



# Further and Higher Education Act 1992

## CHAPTER 13

### FURTHER AND HIGHER EDUCATION ACT 1992

#### PART I

#### FURTHER EDUCATION

#### CHAPTER I

#### RESPONSIBILITY FOR FURTHER EDUCATION

##### *The new funding councils*

- 1 The Further Education Funding Councils.

##### *The new further education sector*

- 2 Full-time education for 16 to 18 year-olds.
- 3 Part-time education, and full-time education for those over 18.
- 4 Persons with learning difficulties.

##### *Finance*

- 5 Administration of funds by councils.
- 6 Administration of funds: supplementary.
- 7 Grants to councils.

##### *Further functions*

- 8 Supplementary functions.
- 9 Assessment of quality of education provided by institutions.

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*Adjustment of local education authority sector*

- 10 Adjustment of local authority sector
- 11 Adjustment of local authority sector

*Provision of further education in schools*

- 12 Provision of further education in maintained schools.
- 13 Provision of further education in grant-maintained schools.

*General*

- 14 Meaning of “further education”, “secondary education”, “school” and “pupil”.

**CHAPTER II**

INSTITUTIONS WITHIN THE FURTHER EDUCATION SECTOR

*The further education corporations*

- 15 Initial incorporation of existing institutions.
- 16 Orders incorporating further institutions.
- 16A Publication of proposals
- 17 “Further education corporation” and “operative date”.
- 18 Principal powers of a further education corporation.
- 19 Supplementary powers of a further education corporation.
- 19A Duty in relation to promotion of well-being of local area
- 20 Constitution of corporation and conduct of the institution.
- 21 Initial instruments and articles.
- 22 Subsequent instruments and articles
- 22A Charitable status of a further education corporation

*Transfer of property, etc., to further education corporations*

- 23 Transfer of property, etc.: institutions maintained by local authorities
- 24 Provisions supplementary to section 23.
- 25 Transfer of property, etc. from foundation bodies.
- 26 Transfer of staff to further education corporations.

*Dissolution of further education corporations*

- 27 Proposals for dissolution of further education corporations
- 27A Dissolution of further education corporations
- 27B Dissolution of further education corporations: transfer of property, rights and liabilities
- 27C Restrictions on dissolution in insolvency situations

*Designation of institutions for funding by the councils*

- 28 Designation of institutions.
- 29 Government and conduct of designated institutions
- 29A First post-designation instruments and articles of designated institutions...
- 29B Changes to instruments and articles
- 30 Special provision for certain institutions.

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- 31 Designated institutions conducted by companies.
- 32 Transfer of property, etc., to designated institutions.
- 33 Provisions supplementary to section 32.

*Sixth form college corporations: England*

- 33A Initial designation of existing bodies corporate as sixth form college corporations
- 33B Subsequent designation of existing bodies corporate as sixth form college corporations
- 33C Establishment of new bodies corporate as sixth form college corporations
- 33D Conversion of sixth form college corporations into further education corporations
- 33E Principal powers of a sixth form college corporation
- 33F Supplementary powers of a sixth form college corporation
- 33G Further provision about supplementary powers
- 33H Duty in relation to promotion of well-being of local area
- 33I Constitution of sixth form college corporation and conduct of sixth form college
- 33J Special provision for certain institutions
- 33K Instrument and articles of new sixth form college corporations
- 33L Changes to instruments and articles
- 33M Charitable status of a sixth form college corporation
- 33N Proposals for dissolution of sixth form college corporations
- 33O Dissolution of sixth form college corporations
- 33P Dissolution of sixth form college corporations: transfer of property, rights and liabilities
- 33Q Restrictions on dissolution in insolvency situations

*Property, rights and liabilities: general*

- 34 Making additional property available for use.
- 35 Voluntary transfers of staff in connection with section 34.
- 36 General provisions about transfers under Chapter II.
- 37 Attribution of surpluses and deficits.
- 38 Payments ... in respect of loan liabilities.
- 39 Control of disposals of land.
- 40 Wrongful disposals of land.
- 41 Control of contracts.
- 42 Wrongful contracts.
- 43 Remuneration of employees.

*Miscellaneous*

- 44 Collective worship.
- 45 Religious education.
- 46 Variation of trust deeds.
- 47 Transfer of higher education institutions to further education sector.
- 48 Statutory conditions of employment.
- 49 Avoidance of certain contractual terms.
- 49A Consultation
- 49B Destinations

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- 50 Information with respect to institutions within the further education sector.
- 51 Publication of proposals.
- 51A Duty to provide for named individuals: England
- 52 Duty to provide for named individuals: Wales
- 52A Duty to safeguard pupils receiving secondary education.
- 52B Duty to review provision in relation to local needs: England
- 53 Inspection of accounts.

