Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Teaching and Higher Education Act 1998 is up to date with all changes known to be in force on or before 07 August 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)*

Teaching and Higher Education Act 1998

1998 CHAPTER 30

An Act to make provision for the establishment of General Teaching Councils for England and Wales and with respect to the registration, qualifications and training of teachers and the inspection of such training; to make new provision with respect to grants and loans to students in higher or further education and fees payable by them; to make provision with respect to the funding of higher education institutions and certain further education, and other matters relating to further and higher education institutions; to enable the higher and further education funding councils in Scotland to discharge certain functions jointly; to enable young persons to have time off work for study or training; to make provision with respect to the inspection of training and careers services provided in pursuance of arrangements or directions under the Employment and Training Act 1973; to provide that the Scottish Further Education Funding Council shall be a relevant body for the purposes of section 19(5) of the Disability Discrimination Act 1995; and for connected purposes. [16th July 1998]

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:—

Modifications etc. (not altering text)

C1 Power to modify conferred (E.W.) (28.2.2001) by 1998 c. 30, s. 6, **Sch. 2 para. 7(3)** (with s. 42(8)); S.I. 2001/1211, **art. 2**

C2 Act: certain functions under Pt. I, ss. 25, 26, 28(1)(e) and Pt. IV transferred (1.7.1999) by S.I. 1999/674, art. 2, **Sch.1**
Act applied (1.6.2001) by S.I. 2001/1507, reg. 2, **Sch. 2 para. 2**

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
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PART I

THE TEACHING PROFESSION

CHAPTER I

THE GENERAL TEACHING COUNCILS

The General Teaching Council for England

1 The General Teaching Council for England.

(1) There shall be a body corporate which, subject to subsection (10), shall be known as the General Teaching Council for England (in this Act referred to as "the Council").

(2) The principal aims of the Council in exercising their functions are—
- (a) to contribute to improving the standards of teaching and the quality of learning, and
- (b) to maintain and improve standards of professional conduct amongst teachers,

in the interests of the public.

(3) The functions conferred on the Council by or under this Chapter—
- (a) are exercisable by them in relation to both England and Wales at any time before the date specified in an order under section 8(1) (establishment of General Teaching Council for Wales); and
- (b) are exercisable by them in relation to England only at any time on or after that date.

(4) In exercising their functions, the Council shall have regard to the requirements of persons who are disabled persons for the purposes of the [M1]Disability Discrimination Act 1995.

(5) The Council shall be constituted in accordance with regulations made by the Secretary of State; and regulations under this subsection may authorise the Council to make rules with respect to such matters relating to their constitution as may be specified in the regulations.

(6) In exercising his power to make regulations under subsection (5), the Secretary of State shall have regard to the desirability of the Council's membership reflecting the interests of—
- (a) teachers,
- (b) employers of teachers,
- (c) providers of teacher training,
- (d) persons concerned with the teaching of persons with special educational needs,
- (e) religious bodies involved in the provision of education,
- (f) parents of pupils,
- (g) commerce and industry, and
- (h) the general public,

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and such other interests as in the opinion of the Secretary of State will enable the Council to carry out their functions more effectively.

(7) Regulations under subsection (5) must be framed so as to secure that a majority of the members of the Council are registered teachers who—

(a) either are for the time being employed or otherwise engaged to provide their services as teachers or have had such recent employment or engagement as teachers as may be prescribed; and

(b) satisfy such other criteria as to eligibility for appointment or election to the Council as may be prescribed.

(8) In relation to appointments made or elections held before a register is established under section 3, the reference in subsection (7) to registered teachers is a reference to qualified teachers within the meaning of section 218(2) of the [M2]Education Reform Act 1988.

(9) Schedule 1 to this Act has effect in relation to the Council.

(10) At any time before the date mentioned in subsection (3)(a), the Council shall be known as the General Teaching Council for England and Wales; and—

(a) in relation to any time before that date, references to the Council in any enactment shall accordingly be construed as references to the General Teaching Council for England and Wales, and

(b) any reference to the Council by that name in an instrument or document made before that date shall be construed on or after that date as a reference to the General Teaching Council for England.

Modifications etc. (not altering text)

C3 S. 1(2)(4)-(9) applied (with modifications) (30.12.1998) by S.I. 1998/2911, **art.3**

Commencement Information

I1 S. 1 wholly in force at 1.9.2000; s. 1 not in force at Royal Assent see s. 46(4); s. 1(1) in force for specified purposes and s. 1(2)-(10) wholly in force at 1.10.1998 by S.I. 1998/2215, **art. 2**; s. 1(1) in force at 1.9.2000 in so far as not already in force by S.I. 2000/970, **art. 3**

Marginal Citations

M1 1995 c. 50.

M2 1988 c. 40.

Functions of the General Teaching Council for England

VALID FROM 01/09/2000

2 Advisory functions of General Teaching Council for England.

(1) The Council shall from time to time advise—

(a) the Secretary of State, and

(b) such other persons or bodies as he may from time to time designate,

on such matters falling within subsection (2) as they think fit.

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(2) Those matters are—
- (a) standards of teaching;
- (b) standards of conduct for teachers;
- (c) the role of the teaching profession;
- (d) the training, career development and performance management of teachers;
- (e) recruitment to the teaching profession; and
- (f) medical fitness to teach.

(3) The Council shall also advise the Secretary of State—
- (a) on such matters falling within subsection (2), or
- (b) on such other matters relating to teaching,

as he may from time to time require.

(4) The Council may be required under subsection (3)(b) to advise the Secretary of State on any matter relevant to a decision by him as to whether any power exercisable by him by virtue of section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment of teachers) should or should not be exercised in any particular case.

(5) The Council may give advice on such matters falling within subsection (2) as they think fit to such persons or bodies as they may from time to time determine.

(6) Any advice given by the Council on matters falling within subsection (2) shall be advice of a general nature.

(7) The Council may publish advice given by them under subsection (1), (3) or (5).

Commencement Information

I2 S. 2 wholly in force at 1.6.2001; s. 2 not in force at Royal Assent see s. 46(4); s. 2(1)-(3)(5)-(7) in force at 1.9.2000 by S.I. 2000/970, **art. 3**; s. 2(4) in force at 30.4.2001 (W.) and 1.6.2001 (E.) by S.I. 2001/1211, **arts. 3**, 4

3 Registration of teachers.

(1) The Council shall establish and maintain a register of teachers ("the register").

(2) The register shall contain the name of every person who is eligible for registration and applies to be registered in the register in accordance with regulations made under section 4.

(3) A person is eligible for registration if he is a qualified teacher within the meaning of section 218(2) of the [M3]Education Reform Act 1988 and he is not for the time being—
- (a) prohibited from being employed, or otherwise engaged to provide his services, as a teacher as the result of a direction given by the Secretary of State by virtue of section 218(6) of that Act (prohibition or restriction on employment of teachers), or
- (b) subject to a disciplinary order made under Schedule 2 to this Act by virtue of which he is not eligible for registration, or
- (c) disqualified from being employed as a teacher in any school by virtue of an order made—

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(i) by an Independent Schools Tribunal under section 470 of the [M4]Education Act 1996, or

(ii) by the Secretary of State under section 471 of that Act, or

(d) (subject to such exceptions as may be prescribed by, or determined by the Secretary of State under, regulations) ineligible for registration as a teacher, or disqualified from being a teacher in any school, by virtue of any prescribed provision of the law of Scotland or of Northern Ireland.

(4) Except in such circumstances as may be prescribed, a person is not eligible for registration if, having served an induction period in accordance with regulations under section 19, he has failed to complete it satisfactorily for the purposes of those regulations.

Commencement Information

I3 S. 3 wholly in force at 1.9.2000; s. 3 not in force at Royal Assent see s. 46(4); s. 3(3)(d)(4) in force for certain purposes at 5.4.2000 and for remaining purposes 1.9.2000 and s. 3(1)(2)(3)(a)-(c) in force at 1.9.2000 by S.I. 2000/970, **arts. 2**, 3

Marginal Citations

M3 1988 c. 40.

M4 1996 c. 56.

4 Regulations relating to registration.

(1) Regulations may make provision as to the form and manner in which the register is to be kept and other matters relating to registration.

