Further and Higher Education Act 1992

1992 CHAPTER 13

E+W

An Act to make new provision about further and higher education. [6th March 1992]

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

Extent Information

E1 This Act extends to England and Wales only with the exception of certain provisions see s. 94(5)-(7). The amending provisions of this Act are co-extensive with the enactments so amended see s. 94(7)

Modifications etc. (not altering text)

C1 Act: for any reference to the Education Assets Board there is substituted (1.10.1998) a reference to the Education Transfer Council by virtue of 1998 c. 31, **s. 136**; S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**

C2 Act applied (1.6.2001) by S.I. 2001/1507, reg. 2, **Sch. 2 para. 2**

C3 Act modified (1.4.1993) by S.I. 1993/563, art.2, Sch. 1, **Sch. 2**.

C4 Act excluded (16.7.1998) by 1998 c. 30, **ss. 26(11)**, 46(3) (with s. 42(8))

C5 Certain powers transferred as specified (1.7.1999) by S.I. 1999/672, art. 2, **Sch.1**.

C6 Act excluded (1.7.2004 for E., 31.3.2011 for W.) by Higher Education Act 2004 (c. 8), **ss. 29(3)**, 52(1); S.I. 2011/297, **art. 4(a)**

C7 Act applied (1.4.2005) by The Central Sussex College (Government) Regulations 2005 (S.I. 2005/397), **Sch. 2 para. 2**

C8 Act modified (7.4.2005) by Education Act 2005 (c. 18), **s. 96(2)**

C9 Education Acts modified (*temp.*) (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 6 para. 3(3)**; S.I. 2007/935, art. 5(bb)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

PART I E+W+S

FURTHER EDUCATION

CHAPTER I E+W

RESPONSIBILITY FOR FURTHER EDUCATION

The new funding councils

[F1]1 ..... E+W

Textual Amendments

F1 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

The new further education sector

[F2]2 ..... E+W

Textual Amendments

F2 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[F3]3 ..... E+W

Textual Amendments

F3 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[F4]4 ..... E+W

Textual Amendments

F4 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

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Finance

[F5]5 . . . . . **E+W**

Textual Amendments

F5 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[F6]6 . . . . . **E+W**

Textual Amendments

F6 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[F7]7 . . . . . **E+W**

Textual Amendments

F7 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Further functions

[F8]8 . . . . . **E+W**

Textual Amendments

F8 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[F9]9 . . . . . **E+W**

Textual Amendments

F9 Ss. 1-9 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 20, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

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Adjustment of local education authority sector

[F10]10 . . . . . **E+W**

Textual Amendments

F10 S. 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F11]11 . . . . . **E+W**

Textual Amendments

F11 S. 11 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Provision of further education in schools

[F12]12 . . . . . **E+W**

Textual Amendments

F12 s. 12 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F13]13 . . . . . **E+W**

Textual Amendments

F13 S. 13 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

General

[F14]14 . . . . . **E+W**

Textual Amendments

F14 S. 14 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

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CHAPTER II E+W+S

INSTITUTIONS WITHIN THE FURTHER EDUCATION SECTOR

The further education corporations

15 Initial incorporation of existing institutions. E+W

(1) Before the appointed day the Secretary of State shall by order specify—

(a) each educational institution maintained by a **[**[F15]local authority**]** which appears to him to fall within subsection (2) below, and

(b) each county school, controlled school or grant-maintained school which appears to him to fall within subsection (3) below.

(2) An institution falls within this subsection if on 1st November 1990 its enrolment number calculated in accordance with paragraph 1(1) of Schedule 3 to this Act was not less than 15 per cent. of its total enrolment number calculated in accordance with paragraph 1(2) of that Schedule.

(3) An institution falls within this subsection if on 17th January 1991 not less than 60 per cent. of the pupils at the institution were receiving full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

(4) On the appointed day a body corporate shall be established, for each institution so specified, for the purpose of conducting the institution as from the operative date.

(5) The name given in the order under subsection (1) above as the name of the institution shall be the initial name of the body corporate.

(6) Where an educational institution, being an institution maintained by a **[**[F15]local authority**]** or a grant-maintained school, has been established since 1st November 1990 or, as the case may be, 17th January 1991 by a merger of two or more institutions existing on that date, the institution shall be treated as falling within subsection (2) or, as the case may be, subsection (3) above if it would have done so if the merger had taken place before that date.

(7) In this section "the appointed day" means the day appointed under section 94 of this Act for the commencement of subsection (4) above.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I1 S. 15 wholly in force: s. 15(1)(2)(3)(5)(6)(7) in force at 6.5.1992; s. 15(4) in force at 30.9.1992, see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, **2**

16 Orders incorporating further institutions. E+W

(1) The Secretary of State may by order make provision for the establishment of a body corporate—

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(a) for the purpose of establishing and conducting an educational institution, or

(b) for the purpose of conducting an existing educational institution,

but shall not make an order in respect of an existing institution without the consent of the governing body.

[[F16](2) Subsection (1) above does not apply to an institution which is maintained by a **[**[F15]local authority**]**.

(3) The Secretary of State may by order make provision for the establishment of a body corporate for the purpose of conducting an institution which—

(a) is maintained by a **[**[F15]local authority**]**, and

(b) in his opinion, is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.**]**

(4) The name given in the order under this section as the name of the institution shall be the initial name of the body corporate.

(5) An order under this section shall provide for the institution to be conducted by the body corporate as from the operative date.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F16 S. 16(2)(3) substituted (1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, **s. 111(1)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

Modifications etc. (not altering text)

C10 S. 16(1) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 1**

Commencement Information

I2 S. 16 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[[F17]16A Publication of proposals E+W

(1) The appropriate authority may not make an order under section 16(1) or (3) unless the authority has published a draft of the proposed order, or of an order in substantially the same form, by such time and in such manner as may be prescribed.

(2) A draft proposal or order in respect of an institution which is maintained by a local authority may not be published without the consent of the governing body and the local authority.

(3) In this section "the appropriate authority" means—

(a) in relation to a proposal or order in respect of an institution in England, the Secretary of State;

(b) in relation to a proposal or order in respect of an institution in Wales, the Welsh Ministers.**]**

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Textual Amendments

F17 S. 16A inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 2**; S.I. 2012/924, art. 2

17 "Further education corporation" and "operative date". E+W

(1) In this Act "further education corporation" means a body corporate established under section 15 or 16 of this Act **[**[F18]or which has become a further education corporation by virtue of section **[**[F19]33D or**]** 47 of this Act.**]**

(2) In this Part of this Act "operative date", in relation to a further education corporation and the institution, means—

(a) in the case of a further education corporation established under section 15 of this Act, such date as the Secretary of State may by order appoint in relation to the corporations so established, and

(b) in the case of a further education corporation established under section 16 of this Act, such date as the Secretary of State may by order appoint in relation to that corporation.

Textual Amendments

F18 Words in s. 17(1) added (1.10.1998) by 1998 c. 30, s. 44(1), **Sch. 3 para.7** (with s. 42(8)); S.I. 1998/2215, **art.2**

F19 Words in s. 17(1) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 2**; S.I. 2010/303, art. 3, Sch. 2

Commencement Information

I3 S. 17 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

18 Principal powers of a further education corporation. E+W

(1) A further education corporation may—

(a) provide further and higher education, and

[[F20](aa) provide secondary education **[**[F21]suitable to the requirements of persons who have attained the age of fourteeen years**]**,

(ab) provide education which is secondary education by virtue of section 2(2B) of the [M1]Education Act 1996 (definition of secondary education),

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

(b) supply goods or services in connection with their provision of education,

[[F22]and those powers are referred to in section 19 of this Act as the corporation's principal powers**]**.

[[F23](1A) A further education corporation may not provide education of a kind specified in subsection (1)(aa), (ab) or (ac) above unless they have consulted such **[**[F15]local authorities**]** as they consider appropriate.**]**

(2) For the purposes of subsection (1) above, goods are supplied in connection with the provision of education by a further education corporation if they result from—

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(a) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,

(b) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or

(c) ideas of a person employed by them, or of one of their students, arising out of their provision of education.

(3) For the purposes of that subsection, services are supplied in connection with the provision of education by a further education corporation if—

(a) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,

(b) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or

(c) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

F24(4) . . . . . .

F24(5) . . . . . .

F24(6) . . . . . .

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F20 S. 18(1)(aa)-(ac) substituted for s. 18(1)(aa) (1.4.2001) by 2000 c. 21, **s. 142(1)(a)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F21 Words in s. 18(1)(aa) substituted (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215(1), **Sch. 21 para.11**; S.I 2002/2439, {art. 3}; S.I. 2002/3185, **art. 4**

F22 Words after s. 18(1)(b) inserted (1.4.2001) by 2000 c. 21, ss. 149, **Sch. 9 para. 21(a)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F23 S. 18(1A) inserted (1.4.2001) by 2000 c. 21, **s. 142(1)(b)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F24 S. 18(4)-(6) repealed (28.7.2000 for certain purposes, 1.1.2001 for W., 1.4.2001 and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 21(b), **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, Sch. Pts. II, **III** (with transitional provisions in art. 3)

Modifications etc. (not altering text)

C11 S. 18(3)(c) modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **3(b)**

Commencement Information

I4 S. 18 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

Marginal Citations

M1 1996 c. 56.

19 Supplementary powers of a further education corporation. E+W

(1) A further education corporation may do anything (including in particular the things referred to in subsections (2) to (4) below) which appears to the corporation to be

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necessary or expedient for the purpose of or in connection with the exercise of any of their principal powers.

(2) A further education corporation may conduct an educational institution for the purpose of carrying on activities undertaken in the exercise of their powers to provide further or higher education and, in particular, may assume as from the operative date the conduct of the institution in respect of which the corporation is established.

(3) A further education corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties [F25]...).

(4) A further education corporation may—

(a) acquire and dispose of land and other property,

(b) 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 activities undertaken in the exercise of their principal powers, and

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

[[F26](bb) form, participate in forming or invest in a company,

(bc) form, participate in forming or otherwise become a member of a charitable incorporated organisation **[**[F27](within the meaning of Part 11 of the Charities Act 2011)**],]**

(c) 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 sections **[**[F28]27**]** to **[**[F29]27C or 33P**]** of this Act and, in connection with such borrowing, may grant any mortgage, charge or other security in respect of any land or other property of the corporation,

(d) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,

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

(f) do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

[F30](4A) . . . . . .

[F31](4AA) . . . . . .

[F32](4AB) . . . . . .

[F33](4AC) . . . . . .

[F34](4B) . . . . . .

[F35](4C) . . . . . .

[F36](5) . . . . . .

[[F37](6) A person has a learning difficulty if—

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(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 further education sector for persons of his age.

(7) 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.**]**

[[F38](8) A reference in this section to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.**]**

[[F39](9) A further education corporation may provide advice or assistance to any other person where it appears to the corporation to be appropriate for them to do so for the purpose of or in connection with the provision of education by the other person.**]**

Textual Amendments

F25 Words in s. 19(3) omitted (1.4.2001) by virtue of 2000 c. 21, s. 149, **Sch. 9 para. 22(2)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F26 S. 19(4)(bb)(bc) substituted for s. 19(4)(bb) (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(2)**, 32(1) (with s. 21(7))

F27 Words in s. 19(4)(bc) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 57** (with s. 20(2), Sch. 8)

F28 Word in s. 19(4)(c) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(a)**

F29 Words in s. 19(4)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(2)**; S.I. 2012/924, art. 2

F30 S. 19(4A) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(a)**, 11(2); S.I. 2014/1706, art. 3(a)

F31 S. 19(4AA) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(b)**, 11(2); S.I. 2014/1706, art. 3(a)

F32 S. 19(4AB) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(c)**, 11(2); S.I. 2014/1706, art. 3(a)

F33 S. 19(4AC) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(6)**; S.I. 2012/924, art. 2

F34 S. 19(4B) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(d)**, 11(2); S.I. 2014/1706, art. 3(a)

F35 S. 19(4C) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(e)**, 11(2); S.I. 2014/1706, art. 3(a)

F36 S. 19(5) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(f)**, 11(2); S.I. 2014/1706, art. 3(a)

F37 S. 19(6)(7) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 22(5)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F38 S. 19(8) inserted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(6)**, 32(1)

F39 S. 19(9) added (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 256(2)**, 269(4); S.I. 2010/303, art. 3, Sch. 2

Commencement Information

I5 S. 19 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

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[F40]19A Duty in relation to promotion of well-being of local area E+W

. . . . . .

Textual Amendments

F40 S. 19A repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 4**; S.I. 2012/924, art. 2

20 Constitution of corporation and conduct of the institution. E+W

(1) For every further education corporation established to conduct an educational institution there shall be—

(a) an instrument providing for the constitution of the corporation (to be known as the instrument of government), and

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

[[F41](2) Instruments of government and articles of government of further education corporations—

(a) must comply with the requirements of Schedule 4, and

(b) subject to that, may make such other provision as may be necessary or desirable.**]**

(3) The validity of any proceedings of a further education corporation, or of any committee of the corporation, shall not be affected by a vacancy amongst the members or by any defect in the appointment or nomination of a member.

(4) Every document purporting to be an instrument made or issued by or on behalf of a further education corporation 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.

Textual Amendments

F41 S. 20(2) substituted for s. 20(2)(2A) (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 2(1)**, 11(2); S.I. 2014/1706, art. 3(b)

Commencement Information

I6 S. 20 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

21 Initial instruments and articles. E+W

(1) As from the date on which a further education corporation is established, the instrument of government and articles of government—

[F42](a) . . . . . .

[F43]. . . shall be such as is prescribed by regulations.

(2) Such [F44]. . . regulations—

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(a) may provide for all or any of the persons who, on the date on which a corporation is established to conduct the [F45]. . . existing institution, are the members of the governing body of the institution to be the initial members of the corporation, and

(b) may make such other provision in relation to [F46]. . . existing institutions as appears to the Secretary of State necessary or desirable to secure continuity in their government.

(3) In the case of a further education corporation established to conduct an institution which, on the date the corporation was established, was **[**[F47]a maintained school, the governing body incorporated under **[**[F48]section 19 of the Education Act 2002**]]** shall, on the operative date, be dissolved.

Textual Amendments

F42 S. 21(1)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(a)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F43 Words, including subsection "(b)", in s. 21(1) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(a)(ii), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F44 Words in s. 21(2) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(i), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F45 Words in s. 21(2)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(ii), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F46 Words in s. 21(2)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 35(b)(iii), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F47 Words in s. 21(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 35(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F48 Words in s. 21(3) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 12** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

Commencement Information

I7 S. 21 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[[F49]**22 Subsequent instruments and articles** E+W

A further education corporation may modify or replace their instrument of government or articles of government.**]**

Textual Amendments

F49 S. 22 substituted for ss. 22, 22ZA (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 2(3)**, 11(2); S.I. 2014/1706, art. 3(b)

Commencement Information

I8 S. 22 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[[F50]**22A Charitable status of a further education corporation** E+W

A further education corporation shall be a charity (and, in accordance with Schedule 3 to the Charities Act 2011, is an exempt charity for the purposes of that Act).**]**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F50 S. 22A substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, Sch. 7 para. 58 (with s. 20(2), Sch. 8) (with S.I. 2011/1396, **Sch. para. 43(b)**)

Transfer of property, etc., to further education corporations

F51 23 Transfer of property, etc.: institutions maintained by local authorities E+W

. . . . . .

Textual Amendments

F51 Ss. 23-26 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(2)**

F51 24 Provisions supplementary to section 23. E+W

. . . . . .

Textual Amendments

F51 Ss. 23-26 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(2)**

F51 25 Transfer of property, etc. from foundation bodies. E+W

. . . . . .

Textual Amendments

F51 Ss. 23-26 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(2)**

F51 26 Transfer of staff to further education corporations. E+W

. . . . . .

Textual Amendments

F51 Ss. 23-26 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(2)**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Dissolution of further education corporations

[F52 27 Proposals for dissolution of further education corporations E+W

(1) This section applies if a further education corporation propose that the corporation should be dissolved.

(2) The corporation must publish—

(a) details of the proposal, and

(b) such other information as may be prescribed by regulations made by the appropriate authority.

(3) The publication is to be in accordance with regulations made by the appropriate authority.

(4) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations made by the appropriate authority.

(5) In this section, "the appropriate authority" means—

(a) in relation to a further education corporation in England, the Secretary of State, and

(b) in relation to a further education corporation in Wales, the Welsh Ministers.]

Textual Amendments

F52 Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 3**, 11(2); S.I. 2014/1706, art. 2, art. 3(c)

Commencement Information

I9 S. 27 wholly in force at 30.9.1992, see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[F52 27A Dissolution of further education corporations E+W

(1) This section and section 27B apply if, after complying with section 27, a further education corporation resolve that the corporation should be dissolved on a specified date.

(2) "The dissolution date" means the date specified in a resolution under subsection (1).

(3) The corporation must notify the appropriate authority of the resolution and the dissolution date as soon as reasonably practicable.

(4) The corporation are dissolved on the dissolution date.

(5) In this section, "the appropriate authority" has the meaning given in section 27.]

[F53 (6) See also section 27C (restrictions on dissolution in insolvency situations).]

Textual Amendments

F52 Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 3**, 11(2); S.I. 2014/1706, art. 2, art. 3(c)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

F53 S. 27A(6) inserted (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 37(2)**, 47(2); S.I. 2018/1161, reg. 3(a)

[F52 27B Dissolution of further education corporations: transfer of property, rights and liabilities E+W

(1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed by regulations made by the appropriate authority.

(2) The corporation may do so only with the consent of the person or body concerned.

(3) A transfer under subsection (1) has effect on the dissolution date.

(4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.

(5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

(6) In this section, "the appropriate authority" has the meaning given in section 27.**]**

Textual Amendments

F52 Ss. 27-27B substituted for ss. 27-27C (1.8.2014 for specified purposes; 1.9.2014 in force in so far as not already in force) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 3**, 11(2); S.I. 2014/1706, art. 2, art. 3(c)

[F54 27C Restrictions on dissolution in insolvency situations E+W

(1) A further education corporation have no power under section 27A to resolve that the corporation should be dissolved if—

(a) the corporation is in education administration under Chapter 4 of Part 2 of the Technical and Further Education Act 2017,

(b) a voluntary arrangement in relation to the corporation has been proposed under Part 1 of the Insolvency Act 1986 and the matter has not been finally concluded,

(c) the corporation is in administration under Part 2 of the Insolvency Act 1986,

(d) paragraph 44 of Schedule B1 to the Insolvency Act 1986 applies (interim moratorium on proceedings where application to the court for an administration order has been made), or

(e) the corporation is being wound up, whether voluntarily or by the court, under Part 4 of the Insolvency Act 1986 or a petition under that Part for winding up of the corporation by the court has been presented and not finally dealt with or withdrawn.

(2) For the purposes of subsection (1)(b), the matter is finally concluded if—

(a) no meetings are to be summoned under section 3 of the Insolvency Act 1986,

(b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,

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(c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or

(d) the court makes an order under section 6(5) of that Act revoking approval given at previous meetings and, if the court gives any directions under section 6(6) of that Act, the corporation has done whatever it is required to do under those directions.

(3) In this section—

(a) a reference to paragraph 44 of Schedule B1 to the Insolvency Act 1986 is to that paragraph as it applies to a further education corporation by virtue of—

(i) section 6 of the Technical and Further Education Act 2017 (application of normal insolvency procedures), or

(ii) Schedule 3 to the Technical and Further Education Act 2017 (special education administration);

(b) any other reference to a provision of the Insolvency Act 1986 is to that provision as it applies to a further education corporation by virtue of section 6 of the Technical and Further Education Act 2017.**]**

Textual Amendments

F54 S. 27C inserted (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 37(3)**, 47(2); S.I. 2018/1161, reg. 3(a)

Designation of institutions for funding by the councils

28 Designation of institutions. E+W

(1) **[**[F55]The appropriate authority**]** may by order designate **[**[F56]for the purposes of this section**]** any educational institution principally concerned with the provision of one or both of the following—

(a) full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years, and

(b) courses of further or higher education,

if the institution meets the requirements of subsection (2) below.

(2) The institution must be one of the following—

(a) a voluntary aided school **[**[F57](other than one belonging to a group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998)**]**,

[F58](b) . . . . . .

(c) an institution which is grant-aided or eligible to receive aid by way of grant **[**[F59]or

(d) an institution established for the purpose of being principally concerned with the provision of one or both of the kinds of education specified in subsection (1) above.**]**

(3) For the purposes of subsection (2)(c) above an institution is grant-aided or eligible to receive aid by way of grant if it is maintained by persons other than **[**[F15]local authorities**]** who—

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(a) receive any grants under regulations made under **[**[F60]section 485 of the Education Act 1996**]**, or

(b) are eligible to receive such grants.

[[F61](3A) **[**[F62]The appropriate authority**]** shall not make an order under this section in respect of a voluntary aided school without the consent of the governing body and the **[**[F15]local authority**].]**

[[F63](3B) In this section "the appropriate authority"—

(a) in relation to an educational institution in England, means the Secretary of State;

(b) in relation to an educational institution in Wales, means the Welsh Ministers.**]**

(4) In this Part of this Act "designated institution" means an institution in relation to which a designation under this section has effect.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F55 Words in s. 28(1) substituted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(2)(a)**, 36(2)

F56 Words in s. 28(1) substituted (1.4.2001) by 2000 c. 21, **s. 143(1)(a)** (with s. 150); S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. I**

F57 Words in s. 28(2)(a) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 38** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

F58 S. 28(2)(b) repealed (1.10.2000 for E. and 1.4.2001 for W.), by 2000 c. 21, ss. 143(1)(b), 153, **Sch. 11** (with s. 150); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F59 S. 28(2)(d) and the word preceding it added (1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, **s. 143(1)(c)** (with s. 150); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F60 Words in s. 28(3)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 109** (with ss. 1(4), 561, 562, Sch. 39)

F61 S. 28(3A) inserted (1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, **s. 112** (with s. 150); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F62 Words in s. 28(3A) substituted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(2)(a)**, 36(2)

F63 S. 28(3B) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(2)(b)**, 36(2)

Commencement Information

I10 S. 28 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

29 Government and conduct of designated institutions E+W

(1) This section applies to a designated institution, other than—

(a) an institution conducted by a company, or

(b) an institution conducted by an unincorporated association, if the order designating the institution provides for its exemption.

(2) For each designated institution to which this section applies, there is to be—

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

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

(3) In sections 29A to 29C—

"instrument" means an instrument of government or articles of government;

"regulatory instrument", in relation to an institution, means—

(a) an instrument of government or articles of government, or

(b) any other instrument relating to or regulating the institution.

Commencement Information

I11 S. 29 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

29A First post-designation instruments and articles of designated institutions[F64]... E +W

(1) The first post-designation instrument and articles of government of a designated institution to which section 29 applies must each comply with subsection (3)[F65]....

(2) The "first post-designation instrument and articles of government" of a designated institution are the first instrument of government and articles of government that the institution has after the designation takes effect.

(3) The instrument must meet one of the following requirements—

(a) the instrument was in force when the designation took effect and is approved for the purposes of this section by the appropriate authority;

(b) the instrument—

(i) is made in pursuance of a power under a regulatory instrument or (where there is no such power) by the governing body of the institution, and

(ii) (in either case) is approved for the purposes of this section by the appropriate authority;

(c) the instrument is made by the appropriate authority by order.

(4) An instrument made by the governing body under subsection (3)(b) or the appropriate authority under subsection (3)(c) may replace wholly or in part an existing regulatory instrument.

(5) Before making an instrument under subsection (3)(c), the appropriate authority must, so far as it appears practicable to do so, consult—

(a) the governing body of the institution, and

(b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.

[F66](6) . . . . . .

(7) In this section "the appropriate authority"—

(a) in relation to an institution in England, means the Secretary of State;

(b) in relation to an institution in Wales, means the Welsh Ministers.

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Textual Amendments

F64 Words in s. 29A heading omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 4(1)(c)**, 11(2); S.I. 2014/1706, art. 3(d)

F65 Words in s. 29A(1) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 4(1)(a)**, 11(2); S.I. 2014/1706, art. 3(d)

F66 S. 29A(6) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 4(1)(b)**, 11(2); S.I. 2014/1706, art. 3(d)

[[F67]29B Changes to instruments and articles E+W

(1) This section applies to a designated institution to which section 29 applies.

(2) The governing body of the institution may modify or replace its instrument of government and articles of government.

(3) If the institution is in Wales and is an institution to which section 30 applies, the governing body may do any of the things mentioned in subsection (2) only with the consent of the trustees of the institution.