### CHAPTER III

#### GENERAL

- 54 Duty to give information.
- 55 Inspection etc. of local authority institutions, other than schools, and advice to Secretary of State.
- 56 General
- 56A Intervention: England
- 56AA Appointment by Chief Executive of Skills Funding of members of governing body of further education institutions
- 56B Intervention policy: England
- 56C Directions
- 56D Notification by local authority or YPLA of possible grounds for intervention
- 56E Intervention by Secretary of State : sixth form colleges
- 56F Appointment by local authorities of members of sixth form college governing body
- 56G Intervention policy: sixth form colleges
- 56H Intervention by YPLA
- 56I Appointment by YPLA of members of sixth form college governing body
- 56J Notification by Chief Executive of Skills Funding of possible grounds for intervention
- 57 Intervention : Wales
- 57A Intervention policy: Wales
- 58 Reorganisations of schools involving establishment of further education corporation.
- 59 General
- 60 Saving as to persons detained by order of a court.
- 60A General
- 61 Interpretation of Part I.
- 61A References to appropriate bodies

### PART II

#### HIGHER EDUCATION

##### *The new funding councils*

- 62 The Higher Education Funding Council for Wales.
- 63 Dissolution of existing councils.
- 64 Transitional arrangements.

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### *Funds*

- 65 Administration of funds by the HEFCW.
- 66 Administration of funds: supplementary.
- 67 Payments in respect of persons employed in provision of higher or further education.
- 68 Grants to the HEFCW.

### *Further functions*

- 69 Supplementary functions.
- 70 England: assessment of quality of education provided by institutions.

### *Institutions in the higher education sector*

- 71 Higher education corporations: constitution and conduct.
- 72 Further power of designation.
- 73 Government and conduct of designated institutions.
- 74 Transfer of further education institutions to higher education sector.
- 75 Variation of trust deeds.
- 76 Power to award degrees, etc.
- 77 Use of “university” in title of institution.
- 78 Financial years of higher education corporations : Wales.

### *General*

- 79 Duty to give information to the HEFCW.
- 79A Power to request information from higher education institutions that are exempt charities
- 80 Dissolution of Council for National Academic Awards.
- 81 Directions.

## **PART III**

### MISCELLANEOUS AND GENERAL

- 82 Joint exercise of functions.
- 83 Efficiency studies.
- 84 Effect of agreements made before date of transfer.
- 85 Finance and government of locally funded further and higher education.
- 85A Nuisance or disturbance on educational premises
- 85AA Power of members of staff to search students for prohibited items:  
England
- 85AB Power of search under section 85AA: supplementary
- 85AC Power to seize items found during search under section 85AA
- 85AD Section 85AC: supplementary
- 85B Power to search further education students for weapons : Wales
- 85C Power of members of staff to use force
- 86 Miscellaneous and general
- 87 Transfers of property, etc: supplementary provision.
- 88 Stamp duty.
- 88A Stamp duty land tax
- 89 Orders, regulations and directions.
- 90 Interpretation.
- 91 Interpretation of Education Acts.
- 92 Index.

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- 93 Amendments and repeals.  
94 Short title, commencement, etc.

## SCHEDULES

### SCHEDULE 1 — The Further and Higher Education Funding Councils

#### *Supplementary powers*

- 1 (1) Subject to sub-paragraph (2) below, the council may do...

#### *Chief officer*

- 2 (1) One of the members of the council shall be...

#### *Tenure of members of councils*

- 3 (1) A person shall hold and vacate office as a...  
4 If the Secretary of State is satisfied that a member...

#### *Salaries, allowances and pensions*

- 5 (1) The council— (a) shall pay to their members such...

#### *House of Commons disqualification*

- 6 In Part III of Schedule 1 to the House of...

#### *Staff*

- 7 (1) The council may appoint such employees as they think...

#### *Committees*

- 8 (1) The council may establish a committee for any purpose....

#### *Further Education Funding Council for England: regional committees*

- 9 (1) There shall be established for each region of England...

#### *Delegation of Functions*

- 10 The council may authorise the chairman, the chief officer or...

#### *Proceedings*

- 11 Without prejudice to any other rights the Secretary of State...  
12 The validity of any proceedings of the council or of...  
13 Subject to the preceding provisions of this Schedule, the council...