(2) Regulations under this section may, in particular, make provision as to—

(a) the form and manner in which applications for registration are to be made;

(b) the documentary and other evidence which is to accompany applications for registration;

(c) the registration, on the establishment of the register, of persons who have not made such applications;

(d) the matters which are to be recorded in the register against the names of those registered in it;

(e) the division of the register into separate parts;

(f) the restoration and alteration of entries and their transfer between different parts of the register (where separate parts are required by virtue of paragraph (e));

(g) the charging by the Council of fees authorised by virtue of subsection (4);

(h) the removal of entries from the register in circumstances where the persons concerned—

(i) have ceased to be eligible for registration, or

(ii) have failed to pay any such fee,

or otherwise;

(i) the issue and form of certificates of registration;

(j) the information contained in the register which may be made available for inspection by members of the public, and the circumstances in which and the conditions subject to which that information may be made available.

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(3) Regulations made in pursuance of subsection (2)(d) may require the recording of any restrictions for the time being in force in relation to a person as the result of—

(a) a direction given by the Secretary of State by virtue of section 218(6) of the [M5]Education Reform Act 1988 (prohibition or restriction on employment of teachers), or

(b) a disciplinary order made under Schedule 2 to this Act.

(4) For the purposes of subsection (2)(g) regulations under this section may authorise the Council (subject to such exceptions as may be provided for by or under the regulations) to charge fees fixed by them with the approval of the Secretary of State in respect of—

(a) applications for registration or for the restoration of entries in the register;

(b) registration in accordance with subsection (2)(c); or

(c) the retention of entries in the register;

and the regulations may accordingly authorise the Council to refuse an application falling within paragraph (a) above until the appropriate fee has been paid.

(5) Regulations under this section may authorise the Council to make provision in relation to any matter as to which provision may be made by regulations under this section.

Marginal Citations

M5 1988 c. 40.

VALID FROM 06/11/2006

[[F1]4A Appeals against refusal of registration

(1) Regulations shall make provision for conferring on a person aggrieved by a decision made on relevant grounds to refuse an application made by him for registration under section 3 a right to appeal against the decision to the High Court within 28 days from the date on which notice of the decision is served on him.

(2) The reference in subsection (1) to a decision made on relevant grounds is to a decision made on the ground that at the relevant time the Council were not satisfied of the applicant's suitability to be a teacher.

(3) On such an appeal the Court may make any order which appears appropriate.

(4) No appeal shall lie from any decision of the Court on such an appeal.**]**

Textual Amendments

F1 S. 4A inserted (*prosp.*) by 2002 c. 32, ss. 148, 216, **Sch. 12 para. 5** (with ss. 210(8), 214(4))

5 Code of practice for registered teachers.

(1) Regulations may make provision for, and in connection with, authorising the Council to issue, and from time to time revise, a code laying down standards of professional conduct and practice expected of registered teachers.

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(2) Regulations under this section may, in particular, make provision—

(a) as to the consequences of any failure by a registered teacher to comply with the provisions of the code;

(b) for the provision by the Council of copies of the code, either on payment of a reasonable charge decided by the Council or, in such circumstances as may be determined in accordance with the regulations, free of charge.

(3) Regulations made in pursuance of subsection (2)(a) may provide for any failure by a registered teacher to comply with the provisions of the code to be taken into account in any proceedings against him under Schedule 2.

VALID FROM 28/02/2001

6 Disciplinary powers of Council in relation to registered teachers.

Schedule 2 (which makes provision for certain disciplinary powers to be conferred on the Council in relation to registered teachers and persons applying for registration) shall have effect.

Commencement Information

I4 S. 6 wholly in force at 1.6.2001; s. 6 not in force at Royal Assent see s. 46; s. 6 in force at 28.2.2001 (E.W.) for specified purposes by S.I. 2001/1211, **art. 2**; s. 6 in force insofar as not already in force at 30.4.2001 (W.) and 1.6.2001 (E.) by S.I. 2001/1211, **arts. 3**, 4

VALID FROM 01/10/2002

[F2 6A Power to promote teaching profession

(1) The Council may undertake activities designed to promote the standing of the teaching profession.

(2) Without prejudice to the generality of subsection (1), such activities may include—

(a) giving advice,

(b) organising conferences and lectures, and

(c) arranging for the publication of material in any form.**]**

Textual Amendments

F2 S. 6A inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 148, **Sch. 12 para. 6** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 4, **Sch. Pt. I**

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7 Additional and ancillary functions of Council.

(1) The Secretary of State may by order confer or impose on the Council such additional functions as he considers they may appropriately discharge in conjunction with any of their other functions under this Chapter.

(2) Before making an order under subsection (1), the Secretary of State shall carry out such consultation as appears to him to be appropriate.

(3) Without prejudice to the generality of subsection (1), the Secretary of State may under that subsection require the Council to give him such assistance as he may specify in relation to the exercise of his power under section 218(2) of the [M6]Education Reform Act 1988 to determine, in accordance with regulations made under that provision, whether a person is a qualified teacher.

(4) Without prejudice to the generality of subsection (1), the Secretary of State may under that subsection require the Council to maintain records relating to such categories of persons (including persons not eligible to be registered under section 3) as may be prescribed; and the records shall contain such information relating to those persons and be kept in such manner as may be prescribed.

(5) The Council shall carry out such functions ancillary to their functions under this Chapter as the Secretary of State may direct.

Commencement Information

I5 S. 7 wholly in force at 1.9.2000; s. 7 not in force at Royal Assent see s. 46(4); s. 7(1)-(4) in force at 5.4.2000 and s. 7(5) in force at 1.9.2000 by S.I. 2000/970, **arts. 2**, 3

Marginal Citations

M6 1988 c. 40.

The General Teaching Council for Wales

8 The General Teaching Council for Wales.

(1) The Secretary of State may by order make provision for the establishment of a body corporate to be known as Cyngor Addysgu Cyffredinol Cymru or the General Teaching Council for Wales to exercise in relation to Wales, as from such date as may be specified in the order, the functions conferred on them by or under this Chapter.

(2) An order under subsection (1) may provide for any provision of section 1 or Schedule 1 to have effect in relation to the General Teaching Council for Wales as it has effect in relation to the Council, subject to such modifications (if any) as are specified in the order.

(3) Where such an order is made after the Council have begun to exercise any function in relation to Wales (in accordance with section 1(3)), the order may include provision—

(a) for the transfer of staff; and

(b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with that function by the Council.

(4) So far as any such function relates to registration under section 3, the order shall make provision for persons previously registered or applying for registration under

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that section in its application in relation to Wales in accordance with section 1(3) to be treated as registered or applying for registration under that section as it applies in relation to Wales in accordance with section 9(1).

(5) Subject to subsection (6), stamp duty shall not be chargeable in respect of any transfer to the General Teaching Council for Wales effected by virtue of subsection (3).

(6) No instrument (other than a statutory instrument) made or executed in pursuance of subsection (3) shall be treated as duly stamped unless—
  (a) it is stamped with the duty to which it would, but for this section, be liable, or
  (b) it has, in accordance with the provisions of section 12 of the [M7]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.

Marginal Citations
M7 1891 c. 39.

VALID FROM 01/09/2000

Functions of the General Teaching Council for Wales

9 Functions of General Teaching Council for Wales: general.

(1) As from the date specified under section 8(1), the following provisions, namely—

sections 2 to 5,

section 6 together with Schedule 2, and

section 7,

shall apply to the General Teaching Council for Wales in relation to Wales as they apply to the Council in relation to England.

(2) The Secretary of State may require the General Teaching Council for Wales to undertake (or join with any other person or body in undertaking) activities designed to promote—
  (a) recruitment to the teaching profession, or
  (b) the continuing professional development of teachers.

(3) Without prejudice to the generality of subsection (2), such activities may include—
  (a) giving advice;
  (b) organising conferences and lectures; and
  (c) arranging for the publication of material in any form.

10 Further functions of General Teaching Council for Wales in relation to teachers.

(1) This section has effect in relation to regulations made under subsection (2) or (3) of section 218 of the [M8]Education Reform Act 1988 (regulations relating to schools, etc.) as they apply to teachers at schools.

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The Secretary of State may make provision in such regulations for a determination under those regulations to be made (after their establishment) by the General Teaching Council for Wales.

(3) The Secretary of State may make provision in such regulations—

(a) for any determination made under those regulations as they apply in relation to England to be treated, in relation to Wales, as if it were a determination made under those regulations as they apply in relation to Wales, and

(b) for any determination made under those regulations as they apply in relation to Wales to be treated, in relation to England, as if it were a determination made under those regulations as they apply in relation to England.

Marginal Citations

M8 1988 c. 40.

