



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART II

#### HIGHER EDUCATION

##### *The new funding councils*

#### 62 [F<sup>1</sup>The Higher Education Funding Council for Wales].

(1) There shall be established—

<sup>F2</sup>(a) .....

(b) a body corporate to be known as the Higher Education Funding Council for Wales to exercise in relation to Wales the functions conferred on them [F<sup>3</sup>(referred to in this Act as “the HEFCW”)].

<sup>F4</sup>(2) .....

(3) The Higher Education Funding Council for Wales shall consist of not less than eight nor more than twelve members appointed by the Secretary of State, of whom one shall be so appointed as chairman.

(4) In appointing the members of [F<sup>5</sup>the HEFCW] the Secretary of State—

(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.

<sup>F6</sup>(5) .....

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<sup>F6</sup>(6) .....

(7) In this Part of this Act references to <sup>F7</sup>... institutions in Wales—

- (a) are to institutions whose activities are carried on, or principally carried on, in <sup>F8</sup>... Wales, but
- (b) include <sup>F9</sup>... the Open University.

[<sup>F10</sup>(7A) In exercising their functions, [<sup>F11</sup>the HEFCW] shall have regard to the requirements of disabled persons.

(7B) In subsection (7A) “disabled persons” means persons who are disabled persons for the purposes of the [<sup>F12</sup>Equality Act 2010].]

(8) Any dispute as to whether any functions are exercisable by [<sup>F13</sup>the HEFCW or the Office for Students] shall be determined by the Secretary of State.

(9) Schedule 1 to this Act has effect with respect to [<sup>F14</sup>the HEFCW].

#### Textual Amendments

- F1** 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)
- F2** S. 62(1)(a) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 14\(3\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F3** Words in s. 62(1)(b) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 14\(3\)\(b\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F4** 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)
- F5** Words in s. 62(4) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 14\(5\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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](#)
- F11** 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)

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- F12** 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))
- F13** 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)
- F14** Words in s. 62(9) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 14\(10\)](#); [S.I. 2018/241](#), reg. 2(s) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2-4)

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**Modifications etc. (not altering text)**

- C1** S. 62(7) applied (31.3.1999) by [S.I. 1999/603](#), art. 3(2).
- C2** S. 62(8) modified (1.7.1999) by [S.I. 1999/672](#), art. 5, [Sch.2](#).

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**Commencement Information**

- I1** S. 62 wholly in force at 6.5.1992 see s. 94(3) and [S.I. 1992/831](#), art. 2, [Sch. 1](#)

## **63 Dissolution of existing councils.**

- (1) On the appointed day—
- the Universities Funding Council and the Polytechnics and Colleges Funding Council (referred to in this section as the “existing councils”) shall be dissolved, and
  - 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—
- 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
  - 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—
- 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

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- (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.

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**Extent Information**

**E1** S. 63 extends to Great Britain see s. 94(5).

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**Commencement Information**

**I2** S. 63 wholly in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 3](#)

<sup>F15</sup> **64 Transitional arrangements.**

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**Textual Amendments**

**F15** S. 64 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 5](#) Group 4

**Changes to legislation:**

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**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.)