(4) The instrument of government and articles of government (as modified or replaced)—
   (a) must comply with the requirements of Schedule 4, and
   (b) subject to that, may make such other provision as may be necessary or desirable.**]**

Textual Amendments

F67 S. 29B substituted for ss. 29B, 29C (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 4(2)**, 11(2); S.I. 2014/1706, art. 3(d)

[[F68]30 Special provision for certain institutions. E+W

(1) Notwithstanding anything in sections 29 to **[**[F69]29B**]** of this Act, the instrument of government of a designated institution to which this section applies must provide—
   (a) for the governing body of the institution to include persons appointed for the purpose of securing so far as practicable that the established character of the institution at the time of its designation is preserved and developed and, in particular, that the institution is conducted in accordance with any trust deed relating to it, and
   (b) for the majority of members of the governing body to be such governors.

(2) This section applies to—
   (a) an institution which, when designated, was a voluntary aided school, and
   (b) an institution specified, or falling within a class specified, by the Secretary of State by order.

(3) The Secretary of State may specify an institution or a class of institutions only if the institution or each member of the class is principally concerned with the provision of the education specified in section 28(1)(a) above.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(4) The reference in subsection (1)(a) above to the established character of an institution is, in relation to an institution established shortly before or at the same time as being designated, a reference to the character which the institution is intended to have on its establishment.**]**

Textual Amendments

F68 S. 30 substituted (1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, **s. 143(2)** (with s. 150); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F69 Word in s. 30(1) substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(a)**; S.I. 2014/1706, art. 3(h)

31 Designated institutions conducted by companies. E+W

[[F70](1) This section has effect in relation to any designated institution **[**[F71]in Wales**]** 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).

[F72](2A) . . . . . .

(3) The Secretary of State may give to the persons who appear to him to have effective control over the company such directions as he thinks fit for securing that—

(a) the **[**[F73]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 he may specify in the direction.

(4) No amendment of the **[**[F74]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 Secretary of State for his approval and he has notified his approval to the company.

(5) Before giving any directions under subsection (3) above the Secretary of State shall consult the persons who appear to him to have effective control over the company.**]**

Textual Amendments

F70 S. 31 ceases to have effect (E.) (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 5(1)**

F71 Words in s. 31(1) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 5(2)**

F72 S. 31(2A) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 4(3)**, 11(2); S.I. 2014/1706, art. 3(d)

F73 Words in s. 31(3)(a) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 131** (with art. 10)

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F74 Words in s. 31(4) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 131** (with art. 10)

Commencement Information

I12 S. 31 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

[F75]32 Transfer of property, etc., to designated institutions. E+W

. . . . . .

Textual Amendments

F75 S. 32 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(3)**

[F76]33 Provisions supplementary to section 32. E+W

. . . . . .

Textual Amendments

F76 S. 33 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(3)**

[F77Sixth form college corporations: England

Textual Amendments

F77 Ss. 33A-33N and cross-heading inserted (12.1.2010 for the insertion of ss. 33A-33J, 33M, 33N, 1.4.2010 in so far as not already in force) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 3**; S.I. 2009/3317, art. 2, **Sch.**; S.I. 2010/303, art. 3, **Sch. 2** (with arts. 9-11)

33A Initial designation of existing bodies corporate as sixth form college corporations E+W+S

(1) The Secretary of State may by order designate a body corporate within subsection (2) as a sixth form college corporation, for the purpose of conducting an educational institution specified in the order.

(2) A body corporate is within this subsection if it is—

(a) a further education corporation established in respect of an institution in England, or

(b) a body corporate established by an order under section 143(4) of the Learning and Skills Act 2000 in respect of an institution in England.

(3) On the date specified in the order—

(a) a body corporate within subsection (2)(a) ceases to be a further education corporation and becomes a sixth form college corporation;

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(b) a body corporate within subsection (2)(b) ceases to be subject to the order under section 143(4) of the Learning and Skills Act 2000 establishing it and becomes a sixth form college corporation;

(c) in the case of a body corporate within subsection (2)(b), a designation under section 28 which has effect in relation to the relevant sixth form college ceases to have effect.

(4) An order under subsection (1) may—

(a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;

(b) make provision as to the initial name of the corporation as a sixth form college corporation.

(5) The power conferred by subsection (1)—

(a) is exercisable only once;

(b) is not exercisable after the date specified in an order made by the Secretary of State.

33B Subsequent designation of existing bodies corporate as sixth form college corporations E+W+S

(1) The Secretary of State may by order designate a body corporate within subsection (2) as a sixth form college corporation, for the purpose of conducting an educational institution specified in the order.

(2) A body corporate is within this subsection if it is—

(a) a further education corporation established in respect of an institution in England, or

(b) a body corporate established by an order under section 143(4) of the Learning and Skills Act 2000 in respect of an institution in England.

(3) An order under subsection (1) may be made only if—

(a) an application for the order has been made by the governing body of the institution mentioned in subsection (2)(a) or (b), and

(b) the institution is one within subsection (4).

(4) An institution is within this subsection if it appears to the Secretary of State that on the date on which the application is made at least 80% of its total enrolment number will be persons over compulsory school age but under 19.

(5) The total enrolment number of an institution is to be calculated in accordance with paragraph 1(2) of Schedule 3.

(6) On the date specified in the order—

(a) a body corporate within subsection (2)(a) ceases to be a further education corporation and becomes a sixth form college corporation;

(b) a body corporate within subsection (2)(b) ceases to be subject to the order under section 143(4) of the Learning and Skills Act 2000 establishing it and becomes a sixth form college corporation;

(c) in the case of a body corporate within subsection (2)(b), a designation under section 28 which has effect in relation to the relevant sixth form college ceases to have effect.

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(7) An order under subsection (1) may—

(a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;

(b) make provision as to the initial name of the corporation as a sixth form college corporation.

(8) The power conferred by subsection (1) is exercisable only after the date specified in an order under section 33A(5)(b).

33C Establishment of new bodies corporate as sixth form college corporations E+W +S

(1) The Secretary of State may by order make provision for the establishment of a body corporate as a sixth form college corporation, for the purpose of establishing and conducting an educational institution specified in the order.

(2) An order under subsection (1) may be made only if—

(a) a proposal relating to the order has been made by **[**[F78]a person or body ("the proposer**]** and it appears to the Secretary of State that the requirements in subsection (3) have been met in relation to the proposal, and

(b) it appears to the Secretary of State that the institution will when established be one within subsection (4).

(3) The requirements are that—

(a) the **[**[F79]proposer has**]** published the proposal by the prescribed time and in the prescribed manner;

(b) the proposal as published contained prescribed information;

(c) the **[**[F80]proposer has**]** considered any representations about the proposal made to **[**[F81]the proposer**]** within the prescribed period.

(4) An institution is within this subsection if—

(a) the institution is in England, and

(b) on the date on which it is proposed to be established, at least 80% of its total enrolment number will be persons over compulsory school age but under 19.

(5) The total enrolment number of an institution is to be calculated in accordance with paragraph 1(2) of Schedule 3.

(6) An order under subsection (1)—

(a) must provide for the institution to be established and conducted by the body corporate as from the date specified in the order;

(b) may make provision as to the initial name of the corporation as a sixth form college corporation.

Textual Amendments

F78 Words in s. 33C(2) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 11(2)**; S.I. 2012/924, art. 2

F79 Words in s. 33C(3)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 11(3)**; S.I. 2012/924, art. 2

F80 Words in s. 33C(3)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 11(4)(a)**; S.I. 2012/924, art. 2

F81 Words in s. 33C(3)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 11(4)(b)**; S.I. 2012/924, art. 2

33D Conversion of sixth form college corporations into further education corporations E+W+S

(1) The Secretary of State may by order convert a sixth form college corporation into a further education corporation.

(2) An order under subsection (1) may be made only if—

(a) an application for the order has been made by the governing body of the relevant sixth form college, [F82]...

[F82] . . . . . .

(3) An application under subsection (2)(a) may not be made during the period of two years beginning with the date on which the body's designation or establishment as a sixth form college corporation takes effect.

[F83](4) . . . . . .

(5) On the date specified in the order, the body ceases to be a sixth form college corporation and becomes a further education corporation.

(6) An order under subsection (1) may—

(a) make provision for the continuity of the body corporate, including provision for the continuation of the instrument and articles of government of the body and the relevant sixth form college;

(b) make provision as to the initial name of the corporation as a further education corporation.

Textual Amendments

F82 S. 33D(2)(b) and preceding word omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 6(a)**

F83 S. 33D(4) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 6(b)**

33E Principal powers of a sixth form college corporation E+W+S

(1) A sixth form college corporation may do any of the following—

(a) provide further and higher education,

(b) provide secondary education suitable to the requirements of persons who have attained the age of 14,

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

(d) participate in the provision of secondary education at a school,

(e) supply goods or services in connection with their provision of education.

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(2) The powers conferred by subsection (1) **[**[F84]and (in the case of a sixth form college corporation to which section 33J applies) section 33J(1A)**]** are referred to in section 33F as the corporation's principal powers.

(3) A sixth form college corporation may not provide education of a kind specified in subsection (1)(b), (c) or (d) unless they have consulted such **[**[F15]local authorities**]** as they consider appropriate.

(4) For the purposes of subsection (1), goods are supplied in connection with the provision of education by a sixth form college corporation if they result from—

(a) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,

(b) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or

(c) ideas of a person employed by them, or one of their students, arising out of their provision of education.

(5) For the purposes of subsection (1), services are supplied in connection with the provision of education by a sixth form college corporation if—

(a) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,

(b) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or

(c) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F84 Words in s. 33E(2) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 12**; S.I. 2012/924, art. 2

33F Supplementary powers of a sixth form college corporation E+W+S

(1) A sixth form college corporation may do anything (including in particular the things referred to in subsections (2) to (6)) which appears to the corporation to be necessary or expedient for the purpose of or in connection with the exercise of any of their principal powers.

(2) A sixth form college corporation may conduct an educational establishment for the purpose of carrying on activities undertaken in the exercise of their powers to provide further or higher education.

(3) In particular, a sixth form college corporation may conduct the relevant sixth form college as from the date specified in the order designating or establishing the corporation as a sixth form college corporation.

(4) A sixth form college corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers.

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(5) The facilities include—

(a) boarding accommodation and recreational facilities for students and staff, and

(b) facilities to meet the needs of students with learning difficulties.

(6) A sixth form college corporation may—

(a) acquire and dispose of land and other property,

(b) 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 activities undertaken in the exercise of their principal powers, and

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

(c) form, participate in forming or invest in a company,

(d) form, participate in forming or otherwise become a member of a charitable incorporated organisation **[**[F85](within the meaning of Part 11 of the Charities Act 2011)**]**,

(e) borrow such sums as the corporation think fit for the purposes of—

(i) carrying on any activities they have power to carry on, or

(ii) meeting any liability transferred to them under sections 23 to **[**[F86]27C or 33P**]** ,

(f) in connection with their borrowing, grant any mortgage, charge or other security in respect of any land or other property of the corporation,

(g) invest any sums not immediately required for the purpose of carrying on any activities they have power to carry on,

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

(i) do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

[F87](7) . . . . . .

(8) For the purposes of this section a person has a learning difficulty if—

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

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

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

(10) A reference in this section [F88]... to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.

(11) A sixth form college corporation may provide advice or assistance to any other person where it appears to the corporation to be appropriate for them to do so for the purpose of or in connection with the provision of education by the other person.

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Textual Amendments

F85 Words in s. 33F(6)(d) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 60** (with s. 20(2), Sch. 8)

F86 Words in s. 33F(6)(e)(ii) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 13(a)**; S.I. 2012/924, art. 2

F87 S. 33F(7) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 13(b)**; S.I. 2012/924, art. 2

F88 Words in s. 33F(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 13(c)**; S.I. 2012/924, art. 2

[F89]33G Further provision about supplementary powers E+W+S

. . . . . .

Textual Amendments

F89 S. 33G repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 14**; S.I. 2012/924, art. 2

[F90]33H Duty in relation to promotion of well-being of local area E+W+S

. . . . . .

Textual Amendments

F90 S. 33H repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 15**; S.I. 2012/924, art. 2

33I Constitution of sixth form college corporation and conduct of sixth form college E+W+S

(1) For every sixth form college corporation there is to be—

(a) an instrument providing for the constitution of the corporation (to be known as the instrument of government), and

(b) an instrument in accordance with which the corporation, and the relevant sixth form college, are to be conducted (to be known as articles of government).

(2) Instruments of government and articles of government—

(a) must comply with the requirements of [F91]...Schedule 4, and

[[F92](b) subject to that, may make such other provision as may be necessary or desirable.**]**

(3) Subsection (2) is subject to section 33J.

(4) The validity of any proceedings of a sixth form college corporation, or of any committee of the corporation, is not affected by—

(a) a vacancy among the members, or

(b) a defect in the appointment or nomination of a member.

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(5) Subsection (6) applies to a document purporting to be an instrument made or issued by or on behalf of a sixth form college corporation and to be—

(a) duly executed under the seal of the corporation, or

(b) signed or executed by a person authorised by the corporation to act in that behalf.

(6) The document is to be received in evidence and treated, without further proof, as being made or issued by or on behalf of the corporation unless the contrary is shown.

Textual Amendments

F91 Words in s. 33I(2)(a) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(b)**; S.I. 2014/1706, art. 3(h)

F92 S. 33I(2)(b) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 16(b)**; S.I. 2012/924, art. 2

33J Special provision for certain institutions E+W+S

(1) Despite anything in section 33I, the instrument of government of a sixth form college corporation to which this section applies must provide—

(a) for the governing body of the relevant sixth form college to include persons appointed for the purpose of securing so far as practicable that the established character of the sixth form college is preserved and developed and, in particular, that the sixth form college is conducted in accordance with any trust deed relating to it, and

(b) for the majority of members of the governing body of the relevant sixth form college to be such governors.

[F93](1A) **[** A sixth form college corporation to which this section applies may (accordingly) conduct the relevant sixth form college in a way that secures that the established character of the sixth form college is preserved and developed (and, in particular, in a way that is in accordance with any trust deed relating to the college).**]**

(2) This section applies to a sixth form college corporation in respect of which the relevant sixth form college is specified, or falls within a class specified, by the Secretary of State by order.

(3) The **[**[F94]references in subsections (1)(a) and (1A) to the established character of a sixth form college are **]** , in relation to a sixth form college established shortly before or at the same time as the designation or establishment of the sixth form college corporation in respect of which it is the relevant sixth form college, **[**[F95]references**]** to the character which the sixth form college is intended to have on its establishment.

Textual Amendments

F93 S. 33J(1A) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 17(2)**; S.I. 2012/924, art. 2

F94 Words in s. 33J(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 17(3)(a)**; S.I. 2012/924, art. 2

F95 Word in s. 33J(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 17(3)(b)**; S.I. 2012/924, art. 2

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33K Instrument and articles of new sixth form college corporations E+W+S

(1) The first instrument of government and articles of government of a sixth form college corporation established under section 33C are to be made by the **[**[F96]Secretary of State by order**]** .

[[F97](2) An order under subsection (1) may not be made unless—

(a) the Secretary of State has consulted the corporation, and

(b) in the case of a sixth form college corporation to which section 33J applies, the trustees of the relevant sixth form college have given their consent.**]**

Textual Amendments

F96 Words in s. 33K(1) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 18(a)**; S.I. 2012/924, art. 2

F97 S. 33K(2) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 18(b)**; S.I. 2012/924, art. 2

[[F98]33L Changes to instruments and articles E+W+S

(1) A sixth form college corporation may modify or replace their instrument of government or articles of government.

(2) A sixth form college corporation to which section 33J applies may do the things mentioned in subsection (1) only with the consent of the trustees of the relevant sixth form college.**]**

Textual Amendments

F98 S. 33L substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 19**; S.I. 2012/924, art. 2

33M Charitable status of a sixth form college corporation E+W+S

A sixth form college corporation is a charity [F99]... **[**[F100](and, as a result of its inclusion in Schedule 3 to the Charities Act 2011, is an exempt charity for the purposes of that Act)**]**.

Textual Amendments

F99 Words in s. 33M omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of The Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396), art. 1, Sch. paras. 37(1)**(2)(f)**

F100 Words in s. 33M substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 61** (with s. 20(2), Sch. 8)

[[F101]33N Proposals for dissolution of sixth form college corporations E+W+S

(1) This section applies if a sixth form college corporation propose that the corporation should be dissolved.

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(2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.

(3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.**]]**

Textual Amendments

F101 Ss. 33N-33P substituted for s. 33N (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 20**; S.I. 2012/924, art. 2 (with art. 6)

[[F101]33O Dissolution of sixth form college corporations E+W+S

(1) This section and section 33P apply if, after complying with section 33N, a sixth form college corporation resolve that the corporation should be dissolved on a specified date.

(2) "The dissolution date" means the date specified in a resolution under subsection (1).

(3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.

(4) The corporation are dissolved on the dissolution date.

[[F102](5) See also section 33Q (restrictions on dissolution in insolvency situations).**]**

Textual Amendments

F101 Ss. 33N-33P substituted for s. 33N (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 20**; S.I. 2012/924, art. 2 (with art. 6)

F102 S. 33O(5) inserted (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 38(2)**, 47(2); S.I. 2018/1161, reg. 3(a)

33P Dissolution of sixth form college corporations: transfer of property, rights and liabilities E+W+S

(1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed, subject to subsection (4).

(2) The corporation may do so only with the consent of the person or body concerned.

(3) A transfer under subsection (1) has effect on the dissolution date.

(4) In the case of a sixth form college corporation to which section 33J applies, any property held by the corporation on trust for the purposes of the relevant sixth form college must be transferred to the trustees of the relevant sixth form college.

(5) Subsection (6) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.

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(6) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

(7) Subsection (6) does not apply to property transferred to the person or body by virtue of subsection (4).**]**

Textual Amendments

F101 Ss. 33N-33P substituted for s. 33N (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 20**; S.I. 2012/924, art. 2 (with art. 6)

[F103 33Q Restrictions on dissolution in insolvency situations E+W+S

(1) A sixth form college corporation have no power under section 33O to resolve that the corporation should be dissolved if—

(a) the corporation is in education administration under Chapter 4 of Part 2 of the Technical and Further Education Act 2017,

(b) a voluntary arrangement in relation to the corporation has been proposed under Part 1 of the Insolvency Act 1986 and the matter has not been finally concluded,

(c) the corporation is in administration under Part 2 of the Insolvency Act 1986,

(d) paragraph 44 of Schedule B1 to the Insolvency Act 1986 applies (interim moratorium on proceedings where application to the court for an administration order has been made), or

(e) the corporation is being wound up, whether voluntarily or by the court, under Part 4 of the Insolvency Act 1986 or a petition under that Part for winding up of the corporation by the court has been presented and not finally dealt with or withdrawn.

(2) For the purposes of subsection (1)(b), the matter is finally concluded if—

(a) no meetings are to be summoned under section 3 of the Insolvency Act 1986,

(b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,

(c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or

(d) the court makes an order under section 6(5) of that Act revoking approval given at previous meetings and, if the court gives any directions under section 6(6) of that Act, the corporation has done whatever it is required to do under those directions.

(3) In this section—

(a) a reference to paragraph 44 of Schedule B1 to the Insolvency Act 1986 is to that paragraph as it applies to a sixth form college corporation by virtue of—

(i) section 6 of the Technical and Further Education Act 2017 (application of normal insolvency procedures), or

(ii) Schedule 3 to the Technical and Further Education Act 2017 (special education administration);

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(b) any other reference to a provision of the Insolvency Act 1986 is to that provision as it applies to a sixth form college corporation by virtue of section 6 of the Technical and Further Education Act 2017.**]**

Textual Amendments

F103 S. 33Q inserted (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 38(3)**, 47(2); S.I. 2018/1161, reg. 3(a)

Property, rights and liabilities: general

F104 34 Making additional property available for use. E+W

. . . . . .

Textual Amendments

F104 S. 34 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(4)**

F105 35 Voluntary transfers of staff in connection with section 34. E+W+S

. . . . . .

Textual Amendments

F105 S. 35 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(b)**

F106 36 General provisions about transfers under Chapter II. E+W

. . . . . .

Textual Amendments

F106 S. 36 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(c)**

F107 37 Attribution of surpluses and deficits. E+W

. . . . . .

Textual Amendments

F107 S. 37 repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 92, **Sch. 2 Pt. 2** (with art. 2(3))

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[F108]38 Payments ... in respect of loan liabilities. E+W

. . . . . .

Textual Amendments

F108 S. 38 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(d)**

39 Control of disposals of land. E+W

[F109] . . . . . .

Textual Amendments

F109 S. 39 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 16, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1

40 Wrongful disposals of land. E+W

[F110] . . . . . .

Textual Amendments

F110 S. 40 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 16, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1

41 Control of contracts. E+W

[F111] . . . . . .

Textual Amendments

F111 S. 41 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 16, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1

42 Wrongful contracts. E+W

[F112] . . . . . .

Textual Amendments

F112 S.42 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 16, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1

[F113]43 Remuneration of employees. E+W

. . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F113 S. 43 repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 92, **Sch. 2 Pt. 2** (with art. 2(3))

Miscellaneous

44 Collective worship. E+W

[[F114](1) This section applies to any institution within the further education sector which is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

(2) An institution is of voluntary origin for the purposes of this section if—

(a) immediately before it joined the further education sector it was a voluntary school (within the meaning of the Education Act 1996),

(b) immediately before it joined the further education sector it was a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) having a foundation established otherwise than under that Act,

(c) it is designated for the purposes of this paragraph by order of the Secretary of State, or

(d) it is formed by or for the purpose of merging two institutions both of which were within paragraphs (a) to (c).

(2A) The governing body of an institution to which this section applies shall ensure that at an appropriate time on at least one day in each week during which the institution is open an act of collective worship is held at the institution which persons receiving education at the institution may attend.**]**

(3) In an institution of voluntary origin such act of collective worship shall —

(a) be in such forms as to comply with the provisions of any trust deed affecting the institution, and

(b) reflect the religious traditions and practices of the institution before it **[**[F115]joined the further education sector**]**.

(4) In all **[**[F116]other institutions to which this section applies**]** such act of collective worship shall be wholly or mainly of a broadly Christian character in that it shall reflect the broad traditions of Christian belief but need not be distinctive of any particular Christian denomination.

(5) If the governing body of **[**[F117]an institution to which this section applies**]** considers it appropriate to do so it may in addition to the act of collective worship referred to in subsection (3) or (4) provide for acts of worship which reflect the practices of some or all of the other religious traditions represented in Great Britain.

[F118](6) . . . . . .

[[F119](7) In the application of this section to an institution which is of voluntary origin by virtue of subsection (2)(d), subsection (3)(b) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in subsection (2)(d).**]**

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F114 S. 44(1)-(2A) substituted for s. 44(1)(2) (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(2)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

F115 Words in s. 44(3)(b) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(3)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

F116 Words in s. 44(4) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(4)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 23, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

F117 Words in s. 44(5) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(5)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

F118 S. 44(6) repealed (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 27(6), **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

F119 S. 44(7) inserted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and 1.9.2001 insofar as not already in force for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 27(7)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III**

Modifications etc. (not altering text)

C12 S. 44: power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90)

C13 S. 44(2A) modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **3(b)**

Commencement Information

I13 S. 44 partly in force: s. 44 in force for certain purposes at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

45 Religious education. E+W

[[F120](1) This section applies to any institution to which section 44 of this Act applies.

(2) An institution is of voluntary origin for the purposes of this section if it is of voluntary origin for the purposes of section 44 of this Act.

(2A) The governing body of an institution to which this section applies shall ensure that religious education is provided at the institution for all persons attending the institution who wish to receive it.**]**

(3) The governing body of **[**[F121]an institution to which this section applies**]** shall be deemed to be fulfilling its duty under this section if religious education is provided at a time or times at which it is convenient for the majority of full time students to attend.

(4) For the purposes of this section religious education may take the form of a course of lectures or classes or of single lectures or classes provided on a regular basis and may include a course of study leading to an examination or the award of a qualification.

(5) The form and content of religious education provided pursuant to this section shall be determined from time to time by the governing body of **[**[F122]institution to which this section applies**]** and—

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(a) in the case of an institution of voluntary origin—

(i) shall be in accordance with the provisions of any trust deed affecting the institution, and

(ii) shall not be contrary to the religious traditions of the institution before it **[**[F123]joined the further education sector**]**;

(b) in the case of all **[**[F124]other institutions to which this section applies**]**shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.

[F125](6) . . . . . .