Supplementary

11 Registration requirement for teachers at schools.

In section 218(1) of the [M9]Education Reform Act 1988 (regulations relating to schools, etc.), after paragraph (a) there shall be inserted—

"(aa) for requiring persons employed as teachers at schools, subject to such exceptions as may be provided for by or under the regulations, to be registered in accordance with section 3 of the Teaching and Higher Education Act 1998 by the General Teaching Council for England or (after their establishment) by the General Teaching Council for Wales;".

Marginal Citations

M9 1988 c. 40.

12 Deduction of fees from salaries, etc.

(1) Regulations may, in relation to teachers to whom this section applies, make provision requiring employers of such teachers (subject to such exceptions as may be provided for by or under the regulations)—

(a) to deduct (or arrange for the deduction) from the salary of such teachers any fee payable by virtue of section 4(4) in respect of the registration or retention of an entry on the register relating to any such teacher, and

(b) to remit that fee to the relevant Council.

(2) This section applies to teachers at schools who, on such date or during such period as may be specified in the regulations, are—

(a) registered in the register, or

(b) required as a consequence of their employment to be so registered by virtue of section 218(1)(aa) of the Education Reform Act 1988.

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(3) The regulations may make provision with respect to—

(a) the arrangements to be adopted by employers of teachers to whom this section applies for the deduction and remittance of fees,

(b) the administration charges which may be deducted from any fees remitted to the relevant Council, and

(c) the notification to the relevant Council by employers of such teachers of such particulars relating to those teachers as the regulations may specify.

(4) In this section— "relevant Council" means the Council or (after their establishment) the General Teaching Council for Wales; "salary" includes any remuneration payable in respect of services as a teacher; "schools" means such schools as are referred to in section 218(12) of the Education Reform Act 1988.

VALID FROM 01/09/2000

13 Consultation about qualified teacher status.

In section 218 of the [M10]Education Reform Act 1988, after subsection (2A) there shall be inserted—

"(2AA) Before making any regulations under subsection (2) or (2A) or making any provision by virtue of regulations made under those subsections as to the standards required of a person who wishes to become a qualified teacher, the Secretary of State shall consult either or both of the following (as appropriate)—

(a) the General Teaching Council for England, and

(b) after their establishment, the General Teaching Council for Wales."

Marginal Citations

M10 1988 c. 40.

14 Supply of information relating to teachers: general.

(1) The Secretary of State shall supply the Council or the General Teaching Council for Wales with such information relating to individual teachers as he considers it to be necessary or desirable for them to have for the purpose of carrying out any of the functions conferred on them by or under this Chapter.

(2) Each of those Councils shall supply the Secretary of State with such information as he may request for the purpose of—

(a) statistical analysis, or

(b) any other function of his relating to teachers.

(3) The Secretary of State may by regulations require either Council to supply information—

(a) to such other person or body, and

(b) for such purposes and subject to such conditions,

as may be prescribed.

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(4) Without prejudice to the generality of subsection (3), once the General Teaching Council for Wales have been established, that Council and the General Teaching Council for England shall each supply the other with such information as it is necessary or desirable for that other Council to have for the purpose of carrying out any of the functions conferred on them by or under this Chapter.

(5) This section does not limit the circumstances in which information may be supplied apart from this section.

Commencement Information

I6 S. 14 wholly in force at 1.9.2000; s. 14 not in force at Royal Assent see s. 46(4); s. 14(3) in force at 5.4.2000 and s. 14(1)(2)(4)(5) in force at 1.9.2000 by S.I. 2000/970, **arts. 2**, 3

VALID FROM 15/08/2000

15 Supply of information relating to dismissal or resignation of teachers.

Regulations may make provision requiring employers of persons falling within section 218(6) of the Education Reform Act 1988 to provide all or any of the following, namely—

(a) the Secretary of State,

(b) the General Teaching Council for England, and

(c) the General Teaching Council for Wales,

with prescribed information in respect of cases where such persons are dismissed on the grounds of misconduct or incompetence or on medical grounds, or resign in circumstances where their employers would have dismissed them, or considered dismissing them, on any such grounds had they not resigned.

VALID FROM 31/03/2003

[[F3]15A Supply of information by contractor, agency, &c.

(1) This section applies to arrangements made by one person (the "agent") for another person (the "worker") to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract).

(2) Subsections (3) and (4) apply where an agent—

(a) has terminated the arrangements on a ground mentioned in section 142 of the Education Act 2002,

(b) might have terminated the arrangements on a ground mentioned in that section if the worker had not terminated them, or

(c) might have refrained from making new arrangements for a worker on a ground mentioned in that section if he had not ceased to make himself available for work.

(3) In the case of arrangements for a worker to carry out work in England, the agent shall provide prescribed information to such of the following as may be prescribed—

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(a) the Secretary of State, and
(b) where the person is a registered teacher, the Council.

(4) In the case of arrangements for a worker to carry out work in Wales, the agent shall provide prescribed information to such of the following as may be prescribed—
(a) the National Assembly for Wales, and
(b) where the person is a registered teacher, the General Teaching Council for Wales.

(5) If the Secretary of State thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (3), the Secretary of State may direct the person to comply with the duty.

(6) If the National Assembly thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (4), the National Assembly may direct the person to comply with the duty.

(7) A direction under subsection (5) shall be enforceable, on the application of the Secretary of State, by mandatory order.

(8) A direction under subsection (6) shall be enforceable, on the application of the National Assembly, by a mandatory order.

(9) Subsections (4) and (5) of section 15 shall apply for the purposes of this section as they apply for the purposes of that section.**]**

Textual Amendments

F3 Ss. 15, 15A substituted for s. 15 (31.3.2003 for W. and 1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 83** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3

The General Teaching Council for Scotland

16 Duty to have regard to needs of disabled persons.

At the end of section 1 of the [M11]Teaching Council (Scotland) Act 1965 (establishment of General Teaching Council for Scotland) there shall be inserted—

"(3) In exercising their functions, the Council shall have regard to the requirements of persons who are disabled persons for the purposes of the [M12]Disability Discrimination Act 1995."

Marginal Citations

M11 1965 c. 19.
M12 1995 c. 50.

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Teaching and Higher Education Act 1998 is up to date with all changes known to be in force on or before 07 August 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)*

17 Representation of special educational needs teachers on General Teaching Council for Scotland.

In paragraph 1 of Schedule 1 to the Teaching Council (Scotland) Act 1965 (composition of General Teaching Council for Scotland), after sub-paragraph (8) there shall be inserted—

"(9) In nominating members of the Council under sub-paragraph (1)(c) above, the Secretary of State shall have regard to the desirability of the membership of the Council reflecting the interests of persons concerned with the teaching of persons with special educational needs."

PROSPECTIVE

CHAPTER II

HEAD TEACHERS

[F4]18 Qualifications of head teachers.

. . . . . .

Textual Amendments

F4 S. 18 repealed (1.10.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 84, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 5

CHAPTER III

TEACHER TRAINING

Induction periods

19 Requirement to serve induction period.

(1) Regulations may make provision for, and in connection with, requiring persons employed as teachers at relevant schools, subject to such exceptions as may be provided for by or under the regulations, to have satisfactorily completed an induction period of not less than three school terms in—
  (a) a relevant school, or
  (b) in such circumstances as may be prescribed, an independent school.

(2) Regulations under this section may, in particular, make provision—
  (a) as to the length of the induction period in any prescribed circumstances;
  (b) as to periods of employment which are to count towards the induction period;
  (c) precluding a person from serving more than one induction period except in any prescribed circumstances;

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(d) precluding a relevant school, in such circumstances as may be prescribed, from being one at which an induction period may be served;

(e) as to the supervision and training of a person during his induction period;

(f) authorising the Secretary of State to determine the standards against which a person employed as a teacher at a school is to be assessed for the purpose of deciding whether he has satisfactorily completed an induction period;

(g) requiring the appropriate body to decide whether a person—

(i) has achieved those standards and has accordingly satisfactorily completed his induction period, or

(ii) should have his induction period extended by such period as may be determined by the appropriate body, or

(iii) has failed satisfactorily to complete his induction period;

(h) requiring the head teacher of a school to make a recommendation to the appropriate body as to whether a person has achieved the standards mentioned in paragraph (f);

(i) requiring the appropriate body to inform the Secretary of State and either the Council or the General Teaching Council for Wales of any decision under paragraph (g);

(j) requiring the employer of a person employed as a teacher at a relevant school to secure—

(i) the termination of that person's employment as a teacher, or

(ii) that he only undertakes such teaching duties as may be determined in accordance with the regulations,

in such circumstances following a decision that he has failed satisfactorily to complete his induction period as may be prescribed;

(k) authorising or requiring the appropriate body to exercise such other functions as may be prescribed (which may include functions with respect to the provision of assistance to schools or of training for teachers);

(l) authorising the appropriate body in such circumstances as may be prescribed to make such reasonable charges in connection with the exercise of its functions under the regulations as it may determine;

(m) requiring any person or body exercising any prescribed function under the regulations to have regard to any guidance given from time to time by the Secretary of State as to the exercise of that function.