#### *Application of seal and proof of instruments*

- 14 The application of the seal of the council shall be...  
15 Every document purporting to be an instrument made or issued...

#### *Accounts*

- 16 (1) It shall be the duty of the council—

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### *Status of council*

17 The council shall not be regarded as the servant or...

### SCHEDULE 2 — Courses of Further Education

The descriptions of courses of further education referred to in...

### SCHEDULE 3 — Calculation of Enrolment Numbers

#### *Enrolment numbers*

1 (1) The enrolment number for any institution at any time...

*Table for calculating enrolment numbers for sandwich courses, etc.*

2 The following table applies for the purpose of determining the...

#### *Interpretation of paragraphs 1 and 2*

3 (1) For the purposes of paragraph 1(1)(a) and (2)(a) above...

#### *Amendment of paragraphs 1 to 3*

4 The Secretary of State may by order amend paragraphs 1...

#### *Exclusion of non-EEC students*

5 For the purpose of calculating under those paragraphs any enrolment...

### SCHEDULE 4 — INSTRUMENTS AND ARTICLES OF GOVERNMENT

1 This Schedule applies in relation to— (a) a further education...

2 In this Schedule— “ the body ” means— in the...

3 (1) An instrument must provide for— (a) the number of...

4 (1) An instrument must make provision about the procedures of...

5 (1) An instrument must make provision for there to be—...

6 An instrument must require the body to publish arrangements for...

7 In the case of an institution in Wales, an instrument...

8 An instrument must permit the body to change their name...

9 An instrument must specify how the body may modify or...

10 An instrument must prohibit the body from making changes to...

11 An instrument must provide for— (a) a copy of the...

12 An instrument must provide for the authentication of the application...

### SCHEDULE 5 — Identification and apportionment, etc., of property

#### *Division and apportionment of property et cetera*

1 (1) Any property, rights and liabilities of a transferor authority...

#### *Identification of property, rights and liabilities*

2 (1) It shall be the duty of the transferor and...

3 (1) The Education Assets Board may, in the case of...

4 (1) The transferor or transferee, if dissatisfied with a determination...

5 (1) Regulations may prescribe the procedure to be followed in...

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*Documents of title*

- 6 (1) Where a transfer to which this Schedule applies relates...

*Third parties affected by vesting provisions*

- 7 (1) Without prejudice to the generality of paragraphs 2 to...

*Delivery of documents to transferee*

- 8 When it appears to the Education Assets Board, in the...

SCHEDULE 5A —

*Interpretation*

- 1 In this Schedule— “ the participating bodies ”, in relation...

*Approval by the Secretary of State*

- 2 (1) An application for approval of an arrangement by the...

*Termination of arrangement etc*

- 3 (1) Subject to any provision of the arrangement to the...

*Variation of arrangement*

- 4 (1) The parties to a partnership arrangement to which section...

*Interpretation of existing enactments*

- 5 (1) Regulations may provide— (a) for any reference in an...

SCHEDULE 6 — New Schedule 7A to the Education Reform Act 1988

SCHEDULE 7 — Transfers: supplementary provisions

*Proof of title by certificate*

- 1 The Education Assets Board may issue a certificate stating that...

*Construction of agreements*

- 2 (1) Where any rights or liabilities transferred by virtue of...  
 3 (1) Without prejudice to the generality of paragraph 2 above,...  
 4 The provisions of paragraphs 2 and 3 above shall have...

SCHEDULE 8 — Minor and Consequential Amendments

Part I — AMENDMENTS OF THE EDUCATION ACTS

*The Education Act 1944 (c. 31)*

- 1 Minor and Consequential Amendments  
 2 Minor and Consequential Amendments  
 3 Minor and Consequential Amendments  
 4 Minor and Consequential Amendments  
 5 Minor and Consequential Amendments



- 6 Minor and Consequential Amendments
- 7 Minor and Consequential Amendments
- 8 Minor and Consequential Amendments
- 9 Minor and Consequential Amendments
- 10 Minor and Consequential Amendments
- 11 Minor and Consequential Amendments
- 12 Minor and Consequential Amendments
- 13 Minor and Consequential Amendments

*The Education Act 1946 (c. 50)*

- 14 Minor and Consequential Amendments

*The Education (Miscellaneous Provisions) Act 1948 (c. 40)*

- 15 Minor and Consequential Amendments
- 16 Minor and Consequential Amendments

*The Education Act 1980 (c. 20)*

- 17 Minor and Consequential Amendments

*The Education Act 1981 (c. 60)*

- 18 Minor and Consequential Amendments

*The Education (Fees and Awards) Act 1983 (c. 40)*

- 19 In section 1(3) of the Education (Fees and Awards) Act...