[[F126](7) In the application of this section to an institution which is an institution of voluntary origin by virtue of section 44(2)(d), subsection (5)(a)(ii) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in section 44(2)(d).**]**

Textual Amendments

F120 S. 45(2)-(2A) substituted for s. 44(1)(2) (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(2)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F121 Words in s. 45(3) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(3)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F122 Words in s. 45(5) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(a)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F123 Words in s. 45(5)(a)(ii) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(b)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F124 Words in s. 45(5)(b) substituted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(4)(c)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F125 S. 45(6) repealed (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 28(5), **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

F126 S. 45(7) inserted (1.10.2000 for E. for specified purposes, 1.4.2001 for W. and otherwise 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 28(6)**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

Commencement Information

I14 S. 45 partly in force: s. 45 in force for certain purposes at 1.4.1993 see s. 94(3) and Sch. 3

46 Variation of trust deeds. E+W

(1) The Secretary of State may by order make such modifications as he thinks fit in any trust deed or other instrument—

(a) relating to or regulating an institution within the further education sector, or

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

(2) Before making any modifications under subsection (1) above of any trust deed or other instrument the Secretary of State shall so far as it appears to him 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.

Modifications etc. (not altering text)

C14 S. 46(2)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch.2**

Commencement Information

I15 S. 46 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

47 Transfer of higher education institutions to further education sector. E+W

(1) The Secretary of State may by order provide for the transfer of a higher education corporation to the further education sector.

(2) Where an order is made under this section in respect of a higher education corporation, sections 20 and 21 of this Act shall have effect as if, on the date the order has effect, the corporation were established as a further education corporation; and the order may make **[**[F127]provision as to the initial name of the corporation as a further education corporation.**]**

(3) On such date as may be specified in the order the corporation shall cease to be a higher education corporation and become a further education corporation.

(4) An order under section 28 of this Act in respect of any institution may revoke any order in respect of that institution under section 129 of the [M2]Education Reform Act 1988 (designation of institutions).

Textual Amendments

F127 Words in s. 47(2) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.43** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

Commencement Information

I16 S. 47 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

Marginal Citations

M2 1988 c. 40.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

48 Statutory conditions of employment. E+W

[F128] . . . . . .

Textual Amendments

F128 S. 48 repealed (1.10.2002) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 18, **Sch. 22 Pt. 1**; S.I. 2002/2439, **art. 2**

49 Avoidance of certain contractual terms. E+W

(1) This section applies to any contract made between the governing body of an institution within the further education sector 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 to him under **[**[F129]Part XI of the Employment Rights Act 1996**]**,

the contract shall be void and of no effect.

Textual Amendments

F129 Words in s. 49(2)(b) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(3)** (with ss. 191-195, 202)

Commencement Information

I17 S. 49 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[[F130]49A Consultation E+W

[[F131](1) In exercising their functions the governing body of an institution within the further education sector **[**[F132] in Wales**]** must have regard to any guidance given from time to time by the **[**[F132]Welsh Ministers**]** about consultation with—

(a) persons who are or are likely to become students of the institution, or

(b) employers,

in connection with the taking of decisions affecting them.

(2) Any guidance under this section about consultation with persons falling within paragraph (a) of subsection (1) must provide for the views of such a person to be considered in the light of his age and understanding.

[F132](3) . . . . . .**]]**

Textual Amendments

F130 S. 49A inserted (23.12.2007 for E.) by Further Education and Training Act 2007 (c. 25), ss. 22, 32(4); S.I. 2007/3505, art. 2(d)

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F131 S. 49A repealed (E.) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 22**; S.I. 2012/924, art. 2

F132 S. 49A: amendment to earlier affecting provision 2007 c. 25, s. 22 (W.) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 45**; S.I. 2012/924, art. 2

[F133 49B Destinations E+W

(1) The Secretary of State may provide destination information to the governing body of an institution in England within the further education sector.

(2) **[**F134 The Commission for Tertiary Education and Research**]** may provide destination information to the governing body of an institution in Wales within the further education sector.

(3) In this section "destination information", in relation to an institution, means information which—

(a) relates to a former student of the institution, and

(b) includes information as to prescribed activities of the former student after leaving the institution.

(4) Regulations under subsection (3)(b) which prescribe activities as to which **[**F135 the Commission for Tertiary Education and Research**]** may provide information are to be made by the Welsh Ministers.

(5) Subject to subsection (6)(a), information received under this section is not to be published in any form which identifies the individual to whom it relates.

(6) This section—

(a) does not affect any power to provide or publish information which exists apart from this section, and

(b) is subject to any express restriction on the provision of information imposed by another enactment.**]**

Textual Amendments

F133 S. 49B inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 80**, 164(3)(f)

F134 Words in s. 49B(2) substituted (1.8.2024) by Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(2)(a)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

F135 Words in s. 49B(4) substituted (1.8.2024) by Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(2)(b)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

50 Information with respect to institutions within the further education sector. E+W

(1) The Secretary of State may by regulations require the governing body of any institution within the further education sector to publish such information as may be prescribed about—

(a) the educational provision made or proposed to be made for their students,

(b) the educational achievements of their students on entry to the institution and the educational achievements of their students while at the institution

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(including in each case the results of examinations, tests and other assessments),

(c) the financial and other resources of the institution and the effectiveness of the use made of such resources, and

(d) the careers of their students after completing any course or leaving the institution.

(2) For the purposes of subsection (1)(d) above, a person's career includes any education, training, employment or occupation; and the regulations may in particular require the published information to show—

(a) the numbers of students not undertaking any career, and

(b) the persons providing students with education, training or employment.

(3) The information shall be published in such form and manner and at such times as may be prescribed.

(4) The published information shall not name any student to whom it relates.

(5) In this section "prescribed" means prescribed by regulations.

Modifications etc. (not altering text)

C15 S. 50(1) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch.2**

Commencement Information

I18 S. 50 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[F136]51 Publication of proposals. E+W

. . . . . .

Textual Amendments

F136 S. 51 repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 23**; S.I. 2012/924, art. 2 (with art. 7)

Commencement Information

I19 S. 51 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[[F137]51A Duty to provide for named individuals: England E+W

(1) This section applies to an institution in England within the further education sector which provides education suitable to the requirements of persons over compulsory school age but under the age of 19.

(2) A **[**[F15]local authority**]** may by notice given to the governing body of such an institution—

(a) require them to provide specified individuals with such education falling within subsection (1) as is appropriate to the individuals' abilities and aptitudes;

(b) withdraw such a requirement.

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(3) A **[**[F15]local authority**]** may specify an individual in a notice under subsection (2) only if the individual—

(a) is in the authority's area, and

(b) is over compulsory school age but under the age of 19.

(4) Before giving a notice under subsection (2) imposing a requirement on a governing body, a **[**[F15]local authority**]** must consult—

(a) the governing body, and

(b) such other persons as the authority think appropriate.

(5) The governing body of an institution within subsection (1) must secure compliance with a requirement that has been imposed under subsection (2) and has not been withdrawn.

(6) In deciding whether to require a particular institution to provide education to a particular individual under subsection (2) a **[**[F15]local authority**]** in England must have regard to any guidance given from time to time by the Secretary of State.**]**

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F137 S. 51A inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 44(1)**, 269(4); S.I. 2010/303, art. 3, Sch. 2

Modifications etc. (not altering text)

C16 S. 51A functions made exercisable concurrently (23.12.2016) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267), arts. 1(2), **12**

C17 S. 51A functions made exercisable concurrently (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **18** (with art. 28)

C18 S. 51A: functions made exercisable concurrently (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **5**

C19 S. 51A: functions made exercisable concurrently (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **5**

C20 S. 51A: functions made exercisable concurrently (7.5.2024) by The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), arts. 1(3), **33** (with art. 9)

52 Duty to provide for named individuals[[F138]: Wales] E+W

(1) This section applies where an institution **[**[F139]in Wales**]** within the further education sector provides [F140]... education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

(2) **[**[F141]The [F142]... National Assembly for Wales**]** may by notice given to the governing body of such an institution—

(a) require them to provide for such individuals as may be specified in the notice such education falling within subsection (1) above as is appropriate to their abilities and aptitudes, or

(b) withdraw such a requirement.

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(3) The governing body of such an institution shall, for any academic year in respect of which they receive financial support from **[**[F143]the [F144]... National Assembly for Wales**]**, secure compliance with any requirement in respect of any individual who has not attained the age of nineteen years which is or has been imposed by **[**[F145]the [F146]... National Assembly for Wales**]** under subsection (2) above and has not been withdrawn.

Textual Amendments

F138 Word in s. 52 heading inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 44(2)(b)**, 269(4); S.I. 2010/303, art. 3, Sch. 2

F139 Words in s. 52(1) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 44(2)(a)**, 269(4); S.I. 2010/303, art. 3, Sch. 2

F140 Words in s. 52(1) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 29, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F141 Words in s. 52(2) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(a)** (with art. 7)

F142 Words in s. 52(2) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(a), **Sch. 2 Pt. 1** (with art. 2(3))

F143 Words in s. 52(3) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(b)(i)** (with art. 7)

F144 Words in s. 52(3) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(b)(i), **Sch. 2 Pt. 1** (with art. 2(3))

F145 Words in s. 52(3) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 22(b)(ii)** (with art. 7)

F146 Words in s. 52(3) repealed (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 22(b)(ii), **Sch. 2 Pt. 1** (with art. 2(3))

Modifications etc. (not altering text)

C21 S. 52 modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 2**

Commencement Information

I20 S. 52 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[[F147]**52A Duty to safeguard pupils receiving secondary education.** E+W

(1) This section applies where secondary education is provided to **[**[F148]persons of compulsory school age**]**—

(a) by a further education corporation **[**[F149]by virtue of section 18(1)(aa) or (ab) of this Act**]**,

[[F150](aa) by a sixth form college corporation by virtue of section 33E(1)(b) or (c) of this Act,**]** or

(b) by a designated institution in pursuance of arrangements made—

(i) by a **[**[F15]local authority**]**, or

(ii) by the governing body of a school on behalf of such an authority.

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(2) The governing body of the corporation or institution shall secure that, except in such circumstances as may be prescribed by regulations, no education is provided to a person who has attained the age of nineteen years in a room in which any **[**[F151]persons of compulsory school age**]** are for the time being receiving secondary education.**]**

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F147 S. 52A inserted (1.10.1998) by 1998 c. 31, **s. 113(2)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**.

F148 Words in s. 52A(1) substituted (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215(1), **Sch. 21 para. 19(2)(a)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

F149 Words in s. 52A(1)(a) substituted (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215(1), **Sch. 21 para. 19(2)(b)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

F150 S. 52A(1)(aa) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 5**; S.I. 2010/303, art. 3, Sch. 2

F151 Words in s. 52A(2) substituted (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215(1), **Sch. 21 para. 19(3)**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

[[F152]**52B Duty to review provision in relation to local needs: England** E+W

(1) The governing body of an institution in England within the further education sector must—

(a) from time to time review how well the education or training provided by the institution meets local needs, and

(b) in light of that review, consider what action the institution might take (alone or in conjunction with action taken by one or more other educational institutions) in order to meet those needs better.

(2) In carrying out its review, the governing body must have regard to any guidance published under this section by the Secretary of State.

(3) The governing body must publish its review on the institution's website.**]**

Textual Amendments

F152 S. 52B inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 5**, 36(2)

53 Inspection of accounts. E+W

(1) The accounts of—

(a) any further education corporation,

[[F153](aa) any sixth form college corporation,**]** and

(b) any designated institution,

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

(2) In the case of any such corporation or institution—

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

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(b) the powers under sections 6 and 8 of the [M3]National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies 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 grants, loans or other payments are made to them under **[**[F154]section 15ZA **[**[F155]or 18A**]** of the Education Act 1996, section 14 of the Education Act 2002 or section [F156]... 100 of the Apprenticeships, Skills, Children and Learning Act 2009**]**.

Textual Amendments

F153 S. 53(1)(aa) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 93(2)** (with art. 2(3))

F154 Words in s. 53(2) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 93(3)** (with art. 2(3))

F155 Words in s. 53(2) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 24(a)**; S.I. 2012/924, art. 2

F156 Words in s. 53(2) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 24(b)**; S.I. 2012/924, art. 2

Modifications etc. (not altering text)

C22 S. 53(2) modified by S.I. 1993/563, **art. 2 Sch.1** (as amended (19.4.1993) by 1993/870, art. 2)

Commencement Information

I21 S. 53 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

Marginal Citations

M3 1983 c. 44.

CHAPTER III E+W

GENERAL

54 Duty to give information. E+W

[[F157](1) Each of the following must give the Secretary of State such information as the Secretary of State may require for purposes connected with further education—

(a) a local authority in England,

(b) the governing body of any institution maintained by a local authority in England,

(c) the governing body of a city technology college in England, a city college for the technology of the arts in England or an Academy,

(d) the governing body of any institution in England within the further education sector or the higher education sector, and

(e) any person or body who—

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(i) provides further education, and

(ii) is receiving or has received funding to do so from the Secretary of State, a local authority in England **[**[F158], a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 or a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023**]**.

(2) Each of the following must give the Welsh Ministers such information as the Welsh Ministers may require for the purposes of the exercise of any of the Welsh Ministers' functions under any enactment—

(a) a local authority,

(b) the governing body of any institution maintained by a local authority, and

(c) the governing body of any institution within the further education sector or the higher education sector.**]**

[[F159](3)**]** Such information relating to the provision which has been made by a **[**[F15]local authority**]** in respect of any pupil at an institution as the authority may require for the purposes of claiming any amount in respect of the pupil from another authority under **[**[F160]regulations under section 492 or 493 of the Education Act 1996**]** shall, where the institution becomes an institution within the further education sector, be provided to the authority by the governing body of the institution.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F157 S. 54(1)(2) substituted for s. 54(1) (12.11.2018) by Technical and Further Education Act 2017 (c. 19), **ss. 40(2)**, 47(2); S.I. 2018/1161, reg. 2

F158 Words in s. 54(1)(e)(ii) substituted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 109** (with s. 247)

F159 S. 54(2) renumbered as s. 54(3) (12.11.2018) by Technical and Further Education Act 2017 (c. 19), **ss. 40(3)**, 47(2); S.I. 2018/1161, reg. 2

F160 Words in s. 54(2) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 111** (with ss. 1(4), 561, 562, Sch. 39)

55 Inspection etc. of [[F15]local authority] institutions, other than schools, and advice to Secretary of State. E+W

[F161](1) . . . . . .

[F161](2) . . . . . .

[F161](3) . . . . . .

(4) In relation to any **[**[F15]local authority**]** institution maintained or assisted by them, a **[**[F15]local authority**]**—

(a) shall keep under review the quality of education provided, the educational standards achieved and whether the financial resources made available are managed efficiently, and

(b) may cause an inspection to be made by persons authorised by them.

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(5) A **[**[F15]local authority**]** shall not authorise any person to inspect any institution under this section unless they are satisfied that he is suitably qualified to do so.

(6) A person who wilfully obstructs any person authorised to inspect an institution under or by virtue of this section in the exercise of his functions shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) In this section—

[F162](a) . . . . . .

[F162](b) . . . . . .

(c) "**[**[F15]local authority**]** institution" means an educational institution, other than a school, maintained or assisted by a **[**[F15]local authority**]**.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F161 S. 55(1)-(3) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 32, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F162 S. 55(7)(a)(b) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 32, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Modifications etc. (not altering text)

C23 S.55: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by Contracting Out (Local Education Authority Functions) (England) Order 2002 (S.I. 2002/928), art. 3, **Sch. 3**

Commencement Information

I22 S. 55 wholly in force; s. 55 not in force at Royal assent see s. 94(3); s. 55(1)-(3) (as respects England only) and s. 55(4)-(6)(7)(a)(c) in force at 1.4.1993 by S.I. 1992/831, art. 2, **Sch. 3**; s. 55(1)(2)(3)(7)(b) in force at 1.8.1996 so far as not already in force by S.I. 1996/1897, **art. 3**

[F163]56 . . . . . E+W

Textual Amendments

F163 S. 56 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 33, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

[[F164]56A Intervention: England E+W

[[F165](1) This section applies if the Secretary of State is satisfied as to one or more of the matters listed in subsection (2) in the case of—

(a) an institution in England within the further education sector, other than a sixth form college, or

(b) an institution in England which is maintained by a local authority and provides further education, other than an institution within the higher education sector,

and, in either case, it is immaterial whether or not a complaint is made by any person.**]**

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(2) The matters are—

(a) that the institution's affairs have been or are being mismanaged by the institution's governing body;

(b) that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;

(c) that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;

(d) that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.

[F166](e) **[** that the education or training provided by the institution did not, or does not, adequately meet local needs.**]**

[F167](2A) **[** For the purposes of subsection (2)(e), the Secretary of State must take into account any approved local skills improvement plan that applied to the institution when the education or training was provided.

(2B) An approved local skills improvement plan applies to an institution if the institution provides English-funded post-16 technical education or training that is material to a specified area and the plan is for that area.

(2C) Terms used in subsection (2A) or (2B) and in section 1 of the Skills and Post-16 Education Act 2022 have the same meaning in those subsections as in that section.**]**

(3) If this section applies the **[**[F168]Secretary of State**]** may do one or more of the things listed in subsection (6).

[F169](4) . . . . . .

(5) **[**[F170]At the same time as doing one or more of those things the **[**[F171]Secretary of State**]** must**]** give the institution's governing body a notice stating—

(a) the matter or matters listed in subsection (2) as to which the **[**[F171]Secretary of State**]** is satisfied;

(b) the reasons why the **[**[F171]Secretary of State**]** is so satisfied;

(c) the reasons why the **[**[F171]Secretary of State**]** has decided to do that thing or those things.

(6) The **[**[F171]Secretary of State**]** may—

(a) remove all or any of the members of the institution's governing body;

(b) appoint new members of that body if there are vacancies (however arising);

(c) give to that body such directions **[**[F172]as the **[**[F171]Secretary of State**]** thinks**]** expedient as to the exercise of their powers and performance of their duties.

(7) The directions that may be given to a governing body under this section include **[**[F173]—

(a)**]** a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.

[F174](b) **[** a direction requiring a governing body to make a resolution under section 27A(1) **[**[F175], or take such other steps specified in the direction as may be required,**]** for the body to be dissolved on a date specified in the direction.**]**

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[F176] **[** (c) a direction requiring a governing body to transfer property, rights or liabilities specified in the direction, and take any other steps specified in the direction in connection with the transfer in relation to property, rights or liabilities so specified.**]**

[[F177](7A) A governing body to which a direction is given requiring the body to make a resolution under section 27A(1)—

(a) is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction, and

(b) must, unless the Secretary of State directs otherwise, exercise its powers under section 27B to transfer property, rights or liabilities on the dissolution date.**]**

[F178] **[** (7B) A direction under subsection (7)(c) requiring the transfer of property, rights or liabilities to a person specified in the direction may only be given with the consent of the person so specified.**]**

(8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.

[[F179](9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.**]**

[F180] **[** (9A) Before giving a direction for the transfer of property, rights or liabilities under subsection (7)(c), the Secretary of State must consult the Competition and Markets Authority.

(9B) Part 3 of the Enterprise Act 2002 does not apply in relation to a merger that will result or has resulted from a direction under this section.

(9C) The Secretary of State may give financial assistance (by way of grant, loan, guarantee or any other form) to any person in connection with the giving of a direction under this section.**]**

[F181](10) . . . . . .

(11) A governing body must comply with any directions given to them under this section.

(12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.**]**

Textual Amendments

F164 Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by Further Education and Training Act 2007 (c. 25), **ss. 17**, 32(5); S.I. 2007/3505, arts. 2(c), 5

F165 S. 56A(1) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 7**

F166 S. 56A(2)(e) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(a)**, 36(2)

F167 S. 56A(2A)-(2C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(b)**, 36(2)

F168 Words in s. 56A(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(3)**; S.I. 2012/924, art. 2

F169 S. 56A(4) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(4)**; S.I. 2012/924, art. 2

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F170 Words in s. 56A(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 7(4)(a)**; S.I. 2010/303, art. 3, Sch. 2

F171 Words in s. 56A(5)(6) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(5)**; S.I. 2012/924, art. 2

F172 Words in s. 56A(6)(c) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 6 para. 7(5)(b)**; S.I. 2010/303, art. 3, Sch. 2

F173 Words in s. 56A(7) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(6)**; S.I. 2012/924, art. 2

F174 S. 56A(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(6)**; S.I. 2012/924, art. 2

F175 Words in s. 56A(7)(b) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(c)(i)**, 36(2)

F176 S. 56A(7)(c) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(c)(ii)**, 36(2)

F177 S. 56A(7A) substituted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(d)**, 36(2)

F178 S. 56A(7B) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(e)**, 36(2)

F179 S. 56A(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(7)**; S.I. 2012/924, art. 2

F180 S. 56A(9A)-(9C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(f)**, 36(2)

F181 S. 56A(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(8)**; S.I. 2012/924, art. 2

[F182]56AA Appointment by Chief Executive of Skills Funding of members of governing body of further education institutions E+W

. . . . . .

Textual Amendments

F182 S. 56AA repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 26**; S.I. 2012/924, art. 2

[F183]56B Intervention policy: England E+W

. . . . . .

Textual Amendments

F183 S. 56B repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 27**; S.I. 2012/924, art. 2

[F184]56C Directions E+W

. . . . . .

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Textual Amendments

F184 S. 56C repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 28**; S.I. 2012/924, art. 2

[F185]56D Notification by local authority or YPLA of possible grounds for intervention E+W

. . . . . .

Textual Amendments

F185 S. 56D repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 29**; S.I. 2012/924, art. 2

[[F186]56E Intervention by [[F187]Secretary of State] : sixth form colleges E+W

(1) This section applies in relation to a sixth form college if the **[**[F188]Secretary of State is**]** satisfied as to one or more the matters listed in subsection (2) in relation to the sixth form college; and it is immaterial whether or not a complaint is made by any person.

(2) The matters are—

(a) that the sixth form college's affairs have been or are being mismanaged by its governing body;

(b) that the sixth form college's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;

(c) that the sixth form college's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;

(d) that the sixth form college is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an accepted standard of education or training.

[[F189](e) that the education or training provided by the sixth form college did not, or does not, adequately meet local needs.**]**

[[F190](2A) For the purposes of subsection (2)(e), the Secretary of State must take into account any approved local skills improvement plan that applied to the sixth form college when the education or training was provided.

(2B) An approved local skills improvement plan applies to a sixth form college if the college provides English-funded post-16 technical education or training that is material to a specified area and the plan is for that area.

(2C) Terms used in subsection (2A) or (2B) and in section 1 of the Skills and Post-16 Education Act 2022 have the same meaning in those subsections as in that section.**]**

(3) If this section applies the **[**[F191]Secretary of State**]** may do one or more of the things listed in subsection (6).

[[F192](4) Subsections (4A) and (4B) apply to a sixth form college which is specified, or falls within a class specified, in an order under section 33J(2).

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(4A) Before doing one or more of the things listed in subsection (6), the Secretary of State must consult—

(a) the trustees of the sixth form college, and

(b) each person or body with power under the college's instrument of government to appoint or nominate one or more of its foundation governors.

(4B) After carrying out a consultation under subsection (4A), the Secretary of State must give the persons and bodies consulted a notice stating—

(a) what the Secretary of State has decided to do;

(b) the reasons for the decision.**]**

(5) If the **[**[F193]Secretary of State does one or more of the things listed in subsection (6), the Secretary of State **]** must at the same time give the sixth form college's governing body a notice stating—

(a) the matter or matters listed in subsection (2) as to which the **[**[F194]Secretary of State is**]** satisfied;

(b) the reasons why the **[**[F195]Secretary of State has**]** decided to do that thing or those things.

(6) **[**[F196]The Secretary of State**]** may—

(a) remove all or any of the members of the sixth form college's governing body;

(b) appoint new members of that body if there are vacancies (however arising);

(c) give to that body such directions as the **[**[F197]Secretary of State thinks**]** expedient as to the exercise of the body's powers and performance of the body's duties.

(7) The directions that may be given to a governing body under this section include **[**[F198]—

(a)**]** a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.

[F199]**[**(b) a direction requiring a governing body to make a resolution under section 33O(1) for the body to be dissolved on a date specified in the direction.**]**

[F200]**[**(c) a direction requiring a governing body to transfer property, rights or liabilities specified in the direction, and take any other steps specified in the direction in connection with the transfer in relation to property, rights or liabilities so specified.**]**

[[F201](7A) A governing body to which a direction such as is mentioned in subsection (7)(b) is given—

(a) is to be taken for the purposes of section 33O(1) to have complied with section 33N before making the resolution required by the direction, and

(b) must, unless the Secretary of State directs otherwise, exercise its powers under section 33P to transfer property, rights or liabilities on the dissolution date.**]**

[F202]**[** (7B) A direction under subsection (7)(c) requiring the transfer of property, rights or liabilities to a person specified in the direction may only be given with the consent of the person so specified.**]**

(8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

[[F203](9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.**]**

[F204](9A) **[** Before giving a direction for the transfer of property, rights or liabilities under subsection (7)(c), the Secretary of State must consult the Competition and Markets Authority.

(9B) Part 3 of the Enterprise Act 2002 does not apply in relation to a merger that will result or has resulted from a direction under this section.