(3) Once the Council or the General Teaching Council for Wales have been established, the Secretary of State shall consult one or both of those Councils (as appropriate) before making any determination as to standards by virtue of regulations made under subsection (2)(f).

(4) Regulations under this section shall include provision conferring on a person aggrieved by a decision under subsection (2)(g) a right to appeal against the decision to one of the following, namely—

(a) the Secretary of State, or

(b) the Council or the General Teaching Council for Wales;

and any decision made on such an appeal shall be final.

(5) Regulations made in pursuance of subsection (4) may make provision for, or for the determination in accordance with the regulations of, such matters relating to such appeals as the Secretary of State considers necessary or expedient.

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(6) In subsection (2) "the appropriate body" means such person or body (including a local education authority) as may be prescribed by, or determined by the Secretary of State in accordance with, regulations under this section; and such regulations may provide for an appropriate body which is not a local education authority to include a representative of such an authority.

(7) During the induction period which a person is required to serve by virtue of regulations made under this section, the provisions of section 49 of the [M13]Education (No. 2) Act 1986 (appraisal of teachers' performance) and regulations made under that section shall not apply to him.

(8) Regulations may provide for references to "eligible expenditure" in section 484 of the [M14]Education Act 1996 (education standards grants) to include such expenditure incurred by local education authorities in consequence of any regulations made by virtue of subsection (1) or (2) as may be prescribed.

(9) Where, in accordance with a requirement imposed by virtue of subsection (2)(j)(ii), a teacher employed at a school maintained by a local education authority—

(a) continues to be employed at the school, but

(b) is not undertaking his normal teaching duties there,

any costs incurred by the local education authority in respect of the teacher's emoluments shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

Nothing in this subsection applies to a maintained school at any time when the school does not have a delegated budget.

(10) In this section—

(a) any reference to a school's budget share or to its not having a delegated budget has the same meaning as in Part II of the School Standards and Framework Act 1998,

(b) "relevant schools" means such schools as are referred to in section 218(12) of the [M15]Education Reform Act 1988, and

(c) "independent school" has the same meaning as in the Education Act 1996.

Commencement Information

I7 S. 19 wholly in force at 1.4.1999; s. 19 not in force at Royal Assent; s. 19(1)-(8) and (10)(b)(c) in force at 1.10.1998 by S.I. 1998/2215, **art. 2**; s. 19(9) and (10)(a) in force at 1.4.1999 by S.I. 1998/2215, **art. 3**

Marginal Citations

M13 1986 c. 61.

M14 1996 c. 56.

M15 1988 c. 40.

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Inspection of teacher training institutions

20 Inspection of institutions training teachers for schools.

After section 18 of the [M16]Education Act 1994 there shall be inserted—

"**18A Inspection of institutions training teachers for schools.**

(1) The Chief Inspector may inspect and report on—
(a) any initial training of teachers, or of specialist teaching assistants, for schools, or
(b) any in-service training of such teachers or assistants,
which is provided by a relevant institution.

(2) When asked to do so by the Secretary of State, the Chief Inspector shall—
(a) give advice to the Secretary of State on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Secretary of State's request;
(b) inspect and report on such one or more relevant institutions as may be so specified.

(3) The Chief Inspector may at any time give advice to—
(a) the Secretary of State,
(b) a funding agency,
(c) the General Teaching Council for England, or
(d) the General Teaching Council for Wales,
on any matter connected with training falling within subsection (1)(a) or (b).

(4) The Chief Inspector may—
(a) make such reports of inspections carried out by him under this section as he considers appropriate, and
(b) arrange for any such report to be published in such manner as he considers appropriate,
and section 42A(2) to (4) of the [M17]School Inspections Act 1996 (publication of inspection reports) shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in section 42A(2).

(5) When inspecting a relevant institution under this section, the Chief Inspector shall have at all reasonable times—
(a) a right of entry to the premises of the institution, and
(b) a right to inspect, and take copies of, any records kept by the institution, and any other documents containing information relating to the institution, which he considers relevant to the exercise of his functions under this section;
and section 42 of the School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.

(6) Without prejudice to subsection (5), a relevant institution to which an inspection under this section relates—

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(a) shall give the Chief Inspector all assistance in connection with the exercise of his functions under this section which it is reasonably able to give; and

(b) shall secure that all such assistance is also given by persons who work for the institution.

(7) The Chief Inspector shall not carry out any inspection under subsection (1) unless—

(a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—

(i) to the relevant institution concerned, or

(ii) where that institution is a partnership or association of eligible institutions, to one of those institutions; or

(b) with the agreement of that institution or (as the case may be) one of those institutions, he has given it shorter notice of that intention.

(8) Any notice under subsection (7)—

(a) shall be given in writing, and

(b) may be sent by post;

and any such notice may (without prejudice to any other lawful method of giving it) be addressed to an institution at any address which the institution has notified to a funding agency as its address.

(9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).

(10) In this section—

(a) "the Chief Inspector" means—

(i) in relation to England, Her Majesty's Chief Inspector of Schools in England, and

(ii) in relation to Wales, Her Majesty's Chief Inspector of Schools in Wales;

(b) "relevant institution" means—

(i) any eligible institution, or

(ii) any other institution, body or person designated by the Secretary of State as being in receipt of public funding in respect of the provision of training falling within subsection (1)(a) or (b);

(c) "in-service training" includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998); and

(d) "document" and "records" each include information recorded in any form.

(11) Any reference in this section to the Chief Inspector shall be read, in relation to any inspection which he is authorised or required to carry out under this section, as including a reference to any person authorised to act on his behalf under sub-paragraph (1) or (2) of paragraph 5 of Schedule 1 to the [M18]School Inspections Act 1996.

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(12) Nothing in this section shall be taken as prejudicing the generality of section 2 or 5 of that Act or of paragraph 5(1) or (2) of Schedule 1 to that Act."

Marginal Citations
M16 1994 c. 30.
M17 1996 c. 57.
M18 1996 c. 57.

21 Inspection of institutions training teachers for schools: Scotland.

In section 66 of the [M19]Education (Scotland) Act 1980 (inspection of educational establishments), after subsection (1A) there shall be inserted—

"(1B) Notwithstanding subsection (1) above, the Secretary of State shall have power to cause inspection to be made of the education and training, wherever it is carried out, provided by institutions within the higher education sector (within the meaning of the [M20]Further and Higher Education (Scotland) Act 1992) wholly or mainly for persons preparing to be, or persons who are, teachers in schools, and such inspections shall be made by Her Majesty's Inspectors or other persons appointed by the Secretary of State for the purpose."

Marginal Citations
M19 1980 c. 44.
M20 1992 c. 37.

PART II

FINANCIAL PROVISION FOR HIGHER AND FURTHER EDUCATION

CHAPTER I

ENGLAND AND WALES

Student support

22 New arrangements for giving financial support to students.

(1) Regulations shall make provision authorising or requiring the Secretary of State to make grants or loans, for any prescribed purposes, to eligible students in connection with their attending—
(a) higher education courses, or
(b) further education courses,
which are designated for the purposes of this section by or under the regulations.

(2) Regulations under this section may, in particular, make provision—

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(a) for determining whether a person is an eligible student in relation to any grant or loan available under this section;

(b) prescribing, in relation to any such grant or loan and an academic year, the maximum amount available to any person for any prescribed purpose for that year;

(c) where the amount of any such grant or loan may vary to any extent according to a person's circumstances, for determining, or enabling the determination of, the amount required or authorised to be paid to him;

(d) prescribing categories of attendance on higher education courses or further education courses which are to qualify for any purposes of the regulations;

(e) for any grant under this section to be made available on such terms and conditions as may be prescribed by, or determined by the Secretary of State under, the regulations, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined;

(f) requiring the making of payments in respect of any such grant to be suspended or terminated in any such circumstances;

(g) prescribing requirements or other provisions, whether as to repayment or otherwise, which are for the time being to apply in relation to loans under this section (including requirements or other provisions taking effect during the currency of such loans so as to add to, or otherwise modify, those for the time being applying in relation to the loans);

(h) authorising grants in respect of fees payable in connection with attendance on courses to be paid directly to institutions charging the fees;

(i) requiring prescribed amounts payable to eligible students under loans under this section to be paid directly to institutions who have previously made loans of any prescribed description to those persons;

(j) modifying any enactment or instrument (whenever passed or made) so as to provide for the treatment, in connection with any calculation with respect to the income (however defined) of persons to whom grants or loans are made under this section, of amounts due from or payable to such persons under such grants or loans;

(k) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals).

