subsection (1) above supply goods or services for less than their open market value.
- (3) For the purposes of this section the open market value of goods or services shall be taken to be the amount of the consideration in money that would be payable for the supply of those goods or services by a person standing in no such relationship with any person as would affect that consideration.
- (4) Loans may be made under this section for the purposes of an agreement either before the agreement is made or during its currency.
- (5) Nothing in this section shall be construed as—
 - (a) derogating from any powers exercisable by an education authority apart from this section; or

- (b) authorising the carrying on through a college of further education of any commercial activities which are detrimental to the provision of further education at that college.

62 Supply of goods and services through colleges of further education

- (1) For the purposes of section 61 of this Act, goods are supplied through a college of further education if they are—
 - (a) produced in the course of its educational activities;
 - (b) produced by the use of its facilities and the expertise of persons employed at it in the fields in which they are so employed; or
 - (c) derived from ideas of a person employed at it, or of one of its students, arising out of its educational activities.
- (2) For the purposes of the said section 61 services are supplied through such an establishment—
 - (a) if they are provided by making available—
 - (i) its facilities; or
 - (ii) the expertise of persons employed at it in the fields in which they are so employed; or
 - (b) if they—
 - (i) are supplied in the course of its educational activities; or
 - (ii) are derived from ideas such as are mentioned in subsection (1)(c) above.
- (3) For the purposes of this section educational activities are—
 - (a) the provision of teaching and industrial and vocational training;
 - (b) the carrying out of research; and
 - (c) any activity incidental or ancillary to any activity mentioned in paragraph (a) or (b) above.

63 Financial and accounting provisions

- (1) Loans made under section 61 of this Act shall carry interest at a rate not less than a rate determined by the Secretary of State with the consent of the Treasury, and—
 - (a) different rates may be so determined in respect of different categories of loans;
 - (b) a rate may be determined by reference to a rate—
 - (i) specified by or under any other enactment; or
 - (ii) ascertainable by such other means as the Secretary of State may with the consent of the Treasury specify.
- (2) Before determining a rate under subsection (1) above, the Secretary of State shall consult any education authorities and bodies representing education authorities with whom consultation appears to him to be desirable.
- (3) The accounts kept by a local authority under section 96 of the 1973 Act shall include a separate account of any expenditure incurred or income received by that authority in exercising their powers under section 61 of this Act.
- (4) The accounts kept by an authority under the said section 96 shall show the full cost to the authority of goods or services which are supplied by virtue of the said section 61

and which are relevant to the account kept by virtue of subsection (3) above; and for the purposes of this section “full cost” shall be calculated in such manner as the Secretary of State may direct.

- (5) An education authority shall use their best endeavours to secure that at the end of every financial year any account kept by them under the said section 96 in relation to the goods and services supplied by virtue of the said section 61 and relating to that year is in surplus.