(9C) The Secretary of State may give financial assistance (by way of grant, loan, guarantee or any other form) to any person in connection with the giving of a direction under this section.**]**

[F205](10) . . . . . .

(11) A governing body must comply with any directions given to them under this section.

(12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the governing body's instrument of government and articles of government.**]**

Textual Amendments

F186 Ss. 56E-56J inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 8**; S.I. 2010/303, art. 3, Sch. 2

F187 Words in s. 56E heading substituted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(10)**; S.I. 2012/924, art. 2

F188 Words in s. 56E(1) substituted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(2)**; S.I. 2012/924, art. 2

F189 S. 56E(2)(e) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(a)**, 36(2)

F190 S. 56E(2A)-(2C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(b)**, 36(2)

F191 Words in s. 56E(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(3)**; S.I. 2012/924, art. 2

F192 S. 56E(4)-(4B) substituted for s. 56E(4) (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(4)**; S.I. 2012/924, art. 2

F193 Words in s. 56E(5) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(5)(a)**; S.I. 2012/924, art. 2

F194 Words in s. 56E(5)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(5)(b)**; S.I. 2012/924, art. 2

F195 Words in s. 56E(5)(b) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(5)(c)**; S.I. 2012/924, art. 2

F196 Words in s. 56E(6) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(6)(a)**; S.I. 2012/924, art. 2

F197 Words in s. 56E(6)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(6)(b)**; S.I. 2012/924, art. 2

F198 Words in s. 56E(7) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(7)**; S.I. 2012/924, art. 2

F199 S. 56E(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(7)**; S.I. 2012/924, art. 2

F200 S. 56E(7)(c) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(c)**, 36(2)

F201 S. 56E(7A) substituted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(d)**, 36(2)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

F202 S. 56E(7B) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(e)**, 36(2)
F203 S. 56E(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(8)**; S.I. 2012/924, art. 2
F204 S. 56E(9A)-(9C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(3)(f)**, 36(2)
F205 S. 56E(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 30(9)**; S.I. 2012/924, art. 2

F206 56F Appointment by local authorities of members of sixth form college governing body E+W

. . . . . .

Textual Amendments
F206 S. 56F repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 31**; S.I. 2012/924, art. 2

F207 56G Intervention policy: sixth form colleges E+W

. . . . . .

Textual Amendments
F207 S. 56G repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 32**; S.I. 2012/924, art. 2

F208 56H Intervention by YPLA E+W

. . . . . .

Textual Amendments
F208 S. 56H repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 33**; S.I. 2012/924, art. 2

F209 56I Appointment by YPLA of members of sixth form college governing body E+W

. . . . . .

Textual Amendments
F209 S. 56I repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 34**; S.I. 2012/924, art. 2

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

[F210]56J Notification by Chief Executive of Skills Funding of possible grounds for intervention E+W

. . . . . .

Textual Amendments

F210 S. 56J repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 35**; S.I. 2012/924, art. 2

[[F212]57 Intervention [[F211]: Wales] E+W

(1) This section applies if one or more of the conditions listed in subsection (2) is satisfied regarding an institution **[**[F213]in Wales**]** within the further education sector; and it is immaterial whether or not a complaint is made by any person.

(2) These are the conditions—

(a) **[**[F214]the Welsh Ministers are**]** satisfied that the institution's affairs have been or are being mismanaged by its governing body;

(b) **[**[F215]they are**]** satisfied that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act **[**[F216]or any Measure of the National Assembly for Wales**]**;

(c) **[**[F217]they are**]** satisfied that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act **[**[F218]or any Measure of the National Assembly for Wales**]**;

[[F219](d) they are satisfied that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.**]**

[F220](3) . . . . . .

(4) If this section applies **[**[F221]the Welsh Ministers**]** may by order—

(a) declare which of the conditions is (or are) satisfied, and

(b) do one or more of the things listed in subsection (5).

(5) **[**[F222]They may**]**—

(a) remove all or any of the members of the institution's governing body;

(b) appoint new members of that body if there are vacancies (however arising);

(c) give to that body such directions as **[**[F223]they think**]** expedient as to the exercise of their powers and performance of their duties.

[F224](5A) **[** The directions that may be given to a governing body under this section include **[**[F225]—

(a)**]** a direction requiring a governing body to exercise powers under section 5(2)(b) to (f) and (h) of the Education (Wales) Measure 2011 to collaborate with such persons and on such terms as may be specified in the direction.**[**[F226], and

(b) a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.**]**

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F227 **[** (5B) A governing body to which a direction such as is mentioned in subsection (5A)(b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.**]**

(6) Directions may be given to a body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.

F228 **[** (6A) The Welsh Ministers may not direct a governing body under subsection (5)(c) to dismiss a member of staff.

(6B) But subsection (6A) does not prevent the Welsh Ministers, where they consider that it may be appropriate to dismiss a member of staff whom the governing body have power under their institution's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.**]**

(7) A governing body must comply with any directions given to them under this section.

(8) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.

F229 (9) . . . . . .**]]**

Textual Amendments

F211 Words in s. 57 heading inserted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(7)**; S.I. 2008/1065, art. 2(c)

F212 S. 57 substituted (1.1.2001 for W. and 1.4.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 34** (with s. 150); S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)

F213 Words in s. 57(1) inserted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(2)**; S.I. 2008/1065, art. 2(c)

F214 Words in s. 57(2)(a) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(3)(a)**; S.I. 2008/1065, art. 2(c)

F215 Words in s. 57(2)(b) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(3)(b)**; S.I. 2008/1065, art. 2(c)

F216 Words in s. 57(2)(b) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 1 para. 3(2)**; S.I. 2009/371, art. 2(2), Sch. Pt. 2

F217 Words in s. 57(2)(c) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(3)(b)**; S.I. 2008/1065, art. 2(c)

F218 Words in s. 57(2)(c) inserted (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 1 para. 3(3)**; S.I. 2009/371, art. 2(2), Sch. Pt. 2

F219 S. 57(2)(d) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), **ss. 18(2)**, 32(3); S.I. 2008/983, art. 2

F220 S. 57(3) repealed (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), Sch. 1 para. 9(4), **Sch. 2**; S.I. 2008/1065, art. 2(c)(d)

F221 Words in s. 57(4) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(5)**; S.I. 2008/1065, art. 2(c)

F222 Words in s. 57(5) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(6)(a)**; S.I. 2008/1065, art. 2(c)

F223 Words in s. 57(5)(c) substituted (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 1 para. 9(6)(b)**; S.I. 2008/1065, art. 2(c)

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F224 S. 57(5A) inserted (18.4.2008) by Further Education and Training Act 2007 (c. 25), **ss. 18(3)**, 32(3); S.I. 2008/983, art. 2

F225 Word in s. 57(5A) inserted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 5(2)(a)**, 11(2); S.I. 2014/1706, art. 3(e)

F226 S. 57(5A)(b) and word inserted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 5(2)(b)**, 11(2); S.I. 2014/1706, art. 3(e)

F227 S. 57(5B) inserted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 5(3)**, 11(2); S.I. 2014/1706, art. 3(e)

F228 S. 57(6A)(6B) inserted (18.4.2008) by Further Education and Training Act 2007 (c. 25), **ss. 18(4)**, 32(3); S.I. 2008/983, art. 2

F229 S. 57(9) repealed (7.6.2005) by Inquiries Act 2005 (c. 12), s. 51(1), Sch. 2 para. 13, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, art. 2

Modifications etc. (not altering text)

C24 S. 57(3)(4) amended (22.3.2001) by S.I. 2001/1274, **art. 3(4)(b)**

F230 57A Intervention policy: Wales E+W

. . . . . .

Textual Amendments

F230 S. 57A omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 5(4)**, 11(2); S.I. 2014/1706, art. 3(e)

F231 58 Reorganisations of schools involving establishment of further education corporation. E+W

. . . . . .

Textual Amendments

F231 S. 58 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(e)**

F232 59 . . . . . E+W

Textual Amendments

F232 S. 59 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

60 Saving as to persons detained by order of a court. E+W

F233 . . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F233 S. 60 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 21, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

[F234]60A . . . . . E+W

Textual Amendments

F234 S. 60A repealed (28.7.2000 for E. for specified purposes, 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 36, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

61 Interpretation of Part I. E+W

(1) In this Part of this Act—

"functions" includes powers and duties,

"modifications" includes additions, alterations and omissions and "modify" shall be construed accordingly, and

"regulations" means regulations made by the Secretary of State **[**[F235]or the Welsh Ministers**]**.

(2) References in this Part of this Act, except section 26, to the transfer of any person's rights or liabilities do not include—

(a) rights or liabilities under a contract of employment, or

(b) liabilities of that person in respect of compensation for premature retirement of any person formerly employed by him.

(3) In relation to any time before the commencement of section 65 of this Act, references in this Part of this Act and, so far as relating to this Part, Part III of this Act—

(a) to institutions within the higher education sector are to universities, to institutions within the PCFC funding sector and to higher education institutions which receive, or are maintained by persons who receive, grants under regulations made under section 100(1)(b) of the [M4]Education Act 1944, and

[F236](b) . . . . . .

Textual Amendments

F235 Words in s. 61(1) inserted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(c)**; S.I. 2014/1706, art. 3(h)

F236 S. 61(3)(b) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 13**; S.I. 2018/241, reg. 2(s)

Modifications etc. (not altering text)

C25 S. 61(3)(a) applied by 1973 c. 50, **s. 8(4)** (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, **s.45**; S.I. 1993/2503, art. 2(3)(a)(b), **Sch.3**)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I23 S. 61 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M4 1944 c. 31.

[F237]61A References to appropriate bodies E+W

. . . . . .

Textual Amendments

F237 S. 61A omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 38**

PART II U.K.

HIGHER EDUCATION

The new funding councils

[[F238]62 [[F239]The Higher Education Funding Council for Wales]. E+W

[F238](1) . . . . . .

[F240](2) . . . . . .

[F238](3) . . . . . .

[F238](4) . . . . . .

(a) shall have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, the provision of higher education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of higher education and, in appointing such persons, he shall have regard to the desirability of their being currently engaged in the provision of higher education or in carrying responsibility for such provision, and

(b) shall have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.

[F241](5) . . . . . .

[F241](6) . . . . . .

(7) In this Part of this Act references to [F242]... institutions in Wales—

(a) are to institutions whose activities are carried on, or principally carried on, in [F243]... Wales, but

(b) include [F244]... the Open University.

[[F245](7A) In exercising their functions, [[F246]the HEFCW] shall have regard to the requirements of disabled persons.

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(7B) In subsection (7A) "disabled persons" means persons who are disabled persons for the purposes of the **[**[F247]Equality Act 2010**].]**

(8) Any dispute as to whether any functions are exercisable by **[**[F248]the HEFCW or the Office for Students**]** shall be determined by the Secretary of State.

[F238](9) . . . . . .**]**

Textual Amendments

F238 S. 62 omitted (1.8.2024 to the extent it omits section 62(1)(3)(4)(9)) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(3)(b)** (with s. 19); S.I. 2024/806, art. 3(c)(i) (with art. 28)

F239 S. 62 heading substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(2)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F240 S. 62(2) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F241 S. 62(5)(6) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(6)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F242 Words in s. 62(7) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(7)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F243 Words in s. 62(7)(a) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(7)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F244 Words in s. 62(7)(b) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(7)(c)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F245 S. 62(7A)(7B) inserted (31.7.1996) by 1995 c. 50, **s. 30(5)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(2), **Sch. Pt.II**

F246 Words in s. 62(7A) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(8)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F247 Words in s. 62(7B) substituted by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 23 (as inserted (1.10.2010) by S.I. 2010/2279, art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2))

F248 Words in s. 62(8) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 14(9)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

Modifications etc. (not altering text)

C26 S. 62 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

C27 S. 62(7) applied (31.3.1999) by S.I. 1999/603, **art. 3(2)**.

C28 S. 62(8) modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch.2**.

Commencement Information

I24 S. 62 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

63 Dissolution of existing councils. E+W+S

(1) On the appointed day—

(a) the Universities Funding Council and the Polytechnics and Colleges Funding Council (referred to in this section as the "existing councils") shall be dissolved, and

(b) all property, rights and liabilities to which either of the existing councils were entitled or subject immediately before that date shall become by virtue of this section property, rights and liabilities of the Higher Education Funding Council for England,

but this subsection does not apply to rights or liabilities under a contract of employment.

(2) Where—

(a) immediately before the appointed day, a person (referred to below as "the employee") is employed by an existing council (referred to below as "the existing employer") under a contract of employment which would have continued but for the dissolution of the existing employer, and

(b) the employee is designated for the purposes of this section by an order made by the Secretary of State,

the contract of employment shall not be terminated by that dissolution but shall have effect as from the appointed day as if originally made between the employee and the new employer.

(3) In this section "the new employer", in relation to the employee, means such higher education funding council as may be specified in relation to the employee by the order designating him for the purposes of this section; and in this subsection "higher education funding council" includes the Scottish Higher Education Funding Council.

(4) Without prejudice to subsection (2) above, where that subsection applies—

(a) all the existing employer's rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this section be transferred on the appointed day to the new employer, and

(b) anything done before that date by or in relation to the existing employer in respect of that contract or the employee shall as from that date be treated as having been done by or in relation to the new employer.

(5) Subsections (2) and (4) above are without prejudice to any right of the 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.

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

(7) In this section "the appointed day" means the day appointed under section 94 of this Act for the commencement of this section.

Extent Information

E2 S. 63 extends to Great Britain see s. 94(5).

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I25 S. 63 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[F249]64 Transitional arrangements. E+W+S

. . . . . .

Textual Amendments

F249 S. 64 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 5** Group 4

Funds

65 Administration of funds by [[F250]the HEFCW]. E+W

(1) **[**[F251]The HEFCW**]** shall be responsible, subject to the provisions of this Part of this Act, for administering funds made available to **[**[F252]the HEFCW**]** by the Secretary of State and others for the purposes of providing financial support for activities eligible for funding under this section.

(2) The activities eligible for funding under this section are—

(a) the provision of education and the undertaking of research by higher education institutions in **[**[F253]the HEFCW's**]** area,

(b) the provision of any facilities, and the carrying on of any other activities, by higher education institutions in their area which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purpose of or in connection with education or research,

(c) the provision—

(i) by institutions in their area maintained or assisted by **[**[F15]local authorities**]**, or

(ii) by such institutions in their area as are within the further education sector,

of prescribed courses of higher education, and

(d) the provision by any person of services for the purposes of, or in connection with, the provision of education or the undertaking of research by institutions within the higher education sector.

(3) **[**[F254]The HEFCW**]** may—

(a) make grants, loans or other payments to the governing body of any higher education institution in respect of expenditure incurred or to be incurred by them for the purposes of any activities eligible for funding under this section by virtue of subsection (2)(a) or (b) above, and

(b) make grants, loans or other payments to any persons in respect of expenditure incurred or to be incurred by them for the purposes of the provision as mentioned in subsection (2)(c) above of prescribed courses of higher education or the provision of services as mentioned in subsection (2)(d) above,

subject in each case to such terms and conditions as **[**[F255]the HEFCW**]** think fit.

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[[F256](3A) In the application of subsection (3) above to any grants, loans or other payments by **[**[F257]the HEFCW**]**, the reference to expenditure incurred or to be incurred by the governing body of a higher education institution as mentioned in paragraph (a) of that subsection includes a reference to expenditure incurred or to be incurred by any connected institution to which the governing body propose, with the consent of **[**[F258]the HEFCW**]**, to pay the whole or part of any such grants, loans or other payments.

(3B) In subsection (3A) "connected institution", in relation to a higher education institution, means any college, school, hall or other institution which **[**[F259]the HEFCW**]** are satisfied has a sufficient connection with that institution for the purposes of that subsection.**]**

(4) The terms and conditions on which **[**[F260]the HEFCW**]** may make any grants, loans or other payments under this section may in particular—

(a) enable **[**[F261]the HEFCW**]** to require the repayment, in whole or in part, of sums paid by **[**[F261]the HEFCW**]** if any of the terms and conditions subject to which the sums were paid is not complied with, and

(b) require the payment of interest in respect of any period during which a sum due to **[**[F261]the HEFCW**]** in accordance with any of the terms and conditions remains unpaid,

but shall not relate to the application by the body to whom the grants or other payments are made of any sums derived otherwise than from **[**[F261]the HEFCW**]**.

[F262](4A) . . . . . .

[F262](4B) . . . . . .

(5) In this section and section 66 of this Act "higher education institution" means a university, an institution conducted by a higher education corporation or a designated institution.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F250 Words in s. 65 heading substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(2)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F251 Words in s. 65(1) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(3)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F252 Words in s. 65(1) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(3)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F253 Words in s. 65(2)(a) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F254 Words in s. 65(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(5)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F255 Words in s. 65(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(5)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

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F256 S. 65(3A)(3B) inserted (retrospectively) by 1998 c. 30, **ss. 27**, 46(3) (with s. 42(8))

F257 Words in s. 65(3A) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(6)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F258 Words in s. 65(3A) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(6)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F259 Words in s. 65(3B) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(7)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F260 Words in s. 65(4) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(8)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F261 Words in s. 65(4) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 15(8)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F262 S. 65(4A)(4B) repealed (1.9.2002) by 2001 c. 10, s. 42(6), Sch. 9 (with s. 43(13)); S.I. 2002/2217, **art. 3**, Sch. 1 Pt. I

Modifications etc. (not altering text)

C29 S. 65 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

C30 S. 65(3)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 1**

Commencement Information

I26 S. 65 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

66 Administration of funds: supplementary. E+W

(1) Before exercising their discretion under section 65(3)(a) of this Act with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, **[**[F263]the HEFCW**]** shall consult such of the following bodies as appear to **[**[F264]the HEFCW**]** to be appropriate to consult in the circumstances—

(a) such bodies representing the interests of higher education institutions as appear to **[**[F264]the HEFCW**]** to be concerned, and

(b) the governing body of any particular higher education institution which appears to **[**[F264]the HEFCW**]** to be concerned.

(2) In exercising their functions in relation to the provision of financial support for activities eligible for funding under section 65 of this Act **[**[F265]the HEFCW**]** shall have regard to the desirability of not discouraging any institution for whose activities financial support is provided under that section from maintaining or developing its funding from other sources.

(3) In exercising those functions **[**[F266]the HEFCW**]** shall have regard (so far as they think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining—

(a) what appears to them to be an appropriate balance in the support given by them as between institutions which are of a denominational character and other institutions, and

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(b) any distinctive characteristics of any institution within the higher education sector for whose activities financial support is provided under that section.

(4) For the purposes of subsection (3) above an institution is an institution of a denominational character if it appears to **[**[F267]the HEFCW**]** that either—

(a) at least one quarter of the members of the governing body of the institution are persons appointed to represent the interests of a religion or religious denomination,

(b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned shall be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or

(c) any of the property held for the purposes of the institution is held on trust for or in connection with—

(i) the provision of education, or

(ii) the conduct of an educational institution,

in accordance with the tenets of a religion or religious denomination.

Textual Amendments

F263 Words in s. 66(1) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 16(2)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F264 Words in s. 66(1) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 16(2)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F265 Words in s. 66(2) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 16(3)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F266 Words in s. 66(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 16(3)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F267 Words in s. 66(4) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 16(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

Modifications etc. (not altering text)

C31 S. 66 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

Commencement Information

I27 S. 66 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

67 Payments in respect of persons employed in provision of higher or further education. E+W

(1) In section 133 of the [M5]Education Reform Act 1988 (payments by PCFC in respect of persons employed in the provision of higher or further education) for subsection (1) there is substituted—

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"(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 **[**[F15]local 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 (2)(a) of that section (meaning of relevant expenditure) after "education authority" there is inserted " the London Residuary Body or the London Pensions Fund Authority ".

(3) At the end of subsection (3) of that section (meaning of references to higher and further education) there is added " 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 ".

(4) In subsection (4) of that section (duty to give information) after paragraph (a) there is inserted—

"(aa) the London Residuary Body;

(ab) the London Pensions Fund Authority".

(5) That section as originally enacted shall have effect, or be treated as having had effect, as if—

(a) in subsection (1), in relation to anything done before regulations for the purposes of that subsection were in force, the words "of any class or description prescribed for the purposes of this section" were omitted, and

(b) in subsections (1) and (2) the references to a **[**[F15]local authority**]** included the London Residuary Body and the London Pensions Fund Authority.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I28 S. 67 wholly in force: s. 67(2)-(5) in force at 6.5.1992; s. 67(1) in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, **3**

Marginal Citations

M5 1988 c. 40.

[F269]68 Grants to [[F268]the HEFCW]. E+W

. . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F268 Words in s. 68 heading substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 17(2)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

F269 S. 68 omitted (1.8.2024) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(3)(e)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

Further functions

[[F270]69 Supplementary functions. E+W

[F270](1) . . . . . .

[F271](1A) . . . . . .

[F271](1B) . . . . . .

(2) [[F272]The HEFCW] shall keep under review activities eligible for funding under section 65 of this Act.

[F270](3) . . . . . .

[F270](4) . . . . . .

[F270](5) . . . . . .

[F270](6) . . . . . .

[F270](7) . . . . . .]

Textual Amendments

F270 S. 69 omitted (1.8.2024 to the extent it omits section 69(1)(3)-(7)) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(3)(f)** (with s. 19); S.I. 2024/806, art. 3(c)(ii) (with art. 28)

F271 S. 69(1A)(1B) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 18(3)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 5)

F272 Words in s. 69(2) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 18(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 5)

Modifications etc. (not altering text)

C32 S. 69 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

Commencement Information

I29 S. 69 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

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[F274]70 [[F273]England: assessment] of quality of education provided by institutions. E+W

. . . . . .

Textual Amendments

F273 Words in s. 70 heading substituted (1.9.2015) by Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 2(3)**; S.I. 2015/1327, art. 5(s)(ii)

F274 S. 70 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 19**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 6)

Commencement Information

I30 S. 70 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Institutions in the higher education sector

71 Higher education corporations: constitution and conduct. E+W

(1) After section 124 of the [M6]Education Reform Act 1988 there is inserted—

"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

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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.

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—

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(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.

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.

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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(2) In section 125 of that Act (articles of government) for "the Secretary of State" (in each place where it appears) there is substituted " the Privy Council "; but nothing in this subsection requires further approval to be given for anything approved by the Secretary of State under that section before the commencement of this subsection.

(3) In Schedule 7 to that Act (constitution of higher education corporations)—

(a) at the end of paragraph 7 (appointments) there is added—

"(8) If the number of independent members of the corporation falls below the number needed in accordance with its articles of government for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such number of independent members as is required for a quorum", and

(b) in paragraph 18 (accounts) after sub-paragraph (2) there is inserted—

"(2A) 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) After that Schedule there is inserted the Schedule set out in Schedule 6 to this Act.

Commencement Information

I31 S. 71 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M6 1988 c. 40.

72 Further power of designation. E+W

(1) In section 129 of the [M7]Education Reform Act 1988 (designation of institutions)—

(a) for subsections (1) and (2) there is substituted—

"(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.

(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", and

(b) subsections (3) and (4) of that section are omitted.

(2) An order in force immediately before the commencement of subsection (1) above designating an institution as falling within subsection (3) of that section shall have effect as if made under that section as amended by subsection (1) above.

(3) In this Part of this Act "designated institution" means an institution in relation to which a designation made, or having effect as if made, under section 129 of that Act has effect.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I32 S. 72 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M7 1988 c. 40.

73 Government and conduct of designated institutions. E+W

(1) After section 129 of the [M8]Education Reform Act 1988 there is inserted—

"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.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

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

(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.

129B 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."

(2) Section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated institutions.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I33 S .73 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M8 1988 c. 40.

74 Transfer of further education institutions to higher education sector. E+W

(1) After section 122 of the [M9]Education Reform Act 1988 (orders incorporating higher education institutions maintained by **[**[F15]local authorities**]**) there is inserted—

"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."

(2) An order under section 129 of the [M10]Education Reform Act 1988 (designation of institutions for the purposes of the higher education sector) in respect of any institution may revoke any order in respect of that institution under section 28 of this Act.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I34 S. 74 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Marginal Citations

M9 1988 c. 40.

M10 1988 c. 40.

75 Variation of trust deeds. E+W

In section 157 of the [M11]Education Reform Act 1988 (variation of trust deeds, etc.) for subsections (1) to (3) (variations by Secretary of State in connection with institutions in the higher education sector or designated assisted institutions) there is substituted—

"(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.

(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.

(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."

Modifications etc. (not altering text)

C33 S. 75(3)(a) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch.2**

Commencement Information

I35 S. 75 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M11 1988 c. 40.