(3) The provision which may be made by virtue of subsection (2)(g) in relation to loans under this section includes provision—

(a) for such loans to bear compound interest at such rates, and calculated in such manner, as may be prescribed from time to time;

(b) for such loans to be repaid in such manner, at such times, and to such person or body as may be prescribed from time to time;

(c) for the payment, in respect of amounts overpaid by borrowers, of interest at such rate, and calculated in such manner, as may be determined by the Secretary of State from time to time;

(d) for a borrower not to be liable to make any repayment in respect of such a loan—

(i) during such period as may be prescribed from time to time, or

(ii) in such circumstances as may be so prescribed,

including provision for the cancellation of any further such liability of the borrower in any such circumstances;

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(e) with respect to sums which a borrower receives, or is entitled to receive, under such a loan after the commencement of his bankruptcy or the date of the sequestration of his estate.

(4) In relation to loans under this section—

(a) the rates prescribed by regulations made in pursuance of subsection (3)(a)—

(i) shall be no higher than those which the Secretary of State is satisfied are required to maintain the value in real terms of the outstanding amounts of such loans, and

(ii) shall at no time exceed the specified rate for low interest loans; and

(b) such regulations may make provision, for the purpose of calculating the interest to be borne by such loans, for repayments by borrowers to be treated as having been made or received on such date or dates as may be prescribed by the regulations.

(5) Regulations under this section may also make such provision as the Secretary of State considers necessary or expedient in connection with the recovery of amounts due from borrowers under loans under this section, including provision for—

(a) imposing on employers, or (as the case may be) such other persons or bodies as may be prescribed, requirements with respect to—

(i) the making of deductions in respect of amounts so due (or, in any prescribed circumstances, amounts assessed in accordance with the regulations to be so due) from emoluments payable to borrowers,

(ii) the collection by other means of such amounts,

(iii) the transmission of amounts so deducted or collected to the Secretary of State in accordance with directions given by him;

(b) imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to the keeping and production of records for such purposes as may be prescribed;

(c) imposing on borrowers requirements with respect to—

(i) the provision of such information, and

(ii) the keeping and production of such documents and records,

relating to their income as may be prescribed;

(d) requiring the payment, by persons or bodies to whom requirements imposed in pursuance of any of paragraphs (a) to (c) apply, of—

(i) penalties in cases of non-compliance with, or otherwise framed by reference to, such requirements, and

(ii) interest in respect of periods when such penalties are due but unpaid;

(e) requiring the payment by borrowers, in respect of periods when amounts due under their loans are unpaid, of—

(i) interest (applied to such amounts at a rate calculated otherwise than in accordance with subsection (4)(a)), or

(ii) both such interest and one or more surcharges (together with further interest in respect of periods when such surcharges are due but unpaid);

(f) enabling the Secretary of State to require the reimbursement by borrowers of costs or expenses of any prescribed description incurred by him in connection with the recovery of unpaid amounts;

(g) applying or extending with or without modification, for purposes connected with the recovery of amounts under regulations made by virtue of this

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subsection, any of the provisions of the Taxes Acts or of regulations under section 203 of the [M21]Income and Corporation Taxes Act 1988 (PAYE);

(h) determining the priority as between deductions falling to be made by virtue of paragraph (a)(i) and deductions falling to be made, from emoluments payable to borrowers, by virtue of other enactments (whenever passed).

(6) In subsection (5)—

(a) "employers" means persons who make payments of, or on account of, income assessable to income tax under Schedule E, and

(b) "the Taxes Acts" has the same meaning as in the [M22]Taxes Management Act 1970.

(7) Where regulations under this section prescribe by virtue of subsection (2)(b) the maximum amount of any grant available for an academic year in respect of fees payable in connection with attendance on a higher education course provided by a publicly-funded institution, no regulations increasing that amount shall be made under this section unless—

(a) the Secretary of State is satisfied that the increase is no greater than is required to maintain the value of such grants in real terms, or

(b) a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(8) For the purposes of subsection (4)(a) or (7)(a) the Secretary of State shall have regard to such index of prices as may be specified in, or determined in accordance with, regulations under this section.

(9) In subsection (4)(a) "the specified rate for low interest loans" means the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the [M23]Consumer Credit Act 1974 (exemption of certain consumer credit agreements by reference to the rate of the total charge for credit).

Marginal Citations

M21 1988 c. 1.
M22 1970 c. 9.
M23 1974 c. 39.

23 Transfer or delegation of functions relating to student support.

(1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations under section 22 shall, to such extent as is specified in his determination, be exercisable instead by such body as is so specified which is either—

(a) a local education authority for the purposes of the [M24]Education Act 1996, or

(b) the governing body of an institution at which eligible students (within the meaning of such regulations) are attending courses.

(2) A body by whom any function is for the time being exercisable by virtue of subsection (1) shall comply with any directions given by the Secretary of State as to the exercise of that function.

(3) Where any function is so exercisable by a local education authority, the function shall be taken to be a function of that authority for the purposes of—

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(a) section 101 of the [M25]Local Government Act 1972 (arrangements for discharge of functions by local authorities), and

(b) section 70 of the [M26]Deregulation and Contracting Out Act 1994 (contracting out of functions of local authorities).

(4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of regulations under section 22 (including any such function in relation to appeals).

(5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.

(6) The Secretary of State may make provision for enabling appeals—

(a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of subsection (1) or (4) as he may determine, and

(b) to be so made to a person or body appointed by him for the purpose.

(7) The Secretary of State may pay to any body or person by whom any function is exercisable by virtue of subsection (1) or (4)—

(a) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—

(i) in making grants or loans under section 22, or

(ii) by way of administrative expenses,

in, or in connection with, the exercise of that function;

(b) in a case where the function is exercisable by virtue of subsection (4), such remuneration as he may determine.

(8) Any payment under subsection (7)(a) may be made subject to such terms and conditions as the Secretary of State may determine; and any such conditions may in particular—

(a) require the provision of returns or other information before any such payment is made;

(b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.

(9) The Secretary of State may pay to any person or body appointed by him under subsection (6) such remuneration or administrative expenses (or both) as he may determine.

(10) In relation to any function which, by virtue of subsection (1) or (4), is exercisable to a specified extent, references in any other provision of this section to the exercise of that function are accordingly to its exercise to that extent.

Marginal Citations

M24 1996 c. 56.

M25 1972 c. 70.

M26 1994 c. 40.

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
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24 Supply of information in connection with student loans.

(1) This section applies to any information which is held—

(a) by the Commissioners of Inland Revenue, or

(b) by a person providing services to those Commissioners and in connection with the provision of those services.

(2) Information to which this section applies may be supplied to—

(a) the Secretary of State or the Department of Education for Northern Ireland,

(b) any person or body acting on behalf of the Secretary of State or that Department under the delegation of functions provisions, or

(c) any authority or governing body by whom any function of the Secretary of State or that Department is for the time being exercisable to any extent by virtue of the transfer of functions provisions,

for the purpose of enabling or assisting the recipient to exercise any function in connection with the operation of the student loans scheme.

(3) Information supplied under subsection (2) shall not be supplied by the recipient to any other person or body unless it is supplied—

(a) to a person or body to whom it could be supplied under that subsection, or

(b) for the purposes of any civil or criminal proceedings arising out of the student loans scheme.

(4) Subsections (2) and (3) extend only to the supply of information by or under the authority of the Commissioners of Inland Revenue.

(5) This section does not limit the circumstances in which information may be supplied apart from this section.

(6) In this section—

(a) "the delegation of functions provisions" means section 23(4) of this Act or section 73A(3) of the [M27]Education (Scotland) Act 1980;

(b) "the transfer of functions provisions" means section 23(1) of this Act or section 73A(1) of that Act; and

(c) "the student loans scheme" means the provisions of—

(i) regulations under section 22 of this Act so far as having effect in relation to loans under that section, or

(ii) regulations under section 73(f) of that Act made with respect to loans;

and in this subsection any reference to a provision of this Act includes a reference to any corresponding Northern Ireland legislation.