*The Further Education Act 1985 (c. 47)*

- 20 At the end of section 1 of the Further Education...
- 21 (1) In section 2(2) of that Act (power of LEAs...

*The Education (No. 2) Act 1986 (c. 61)*

- 22 In section 43 of the Education (No. 2) Act 1986...
- 23 In section 49(3) of that Act (appraisal of performance of...
- 24 Minor and Consequential Amendments
- 25 Minor and Consequential Amendments
- 26 Minor and Consequential Amendments

*The Education Reform Act 1988 (c. 40)*

- 27 The Education Reform Act 1988 is amended as follows.
- 28 The Education Reform Act 1988 (c. 40)
- 29 The Education Reform Act 1988 (c. 40)
- 30 In section 120 (functions of local authorities with respect to...
- 31 In section 122 (orders incorporating higher education institutions maintained by...
- 32 In section 123 (provisions supplementary to sections 121 and 122)—...
- 33 In section 124 (powers of a higher education corporation)—
- 34 In section 128 (dissolution of higher education corporations)—
- 35 Sections 131, 132 and 134 (Universities Funding Council and Polytechnics...
- 36 In section 135 (inspection of accounts)— (a) for subsection (1)(c)...

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- 37 The Education Reform Act 1988 (c. 40)
- 38 In section 137(2) (control of disposals of land) “or 129(3)”...
- 39 In section 157 (construction of instruments providing for institution ceasing...
- 40 In section 158(2) (reports and returns) paragraphs (a)(i) and (iii)...
- 41 Section 159(2)(b) (information with respect to educational provision in institutions...
- 42 In section 161 (interpretation of Part II) subsection (1)(c) is...
- 43 In section 197 (Education Assets Board)— (a) in subsection (4)...
- 44 In section 198(5) (transfers under Parts I and II) for...
- 45 In section 205 (procedure for exercise of University Commissioners’ powers)—...
- 46 The Education Reform Act 1988 (c. 40)
- 47 The Education Reform Act 1988 (c. 40)
- 48 In section 214(2)(a) (unrecognised degrees) after “Royal Charter or” there...
- 49 The Education Reform Act 1988 (c. 40)
- 50 The Education Reform Act 1988 (c. 40)
- 51 The Education Reform Act 1988 (c. 40)
- 52 In section 221 (avoidance of certain contractual terms) subsection (1) (c)...
- 53 The Education Reform Act 1988 (c. 40)
- 54 The Education Reform Act 1988 (c. 40)
- 55 In section 230 (stamp duty)— (a) in subsection (1) “section...
- 56 The Education Reform Act 1988 (c. 40)
- 57 The Education Reform Act 1988 (c. 40)
- 58 In section 235 (general interpretation) subsection (2)(a) and (h) are...
- 59 In Schedule 7 (Higher Education Corporations)— (a) for paragraph 1(4)...
- 60 Schedule 8 (the funding councils and the assets board) shall...
- 61 The Education Reform Act 1988 (c. 40)
- 62 The Education Reform Act 1988 (c. 40)
- 63 The Education Reform Act 1988 (c. 40)
- 64 The Education Reform Act 1988 (c. 40)
- 65 In paragraph 4 of that Schedule at the beginning there...
- 66 In Schedule 12 (minor and consequential amendments) paragraphs 68, 69(2),...

*The Education (Student Loans) Act 1990 (c. 6)*

- 67 In section 1(3)(a) of the Education (Student Loans) Act 1990...  
Part II — AMENDMENTS OF OTHER ACTS

*The Public Records Act 1958 (c. 51)*

- 68 In Schedule 1 to the Public Records Act 1958 (definition...

*The Charities Act 1960 (c. 58)*

- 69 Amendments of other Acts

*The Veterinary Surgeons Act 1966 (c. 36)*

- 70 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions...

*The Local Authorities (Goods and Services) Act 1970 (c. 39)*

71 (1) Subject to sub-paragraph (2) below, in the Local Authorities...