76 Power to award degrees, etc. E+W

(1) The Privy Council may by order

[[F275](a) specify any institution which provides higher education as competent to grant in pursuance of this section either or both of the kinds of award mentioned in subsection (2)(a) and (b) below**][**[F276];

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(b) specify any institution [F277]... within the further education sector as competent to grant in pursuance of this section an award of the kind mentioned in subsection (2A) below.**]**

(2) The kinds of award referred to in **[**[F278]subsection (1)(a)**]** above are—

(a) awards granted to persons who complete an appropriate course of study and satisfy an appropriate assessment, and

(b) awards granted to persons who complete an appropriate programme of supervised research and satisfy an appropriate assessment,

and in this section "award" means any degree, diploma, certificate or other academic award or distinction and "assessment" includes examination and test.

[[F279](2A) The kind of award referred to in subsection (1)(b) above is a foundation degree granted to persons who complete an appropriate course of study and satisfy an appropriate assessment.**]**

[[F280](2B) Where the Privy Council is considering whether to make an order under subsection (1) above specifying an institution as mentioned in subsection (1)(b) above, the Privy Council may not make the order unless—

(a) the institution gives the Privy Council a statement setting out what it proposes to do as regards making arrangements for securing that any person granted an award under or by virtue of any power that would be conferred on the institution if the order were made (other than the power described in subsection (4A) below) has an opportunity to progress to one or more particular courses of more advanced study, and

(b) the Privy Council considers that the proposals are satisfactory and are likely to be carried out.**]**

(3) An institution for the time being specified in such an order may grant any award of a kind mentioned in subsection (2)(a) or (b) **[**[F281]or (2A)**]** above which it is competent to grant by virtue of the order to persons who complete the appropriate course of study or, as the case may be, programme of supervised research on or after the date specified in the order.

(4) An institution specified in such an order **[**[F282]as competent to grant in pursuance of this section either or both of the kinds of award mentioned in subsection (2)(a) or (b) above**]** may also—

(a) grant honorary degrees, and

(b) grant degrees to members of the academic and other staff of the institution.

[[F283](4A) An institution specified in such an order as competent to grant in pursuance of this section the kind of award mentioned in subsection (2A) above may also—

(a) grant honorary foundation degrees, and

(b) grant foundation degrees to members of the academic and other staff of the institution.**]**

(5) **[**[F284]Subject to subsection (5A) below, any**]** power conferred on an institution to grant awards in pursuance of this section includes power—

(a) to authorise other institutions to do so on behalf of the institution,

(b) to do so jointly with another institution, and

(c) to deprive any person of any award granted to him by or on behalf of the institution in pursuance of this section (or, in the case of an award granted to

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him by the institution and another institution jointly, to do so jointly with the other institution).

[[F285](5A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution's power to grant such awards does not include the power described in subsection (5)(a) above.**]**

(6) **[**[F286]Subject to subsection (6A) below, it**]** shall be for the institution to determine in accordance with any relevant provisions of the instruments relating to or regulating the institution the courses of study or programmes of research, and the assessments, which are appropriate for the grant of any award and the terms and conditions on which any of the powers conferred under this section may be exercised.

[[F287](6A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution is not to grant such an award to a person unless he was enrolled at the institution at the time he completed the course of study for which the award is granted.**]**

(7) Section 124D of the [M12]Education Reform Act 1988 applies in relation to orders under subsection (1) above as it applies in relation to the exercise of powers for the purposes of Part II of that Act.

Textual Amendments

F275 S. 76(1)(a) renumbered (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(2)(a)**, 32(5); S.I. 2007/3505, art. 6

F276 S. 76(1)(b) and preceding semi-colon inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(2)(b)**, 32(5); S.I. 2007/3505, art. 6

F277 Words in s. 76(1)(b) repealed (1.10.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 259(1), 269(3), **Sch. 16 Pt. 11**; S.I. 2010/2413, art. 2(c) (with arts. 3-5)

F278 Words in s. 76(2) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(3)**, 32(5); S.I. 2007/3505, art. 6

F279 S. 76(2A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(4)**, 32(5); S.I. 2007/3505, art. 6

F280 S. 76(2B) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(5)**, 32(5); S.I. 2007/3505, art. 6

F281 Words in s. 76(3) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(6)**, 32(5); S.I. 2007/3505, art. 6

F282 Words in s. 76(4) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(7)**, 32(5); S.I. 2007/3505, art. 6

F283 S. 76(4A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(8)**, 32(5); S.I. 2007/3505, art. 6

F284 Words in s. 76(5) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(9)**, 32(5); S.I. 2007/3505, art. 6

F285 S. 76(5A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(10)**, 32(5); S.I. 2007/3505, art. 6

F286 Words in s. 76(6) substituted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(11)**, 32(5); S.I. 2007/3505, art. 6

F287 S. 76(6A) inserted (1.5.2008) by Further Education and Training Act 2007 (c. 25), **ss. 19(12)**, 32(5); S.I. 2007/3505, art. 6

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Commencement Information

I36 S. 76 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M12 1988 c. 40.

77 Use of "university" in title of institution. E+W

[F288(A1) Where—

(a) power is conferred by any enactment or instrument to change the name of any educational institution or any body corporate carrying on such an institution,

(b) the educational institution is a registered higher education provider, and

(c) the power is exercisable with the consent of the Privy Council,

then, the power may be exercised so as to include the word "university" in the name of the institution and, if it is carried on by a body corporate, in the name of the body, but only if the Office for Students (instead of the Privy Council) consents to that exercise of the power.]

(1) Where—

(a) power is conferred by any enactment or instrument to change the name of any educational institution or any body corporate carrying on such an institution, and

(b) the educational institution [F289is in Wales and] is within the higher education sector,

then, if the power is exercisable with the consent of the Privy Council, it may F290... be exercised with the consent of the Privy Council so as to include the word "university" in the name of the institution and, if it is carried on by a body corporate, in the name of the body.

[F291(1A) Subsections (A1) and (1) apply whether or not the educational institution would, apart from this section, be a university.]

(2) The reference in subsection [F292(A1) or] (1) above to a power to change the name of an institution or body includes any power (however expressed and whether or not subject to any conditions or restrictions) in the exercise of which the name of the institution or body may be changed; but the power as extended by [F293subsections (A1) and (1)] has effect subject to any such conditions or restrictions.

(3) In exercising any power exercisable by virtue of this section to consent to a change in any name [F294the Office for Students and] the Privy Council shall have regard to the need to avoid names which are or may be confusing.

[F295(3A) In exercising its power to give consent under subsection (A1), the Office for Students must have regard to factors set out in guidance given by the Secretary of State.

(3B) Before giving guidance under subsection (3A), the Secretary of State must consult—

(a) bodies representing the interests of English higher education providers,

(b) bodies representing the interests of students on higher education courses provided by English higher education providers, and

(c) such other persons as the Secretary of State considers appropriate.]

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(4) Any educational institution whose name includes the word "university" by virtue of the exercise of any power as extended by subsection **[**[F296](A1) or**]** (1) above is to be treated as a university for all purposes **[**[F297], unless in that name that word is immediately followed by the word "college" or "collegiate".**]**

[[F298](5) In this section, "English higher education provider", "higher education course" and "registered higher education provider" have the same meaning as in Part 1 of the Higher Education and Research Act 2017 (see sections 83 and 85 of that Act).

(6) For the purposes of subsection (1), an educational institution is in Wales if the institution's activities are carried on, or principally carried on, in Wales.**]**

Textual Amendments

F288 S. 77(A1) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(2)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F289 Words in s. 77(1)(b) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(3)(a)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F290 Words in s. 77(1) omitted (1.4.2019) by virtue of Higher Education and Research Act 2017 (c. 29), **ss. 56(3)(b)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F291 S. 77(1A) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(4)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F292 Words in s. 77(2) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(5)(a)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F293 Words in s. 77(2) substituted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(5)(b)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F294 Words in s. 77(3) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(6)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F295 S. 77(3A)(3B) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(7)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F296 Words in s. 77(4) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(8)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

F297 Words in s. 77(4) added (1.10.1998) by 1998 c. 30, **ss.40**, 46(4) (with s. 42(8)); S.I. 1998/2215, **art. 2**

F298 S. 77(5)(6) inserted (1.4.2019) by Higher Education and Research Act 2017 (c. 29), **ss. 56(9)**, 124(5) (with ss. 55, 56(10)); S.I. 2018/1226, reg. 3(a) (with transitional and saving provisions in S.I. 2018/1225, reg. 2)

Commencement Information

I37 S. 77 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

78 Financial years of higher education corporations [F299: Wales]. E+W

(1) If the Secretary of State directs that any financial year specified in the direction of the higher education corporations [F300in Wales], and subsequent financial years, are to begin with a date specified in the direction, then—

(a) the financial year of the corporations immediately preceding the year specified in the direction shall end immediately before the date specified in the direction, and

(b) the financial year specified in the direction and subsequent financial years shall be each successive period of twelve months.

(2) Section 124B(7) of, and paragraph 18 of Schedule 7 to, the M13Education Reform Act 1988 (financial years) shall have effect subject to this section.

[F301(3) In this section "higher education corporation in Wales" means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.]

Textual Amendments

F299 Word in s. 78 heading inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 8 para. 24(2)**; S.I. 2018/1226, reg. 4(o)

F300 Words in s. 78(1) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 8 para. 24(3)**; S.I. 2018/1226, reg. 4(o)

F301 S. 78(3) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 8 para. 24(4)**; S.I. 2018/1226, reg. 4(o)

Commencement Information

I38 S. 78 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M13 1988 c. 40.

General

F303 79 Duty to give information to [F302the HEFCW]. E+W

. . . . . .

Textual Amendments

F302 Words in s. 79 heading substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 20(2)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 7)

F303 S. 79 omitted (1.8.2024) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(3)(g)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

F304 79A. Power to request information from higher education institutions that are exempt charities U.K.

. . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F304 S. 79A omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 21**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 8)

[F305]80 Dissolution of Council for National Academic Awards. U.K.

. . . . . .

Textual Amendments

F305 S. 80 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 5** Group 4

81 Directions. E+W

(1) In exercising their functions under this Part of this Act, **[**[F306]the HEFCW**]** shall comply with any directions under this section, and such directions shall be contained in an order made by the Secretary of State.

(2) The Secretary of State may give general directions to **[**[F307]the HEFCW**]** about the exercise of their functions.

(3) If it appears to the Secretary of State that the financial affairs of any institution within the higher education sector have been or are being mismanaged he may, after consulting **[**[F308]the HEFCW**]** and the institution, give such directions to **[**[F308]the HEFCW**]** about the provision of financial support in respect of the activities carried on by the institution as he considers are necessary or expedient by reason of the mismanagement.

Textual Amendments

F306 Words in s. 81(1) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 22(2)**; S.I. 2018/241, **reg. 2(s)** (with transitional and savings provisions in S.I. 2018/245, regs. 2, **3**, 9)

F307 Words in s. 81(2) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 22(3)**; S.I. 2018/241, **reg. 2(s)** (with transitional and savings provisions in S.I. 2018/245, regs. 2, **3**, 9)

F308 Words in s. 81(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 22(4)**; S.I. 2018/241, **reg. 2(s)** (with transitional and savings provisions in S.I. 2018/245, regs. 2, **3**, 9)

Modifications etc. (not altering text)

C34 S. 81 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

Commencement Information

I39 S. 81 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

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PART III U.K.

MISCELLANEOUS AND GENERAL

82 Joint exercise of functions. E+W+S

[F309](1) . . . . . .

[F309](1A) . . . . . .

[F309](1B) . . . . . .

(2) **[**[F310]A relevant authority must, if directed to do so by the Secretary of State, make provision jointly with another relevant authority or with the Secretary of State**]** for the assessment by a person appointed by them of matters relating to the arrangements made by each institution in **[**[F311]Wales and Scotland**]** which is within the higher education sector for maintaining academic standards in the institution.

[[F312](2A) The power of the Secretary of State to give directions under subsection (2) above shall, as regards the Scottish **[**[F313]Further and**]** Higher Education Funding Council, be treated as exercisable in or as regards Scotland and may be exercised separately.**]**

(3) In this section—

[[F314](a) "relevant authority" means **[**[F315]the Commission for Tertiary Education and Research**]** or the Scottish **[**[F316]Further and**]** Higher Education Funding Council, and**]**

(b) references to institutions within the higher education sector include institutions within the higher education sector within the meaning of Part II of the [M14]Further and Higher Education (Scotland) Act 1992.

Extent Information

E3 S. 82 extends to Great Britain see s. 94(5).

Textual Amendments

F309 S. 82(1)-(1B) omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 23(2)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 10)

F310 Words in s. 82(2) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 36(3)**; S.I. 2012/924, art. 2

F311 Words in s. 82(2) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 23(3)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 10)

F312 S. 82(2A) inserted (1.7.1999) by The Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), art. 2, **Sch. para. 13**; S.I. 1998/3178, **art. 3**

F313 Words in s. 82(2A) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 23(4)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 10)

F314 S. 82(3)(a) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 25(c)** (with art. 7)

F315 Words in s. 82(3)(a) substituted (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments) Order 2024 (S.I. 2024/433), arts. 1(3), **3**; S.I. 2024/806, art. 2(b) (with art. 28)

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F316 Words in s. 82(3)(a) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 23(5)(d)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 10)

Modifications etc. (not altering text)

C35 S. 82 modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**.

C36 S. 82 amended (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 13**.

Commencement Information

I40 S. 82 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M14 1992 c. 37.

83 Efficiency studies. E+W

[[F317](1) A person listed in an entry in column 1 of the table in subsection (1B) may arrange for efficiency studies to be promoted or carried out by any person in respect of an institution listed in the corresponding entry in column 2 of that table.

(1A) "Efficiency studies" are studies designed to improve economy, efficiency and effectiveness in the management or operations of an institution.

(1B) The table referred to in subsection (1) is—

Person	*Institution*
The Welsh Ministers	An institution in Wales within the further education sector.
[[F318]The Secretary of State**]**	An institution in England within the further education sector, other than a sixth form college
The **[**[F319]Secretary of State **]**	A sixth form college
[[F320]The HEFCW**]**	An institution within the higher education sector. **[**[F321]A regulated institution for the purposes of the Higher Education (Wales) Act 2015 (including a provider designated under section 3 of that Act which is treated as being a regulated institution for the purposes of that Act).**]]**

(2) A person promoting or carrying out **[**[F322]efficiency studies**]** at the **[**[F323]request of a person listed in an entry in column 1 of the table in subsection (1B)**]** may require the governing body of the institution concerned—

(a) to furnish the person, or any person authorised by him, with such information, and

(b) to make available to him, or any person so authorised, for inspection their accounts and such other documents,

as the person may reasonably require for that purpose.

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Textual Amendments

F317 S. 83(1)-(1B) substituted for s. 83(1) (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 25(2)** (with art. 2(3))

F318 Words in s. 83 substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 40**

F319 Words in s. 83(1B) table substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 37**; S.I. 2012/924, art. 2

F320 Words in s. 83(1B) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 24**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 11)

F321 Words in s. 83(1B) table inserted (1.8.2017) by Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 3**; S.I. 2017/239, art. 2

F322 Words in s. 83(2) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 25(3)(a)** (with art. 2(3))

F323 Words in s. 83(2) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 25(3)(b)** (with art. 2(3))

Modifications etc. (not altering text)

C37 S. 83 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(1)**(3) (with art. 28)

C38 S. 83(2) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch. 2**

Commencement Information

I41 S. 83 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

84 Effect of agreements made before date of transfer. E+W

(1) This section applies where—

(a) (apart from this section) any land or other property of a local authority would on any date ("the date of transfer") be transferred under [F324]...Part II of the [M15]Education Reform Act 1988 to the governing body of an institution within the further education sector or the higher education sector, and

(b) at any time before that date the authority, the governing body of the institution and the governing body of any other institution which will on that date be an institution within the further education sector or the higher education sector have agreed in writing that the land or property should be transferred on that or a subsequent date to the governing body of that other institution.

(2) If the Secretary of State has approved the agreement at any time before the date of transfer, [F325]... Part II of the [M16]Education Reform Act 1988 shall have effect as if they required the property to be transferred in accordance with the agreement.

(3) References in this section to anything done include anything done before the passing of this Act.

[[F326](4) In this section "local authority" includes a non-metropolitan district council for an area for which there is a county council.**]**

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Textual Amendments

F324 Words in s. 84(1)(a) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(f)(i)**

F325 Words in s. 84(2) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(f)(ii)**

F326 S. 84(4) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 5(7)**

Modifications etc. (not altering text)

C39 S. 84(1) modified (1.4.1993) by S.I. 1993/563, art. 2, **Sch.1**

Commencement Information

I42 S. 84 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M15 1988 c. 40.

M16 1988 c. 40.

85 Finance and government of locally funded further and higher education. E+W

(1) Chapter III of Part II of the [M17]Education Reform Act 1988 (finance and government of locally funded further and higher education) shall cease to have effect; and section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated assisted institutions.

(2) A **[**[F15]local authority**]** shall have the following powers in relation to any institution, not within the further education sector or the higher education sector, which is maintained by them in the exercise of their further or higher education functions.

(3) The authority may—

(a) make such provision as they think fit in respect of the government of the institution (including replacing any instrument of government or articles of government of the institution made under that Chapter or that section), and

(b) delegate to the governing body of the institution such functions relating to the management of the finances of the institution, and such other functions relating to the management of the institution (including the appointment and dismissal of staff), as the authority may determine.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I43 S. 85 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

Marginal Citations

M17 1988 c. 40.

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[F327 85A Nuisance or disturbance on educational premises U.K.

(1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) This section applies to premises, including playing fields and other premises for outdoor recreation, of—

(a) any institution (other than a school) which is maintained by a **[**F15local authority**]** and provides further education or higher education (or both), F328...

(b) any institution within the further education sector**[**F329, and

(c) any 16 to 19 Academy.**]**

(3) If—

(a) a police constable, or

(b) a person whom the appropriate authority have authorised to exercise the power conferred by this subsection,

has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.

(4) In subsection (3) "the appropriate authority" means—

(a) in relation to premises of an institution such as is mentioned in subsection (2)(a), a **[**F15local authority**]**, F330...

(b) in relation to premises of an institution within the further education sector, the governing body**[**F331, and

(c) in relation to premises of a 16 to 19 Academy, the proprietor.**]**

(5) No proceedings under this section shall be brought by any person other than—

(a) a police constable, or

(b) an authorised person.

(6) In subsection (5) "authorised person" means—

(a) in relation to an offence committed on premises of an institution such as is mentioned in subsection (2)(a), a **[**F15local authority**]**, F332...

(b) in relation to an offence committed on premises of an institution within the further education sector, a person whom the governing body have authorised to bring such proceedings**][**F333, and

(c) in relation to an offence committed on premises of a 16 to 19 Academy, a person whom the proprietor has authorised to bring such proceedings.**]**

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F327 S. 85A inserted (1.10.2002 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 20 para. 2** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 5, Sch. Pt. II

F328 Word in s. 85A(2) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(a)**; S.I. 2012/924, art. 2

F329 S. 85A(2)(c) and word inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(a)**; S.I. 2012/924, art. 2

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F330 Word in s. 85A(4) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(b)**; S.I. 2012/924, art. 2

F331 S. 85A(4)(c) and word inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(b)**; S.I. 2012/924, art. 2

F332 Word in s. 85A(6) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(c)**; S.I. 2012/924, art. 2

F333 S. 85A(6)(c) and word inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(2)(c)**; S.I. 2012/924, art. 2

[F334 85AA Power of members of staff to search students for prohibited items: England U.K.

(1) This section applies where a member of staff of an institution within the further education sector in England **[**F335 , or a 16 to 19 Academy,**]** —

(a) has reasonable grounds for suspecting that a student at the institution may have a prohibited item with him or her or in his or her possessions; and

(b) falls within section 85AB(1).

(2) The member of staff may search the student (“S”) or S's possessions for that item (but this is subject to subsection (5)).

(3) For the purposes of this section and section 85AC each of the following is a “prohibited item”—

(a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);

(b) an offensive weapon, within the meaning of the Prevention of Crime Act 1953;

(c) alcohol, within the meaning of section 191 of the Licensing Act 2003;

(d) a controlled drug, within the meaning of section 2 of the Misuse of Drugs Act 1971, which section 5(1) of that Act makes it unlawful for S to have in S's possession;

(e) a stolen article;

[F336(ea) an article that the member of staff reasonably suspects has been, or is likely to be, used—

(i) to commit an offence, or

(ii) to cause personal injury to, or damage to the property of, any person (including S);**]**

(f) an article of a kind specified in regulations.

(4) In subsection (3)(e) “stolen”, in relation to an article, has the same meaning as it has by virtue of section 24 of the Theft Act 1968 in the provisions of that Act relating to goods which have been stolen.

(5) A member of staff may not under this section search S or S's possessions for alcohol if S is aged 18 or over.

(6) In this section and section 85AB—

“member of staff”, in relation to an institution within the further education sector **[**F337or a 16 to 19 Academy**]** , means any person who works at that institution whether or not as its employee;

“possessions”, in relation to S, includes any goods over which S has or appears to have control.

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(7) The powers conferred by this section and sections 85AB and 85AC are in addition to any powers exercisable by the member of staff in question apart from those sections and are not to be construed as restricting such powers.

Textual Amendments

F334 Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(1)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F335 Words in s. 85AA(1) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(3)(a)**; S.I. 2012/924, art. 2

F336 S. 85AA(3)(ea) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(2)**, 82(3); S.I. 2012/924, art. 2

F337 Words in s. 85AA(6) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(3)(b)**; S.I. 2012/924, art. 2

85AB Power of search under section 85AA: supplementary U.K.

(1) A person may carry out a search under section 85AA only if that person—
- (a) is the principal of the institution; or
- (b) has been authorised by the principal to carry out the search.

(2) An authorisation for the purposes of subsection (1)(b) may be given in relation to—
- (a) searches under section 85AA generally;
- (b) a particular search under that section;
- (c) a particular description of searches under that section.

(3) Nothing in any enactment, instrument or agreement shall be construed as authorising a principal of an institution within the further education sector in England **[**[F338], or a principal of a 16 to 19 Academy,**]** to require a person other than a member of the security staff of the institution to carry out a search under section 85AA.

(4) A search under section 85AA may be carried out only where—
- (a) the member of staff and S are on the premises of the institution; or
- (b) they are elsewhere and the member of staff has lawful control or charge of S.

(5) A person exercising the power in section 85AA may use such force as is reasonable in the circumstances for exercising that power.

(6) A person carrying out a search of S under section 85AA—
- (a) may not require S to remove any clothing other than outer clothing;
- (b) must be of the same sex as S **[**[F339], unless the condition in subsection (6A) is satisfied**]** ;
- (c) may carry out the search only in the presence of another member of staff **[**[F340], unless the condition in subsection (6A) is satisfied**]** ; and
- (d) must ensure that the other member of staff is of the same sex as S if it is reasonably practicable to do so.

[F341](6A) **[** The condition is satisfied if—
- (a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and

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(b) in the time available it is not reasonably practicable for the search to be carried out by a person of the same sex as S or in the presence of another member of staff (as the case may be).**]**

(7) S's possessions may not be searched under section 85AA except in the presence of—

(a) S; and

(b) another member of staff **[**[F342], unless the condition in subsection (7A) is satisfied**]** .

[F343](7A) **[** The condition is satisfied if—

(a) the person carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency, and

(b) in the time available it is not reasonably practicable for the search to be carried out in the presence of another member of staff.**]**

(8) In this section—

"member of the security staff", in relation to an institution, means a member of staff whose work at the institution consists wholly or mainly of security-related activities;

"outer clothing" means—

(a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or

(b) a hat, shoes, boots, gloves or a scarf.

Textual Amendments

F334 Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(1)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F338 Words in s. 85AB(3) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(4)**; S.I. 2012/924, art. 2

F339 Words in s. 85AB(6)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(3)(a)(i)**, 82(3); S.I. 2012/924, art. 2

F340 Words in s. 85AB(6)(c) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(3)(a)(ii)**, 82(3); S.I. 2012/924, art. 2

F341 S. 85AB(6A) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(3)(b)**, 82(3); S.I. 2012/924, art. 2

F342 Words in s. 85AB(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(3)(c)**, 82(3); S.I. 2012/924, art. 2

F343 S. 85AB(7A) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(3)(d)**, 82(3); S.I. 2012/924, art. 2

85AC Power to seize items found during search under section 85AA U.K.

(1) A person carrying out a search under section 85AA may seize any of the following found in the course of the search—

(a) anything which that person has reasonable grounds for suspecting is a prohibited item;

(b) any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence,

but may not seize alcohol from S under this section where S is aged 18 or over.

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(2) A person exercising the power in subsection (1) may use such force as is reasonable in the circumstances for exercising that power.

(3) A person who seizes alcohol under subsection (1) may retain or dispose of the alcohol and its container.

(4) A person who seizes a controlled drug under subsection (1)—
- (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
- (b) may dispose of it if the person thinks that there is a good reason to do so.