Marginal Citations

M27 1980 c. 44.

25 Transitional arrangements.

(1) Regulations may make provision—

(a) for any function which is or may be conferred under or by virtue of a relevant enactment—

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(i) to transfer to, or otherwise be exercisable by, the designated person or body, or

(ii) to be replaced by such function exercisable by the designated person or body as is specified in the regulations,

to such extent as is so specified;

(b) for any function exercisable by the designated person or body by virtue of paragraph (a)(i) to be exercisable in such modified form as is so specified;

(c) for the transfer to the designated person or body of rights or liabilities arising under or by virtue of any relevant enactment;

(d) for any such enactment to have effect with such modifications as are so specified;

(e) imposing on persons or bodies of any description so specified requirements with respect to the transfer and preservation of records.

(2) In this section "the designated person or body" means the Secretary of State or such other person or body as may be designated for the purpose by regulations under this section.

(3) In this section "relevant enactment" means any enactment contained in—

(a) the [M28]Education Act 1962,

(b) section 3 of the [M29]Education Act 1973, or

(c) the [M30]Education (Student Loans) Act 1990,

so far as that enactment continues in force by virtue of any savings made, in connection with its repeal by this Act, by an order under section 46(4).

(4) The Secretary of State shall, not later than six months after the passing of this Act, appoint an independent body to review the arrangements for England and Wales relating to the payment of grants in respect of fees payable in connection with attendance on the final honours year of first degree courses at higher education institutions in Scotland.

(5) The Secretary of State shall invite—

(a) the Scottish higher education principals,

(b) the Committee of Vice-Chancellors and Principals, and

(c) such other bodies as he considers appropriate,

to make representations to the body established under subsection (4); and the report of that body shall be laid before each House of Parliament not later than 1st April 2000.

(6) If that body recommends that the arrangements referred to in subsection (4) should be modified in accordance with this subsection, the Secretary of State may modify those arrangements so as to secure that they are no less favourable than the arrangements made by regulations under section 73(f) of the [M31]Education (Scotland) Act 1980 for the payment of allowances in respect of fees payable as mentioned in subsection (4).

(7) In subsections (4) and (6) any reference to the arrangements for England and Wales is a reference to arrangements made either under the Education Act 1962 or under section 22 of this Act.

Marginal Citations

M28 1962 c. 12.

M29 1973 c. 16.

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
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M30 1990 c. 6.
M31 1980 c. 44.

Student fees

26 Imposition of conditions as to fees at further or higher education institutions.

[[F5](1) The power of the Secretary of State to impose conditions under section 7(1) of the 1992 Act in relation to grants paid to—

(a) the Further Education Funding Council for England, or

(b) the Further Education Funding Council for Wales,

shall include power to impose a condition requiring the Council to whom he is making any such grant to impose a condition under subsection (2) below in relation to any grants, loans or other payments made by the Council under section 5 of that Act to the governing body of a relevant institution.**]**

[[F5](2) A condition under this subsection shall require the governing body of any such institution to secure that, in respect of the relevant academic year, no fees are payable to the institution by any specified class of persons in respect of any specified matters in connection with their attending courses of any specified description.**]**

(3) The power of the Secretary of State to impose conditions under section 68(1) of the 1992 Act or section 7(1) of the 1994 Act in relation to grants paid to one of the following bodies, namely—

(a) the Higher Education Funding Council for England,

(b) the Higher Education Funding Council for Wales, or

(c) the Teacher Training Agency,

as the case may be, shall include power to impose a condition requiring the body to whom he is making any such grant to impose a condition under subsection (4) below in relation to any grants, loans or other payments made by that body under section 65 of the 1992 Act, or (as the case may be) section 5 of the 1994 Act, to the governing body of a relevant institution.

(4) A condition under this subsection shall require the governing body of any such institution to secure that, in respect of the relevant academic year, the fees payable to the institution by any prescribed class of persons in connection with their attending courses of any prescribed description are equal to the prescribed amount.

(5) In subsection (4) "the prescribed amount", in relation to any such class of persons attending courses of any such description, means such amount as may be prescribed for the time being by virtue of section 22(2)(b) as the maximum amount of any grant available for the relevant academic year in respect of fees payable by such persons in connection with their attending such courses.

(6) A condition under **[**[F6]subsection (4)**]**shall impose, in the event of a failure by the governing body to comply with the requirement specified in that subsection, such further financial requirements on that body as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or part of any sums received by them in respect of the grant, loan or other payment in question.

(7) No condition under **[**[F6]subsection (4)**]** shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the [M32]Education (Fees

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and Awards) Act 1983 (fees at universities and further education establishments), by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section (persons connected with the United Kingdom, etc.).

(8) The Secretary of State shall not exercise the power to prescribe descriptions of courses under subsection (4) in such a way as to discriminate—

(a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given, or

(b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.

(9) In this section— "the 1992 Act" means the [M33]Further and Higher Education Act 1992; "the 1994 Act" means the [M34]Education Act 1994; "course", where it appears in subsection (4) or (5), does not include any part-time or postgraduate course other than a course of initial teacher training; "the relevant academic year", in relation to a course, means the academic year applicable to the course which begins at the same time as, or during, the period in respect of which the grants, loans or other payments to which the relevant condition under **[**[F7]subsection (4)**]** relates are made; "relevant institution" means a specified institution or an institution of a specified class; and "specified" means specified by the Secretary of State in a condition imposed by him under **[**[F8]subsection (3)**]**.

(10) Where—

(a) a condition is imposed under **[**[F6]subsection (4)**]** in connection with any grants, loans or other payments made to the governing body of a relevant institution, and

(b) those payments are to any extent so made in respect of persons attending a course which is provided in whole or part by any other institution,

then, for the purposes of this section, fees payable by such persons to the other institution shall be regarded as fees payable by them to the relevant institution.

(11) Nothing in the 1992 Act or the 1994 Act, so far as it imposes any prohibition or other requirement in relation to the imposition of conditions by the Secretary of State or by any of the Councils mentioned in **[**[F9]subsection (3)**]** or the Teacher Training Agency shall apply to—

(a) any condition under **[**[F9]subsection (3)**]** imposed by the Secretary of State; or

(b) any condition under **[**[F6]subsection (4)**]** imposed by any of those Councils or that Agency.

Textual Amendments

F5 S. 26(1)(2) repealed (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 153, 154(5), Sch. 9 para. 74(2), **Sch. 11**

F6 Words in s. 26(6)(7)(10)(a)(11)(b) substituted (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 74(3)**

F7 Words in the definition of
"the relevant academic year"
in s. 26(9) substituted (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 74(4)(a)**

F8 Words in the definition of
"specified"

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in s. 26(9) substituted (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 74(4)(b)**

F9 Words in s. 26(11)(a) substituted (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 74(5)**

Marginal Citations

M32 1983 c. 40.

M33 1992 c. 13.

M34 1994 c. 30.

Higher education funding

27 Expenditure eligible for funding.

Section 65 of the [M35]Further and Higher Education Act 1992 (administration of funds by Higher Education Funding Councils) shall have effect, and be deemed always to have had effect, with the insertion of the following subsections after subsection (3)—

"(3A) In the application of subsection (3) above to any grants, loans or other payments by a Council, 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 the Council, 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 the Council in question are satisfied has a sufficient connection with that institution for the purposes of that subsection."

Marginal Citations

M35 1992 c. 13.

Supplementary

28 Interpretation of Chapter I.

(1) In this Chapter— "fees", in relation to attendance on a course, means fees in respect of, or otherwise in connection with, attendance on the course, including admission, registration, tuition and graduation fees but excluding—

(a) fees payable to an institution for awarding or accrediting any qualification where the institution does not provide the whole or part of the course and is not a publicly-funded institution;

(b) fees payable for board or lodging;

(c) fees payable for field trips (including any tuition element of such fees);

(d) fees payable for attending any graduation or other ceremony; and

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(e) such other fees as may be prescribed; "further education course" and "higher education course" have the meaning given by regulations under section 22; "publicly-funded institution" means—

(a) any university or other institution receiving grants, loans or other payments under section **[**[F10]5 or**]** 65 of the [M36]Further and Higher Education Act 1992, or under section 5 of the [M37]Education Act 1994, any institution maintained by a local education authority in exercise of their further and higher education functions, any institution receiving a recurrent grant towards its costs **[**[F11]from a further education funding council or any institution receiving a recurrent grant towards its costs**]** under regulations made under section 485 of the [M38]Education Act 1996 **[**[F12]or any institution receiving financial resources under section 5 or 34 of the Learning and Skills Act 2000**]**;

(b) any institution within the higher education sector for the purposes of the [M39]Further and Higher Education (Scotland) Act 1992, any college of further education within the meaning of section 36(1) of that Act or any central institution within the meaning of section 135(1) of the [M40]Education (Scotland) Act 1980;

(c) the Queen's University of Belfast, the University of Ulster, a college of education in Northern Ireland within the meaning of Article 2(2) of the [M41]Education and Libraries (Northern Ireland) Order 1986 or any institution providing in Northern Ireland further education as defined in Article 3 of the [M42]Further Education (Northern Ireland) Order 1997.