*The Chronically Sick and Disabled Persons Act 1970 (c. 44)*

72 In section 8(2) of the Chronically Sick and Disabled Persons...

*The Superannuation Act 1972 (c. 11)*

73 In Schedule 1 to the Superannuation Act 1972 the entries...

*The House of Commons Disqualification Act 1975 (c. 24)*

74 In Part III of Schedule 1 to the House of...

*The Sex Discrimination Act 1975 (c. 65)*

75 .....  
76 .....  
77 .....  
78 .....  
79 .....  
80 .....  
81 .....  
82 .....  
83 .....

*The Race Relations Act 1976 (c. 74)*

84 .....  
85 .....  
86 .....  
87 .....  
88 .....

*The Employment Protection (Consolidation) Act 1978 (c. 44)*

89 Amendments of other Acts

*The Public Passenger Vehicles Act 1981 (c. 14)*

90 Amendments of other Acts

*The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

91 (1) Section 5 of the Disabled Persons (Services, Consultation and...  
92 For section 6(1) of that Act (review of expected leaving...

*The Employment Act 1989 (c. 38)*

93 In section 5(6) of the Employment Act 1989 (exemption for...

*The Town and Country Planning Act 1990 (c. 8)*

94 In section 76(1) of the Town and Country Planning Act...

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*The Environmental Protection Act 1990 (c. 43)*

95 In section 98(2) of the Environmental Protection Act 1990 (definitions)

—...

SCHEDULE 9 — Repeals

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**Changes and effects yet to be applied to :**

- s. 76 heading words inserted by 2017 c. 29 s. 52(2)
- s. 16(1) words substituted by 2007 c. 25 s. 14(2)
- s. 16(3) words substituted by 2007 c. 25 s. 14(3)(a)
- s. 16(3)(b) words substituted by 2007 c. 25 s. 14(3)(b)
- s. 17(2)(a) word repealed by 2007 c. 25 s. 14(5)(a)Sch. 2
- s. 17(2)(b) words inserted by 2007 c. 25 s. 14(5)(c)(i)
- s. 17(2)(b) words substituted by 2007 c. 25 s. 14(5)(c)(ii)
- s. 27(1) words substituted by 2007 c. 25 s. 15(2)
- s. 27(2)(a) words substituted by 2007 c. 25 s. 15(2)
- s. 27(3)(a) and word repealed by 2007 c. 25 s. 15(3)Sch. 2
- s. 27(6) words substituted by 2007 c. 25 s. 15(2)
- s. 27(7) words substituted by 2007 c. 25 s. 15(5)(a)
- s. 27(7)(b) and word repealed by 2007 c. 25 s. 15(5)(b)Sch. 2
- s. 27(8) repealed by 2007 c. 25 s. 15(6)Sch. 2
- s. 49B(2) words substituted by 2022 asc 1 Sch. 4 para. 6(2)(a)
- s. 49B(4) words substituted by 2022 asc 1 Sch. 4 para. 6(2)(b)
- s. 51(3) words substituted by 2007 c. 25 s. 16(3)
- s. 51(3A) words substituted by 2007 c. 25 s. 16(4)
- s. 57 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 62 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 65 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 66 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 68 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 69 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 76(1) words inserted by 2017 c. 29 s. 52(3)
- s. 79 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 81 omitted by 2022 asc 1 Sch. 4 para. 3
- s. 83(1B) table words omitted by 2022 asc 1 Sch. 4 para. 6(4)
- s. 91(4) omitted by 2022 asc 1 Sch. 4 para. 6(5)(a)
- s. 91(5)(a) substituted for s. 91(5)(a)(aa) by 2022 asc 1 Sch. 4 para. 6(5)(b)(i)
- s. 91(5)(b) words inserted by 2022 asc 1 Sch. 4 para. 6(5)(b)(ii)
- s. 91(5)(c) words inserted by 2022 asc 1 Sch. 4 para. 6(5)(b)(iii)
- s. 91(5A) omitted by 2022 asc 1 Sch. 4 para. 6(5)(c)
- s. 92 words omitted by 2022 asc 1 Sch. 4 para. 6(6)
- Sch. 1 omitted by 2022 asc 1 Sch. 4 para. 6(7)

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

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

- s. 16(6) inserted by 2007 c. 25 s. 14(4)
- s. 17(2)(aa) inserted by 2007 c. 25 s. 14(5)(b)
- s. 27(3A)(3B) inserted by 2007 c. 25 s. 15(4)
- s. 27(9) inserted by 2007 c. 25 s. 15(7)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by 2007 c. 25 s. 16(2)
- s. 76(8)(9) inserted by 2017 c. 29 s. 52(4)
- s. 85D inserted by 2009 c. 22 s. 247

- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)