(5) A person who seizes a stolen article under subsection (1)—
- (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
- (b) may return it to its owner (or, if returning it to its owner is not practicable, may retain it or dispose of it) if the person thinks that there is a good reason to do so.

(6) In determining, for the purposes of subsections (4) and (5), whether there is a good reason to dispose of a controlled drug or to return a stolen article to its owner, retain it or dispose of it, the person must have regard to any guidance issued by the Secretary of State.

F344 **[** (6A) A person who seizes an item that is a prohibited item by virtue of section 85AA(3)(ea) (article used in commission of offence or to cause personal injury or damage to property) under subsection (1) must—
- (a) deliver the item to a police constable as soon as reasonably practicable,
- (b) return the item to its owner,
- (c) retain the item, or
- (d) dispose of the item.

In deciding what to do with an item under this subsection, the person who seized it must have regard to guidance issued for the purpose of this section by the Secretary of State.

(6B) Subsections (6C) and (6D) apply to an item that—
- (a) has been seized under subsection (1),
- (b) is a prohibited item by virtue of section 85AA(3)(ea), and
- (c) is an electronic device.

(6C) The person who seized the item may examine any data or files on the device, if the person thinks there is a good reason to do so.

(6D) Following an examination under subsection (6C), if the person has decided to return the item to its owner, retain it or dispose of it, the person may erase any data or files from the device if the person thinks there is a good reason to do so.

(6E) In determining whether there is a good reason for the purposes of subsection (6C) or (6D), the person must have regard to any guidance issued for the purposes of this section by the Secretary of State.**]**

(7) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under

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section 85AA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).

(8) A person who, under subsection (1), seizes—

(a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);

(b) an offensive weapon; or

(c) anything which that person has reasonable grounds for suspecting is evidence in relation to an offence;

must deliver it to a police constable as soon as reasonably practicable.

(9) Subsection (8)(c) is subject to subsections (3), (4) **[**[F345]and (5)**]** and regulations made under subsection (7).

(10) In subsections (3) to (8), references to alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies and an offensive weapon include references to anything which a person has reasonable grounds for suspecting is alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies or an offensive weapon.

Textual Amendments

F334 Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(1)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F344 Ss. 85AC(6A)-(6E) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(4)(a)**, 82(3); S.I. 2012/924, art. 2

F345 Words in s. 85AC(9) substituted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(4)(b)**, 82(3); S.I. 2012/924, art. 2

85AD Section 85AC: supplementary U.K.

(1) The Police (Property) Act 1897 (disposal of property in the possession of the police) applies to property which has come into the possession of a police constable under section 85AC(4)(a), (5)(a) **[**[F346], (6A)(a)**]** or (8) as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.

(2) Subsection (3) applies where a person—

(a) seizes, retains or disposes of **[**[F347]an item within subsection (2A)**]** under section 85AC; and

(b) proves that the seizure, retention or disposal was lawful.

[F348](2A) **[** The items referred to in subsection (2)(a) are—

(a) alcohol or its container;

(b) a controlled drug;

(c) a stolen article;

(d) an article that is a prohibited item by virtue of section 85AA(3)(ea).

(2B) Subsection (3) also applies where a person—

(a) erases data or a file from an electronic device under section 85AC(6D); and

(b) proves that the erasure was lawful.**]**

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(3) That person is not liable in any proceedings in respect of—
  (a) the seizure, retention **[**[F349], disposal or erasure **]** ; or
  (b) any damage or loss which arises in consequence of it.

(4) Subsections (2) **[**[F350] , (2B) **]** and (3) do not prevent any person from relying on any defence on which the person is entitled to rely apart from those subsections.

(5) Regulations under section 85AC(7) may make provision corresponding to any provision of this section.**]**

Textual Amendments

F334 Ss. 85AA-85AD inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(1)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F346 Words in s. 85AD(1) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(5)(a)**, 82(3); S.I. 2012/924, art. 2

F347 Words in s. 85AD(2)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(5)(b)**, 82(3); S.I. 2012/924, art. 2

F348 S. 85AD(2A)(2B) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(5)(c)**, 82(3); S.I. 2012/924, art. 2

F349 Words in s. 85AD(3)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(5)(d)**, 82(3); S.I. 2012/924, art. 2

F350 Words in s. 85AD(4) inserted (1.4.2012) by Education Act 2011 (c. 21), **ss. 3(5)(e)**, 82(3); S.I. 2012/924, art. 2

[[F351]**85B Power to search further education students for weapons [**[F352]**: Wales]** E+W

(1) A member of staff of an institution within the further education sector **[**[F353]in Wales**]** who has reasonable grounds for suspecting that a student at the institution may have with him or in his possessions—
  (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
  (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),

may search that student or his possessions for such articles and weapons.

(2) A search under this section may be carried out only where—
  (a) the member of staff and the student are on the premises of the institution; or
  (b) they are elsewhere and the member of staff has lawful control or charge of the student.

(3) A person may carry out a search under this section only if—
  (a) he is the principal of the institution; or
  (b) he has been authorised by the principal to carry out the search.

(4) A person who carries out a search of a student under this section—
  (a) may not require the student to remove any clothing other than outer clothing;
  (b) must be of the same sex as the student; and
  (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the student.

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(5) A student's possessions may not be searched under this section except in his presence and in the presence of another member of staff.

(6) If, in the course of a search under this section, the person carrying out the search finds—

(a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or

(b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,

he may seize and retain it.

(7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.

(8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.

(9) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.

(10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.

(11) In this section—

'member of staff', in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;

'outer clothing' means—

(a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or

(b) a hat, shoes, boots, gloves or a scarf;

'possessions', in relation to a student of an institution within the further education sector, includes any goods over which he has or appears to have control.

(12) The powers conferred by this section are in addition to any powers exercisable by the member of staff in question apart from this section and are not to be construed as restricting such powers.**]**

Textual Amendments

F351 S. 85B inserted (31.5.2007 for E., 31.10.2010 for W.) by Violent Crime Reduction Act 2006 (c. 38), **ss. 46**, 66(2); S.I. 2007/858, art. 3(b); S.I. 2010/2426, art. 2

F352 Word in s. 85B heading inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 245(2)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F353 Words in s. 85B(1) inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 245(3)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

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Modifications etc. (not altering text)

C40 S. 85B modified (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **3(b)**

[F354 85C Power of members of staff to use force U.K.

(1) A member of the staff of an institution which is within the further education sector **[**F355 or is a 16 to 19 Academy**]** may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely—

(a) committing any offence,

(b) causing personal injury to, or damage to the property of, any person (including the student himself), or

(c) prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.

(2) The power conferred by subsection (1) may be exercised only where—

(a) the member of the staff and the student are on the premises of the institution, or

(b) they are elsewhere and the member of the staff has lawful control or charge of the student.

(3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.

(4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.

(5) In this section, "member of the staff", in relation to an institution within the further education sector **[**F356 or a 16 to 19 Academy**]**, means any person who works at that institution whether or not as its employee.**]**

Textual Amendments

F354 S. 85C inserted (1.4.2007 for E.) by Education and Inspections Act 2006 (c. 40), **ss. 165**, 188(3); S.I. 2007/935, art. 4(b)

F355 Words in s. 85C(1) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(5)(a)**; S.I. 2012/924, art. 2

F356 Words in s. 85C(5) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 8(5)(b)**; S.I. 2012/924, art. 2

Modifications etc. (not altering text)

C41 S. 85C modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **3(b)**

F357 86 . . . . . E+W

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F357 S. 86 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch. 16 Pt. I**; S.I. 2000/183, **art. 2(1)**

87 Transfers of property, etc: supplementary provision. E+W

Schedule 7 to this Act has effect to supplement the provisions of this Act relating to the transfer of property, rights and liabilities.

Commencement Information

I44 S. 87 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

88 Stamp duty. U.K.

(1) Subject to subsection (2) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following sections of this Act: [F358]... **[**[F359]27B, 27C**]**, [F360]... **[**[F361]33P**]**, 34, 40(5) and (7), 63 and 80.

(2) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsection (1) 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 [M18]Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the [M19]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

F358 Words in s. 88(1) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(g)(i)**

F359 Words in s. 88 substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 38(a)**; S.I. 2012/924, art. 2

F360 Word in s. 88(1) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(g)(ii)**

F361 Word in s. 88 substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 38(b)**; S.I. 2012/924, art. 2

Commencement Information

I45 S. 88 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M18 1982 c. 39.

M19 1891 c. 39.

[[F362]88A. Stamp duty land tax U.K.

(1) A land transaction effected under or by virtue of section [F363]... **[**[F364]27B, 27C**]**, [F365]... **[**[F366]33P**]** or 34 of this Act is exempt from charge for the purposes of stamp duty land tax.

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(2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.

(3) In this section—

"land transaction" has the meaning given by section 43(1) of the Finance Act 2003;

"land transaction return" has the meaning given by section 76(1) of that Act.**]**

Textual Amendments

F362 S. 88A inserted (1.12.2003) by The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867), reg. 1, **Sch. para. 18**

F363 Word in s. 88A(1) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(h)(i)**

F364 Words in s. 88A substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 39(a)**; S.I. 2012/924, art. 2

F365 Word in s. 88A(1) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(h)(ii)**

F366 Word in s. 88A substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 39(b)**; S.I. 2012/924, art. 2

89 Orders, regulations and directions. E+W

(1) Any power [F367]...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 **[**[F368]sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and**]** sections [F369]... 29A(3)(c), [F369]... **[**[F370]30(2)(b),**][**[F371]33A(5)(b),**][**[F372]33J(2), 33K(1),**]** 38, **[**[F373]44(2)(c),**]** 46 and 57; but section 14 of the [M20]Interpretation Act 1978 (implied power to amend) applies to orders made under those sections [F374]... as it applies to orders made by statutory instrument.

(3) A statutory instrument containing any order or regulations under this Act, other than **[**[F375]one falling within subsection (3A) **[**[F376]or (3B)**]** or**]** an order under section 94, shall be subject to annulment in pursuance of **[**[F377]—

(a) in the case of an order or regulations made by the Secretary of State, a resolution of either House of Parliament;

(b) in the case of an order or regulations made by the Welsh Ministers, a resolution of the National Assembly for Wales.**]**

[[F378](3A) A statutory instrument which contains (whether alone or with other provision) regulations under section 85AA or 85AC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.**]**

[[F379](3B) An order falls within this subsection if—

(a) it is an order revoking (wholly or in part) an order under section 15 or 16 and is made by virtue of section 27A(4), or

(b) it is an order revoking (wholly or in part) an order under section 33A, 33B or 33C and is made by virtue of section 33O(4).**]**

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[[F380](3C) An order made by the Secretary of State under section 28 or 29(1)(b) is to be published in such manner as the Secretary of State considers appropriate.**]**

(4) Orders or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the **[**[F381]person or body making the order or regulations**]** thinks fit.

[[F382](5) Section 570 of the Education Act 1996 (revocation and variation) applies to directions given by any person or body under this Act as it applies to directions given by the Secretary of State or a **[**[F15]local authority**]** under that Act.**]**

[[F383](6) This section applies in relation to an order made by the Secretary of State under section 28 or 29(1)(b) that revokes or varies an order under those provisions made before the coming into force of section 32(3) of the Skills and Post-16 Education Act 2022 as if—

(a) in subsection (2), the words "sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and" were omitted, and

(b) subsection (3C) were omitted.**]**

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F367 Words in s. 89(1) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(i)**; S.I. 2014/1706, art. 3(h)

F368 Words in s. 89(2) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(a)**, 36(2)

F369 Words in s. 89(2) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(ii)**; S.I. 2014/1706, art. 3(h)

F370 Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(a)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F371 Word in s. 89(2) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(2)(a)**; S.I. 2009/3317, art. 2, Sch.

F372 Words in s. 89(2) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(2)(b)**; S.I. 2012/924, art. 2

F373 Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(b)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

F374 Words in s. 89(2) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(2)(c)**; S.I. 2012/924, art. 2

F375 Words in s. 89(3) inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(2)(a)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F376 Words in s. 89(3) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(3)**; S.I. 2012/924, art. 2

F377 Words in s. 89(3) substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(iii)**; S.I. 2014/1706, art. 3(h)

F378 S. 89(3A) inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(2)(b)**, 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))

F379 S. 89(3B) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(4)**; S.I. 2012/924, art. 2

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F380 S. 89(3C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(b)**, 36(2)
F381 Words in s. 89(4) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(3)**; S.I. 2010/303, art. 3, **Sch. 2**
F382 S. 89(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(4)**; S.I. 2010/303, art. 3, Sch. 2
F383 S. 89(6) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(c)**, 36(2)

Commencement Information
I46 S. 89 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations
M20 1978 c. 30.

90 Interpretation. E+W+S

(1) In this Act—

"contract of employment", "employee" and "employer" have the same meaning as in **[**[F384]the Employment Rights Act 1996**]**, and "employed" means employed under a contract of employment,

"the Education Acts" **[**[F385]has the meaning given by section 578 of the Education Act 1996**]**,

[[F386]"further education" has the meaning given by section 2(3) to (5) of that Act;**]**

[[F387]"further education corporation in England" means a further education corporation established to conduct an institution in England;

"further education corporation in Wales" means a further education corporation established to conduct an institution in Wales;**]**

"governing body", in relation to an institution, means, subject to subsection (2) below—

(a) in the case of an institution conducted by a further education corporation**[**[F388], a sixth form college corporation**]** or a higher education corporation, the corporation,

(b) in the case of a university not falling within paragraph (a) above, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs,

(c) in the case of any other institution not falling within paragraph (a) or (b) above for which there is an instrument of government providing for the constitution of a governing body, the governing body so provided for, and

(d) in any other case, any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors,

"higher education" has the same meaning as in the [M21]Education Reform Act 1988,

"higher education corporation" means a body corporate established under section 121 or 122 of the [M22]Education Reform Act 1988, including those sections as applied by section 227(4) of that Act (application to Wales), or a body corporate which has become a higher education corporation by virtue of section **[**[F389]122ZA or**]** 122A of that Act,

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"interest in land" includes any easement, right or charge in, to or over land,

"land" includes buildings and other structures, land covered with water and any interest in land,

"liability" includes obligation, and

[[F390]"local authority" has the same meaning as in the Education Act 1996 (see section 579(1) of that Act).**]**

[[F391]"the relevant sixth form college", in relation to a sixth form college corporation, means the educational institution specified in the order under this Act designating the corporation as a sixth form college corporation or establishing it as such,**]**

[F392]…

(a) **[**[F391]in relation to a proposal relating to the establishment of a sixth form college corporation, means the **[**[F15]local authority**]** in whose area the relevant sixth form college, or its main site, is proposed to be situated;

(b) in relation to a sixth form college corporation, means the **[**[F15]local authority**]** in whose area the relevant sixth form college, or its main site, is situated;

(c) in relation to a sixth form college, means the **[**[F15]local authority**]** in whose area the sixth form college, or its main site, is situated,**]**

[[F391]"sixth form college corporation" means a body corporate—

(a) designated as a sixth form college corporation under section 33A or 33B, or

(b) established under section 33C,**]**

[F392]…

(2) The Secretary of State may by order provide for any reference in the Education Acts to the governing body of an institution, in relation to an institution which is—

(a) a designated institution for the purposes of Part I or Part II of this Act, and

(b) conducted by a company,

to be read as a reference to the governing body provided for in the instrument of government, or to the company or to both.

[F393](2ZA) . . . . . .

[F394](2A) . . . . . .

[F395](2B) . . . . . .

(3) In this Act "university" includes a university college and any college, or institution in the nature of a college, in a university **[**[F396](except where the context otherwise requires)**]**; but where a college or institution would not, apart from this subsection, fall to be treated separately it shall not be so treated for the purpose of determining whether any institution is in England or in Wales.

[[F397](3A) In this Act references to a voluntary aided school are—

(a) in relation to any time before the appointed day within the meaning of the [M23]School Standards and Framework Act 1998, references to a voluntary aided school within the meaning of the Education Act 1996; or

(b) in relation to any time on or after that day, references to a voluntary aided school within the meaning of the 1998 Act.**]**

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(4) References in this Act to institutions within the PCFC funding sector are to be construed in accordance with section 132(6) of the [M24]Education Reform Act 1988.

(5) Subject to the provisions of this Act, expressions used in this Act and in **[**[F398]the Education Act 1996**]** have the same meaning in this Act as in that Act **[**[F399]and section 140(2) of the School Standards and Framework Act 1998 has effect for defining the expressions there mentioned.**]**.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F384 Words in s. 90(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 52(4)** (with ss. 191-195, 202)

F385 Words in s. 90(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2)(a)** (with ss. 1(4), 561, 562, Sch. 39)

F386 Definition in s. 90(1) inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(2)(b)** (with ss. 1(4), 561, 562, Sch. 39)

F387 Words in s. 90(1) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 41(2)(a)**; S.I. 2012/924, art. 2

F388 Words in s. 90(1) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 12(2)**; S.I. 2009/3317, art. 2, Sch.

F389 Words in s. 90(1) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 8 para. 25**; S.I. 2018/1226, reg. 4(o)

F390 Words in s. 90(1) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 5(8)**

F391 Words in s. 90(1) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 12(3)**; S.I. 2009/3317, art. 2, Sch.

F392 Words in s. 90(1) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 41(2)(b)**; S.I. 2012/924, art. 2

F393 S. 90(2ZA) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 41(3)**; S.I. 2012/924, art. 2

F394 S. 90(2A) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 27(a)** (with art. 7)

F395 S. 90(2B) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 27(b)** (with art. 7)

F396 Words in s. 90(3) inserted (1.10.1998) by 1998 c. 30, s. 44(1), **Sch. 3 para. 8** (with s. 48(2)); S.I. 1998/2215, **art. 2**

F397 S. 90(3A) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 46(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

F398 Words in s. 90(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 115(3)** (with ss. 1(4), 561, 562, Sch. 39)

F399 Words in s. 90(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 46(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

Commencement Information

I47 S. 90 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M21 1988 c. 40.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

M22 1988 c. 40.
M23 1996 c. 56.
M24 1988 c. 40.

91 Interpretation of Education Acts. E+W

(1) This section applies for the interpretation of the Education Acts.

[F400](2) . . . . . .

(3) References to institutions within the further education sector are to—

(a) institutions conducted by further education corporations, and

(b) designated institutions for the purposes of Part I of this Act (defined in section 28(4) of this Act), **[**[F401]and

(c) sixth form colleges,**]**

and references to institutions outside the further education sector are to be read accordingly.

[[F402](3A) References to sixth form colleges are to institutions conducted by sixth form college corporations.**]**

[F403](4) . . . . . .

(5) References to institutions within the higher education sector are to—

[[F404](za) registered higher education providers of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017,**]**

(a) universities receiving financial support under section 65 of this Act,

[[F405](aa) universities that are regulated institutions,**]**

(b) institutions **[**[F406]in Wales**]** conducted by higher education corporations, and

(c) designated institutions for the purposes of Part II of this Act (defined in section 72(3) of this Act),

and references to institutions outside the higher education sector are to be read accordingly.

[[F407](5ZA) For the purposes of subsection (5)(b), the reference to institutions in Wales is to be read in accordance with section 62(7).**]**

[[F408](5A) For the purposes of subsection (5)(aa), a regulated institution is an institution to which an approved plan, within the meaning given in section 7 of the Higher Education (Wales) Act 2015, relates.**]**

(6) References, in relation to a further education corporation or higher education corporation, to the institution—

(a) in relation to any time before the operative date for the purposes of Part I of this Act (defined in section 17 of this Act) or, as the case may be, the transfer date for the purposes of the [M25]Education Reform Act 1988 (defined in section 123 of that Act), are to the institution the corporation is established to conduct, and

(b) in relation to any later time or to any corporation which is a further education corporation by virtue of section 47 of this Act or a higher education corporation **[**[F409]by virtue of section 122ZA or 122A**]** of that Act, are to any institution for the time being conducted by the corporation in the exercise of their powers under this or that Act.

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Textual Amendments

F400 S. 91(2) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 42, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)

F401 S. 91(3)(c) and word inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(2)**; S.I. 2009/3317, art. 2, Sch.

F402 S. 91(3A) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 13(3)**; S.I. 2009/3317, art. 2, Sch.

F403 S. 91(4) omitted (1.8.2024) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(5)(a)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

F404 S. 91(5)(za) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **4(a)(i)**

F405 S. 91(5)(aa) inserted (1.8.2017) by Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 4(2)**; S.I. 2017/239, art. 2

F406 Words in s. 91(5)(b) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **4(a)(ii)** (with reg. 45)

F407 S. 91(5ZA) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **4(b)**

F408 S. 91(5A) inserted (1.8.2017) by Higher Education (Wales) Act 2015 (anaw 1), s. 59(2), **Sch. para. 4(3)**; S.I. 2017/239, art. 2

F409 Words in s. 91(6)(b) substituted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 8 para. 26**; S.I. 2018/1226, reg. 4(o)

Modifications etc. (not altering text)

C42 S. 91 applied (30.6.1999) by 1991 c. 56, s. 1(2), **Sch. 4A para. 11(2)** (as inserted (30.6.1999) by 1999 c. 9, ss. 1(2), 17(2), **Sch. 1**)

C43 S. 91(3)(a)(b) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c)(i) (with Sch. 13 para. 2)

C44 S. 91(5) applied by 1973 c. 50, **s. 8(4)** (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, **s. 45**; S.I. 1993/2503, art. 2(3)(a)(b), **Sch. 3**)

C45 S. 91(5)(b)(c) applied (1.9.1994) by 1994 c. 23, ss. 8(2), 31, 101(1), **Sch. 9 Pt. II** Group 6 Note (1)(c)(i) (with Sch. 13 para. 2)

Commencement Information

I48 S. 91 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M25 1988 c. 40.

92 Index. E+W

The expressions listed in the left-hand column below are respectively defined by or (as the case may be) are to be interpreted in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

Expression	*Relevant provision*
appropriate further education funding council	section 1(6)
contract of employment, etc.	section 90(1)

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[[F410]council (in Part I), or learning and skills council	sections 61A(1) and 90(2A)**]**
F411	**F411**
. . .	. . .
designated institution (in Part I)	section 28(4)
designated institution (in Part II)	section 72(3)
the Education Acts	section 90(1)
functions	section 61(1)
further education	**F412** **[**section 90(1)**]**
further education corporation	section 17(1)
[[F413]further education corporation in England	section 90(1)**]**
[[F413]further education corporation in Wales	section 90(1)**]**
governing body	section 90(1) and (2)
F414	**F414**
. . .	. . .
higher education	section 90(1)
higher education corporation	section 90(1)
[[F415]institution in Wales (in relation to the HEFCW)**]**	section 62(7)
institutions within or outside the further education sector	section 91(3)
institutions within or outside the higher education sector	sections 61(3)(a) and 91(5)
institutions within the PCFC funding sector	section 90(4)
interest in land	section 90(1)
land	section 90(1)
liability	section 90(1)
local authority	section 90(1)
modification	section 61(1)
operative date	sections 17 and 33(4)
F416	**F416**
. . .	. . .
regulations	section 61(1)
[[F417]relevant sixth form college	section 90(1)**]**
F418	**F418**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

. . .	. . .
[[F417]sixth form college	section 91(3A)**]**
[[F417]sixth form college corporation	section 90(1)**]**
F416	**F416**
. . .	. . .
F416	**F416**
. . .	. . .
transfer of rights or liabilities	section 61(2)
university	section 90(3)
F418	**F418**
. . .	. . .

Textual Amendments

F410 Entry in s. 92 substituted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 43**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)

F411 Words in s. 92 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 26(2)**; S.I. 2018/241, reg. 2(s)

F412 Words in the entry for "further education" in s. 92 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 116(a)** (with ss. 1(4), 561, 562, Sch. 39)

F413 Words in s. 92 inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 42(a)**; S.I. 2012/924, art. 2

F414 Words in s. 92 omitted (1.8.2024 to the extent it omits the entry for "the HEFCW") by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(6)** (with s. 19); S.I. 2024/806, art. 3(c)(iii) (with art. 28)

F415 Words in s. 92 substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 26(4)**; S.I. 2018/241, reg. 2(s)

F416 Entries in s. 92 repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 116(b), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)

F417 Words in s. 92 inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 14**; S.I. 2009/3317, art. 2, Sch.

F418 Words in s. 92 omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 42(b)**; S.I. 2012/924, art. 2

Modifications etc. (not altering text)

C46 S. 92 modified (temp.) (1.8.2024) by The Tertiary Education and Research (Wales) Act 2022 (Commencement No. 4 and Transitory and Transitional Provisions) Order 2024 (S.I. 2024/806), **art. 18(2)**(4) (with art. 28)

Commencement Information

I49 S. 92 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

93 Amendments and repeals. E+W

(1) Schedule 8 (which makes minor and consequential amendments) shall have effect.