(2) Regulations under section 22 may provide for courses provided wholly or partly outside the United Kingdom to be further education courses or (as the case may be) higher education courses for the purposes of this Chapter.

Textual Amendments

F10 S. 28(1): words in para. (a) of the definition of "publicity-funded institution" repealed (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 153, 154(5), Sch. 9 para. 75(a), **Sch. 11**

F11 S. 28(1): words in para. (a) of the definition of "publicity-funded institution" repealed (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 153, 154(5), Sch. 9 para. 75(b), **Sch. 11**

F12 S. 28(1): words in para. (a) of the definition of "publicity-funded institution" inserted (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 75(c)**

Marginal Citations

M36 1992 c. 13.
M37 1994 c. 30.
M38 1996 c. 56.
M39 1992 c. 37.
M40 1980 c. 44.
M41 S.I. 1986/594 (N.I.3).
M42 S.I. 1997/1772 (N.I.15).

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CHAPTER II

SCOTLAND

29 Grants and loans: Scotland.

(1) In section 73 of the Education (Scotland) Act 1980 (power of Secretary of State to make grants and loans), in paragraph (f), after the word "allowances" there shall be inserted the words " or loans ".

(2) After that section there shall be inserted—

"**73A Transfer or delegation of functions relating to student support.**

(1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made under section 73(f) of this Act shall, to such extent as is specified in his determination, be exercisable instead by such body or person as is so specified.

(2) A person or body by whom any function is for the time being exercisable by virtue of subsection (1) above shall comply with any direction given by the Secretary of State as to the exercise of that function.

(3) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of regulations under section 73(f) of this Act (including any such functions as to appeals).

(4) Any arrangements made under subsection (3) above shall not prevent the Secretary of State from exercising the function in question himself.

(5) The Secretary of State may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of subsection (1) or (3) above as he may determine; and
- (b) to be so made to a person or body appointed by him for that purpose.

(6) The Secretary of State may pay to any person or body by whom any function is exercisable by virtue of subsection (1) or (3) above—
- (a) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person or body—
  - (i) in making grants or loans by virtue of regulations under section 73(f) of this Act, or
  - (ii) by way of administrative expenses,

  in, or in connection with, the exercise of that function;
- (b) in the case of any such person, or of any body with which the Secretary of State has made arrangements under subsection (3) above, such remuneration as he may determine.

(7) Any payment under subsection (6)(a) above may be made subject to such terms and conditions (including conditions as to repayment) as the Secretary of State may determine.

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(8) The Secretary of State may pay to any person or body appointed by him under subsection (5) such remuneration or administrative expenses (or both) as he may determine.

(9) In relation to any function which, by virtue of subsection (1) or (3) above is exercisable to a specified extent, references in any other provision of this section to the exercise of that function are accordingly to its exercise to that extent.

73B Regulations relating to student loans.

(1) This section applies in relation to regulations under paragraph (f) of section 73 of this Act made with respect to loans.

(2) Regulations to which this section applies may make provision requiring such amounts as may be prescribed, payable under loans granted by virtue of such regulations, to be paid directly to institutions providing courses of education who have previously made payments of any prescribed description to persons attending such courses to whom such loans may be granted.

(3) Regulations to which this section applies may make such provision as the Secretary of State considers necessary or expedient in connection with the recovery of amounts due from borrowers under loans granted by virtue of such regulations, including provision for—

(a) imposing on employers, or (as the case may be) such other persons or bodies as may be prescribed, requirements with respect to—

(i) the making of deductions in respect of amounts so due (or, in any prescribed circumstances, amounts assessed in accordance with the regulations to be so due) from emoluments payable to borrowers,

(ii) the collection by other means of such amounts,

(iii) the transmission of amounts so deducted or collected to the Secretary of State in accordance with directions given by him;

(b) imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to the keeping and production of records for such purposes as may be prescribed;

(c) imposing on borrowers requirements with respect to—

(i) the provision of such information, and

(ii) the keeping and production of such documents and records,

relating to their income as may be prescribed;

(d) requiring the payment, by persons or bodies to whom the requirements imposed in pursuance of paragraphs (a) to (c) above apply, of—

(i) penalties in cases of non-compliance with, or otherwise framed by reference to, such requirements, and

(ii) interest in respect of periods when such penalties are due but unpaid;

(e) requiring the payment by borrowers, in respect of periods when amounts due under their loans are unpaid, of—

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(i) interest (applied to such amounts at a rate calculated otherwise than in accordance with subsections (6) and (7) below), or

(ii) both such interest and one or more surcharges (together with further interest in respect of periods when such surcharges are due but unpaid);

(f) enabling the Secretary of State to require the reimbursement by borrowers of costs or expenses of any prescribed description incurred by him in connection with the recovery of unpaid amounts;

(g) applying or extending with or without modification, for purposes connected with the recovery of amounts under regulations to which this section applies, any of the provisions of the Taxes Acts or of regulations under section 203 of the [M43]Income and Corporation Taxes Act 1988 (PAYE);

(h) determining the priority as between deductions falling to be made by virtue of paragraph (a)(i) above and deductions falling to be made from emoluments payable to borrowers by virtue of other enactments (whenever passed);

(i) modifying any enactment or instrument (whenever passed or made) so as to provide for the treatment, in connection with any calculation with respect to income (however defined), of amounts due from or payable to such persons under loans granted by virtue of regulations to which this section applies.

(4) In subsection (3) above—

(a) "employers" means persons who make payments of, or on account of, income assessable to income tax under Schedule E, and

(b) "the Taxes Acts" has the same meaning as in the [M44]Taxes Management Act 1970.

(5) Regulations to which this section applies may make provision for the payment, in respect of amounts overpaid by borrowers, of interest at such rate, and calculated in such manner, as may be determined by the Secretary of State from time to time.

(6) A rate of interest, prescribed by regulations to which this section applies, to be borne by loans shall at no time exceed the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the [M45]Consumer Credit Act 1974 (exemption of certain consumer credit agreements by reference to the rate of the total charge for credit).

(7) Subject to subsection (6) above, regulations to which this section applies shall not prescribe a rate of interest to be borne by loans higher than that which the Secretary of State, having regard to such retail prices index as appears to him to be appropriate, is satisfied is required to maintain the value in real terms of the outstanding amounts of such loans.

(8) Regulations to which this section applies may make provision, for the purpose of calculating the interest to be borne by loans, for repayments by borrowers to be treated as having been made or received on such date or dates as may be prescribed.

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(9) Regulations to which this section applies may prescribe requirements or other provisions which add to or otherwise modify, during the currency of a loan, requirements or other provisions (whether as to repayment or otherwise) which apply in relation to loans granted by virtue of such regulations.

(10) Regulations to which this section applies may make provision for a borrower not to be liable to make any repayment in respect of a loan—

(a) during such periods as may be prescribed from time to time, or

(b) in such circumstances as may be prescribed,

including provision for the cancellation of any further such liability of the borrower in any such circumstances.

(11) Regulations to which this section applies may make provision for appeals with respect to matters arising under such regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with such appeals).

(12) Regulations to which this section applies may, in relation to a borrower's discharge under or by virtue of section 54 of the [M46]Bankruptcy (Scotland) Act 1985 or on an order being made under paragraph 11 of Schedule 4 to that Act, make provision for the treatment of any debt or liability to which a borrower is, or may become, subject in respect of sums received, or which he is entitled to receive, after the date of his sequestration.

(13) Nothing in this section prejudices the generality of section 73(f) of this Act.

73C Transitional provisions and savings on repeal of Education (Student Loans) Act 1990.