(2) The enactments mentioned in Schedule 9 to this Act are repealed to the extent mentioned in the third column.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I50 S. 93 wholly in force; s. 93 not in force at Royal Assent see s. 94(3); s. 93(2) wholly in force and s. 93(1) in force for certain purposes at 6.5.1992, 30.9.1992, 1.4.1993, 1.8.1993 by S.I. 1992/831, art. 2, **Schs.** (as amended by S.I. 1992/2041, **art. 2(b)**); s. 93(1) in force (E.) for certain purposes at 7.12.1992 by S.I. 1992/3057, **art. 2**; s. 93(1) in force for certain purposes at 1.8.1996 by S.I. 1996/1897, **art. 2**

94 Short title, commencement, etc. E+W

(1) This Act may be cited as the Further and Higher Education Act 1992.

F419(2) . . . . . .

(3) This Act shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions and for different purposes.

(4) Subject to the following provisions of this section, this Act extends to England and Wales only.

(5) Sections 63, 64 and 82 of this Act extend also to Scotland.

(6) Section 80 extends also to Scotland and Northern Ireland.

(7) The amendment by this Act of an enactment which extends to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Subordinate Legislation Made

P1 S. 94(3) power partly exercised (16.3.1992): different dates appointed for specified provisions by S.I. 1992/831 (with saving and transitional provisions);
s. 94(3) power partly exercised (25.8.1992) by S.I. 1992/2041 (amending S.I. 1992/831);
s. 94(3) power partly exercised (1.9.1992): 1.4.1993 appointed for specified provisions by S.I. 1992/2377;
s. 94(3) power partly exercised (7.12.1992): 7.12.1992 appointed (E.) for s. 93(1) for certain purposes by S.I. 1992/3057;
s. 94(3) power partly exercised (9.7.1996): 1.8.1996 appointed for certain purposes by S.I. 1996/1897;

Textual Amendments

F419 S. 94(2) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Commencement Information

I51 S. 94 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

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SCHEDULES

[F420 SCHEDULE 1 U.K.

Sections 1, 9, 62 and 70.

THE FURTHER AND HIGHER EDUCATION FUNDING COUNCILS

Textual Amendments

F420 Sch. 1 omitted (W.) (1.8.2024) by virtue of Tertiary Education and Research (Wales) Act 2022 (asc 1), s. 148(2), **Sch. 4 para. 6(7)** (with s. 19); S.I. 2024/806, art. 2(k)(iv) (with art. 28)

Modifications etc. (not altering text)

C47 Sch. 1 applied (1.9.2015) by Higher Education (Wales) Act 2015 (anaw 1), **ss. 25(6)**, 59(2) (with Sch. para. 31); S.I. 2015/1327, art. 5(h)

Commencement Information

I52 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Supplementary powers

1 (1) Subject to sub-paragraph (2) below, the council may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—

(a) acquiring and disposing of land and other property,

(b) entering into contracts,

(c) investing sums not immediately required for the purpose of the discharge of their functions, and

(d) accepting gifts of money, land or other property.

(2) The council shall not borrow money.

Commencement Information

I53 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Chief officer

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

(2) The first chief officer shall be appointed as such by the Secretary of State and shall hold and vacate office in accordance with the terms of his appointment.

(3) Each subsequent chief officer shall be appointed by the council with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the council may with the approval of the Secretary of State determine.

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(4) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the council and the terms and conditions of his appointment, the Secretary of State shall—

(a) if that person is not already a member of the council, appoint him as a member for the same term as the term of his appointment as chief officer, or

(b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

Commencement Information

I54 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Tenure of members of councils

3 (1) A person shall hold and vacate office as a member or as chairman or chief officer of the council in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

(2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman of the council.

Commencement Information

I55 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

4 If the Secretary of State is satisfied that a member of the council—

(a) has been absent from meetings of the council for a period longer than six consecutive months without the permission of the council, or

(b) is unable or unfit to discharge the functions of a member,

the Secretary of State may by notice in writing to that member remove him from office and thereupon the office shall become vacant.

Commencement Information

I56 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Salaries, allowances and pensions

5 (1) The council—

(a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and

(b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.

(2) If a person ceases to be a member of the council and it appears to the Secretary of State that there are special circumstances which make it right that he should receive

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compensation, the Secretary of State may direct the council to make to that person a payment of such amount as the Secretary of State may determine.

(3) The council shall pay to the members of any of their committees who are not members of the council such travelling, subsistence and other allowances as the Secretary of State may determine.

(4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

Commencement Information

I57 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

House of Commons disqualification

6 In Part III of Schedule 1 to the [M26]House of Commons Disqualification Act 1975 (disqualifying offices) there are inserted at the appropriate places—

"Any member of the Further Education Funding Council for England in receipt of remuneration.

Any member of the Further Education Funding Council for Wales in receipt of remuneration.

Any member of the Higher Education Funding Council for England in receipt of remuneration.

Any member of the Higher Education Funding Council for Wales in receipt of remuneration."

Commencement Information

I58 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M26 1975 c. 24.

Staff

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

(2) The council shall pay to their employees such remuneration and allowances as the council may determine.

(3) The employees shall be appointed on such other terms and conditions as the council may determine.

(4) A determination under sub-paragraph (2) or (3) above requires the approval of the Secretary of State given with the consent of the Treasury.

(5) Employment with the council shall be included among the kinds of employment to which a scheme under section 1 of the [M27]Superannuation Act 1972 can apply, and

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accordingly in Schedule 1 to that Act (in which those kinds of employment are listed), at the end of the list of "Other Bodies" there is inserted—

(6) The council 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 sub-paragraph (5) above in the sums payable out of money provided by Parliament under that Act.

(7) Where an employee of the council is, by reference to that employment, a participant in a scheme under section 1 of that Act and is also a member of the council, the Treasury may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the council (whether or not any benefits are payable to or in respect of him by virtue of paragraph 5 above).

Commencement Information

I59 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

M27 1972 c. 11.

Committees

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

(2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the council.

(3) Such a committee may include persons who are not members of the council.

(4) The council shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Commencement Information

I60 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Further Education Funding Council for England: regional committees

[F421 9 (1) There shall be established for each region of England determined by the Secretary of State a committee of the Further Education Funding Council for England to advise the council on such matters relating to the facilities for the population of the region—

(a) for further education, or

(b) for full-time education (other than further education) suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years,

as the council may from time to time require.

(2) The number of the members of a committee established under this paragraph shall be determined by the Secretary of State and he shall appoint the members of the committee.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(3) Paragraphs 3 and 4 above apply to members of a committee established under this paragraph as they apply to members of a council.**]**

Textual Amendments

F421 Sch. 1 para. 9 repealed (1.4.2001 for E.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)

Commencement Information

I61 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Delegation of Functions

10 The council may authorise the chairman, the chief officer or any committee established under paragraph 8 above to exercise such of their functions as they may determine.

Commencement Information

I62 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Proceedings

11 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to the council under this Act—

(a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the council or of any committee of the council, and

(b) the council shall provide the Secretary of State with such copies of any documents distributed to members of the council or of any such committee as he may require.

Commencement Information

I63 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

12 The validity of any proceedings of the council or of any committee of the council shall not be affected by a vacancy among the members or by any defect in the appointment of a member.

Commencement Information

I64 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

13 Subject to the preceding provisions of this Schedule, the council may regulate their own procedure and that of any of their committees.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I65 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Application of seal and proof of instruments

14 The application of the seal of the council shall be authenticated by the signature—

(a) of the chairman or of some other person authorised either generally or specially by the council to act for that purpose, and

(b) of one other member.

Commencement Information

I66 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

15 Every document purporting to be an instrument made or issued by or on behalf of the council and to be duly executed under the seal of the council, or to be signed or executed by a person authorised by the council 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.

Commencement Information

I67 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Accounts

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

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

(b) to prepare in respect of each financial year of the council a statement of accounts, and

(c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

(2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

(a) the information to be contained in it,

(b) the manner in which the information contained in it is to be presented, or

(c) the methods and principles according to which the statement is to be prepared,

and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.

(3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(4) In this paragraph "financial year" means the period beginning with the date on which the council is established and ending with the second 31st March following that date, and each successive period of twelve months.

Modifications etc. (not altering text)

C48 Sch. 1 para. 16(2) functions modified (24.5.2018) by The Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644), arts. 1(1), **30**

Commencement Information

I68 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Status of council

17 The council 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 property of the council shall not be regarded as property of, or property held on behalf of, the Crown.**]**

Commencement Information

I69 Sch. 1 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

[[F422]SCHEDULE 2 E+W

Sections 3 and 6.**]**

. . . . . .

Textual Amendments

F422 Sch. 2 repealed (1.4.2001) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

Commencement Information

I70 Sch. 2 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

SCHEDULE 3 E+W

Sections 15 and 16.

CALCULATION OF ENROLMENT NUMBERS

Commencement Information

I71 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Enrolment numbers

1 (1) The enrolment number for any institution at any time is the aggregate of—

(a) the number of full-time students enrolled at that institution at that time to follow courses of further or higher education, and

(b) the numbers arrived at under sub-paragraph (3) below for each mode of attendance at such courses specified in the first three entries in column 1 of the table in paragraph 2 below.

(2) The total enrolment number for any institution at any time is the aggregate of—

(a) the number of full-time students enrolled at that institution at that time to follow courses of further or higher education, and

(b) the numbers arrived at under sub-paragraph (3) below for each mode of attendance at such courses specified in column 1 of the table in paragraph 2 below.

(3) The number for any mode of attendance at a course is that arrived at by multiplying by the appropriate multiplier the number of students enrolled at the institution at the time in question to follow the course by that mode of attendance.

(4) In sub-paragraph (3) above "the appropriate multiplier" means, in relation to a mode of attendance, the figure given in relation to that mode of attendance in column 2 of the table.

Commencement Information

I72 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Table for calculating enrolment numbers for sandwich courses, etc.

2 The following table applies for the purpose of determining the numbers mentioned in paragraph 1(1)(b) and (2)(b) above—

(1)*Mode of attendance*	**(2)*Multiplier***
1. Sandwich course	0.7
2. Block release	1.0
3. Day release	0.3
4. Part-time (other than day release but including some day-time study)	0.2
5. Part-time (evening only study)	0.1
6. Open or distance learning	0.075

Commencement Information

I73 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Interpretation of paragraphs 1 and 2

3 (1) For the purposes of paragraph 1(1)(a) and (2)(a) above a student is a full-time student in relation to a course of any description if all his studies for the purposes of that course are full-time studies.

(2) For the purposes of paragraph 2 above—

(a) a student's mode of attendance at a course of any description is by way of a sandwich course if—

(i) in following that course, he engages in periods of full-time study for the purposes of the course alternating with periods of full-time work experience which form part of that course, and

(ii) his average period of full-time study for the purposes of the course for each academic year included in the course is nineteen weeks or more,

(b) a student's mode of attendance at a course of any description is by way of block release if—

(i) the course involves a period of full-time study interrupted by a period of industrial training or employment (whether or not it also includes study on one or two days a week during any other period), and

(ii) his average period of full-time study for the purposes of the course for each academic year included in the course is less than nineteen weeks,

(c) a student's mode of attendance at a course of any description is by way of day release if—

(i) he is in employment, and

(ii) he is released by his employer to follow that course during any part of the working week, and

(d) a student's mode of attendance at a course of any description is by way of open or distance learning if—

(i) he is provided for the purposes of the course with learning material for private study, and

(ii) his written work for the purposes of the course is subject to a marking and comment service provided for students following the course by private study (whether or not any additional advisory or teaching services are also provided for such students as part of the course).

Commencement Information

I74 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Amendment of paragraphs 1 to 3

4 The Secretary of State may by order amend paragraphs 1 to 3 above except so far as they apply for calculating an institution's enrolment number, or total enrolment number, on 1st November 1990.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Commencement Information

I75 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Exclusion of non-EEC students

5 For the purpose of calculating under those paragraphs any enrolment number at any time of any institution, any student enrolled at the institution whose ordinary place of residence then was or is in a country or territory other than a member State shall be disregarded.

Commencement Information

I76 Sch. 3 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

SCHEDULE 4 U.K.

INSTRUMENTS AND ARTICLES OF GOVERNMENT

[F424 1 This Schedule applies in relation to—

(a) a further education corporation,

(b) the governing body of a designated institution, and

(c) a sixth form college corporation.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

2 In this Schedule—

"the body" means—

(a) in the case of a further education corporation or a sixth form college corporation, the corporation, and

(b) in the case of the governing body of a designated institution, the governing body;

"the institution" means—

(a) in the case of a further education corporation, the institution which the corporation are established to conduct;

(b) in the case of the governing body of a designated institution, the institution;

(c) in the case of a sixth form college corporation, the relevant sixth form college;

"instrument" means an instrument of government or articles of government.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

3 (1) An instrument must provide for—

(a) the number of members of the body,

(b) the eligibility of persons for membership,

(c) the members to include—

(i) staff and students at the institution, and

(ii) in the case of a sixth form college corporation, parents of students at the institution aged under 19, and

(d) the appointment of members, if the institution is in England, or the appointment or election of members, if the institution is in Wales.

(2) In the case of an institution in Wales the provision made by an instrument must include provision—

(a) for the members of the body to include—

(i) the chief executive,

(ii) at least two other members of staff at the institution,

(iii) at least two students at the institution, and

(iv) one or more representatives of local employers or businesses,

(b) for at least one of the members who are members of staff to be a member of the teaching staff, and at least one to be a member of the non-teaching staff, elected at an election open to all members of staff from those nominated by any member of staff, and

(c) for the members who are students to be elected at an election open to all the students at the institution from those nominated by any student or (if the body so determines) to be elected at an election open to all the members of an association which represents students at the institution, and is recognised by the body, from those nominated by any member of the association.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

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

(2) In particular, an instrument must specify how the body may resolve for its dissolution and the transfer of its property, rights and liabilities.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

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

(a) a chief executive of the institution, and

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(b) a clerk to the body.

(2) An instrument must make provision about the respective responsibilities of the body, the chief executive and the clerk.

(3) The responsibilities of the body must include—

(a) in the case of a sixth form college corporation to which section 33J applies, the preservation and development of the educational character and mission of the institution and the oversight of its activities;

(b) in the case of any other sixth form college corporation, a further education corporation or a governing body, the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;

(c) in any case, the effective and efficient use of resources, the solvency of the institution and the body and the safeguarding of their assets.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

6 An instrument must require the body to publish arrangements for obtaining the views of staff and students on the matters for which the body are responsible under paragraph 5(3)(a) or (b).

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

7 In the case of an institution in Wales, an instrument must require the body to consult persons in the locality of the institution receiving education or training, employers in that locality and bodies representing persons living in that locality as to the education provided at the institution and the planning of its curriculum.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

8 An instrument must permit the body to change their name with the approval of—

(a) in the case of an institution in England, the Secretary of State;

(b) in the case of an institution in Wales, the Welsh Ministers.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

9 An instrument must specify how the body may modify or replace the instrument of government and articles of government.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

10 An instrument must prohibit the body from making changes to the instrument of government or articles of government that would result in the body ceasing to be a charity.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

11 An instrument must provide for—

(a) a copy of the instrument to be given free of charge to every member of the body,

(b) a copy of the instrument to be given free of charge, or at a charge not exceeding the cost of copying, to anyone else who requests it, and

(c) a copy of it to be available for inspection at the institution on request, during normal office hours, to every member of staff of, and student at, the institution.

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

12 An instrument must provide for the authentication of the application of the seal of the body.**]**

Textual Amendments

F424 Sch. 4 substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 1**; S.I. 2014/1706, art. 3(b)

[F425] SCHEDULE 5 E+W

Section 36.

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Textual Amendments

F425 Sch. 5 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(i)**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

[F426]SCHEDULE 5A E+W

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Textual Amendments

F426 Sch. 5A repealed (28.7.2000 for specified purposes, 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 45, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. III** (with transitional provisions in art. 3)

SCHEDULE 6 E+W

Section 71.

NEW SCHEDULE 7A TO THE EDUCATION REFORM ACT 1988

Commencement Information

I77 Sch. 6 in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

"SCHEDULE 7A E+W

INSTRUMENTS OF GOVERNMENT MADE BY PRIVY COUNCIL

Name of corporation

1 The instrument shall empower the corporation to change their name with the consent of the Privy Council.

Membership

2 The instrument shall make provision for the membership of the corporation which meets all the requirements of paragraphs 3 to 5 below.

3 (1) The corporation shall consist of—

(a) not less than twelve and not more than twenty-four members appointed in accordance with the following provisions; and

(b) the person who is for the time being the principal of the institution, unless he chooses not to be a member.

(2) Of the appointed members—

(a) up to thirteen (referred to below in this Schedule as the "independent members") shall be persons appearing to the appointing authority to have experience of, and to have shown capacity in, industrial, commercial or employment matters or the practice of any profession;

(b) up to two may be teachers at the institution nominated by the academic board and up to two may be students at the institution nominated by the students at the institution; and

(c) at least one and not more than nine (referred to below in this Schedule as the "co-opted members") shall be persons nominated by the members of the corporation who are not co-opted members.

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(3) The co-opted member required by sub-paragraph (2)(c) above shall be a person who has experience in the provision of education.

(4) A person (other than a person appointed in pursuance of sub-paragraph (2)(b) above) who is—

(a) employed at the institution (whether or not as a teacher);

(b) a full-time student at the institution; or

(c) an elected member of any local authority,

is not eligible for appointment as a member of the corporation otherwise than as a co-opted member.

(5) For the purposes of this paragraph, a person who is not for the time being enrolled as a student at the institution shall be treated as such a student during any period when he has been granted leave of absence from the institution for the purposes of study or travel or for carrying out the duties of any office held by him in the student union at the institution.

(6) It shall be for the appointing authority to determine any question as to whether any person is qualified in accordance with the preceding provisions of this paragraph for appointment as a member of the corporation of any description or category.

Numbers

4 (1) The corporation shall make a determination with respect to their membership numbers.

(2) Such a determination shall fix the number of members of each variable category of which the corporation are to consist, subject to the limits applicable in relation to that category in accordance with paragraph 3 above.

(3) In making such a determination, the corporation shall secure that at least half of all the members of the corporation, when constituted in accordance with the determination, will be independent members.

(4) Such a determination shall not have effect so as to terminate the appointment of any person who is a member of the corporation at the time when it takes effect.

(5) Such a determination may be varied by a subsequent determination.

Appointments

5 (1) Subject to section 124C of this Act, no appointment of members of the corporation may be made before the first determination of the corporation in accordance with paragraph 4 above takes effect.

(2) Subject to that section, the corporation are the appointing authority in relation to the appointment of any member of the corporation other than an independent member.

(3) Where an appointment of an additional independent member of the corporation falls to be made in consequence of a determination in accordance with paragraph 4 above, the appointing authority in relation to the appointment—

(a) shall be the corporation if the appointment is made within the period of three months beginning with the date of the determination; or

(b) if the appointment is not made within that period, shall be the current independent members of the corporation.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(4) Where a vacancy in the office of an independent member of the corporation arises on any existing independent member ceasing to hold office on the expiry of his term of office—

(a) his successor shall not be appointed more than six months before the expiry of that term; and

(b) the appointing authority in relation to the appointment of his successor—

(i) shall be the corporation if the appointment is made not less than three months before the expiry of that term; or

(ii) if the appointment is not so made, shall be the current independent members of the corporation.

(5) Where a vacancy in the office of an independent member of the corporation arises on the death of any such member or on any such member ceasing to hold office in accordance with the instrument, the appointing authority in relation to the appointment of his successor—

(a) shall be the corporation if the appointment is made within the period of three months beginning with the date of death or the the date on which the office becomes vacant (as the case may be); or

(b) if the appointment is not made within that period, shall be the current independent members of the corporation.

(6) No appointment of an independent member of the corporation by the corporation in accordance with sub-paragraph (3)(a), (4)(b)(i) or (5)(a) above shall be made unless the appointment has been approved by the current independent members of the corporation.

(7) If the number of independent members of the corporation falls below the number needed in accordance with its articles of government for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such number of independent members as is required for a quorum.

Tenure of office etc.

6 Subject to any other requirements of this Act, the instrument may provide for the eligibility of persons for membership of the corporation and shall provide for their period of office and the circumstances in which they are to cease to hold office.

Officers

7 The instrument shall provide for one or more officers to be chosen from among the members.

Committees

8 The instrument may provide for the corporation to establish committees and permit such committees to include persons who are not members of the corporation.

Allowances

9 The instrument may provide for the corporation to pay allowances to its members.

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Seal of corporation

10 The instrument shall provide for the authentication of the application of the seal of the corporation.

Interpretation

11 References in this Schedule, in relation to a corporation, to a variable category of members are references to any category of members in relation to which the number applicable in accordance with paragraph 3 above is subject to variation."

SCHEDULE 7 E+W

Section 87.

TRANSFERS: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)
C49 Sch. 7 modified (1.1.2001) by S.I. 2000/3209, **reg. 12** (with savings in regs. 13, 14)

Commencement Information
I78 Sch. 7 wholly in force 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

Proof of title by certificate

1 The Education Assets Board may issue a certificate stating that any property specified in the certificate, or any such interest in or right over any such property as may be so specified, or any right or liability so specified, was or was not transferred by virtue of this Act to any body corporate or persons so specified; and any such certificate shall be conclusive evidence for all purposes of that fact.

Commencement Information
I79 Sch. 7 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

Construction of agreements

2 (1) Where any rights or liabilities transferred by virtue of this Act are rights or liabilities under an agreement to which the transferor was a party immediately before the date on which the transfer took effect (referred to in this Schedule as the "transfer date"), the agreement shall, unless the context otherwise requires, have effect on and after the transfer date as if—

(a) the transferee had been a party to the agreement,

(b) for any reference (whether express or implied and, if express, however worded) to the transferor there were substituted, as respects anything falling to be done on or after the transfer date, a reference to the transferee,

(c) any reference (whether express or implied and, if express, however worded) to a specified officer of the transferor or a person employed by the transferor in a specified capacity were, as respects anything falling to be done on or after the transfer date, a reference to such person as the transferee may

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

appoint or, in default of appointment, to an officer or employee of the transferee who corresponds as closely as possible to the person referred to in the agreement,

(d) where the agreement refers to property, rights or liabilities which fall to be apportioned or divided between the transferor and the transferee, the agreement constituted two separate agreements separately enforceable by and against the transferor and the transferee as regards the part of the property, rights or liabilities retained by the transferor or (as the case may be) the part vesting in the transferee, and not as regards the other part,

and paragraph (d) above shall apply in particular to the covenants, stipulations and conditions of any lease by or to the transferor.

(2) This paragraph applies to any agreement whether in writing or not and whether or not of such a nature that rights and liabilities under it could be assigned by the transferor.

Commencement Information

I80 Sch. 7 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

3 (1) Without prejudice to the generality of paragraph 2 above, the transferee under a transfer made by virtue of this Act and any other person shall, as from the transfer date, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing any right or liability transferred to and vested in the transferee by virtue of this Act as he would have had if that right or liability had at all times been a right or liability of the transferee.

(2) Any legal proceedings or applications to any authority pending on the transfer date by or against the transferor, in so far as they relate to any property, right or liability transferred to the transferee by virtue of this Act, or to any agreement relating to any such property, right or liability, shall be continued by or against the transferee to the exclusion of the transferor.

Commencement Information

I81 Sch. 7 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

4 The provisions of paragraphs 2 and 3 above shall have effect for the interpretation of agreements subject to the context, and shall not apply where the context otherwise requires.

Commencement Information

I82 Sch. 7 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

SCHEDULE 8 U.K.

Section 93

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

I83 Sch. 8 wholly in force: 6.5.1992, 1.9.1992, 30.9.1992, 1.4.1993, 1.8.1993 appointed by s. 94(3), S.I. 1992/831, art. 2, **Schs.** and S.I. 1992/2377, **art. 3**

PART I E+W+S

AMENDMENTS OF THE EDUCATION ACTS

The Education Act 1944 (c. 31)

F437 1 . . . . . .

Textual Amendments

F437 Sch. 8 para. 1 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F438 2 . . . . . .

Textual Amendments

F438 Sch. 8 para. 2 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F439 3 . . . . . .

Textual Amendments

F439 Sch. 8 para. 3 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F440 4 . . . . . .

Textual Amendments

F440 Sch. 8 para. 4 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F441 5 . . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F441 Sch. 8 para. 5 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F442 6 . . . . . .

Textual Amendments

F442 Sch. 8 para. 6 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F443 7 . . . . . .

Textual Amendments

F443 Sch. 8 para. 7 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F444 8 . . . . . .

Textual Amendments

F444 Sch. 8 para. 8 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F445 9 . . . . . .

Textual Amendments

F445 Sch. 8 para. 9 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F446 10 . . . . . .

Textual Amendments

F446 Sch. 8 para. 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F447 11 . . . . . .

Textual Amendments

F447 Sch. 8 para. 11 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F448 12 . . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F448 Sch. 8 para. 12 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F449]13 . . . . . .

Textual Amendments

F449 Sch. 8 para. 13 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

The Education Act 1946 (c. 50)

[F450]14 . . . . . .

Textual Amendments

F450 Sch. 8 para. 14 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

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

[F451]15 . . . . . .

Textual Amendments

F451 Sch. 8 para. 15 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F452]16 . . . . . .

Textual Amendments

F452 Sch. 8 para. 16 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

The Education Act 1980 (c. 20)

[F453]17 . . . . . .

Textual Amendments

F453 Sch. 8 para. 17 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

The Education Act 1981 (c. 60)

[F454]18 . . . . . .

Textual Amendments

F454 Sch. 8 para. 18 repealed (1.4.1994) by 1993 c. 35, ss. 303, 307(1)(3), Sch. 19 para. 171(a), **Sch. 21 Pt.I**; S.I. 1994/507, art. 4, **Sch. 2A**ppendix

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

19 In section 1(3) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments)—

(a) for paragraph (b) there is substituted—

" (b) any institution within the higher education sector ", and

(b) after paragraph (c) there is inserted—

" (ca) any institution within the further education sector ".

Commencement Information

I84 Sch. 8, para. 19 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

The Further Education Act 1985 (c. 47)

20 At the end of section 1 of the Further Education Act 1985 (supply of goods and services through further education establishments) there is added—

"(4) In this Act "institution" does not include a school."

Commencement Information

I85 Sch. 8, para. 20 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

21 (1) In section 2(2) of that Act (power of LEAs to lend money for those purposes) for paragraphs (a) to (d) there is substituted—

"(a) to a higher education corporation or further education corporation (within the meaning of the Further and Higher Education Act 1992);

(b) in the case of the following institutions—

(i) an institution within the higher education sector which is not conducted by a higher education corporation;

(ii) an institution within the further education sector which is not conducted by a further education corporation; or

(iii) an institution which provides higher education or further education and is assisted by a **[**[F15]local authority**]** ,

to the governing body of the institution or, if it is conducted by a company, to the company; or

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(c) to a body corporate in which such a corporation or company as is mentioned in paragraph (a) or (b) above has a holding such as is mentioned in subsection (8) below".

(2) In subsection (8) of that section for "(2)(d)" there is substituted " (2)(c) ".

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I86 Sch. 8, para. 21 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

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

22 In section 43 of the Education (No. 2) Act 1986 (freedom of speech in universities, etc.)—

(a) in subsection (5)—

(i) for paragraph (aa) there is substituted-

" (aa) any institution other than a university within the higher education sector ",

(ii) after paragraph (b) there is inserted—

" (ba) any institution within the further education sector ", and

(iii) paragraph (c) is omitted, and

(b) in subsection (7) paragraph (b) and "or authorities maintaining or (as the case may be) assisting the establishment" are omitted.

Commencement Information

I87 Sch. 8, para. 22 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

23 In section 49(3) of that Act (appraisal of performance of teachers)—

(a) paragraphs (d) and (da) are omitted,

(b) after paragraph (da) there is inserted-

" (db) at any institution within the further education sector ", and

(c) in paragraph (e) for "(da)" there is substituted " (db) ".

Commencement Information

I88 Sch. 8, para. 23 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

F455 24 . . . . . .

Textual Amendments

F455 Sch. 8 para. 24 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

[F456]25 . . . . . .

Textual Amendments

F456 Sch. 8 para. 25 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F457]26 . . . . . .

Textual Amendments

F457 Sch. 8 para. 26 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

The Education Reform Act 1988 (c. 40)

27 The Education Reform Act 1988 is amended as follows.

Commencement Information

I89 Sch. 8 para. 27 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

[F458]28 . . . . . .

Textual Amendments

F458 Sch. 8 para. 28 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

[F459]29 . . . . . .

Textual Amendments

F459 Sch. 8 para. 29 repealed (1.4.1994) by 1993 c. 35, ss. 303, 307(1)(3), Sch. 19 para. 171(a), **Sch. 21 Pt.I**; S.I. 1994/507, art. 4, **Sch. 2** Appendix

30 In section 120 (functions of **[**[F15]local authorities**]** with respect to higher and further education)—

(a) subsection (2) is omitted,

(b) in subsection (3)(b) for "living outside their area" there is substituted " from other areas ",

(c) in subsection (4)—

(i) for "universities, institutions within the PCFC funding sector" there is substituted " institutions within the higher education sector ", and

(ii) after "sector" there is inserted " or the further education sector ", and

(d) subsections (6), (7), (8), (9)(a)(ii) and (9)(b) are omitted.

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Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I90 Sch. 8, para. 30 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

31 In section 122 (orders incorporating higher education institutions maintained by **[**[F15]local authorities**]**) subsections (2) to (5) are omitted.

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I91 Sch. 8, para. 31 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **sch. 1**

32 In section 123 (provisions supplementary to sections 121 and 122)—

(a) at the end of subsection (1) there is added " or which has become a higher education corporation by virtue of section 122A of this Act ", and

(b) for subsection (3) there is substituted—

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

(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."

Commencement Information

I92 Sch. 8, para. 32 wholly in force: Sch. 8, para. 32(b) in force at 6.5.1992; Sch. 8, para. 32(a) in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, **3**

33 In section 124 (powers of a higher education corporation)—

(a) in subsection (2)(b) for "disabled students" there is substituted " students having learning difficulties within the meaning of section 41(9) of the Education Act 1944 ", and

(b) subsection (4) is omitted.

Commencement Information

I93 Sch. 8, para. 33 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

34 In section 128 (dissolution of higher education corporations)—

(a) in subsection (1)(b)—

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(i) for sub-paragraphs (iii) and (iv) there is substituted—

"(iii) a higher education funding council", and

(ii) after those sub-paragraphs there is inserted—

"(v) a further education funding council",

(b) for subsection (4)(b) there is substituted—

" (b) the higher education funding council ", and

(c) after subsection (5) there is added—

"(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."

Commencement Information

I94 Sch. 8, para. 34 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

35 Sections 131, 132 and 134 (Universities Funding Council and Polytechnics and Colleges Funding Council) are omitted.

Commencement Information

I95 Sch. 8, para. 35 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

36 In section 135 (inspection of accounts)—

(a) for subsection (1)(c) there is substituted—

" (c) any designated institution within the meaning of section 129A of this Act ", and

(b) in subsection (2) for the words from "grants" to the end there is substituted " financial support has been given to them under section 65 of the Further and Higher Education Act 1992. "

Commencement Information

I96 Sch. 8, para. 36 wholly in force: Sch. 8, para. 36(a) in force at 6.5.1992; Sch. 8, para. 36(b) in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, **3**

F460 37 . . . . . .

Textual Amendments

F460 Sch. 8 para. 37 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 5** Group 4

38 In section 137(2) (control of disposals of land) "or 129(3)" is omitted.

Commencement Information

I97 Sch. 8, para. 38 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

39 In section 157 (construction of instruments providing for institution ceasing to be maintained or assisted by **[**[F15]local authority**]**)—

(a) in subsection (4)—

(i) the words "or assisted" in both places are omitted,

(ii) after "becomes" there is inserted " an institution within the further education sector ", and

(iii) for "the PCFC funding sector" there is substituted " the higher education sector ",

(b) subsection (5)(b) is omitted, and

(c) in subsection (6)—

(i) at the beginning of paragraph (b) there is inserted " an institution within the further education sector or ", and

(ii) in that paragraph for "the PCFC funding sector" there is substituted " the higher education sector ".

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

Commencement Information

I98 Sch. 8, para. 39 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

40 In section 158(2) (reports and returns) paragraphs (a)(i) and (iii) and (b) are omitted.

Commencement Information

I99 Sch. 8, para. 40 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

41 Section 159(2)(b) (information with respect to educational provision in institutions providing further or higher education - designated assisted institutions) is omitted.

Commencement Information

I100 Sch. 8, para. 41 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

42 In section 161 (interpretation of Part II) subsection (1)(c) is omitted.

Commencement Information

I101 Sch. 8, para. 42 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

43 In section 197 (Education Assets Board)—

(a) in subsection (4) after "this Act" there is inserted " and section 36 of and Schedule 5 to the Further and Higher Education Act 1992 ",

[F461](b) . . . . . .

(c) after subsection (7) there is inserted—

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"(7A) A **[**[F15]local 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.

(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 the Education Acts 1944 to 1992."

Textual Amendments

F15 Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**

F461 Sch. 8 para. 43(b) repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

Commencement Information

I102 Sch. 8, para. 43 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

44 In section 198(5) (transfers under Parts I and II) for "the Polytechnics and Colleges Funding Council" there is substituted " the higher education funding council ".

Commencement Information

I103 Sch. 8, para. 44 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

45 In section 205 (procedure for exercise of University Commissioners' powers)—

(a) for subsection (2)(d) there is substituted—

" (d) the higher education funding council ", and

(b) subsection (6) is omitted.

Commencement Information

I104 Sch. 8, para. 45 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

[F462]46 . . . . . .

Textual Amendments

F462 Sch. 8 paras. 46, 47 repealed (1.4.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**; S.I. 2007/3611, **Sch. Pt. 1**

[F462]47 . . . . . .

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F462 Sch. 8 paras. 46, 47 repealed (1.4.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**; S.I. 2007/3611, **Sch. Pt. 1**

48 In section 214(2)(a) (unrecognised degrees) after "Royal Charter or" there is inserted " by or under ".

Commencement Information

I105 Sch. 8, para. 48 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

F463 49 . . . . . .

Textual Amendments

F463 Sch. 8 para. 49 repealed (2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2007/3611, art. 4(1), Sch. Pt. 1

F464 50 . . . . . .

Textual Amendments

F464 Sch. 8 para. 50 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F465 51 . . . . . .

Textual Amendments

F465 Sch. 8 para. 51 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch.5**

52 In section 221 (avoidance of certain contractual terms) subsection (1)(c) and, in subsection (3), the definition of "relevant institution" are omitted.

Commencement Information

I106 Sch. 8, para. 52 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

F466 53 . . . . . .

Textual Amendments

F466 Sch. 8 para. 53 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F467 54 . . . . . .

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Textual Amendments

F467 Sch. 8 para. 54 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

55 In section 230 (stamp duty)—

(a) in subsection (1) "section 136(2)" is omitted, and

(b) in subsection (3)—

(i) for paragraph (b) there is substituted—

" (b) an institution within the higher education sector ",

(ii) paragraph (c)(ii) is omitted, and

(iii) after paragraph (c) there is inserted—

" (ca) an institution within the further education sector ".

Commencement Information

I107 Sch. 8, para. 55 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

F468 56 . . . . . .

Textual Amendments

F468 Sch. 8 para. 56 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F469 57 . . . . . .

Textual Amendments

F469 Sch. 8 para. 57 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

58 In section 235 (general interpretation) subsection (2)(a) and (h) are omitted.

Commencement Information

I108 Sch. 8, para. 58 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

59 In Schedule 7 (Higher Education Corporations)—

(a) for paragraph 1(4) there is substituted—

"(4) A corporation may change their name with the consent of the Privy Council.",

(b) in paragraph 18—

(i) in sub-paragraph (2)(b) for "the Polytechnics and Colleges Funding Council" there is substituted " the higher education funding council ", and

(ii) for sub-paragraph (5) there is substituted—

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

"(5) No person shall be qualified to be appointed auditor under that sub-paragraph 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.", and

(c) paragraph 19 is omitted.

Commencement Information

I109 Sch. 8, para. 59 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

60 Schedule 8 (the funding councils and the assets board) shall cease to have effect so far as it relates to the Universities Funding Council and the Polytechnics and Colleges Funding Council.

Commencement Information

I110 Sch. 8, para. 60 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

F470 61 . . . . . .

Textual Amendments

F470 Sch. 8 para. 61 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**.

F471 62 . . . . . .

Textual Amendments

F471 Sch. 8 para. 62 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**.

F472 63 . . . . . .

Textual Amendments

F472 Sch. 8 para. 63 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**.

F473 64 . . . . . .

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F473 Sch. 8 para. 64 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**.

65 In paragraph 4 of that Schedule at the beginning there is inserted—

"(1) Where a transfer by virtue of section 126 or 130 relates to registered land, it shall be the duty of the transferor to execute any such instrument under the Land Registration Acts 1925 to 1986, to deliver any such certificate under those Acts and to do such other things under those Acts as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.

(2)".

Commencement Information

I111 Sch. 8, para. 65 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

66 In Schedule 12 (minor and consequential amendments) paragraphs 68, 69(2), 70, 100(2) and 101(4) are omitted.

Commencement Information

I112 Sch. 8, para. 66 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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

67 In section 1(3)(a) of the Education (Student Loans) Act 1990 (loans for students)—

(a) for "131 or 132 of the [M29]Education Reform Act 1988" there is substituted " 65 of the Further and Higher Education Act 1992 ", and

(b) for the words from "institutions designated" to "local education authorities" there is substituted " institutions receiving recurrent grants towards their costs from a further education funding council ".

Commencement Information

I113 Sch. 8, para.67 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

Marginal Citations

M29 1988 c. 40.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

PART II U.K.

AMENDMENTS OF OTHER ACTS

The Public Records Act 1958 (c. 51)

68 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 (organisations whose records are public records) there is inserted in the appropriate place—

"Further Education Funding Council for England.
Further Education Funding Council for Wales.
Higher Education Funding Council for England.
Higher Education Funding Council for Wales."

Commencement Information

I114 Sch. 8, para. 68 wholly in force at 6.5.1992 see s. 94(3) and S. I. 1992/831, art. 2, **Sch. 1**

The Charities Act 1960 (c. 58)

[F474]69 . . . . . .

Textual Amendments

F474 Sch. 8 para. 69 repealed (1.8.1993) by 1993 c. 10, s. 98(2), **Sch.7**

The Veterinary Surgeons Act 1966 (c. 36)

70 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions from restrictions on practice of veterinary surgery), in the definition of "recognised institution" after paragraph (a)(i) there is inserted—

"(iA) an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992".

Commencement Information

I115 Sch. 8, para. 70 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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

71 (1) Subject to sub-paragraph (2) below, in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) "public body" shall include any institution within the further education sector or the higher education sector.

(2) The provisions of sub-paragraph (1) above shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person or description of persons shall be a public body for the purposes of that Act).

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

(3) An order under that section may accordingly vary or revoke the provisions of sub-paragraph (1) above as they apply to an institution within the further education sector or the higher education sector specified in the order.

Commencement Information

I116 Sch. 8, para. 71 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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

72 In section 8(2) of the Chronically Sick and Disabled Persons Act 1970 (access to, and facilities at, university and school buildings)—

(a) for paragraph (aa) there is substituted—

" (aa) institutions within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 ", and

(b) after paragraph (b) there is inserted—

" (ba) institutions within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992 ".

Commencement Information

I117 Sch. 8, para. 72 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

The Superannuation Act 1972 (c. 11)

73 In Schedule 1 to the Superannuation Act 1972 the entries relating to the Universities Funding Council and the Polytechnics and Colleges Funding Council are omitted.

Commencement Information

I118 Sch. 8, para. 73 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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

74 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 the entries relating to the Polytechnics and Colleges Funding Council and the Universities Funding Council are omitted.

Commencement Information

I119 Sch. 8, para. 74 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

The Sex Discrimination Act 1975 (c. 65)

F475 75 . . . . . .

***Changes to legislation:** Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F475 76 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F475 77 . . . . . .

Textual Amendments

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F475 78 . . . . . .

Textual Amendments

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F475 79 . . . . . .

Textual Amendments

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F475 80 . . . . . .

Textual Amendments

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F475 81 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

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Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F476 Sch. 8 para. 82 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

F475 83 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

The Race Relations Act 1976 (c. 74)

F475 84 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F475 85 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F475 86 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

87 . . . . . .

F477F475 88 . . . . . .

Textual Amendments

F475 Sch. 8 paras. 75-88 repealed (1.10.2010) by Equality Act 2010 (c. 15), **Sch 27 Pt 1** (as substituted by S.I. 2010/2279, art. 1(2), **Sch. 2**); S.I. 2010/2317, **art. 2**

F477 Sch. 8 para. 88 repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

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

F478 89 . . . . . .

Textual Amendments

F478 Sch. 8 para. 89 repealed (22.8.1998) by 1998 c. 18, ss. 242, 243, **Sch. 3 Pt.I** (with ss. 191-195, 202)

The Public Passenger Vehicles Act 1981 (c. 14)

F479 90 . . . . . .

Textual Amendments

F479 Sch. 8 para. 90 repealed (20.1.2003 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2**; S.I. 2003/1718, **Sch. Pt. II**

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

91 (1) Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) is amended as follows.

(2) for subsections (3) and (4) there is substituted—

"(3) In the following provisions of this section and in section 6 a person in respect of whom the appropriate officer has given his opinion that he is a disabled person is referred to as a "disabled student".

(3A) The responsible authority shall give to the appropriate officer written notification for the purposes of subsection (5) of the date on which any disabled student will cease to be of compulsory school age, and the notification shall state—

(a) his name and address; and

(b) whether or not he intends to remain in full-time education and, if he does, the name of the school or other institution at which the education will be received;

and shall be given not earlier than twelve months, nor later than eight months, before that date.

(3B) Where, in the case of a disabled student over compulsory school age who is receiving relevant full-time education, that is—

(a) full-time education at a school; or

(b) full-time further or higher education at an institution other than a school;

it appears to the responsible authority that the student will cease to receive relevant full-time education on a date ("the leaving date") on which he will be under the age of nineteen years and eight months, the responsible authority shall give written notification for the purposes of subsection (5) to the appropriate officer.

(3C) That notification shall state—

(a) his name and address; and

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(b) the leaving date;

and shall be given not earlier than twelve months, nor later than eight months, before the leaving date.

(4) If at any time it appears to the responsible authority—

(a) that a disabled student has ceased to receive relevant full-time education or will cease to do so on a date less than 8 months after that time, and

(b) that no notification has been given under subsection (3B), but

(c) that, had the responsible authority for the time being been aware of his intentions 8 months or more before that date, they would have been required to give notification under that subsection with respect to him,

that authority shall, as soon as is reasonably practicable, give written notification for the purposes of subsection (5) to the appropriate officer of his name and address and of the date on which he ceased to receive, or will cease to receive, that education."

(3) In subsection (5)—

(a) for "any person under subsection (3)" there is substituted " a student under subsection (3A) that he does not intend to remain in full-time education or under subsection (3B) ", and

(b) for "notification under subsection (3)" there is substituted " notification under subsection (3A) or (3B) ".

(4) In subsection (6)—

(a) for "(3)" in both places there is substituted " (3A) that he does not intend to remain in full-time education or under subsection (3B) ", and

(b) for the words from "a local education authority" to "establishment of further or higher education" there is substituted " the responsible authority that the person will be receiving relevant full-time education ".

(5) In subsection (9) (interpretation)—

(a) in the definition of "child" after "school or" there is inserted " as a student at ",

(b) in the definition of "the responsible authority" for paragraph (b) there is substituted—

"(b) in relation to a person receiving full-time further education or higher education at an institution within the further education sector or the higher education sector, means the governing body of the institution; and

(c) in relation to a person for whom a further education funding council has secured full-time further education at an institution (other than a school) outside the further education sector or the higher education sector, the council",

(c) after "the Education Act 1944" there is inserted " or the Further and Higher Education Act 1992 ", and

(d) for "that Act" there is substituted " those Acts ".

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Commencement Information

I120 Sch. 8, para. 91 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

92 For section 6(1) of that Act (review of expected leaving dates from full-time education of disabled persons) there is substituted—

"**6** (1) The responsible authority shall for the purposes of section 5 above keep under review the date when any disabled student is expected to cease to receive relevant full-time education."

Commencement Information

I121 Sch. 8, para. 92 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

The Employment Act 1989 (c. 38)

93 In section 5(6) of the Employment Act 1989 (exemption for discrimination in connection with certain educational appointments)—

(a) after paragraph (b) there is inserted—

" (ba) any institution designated by order under section 28 of the Further and Higher Education Act 1992 ", and

(b) for paragraph (c) there is substituted—

" (c) any institution designated by order made or having effect as if made under section 129 of the Education Reform Act 1988. "

Commencement Information

I122 Sch. 8, para. 93 wholly in force: Sch.8, para. 93(b) in force at 6.5.1992; Sch. 8, para. 93(a) in force at 1.4.1993, see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, **3**

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

94 In section 76(1) of the Town and Country Planning Act 1990 (duty to draw attention to certain provisions for benefit of disabled)—

(a) in paragraph (d) for "the PCFC funding sector" there is substituted " the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 ", and

(b) after paragraph (e) there is inserted—

" (f) of a building intended for the purposes of an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992 ".

Commencement Information

I123 Sch. 8, para. 94 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

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The Environmental Protection Act 1990 (c. 43)

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

(a) paragraph (a) is omitted,

(b) for paragraph (d) there is substituted—

" (d) any institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 ", and

(c) after paragraph (d) there is inserted—

" (da) any institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992 ".

Commencement Information

I124 Sch. 8, para. 95 wholly in force at 1.4.1993 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 3**

SCHEDULE 9 U.K.

Section 93.

REPEALS

Commencement Information

I125 Sch. 9 wholly in force: Sch. 9 in force so far as it relates to certain repeals at 6.5.1992, 1.4.1993, 1.8.1993; see s. 94(3) and S.I. 1992/831, art. 2, Schs. 1, 3, **4** (as amended by S.I. 1992/2041, **art. 2(b)**)

Chapter	Short title	Extent of repeal
1944 c. 31.	The Education Act 1944.	Section 8(3). Section 67(4A). In section 85(2) and (3) "for providing primary or secondary education". In section 114(1), the definitions of "part-time senior education" and "post-school age education". Section 114(1A), (1B) and (1C).
1948 c. 40.	The Education (Miscellaneous Provisions) Act 1948.	Section 3(3).
1972 c. 11.	The Superannuation Act 1972.	In Schedule 1 the entries relating to the Universities Funding Council and the Polytechnics and Colleges Funding Council.

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1 the entries relating to the Polytechnics and Colleges Funding Council and the Universities Funding Council.
1986 c. 61.	The Education (No. 2) Act 1986.	Section 43(5)(c) and, in subsection (7), paragraph (b) and "or authorities maintaining or (as the case may be) assisting the establishment".
		Section 49(3)(d) and (da).
		In section 51, in subsection (2)(b) the words from "made" to the end and subsections (5) and (6).
		Section 58(3), (4) and (5)(a) and in subsection (5)(ab) "and are not designated establishments of higher or further education".
1988 c. 40.	The Education Reform Act 1988.	In section 105(2)(b) "but not the age of nineteen years".
		Section 120(2), (6), (7), (8), (9)(a)(ii) and (9)(b).
	Section 122(2) to (5).	
		Section 124(4).
		Section 129(3) and (4).
		Sections 131 and 132.
		Section 134.
		Section 136(3) to (7).
		In section 137(2) "or 129(3)".
		Chapter III of Part II.
		Section 156.
		In section 157 the words "or assisted" in both places in subsection (4) and subsection (5)(b).
		Section 158(2)(a)(i) and (iii) and (b).
		Section 159(2)(b).
		Section 161(1)(c).

Changes to legislation: *Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

		Section 205(6).
		Section 211(c).
		Section 218(10)(b).
		Section 219(1)(b), (2)(d) and (e) and (3)(c)(ii).
		In section 221, subsection (1)(c) and, in subsection (3), the definition of "relevant institution".
		In section 222, subsection (2)(b) and, in subsection (3)(c), "or institutions required to be covered by schemes under section 139 of this Act".
		Section 227(2) to (4).
		In section 230, in subsection (1) "section 136(2)" and subsection (3)(c)(ii).
		In section 232, in subsection (2) "140(1), 141(6), 145(6), 151(4), 156(10)", in subsection (3) "or 227" and in subsection (4)(b) "227".
		Section 234(2)(b).
		Section 235(2)(a) and (h).
		Paragraph 19 of Schedule 7.
		Paragraphs 68, 69(2), 70, 100(2) and 101(4) of Schedule 12.
1990 c. 43.	The Environmental Protection Act 1990.	Section 98(2)(a).

Changes to legislation:
Further and Higher Education Act 1992 is up to date with all changes known to be in force on or before 11 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.
View outstanding changes

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. 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. 6(3)(a)
- s. 65 omitted by 2022 asc 1 Sch. 4 para. 6(3)(c)
- s. 66 omitted by 2022 asc 1 Sch. 4 para. 6(3)(d)
- s. 76(1) words inserted by 2017 c. 29 s. 52(3)
- s. 81 omitted by 2022 asc 1 Sch. 4 para. 6(3)(h)
- s. 83(1B) table words omitted by 2022 asc 1 Sch. 4 para. 6(4)
- 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)

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.)