(1) The Secretary of State may by regulations make such transitional provision and savings in connection with the repeal by the Teaching and Higher Education Act 1998 of the [M47]Education (Student Loans) Act 1990 ("the 1990 Act") as he considers necessary or expedient including—

(a) provision for any function which has been conferred under or by virtue of the 1990 Act to transfer to, or otherwise become exercisable by—

(i) the Secretary of State, or

(ii) such other person or body as may be prescribed,

to such extent as may be prescribed; and

(b) provision for the transfer to the Secretary of State or any such other person or body of rights or liabilities arising under or by virtue of the 1990 Act.

(2) Regulations made by virtue of paragraphs (a) and (b) of subsection (1) above may, in particular, provide for—

(a) any such function to be exercisable in pursuance of such regulations in such modified form as may be prescribed;

(b) the 1990 Act to have effect with such modifications as may be prescribed.

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73D Provision as to maximum amounts of certain allowances.

(1) This section applies to allowances payable by virtue of section 73(f) of this Act in respect of the fees charged in connection with attendance on a course of higher education.

(2) The Secretary of State may by order made by statutory instrument determine the maximum amount payable in any academic year of allowances to which this section applies in respect of such courses or classes of courses of higher education as may be so determined and, subject to subsection (3) below, a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Where the Secretary of State has determined a maximum amount under subsection (2) above, he shall not make a further determination increasing that maximum amount under that subsection unless—

(a) he is satisfied that the increase is no greater than is required to maintain the allowance's value in real terms; or

(b) a draft of the order containing the further determination has been laid before, and approved by a resolution of, each House of Parliament.

(4) For the purposes of subsection (3)(a) above the Secretary of State shall have regard to such retail prices index as appears to him to be appropriate.

(5) In subsection (2) above, "courses of higher education" means courses of higher education falling within section 38 of the [M48]Further and Higher Education (Scotland) Act 1992."

Extent Information

E1 S. 29 extends to Scotland only with exceptions as mentioned in s. 46(6).

Marginal Citations

M43 1988 c. 1.
M44 1970 c. 9.
M45 1974 c. 39.
M46 1985 c. 66.
M47 1990 c. 6.
M48 1992 c. 37.

30 Supply of information in connection with student loans: Scotland.

After section 73D of the [M49]Education (Scotland) Act 1980 there shall be inserted—

"73E Supply of information in connection with student loans.

(1) This section applies to any information which is held—

(a) by the Commissioners of Inland Revenue, or

(b) by a person providing services to those Commissioners and in connection with the provision of those services.

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(2) Information to which this section applies may be supplied to—
  (a) the Secretary of State or the Department of Education for Northern Ireland,
  (b) any person or body acting on behalf of the Secretary of State or that Department under the delegation of functions provisions, or
  (c) any person or body by whom any function of the Secretary of State or that Department is for the time being exercisable to any extent by virtue of the transfer of functions provisions,

for the purpose of enabling or assisting the recipient to exercise any function in connection with the operation of the student loans scheme.

(3) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless it is supplied—
  (a) to a person or body to whom it could have been supplied under that subsection, or
  (b) for the purposes of any civil or criminal proceedings arising out of the student loans scheme.

(4) Subsections (2) and (3) above extend only to the supply of information by or under the authority of the Commissioners of Inland Revenue.

(5) This section does not limit the circumstances in which information may be supplied apart from this section.

(6) In this section—
  (a) "the delegation of functions provisions" means section 73A(3) of this Act or section 23(4) of the Teaching and Higher Education Act 1998;
  (b) "the transfer of functions provisions" means section 73A(1) of this Act or section 23(1) of the Teaching and Higher Education Act 1998; and
  (c) "the student loans scheme" means the provisions of—
    (i) regulations under section 73(f) of this Act with respect to loans; or
    (ii) regulations under section 22 of the Teaching and Higher Education Act 1998 so far as having effect in relation to loans under that section;

  and in this subsection any reference to a provision of this Act includes a reference to any corresponding Northern Ireland legislation."

Marginal Citations
M49 1980 c. 44.

31 Imposition of conditions as to fees at further and higher education institutions in Scotland.

(1) In section 10 of the [M50]Further and Higher Education (Scotland) Act 1992 (payment of grants to Funding Council), after subsection (2) there shall be inserted—

"(2A) The power of the Secretary of State under subsection (2) above to impose conditions shall include power to impose a condition requiring the Funding Council to impose, in such cases as may be specified in the condition, a

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condition under subsection (2B) below in relation to any grant, loan or other payment made by the Funding Council in the exercise of any function prescribed by an order under section 7(2) of this Act.

(2B) A condition under this subsection shall require—

(a) the board of management of any college of further education; or

(b) any other person to whom any such grant, loan or other payment as is mentioned in subsection (2A) above is made,

to secure that no fees are payable to the board of management or, as the case may be, person by any specified class of persons in respect of any specified matters in connection with their attending courses of any specified description.

(2C) No condition under subsection (2B) above shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the [M51]Education (Fees and Awards) Act 1983 (fees at universities and further education establishments), by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section (persons connected with the United Kingdom etc.).

(2D) A condition under subsection (2B) above shall impose, in the event of a failure by a board of management mentioned in paragraph (a) of that subsection or, as the case may be, of such other person as is mentioned in paragraph (b) of that subsection to comply with the requirement specified in that subsection, such further financial requirements on that board or person as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or any part of any sums received by that board or person in respect of the grant, loan or other payment in question.

(2E) Where the functions of the Secretary of State under section 4 of this Act are exercised by the Funding Council, the prohibition contained in subsection (3) of that section shall not apply in relation to conditions imposed under subsection (2B) above."

(2) In section 42 of that Act (grants in relation to higher education), after subsection (3) there shall be inserted—

"(3A) The power of the Secretary of State under subsection (1) above to impose conditions shall include power to impose a condition requiring the Council to impose, in such cases as may be specified in the condition, a condition under subsection (3B) below in relation to any grants, loans or other payments made by the Council under section 40(3) of this Act in respect of activities eligible for funding under that section.

(3B) A condition under this subsection shall require the recipient of a grant, loan or other payment made under section 40(3) of this Act to secure that the fees payable to the recipient by any class of persons prescribed by regulations in connection with their attending courses of any description so prescribed are equal to such maximum amount as may, in relation to any such class of persons attending courses of any such description, be determined by the Secretary of State under section 73D(2) of the [M52]Education (Scotland) Act 1980.

(3C) No condition under subsection (3B) above shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the [M53]Education (Fees and Awards) Act 1983 (fees at universities and

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further education establishments), by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section (persons connected with the United Kingdom, etc.).

(3D) The Secretary of State shall not exercise the power to prescribe descriptions of courses under subsection (3B) above in such a way as to discriminate—

(a) in relation to courses for the training of persons preparing to be teachers which are open only to persons holding a degree, between different courses on the basis of the subject in which such training is given; or

(b) in relation to other courses, between courses at the same or a comparable level on the basis of the particular areas of study or research to which they relate.

(3E) A condition under subsection (3B) above shall impose, in the event of a failure by the recipient of a grant, loan or other payment made under section 40(3) of this Act to comply with the requirement specified in that subsection, such further financial requirements on that recipient as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or any part of any sums received by that recipient in respect of the grant, loan or other payment in question.

(3F) Subsection (3) above shall not apply in relation to conditions imposed under subsection (1) above by virtue of subsection (3A) above.

(3G) The prohibition contained in section 40(4) of this Act and the duty imposed by section 41(2) of this Act shall not apply in relation to conditions imposed under subsection (3B) above."

Marginal Citations

M50 1992 c. 37.
M51 1983 c. 40.
M52 1980 c. 44.
M53 1983 c. 40.

PART III

RIGHT TO TIME OFF FOR STUDY OR TRAINING

32 Right of young persons to time off for study or training.

After section 63 of the [M54]Employment Rights Act 1996 there shall be inserted—

"**63A Right to time off for young person for study or training.**

(1) An employee who—

(a) is aged 16 or 17,

(b) is not receiving full-time secondary or further education, and

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(c) has not attained such standard of achievement as is prescribed by regulations made by the Secretary of State,

is entitled to be permitted by his employer to take time off during the employee's working hours in order to undertake study or training leading to a relevant qualification.

(2) In this section—

(a) "secondary education"—

(i) in relation to England and Wales, has the same meaning as in the [M55]Education Act 1996, and

(ii) in relation to Scotland, has the same meaning as in section 135(2)(b) of the [M56]Education (Scotland) Act 1980;

(b) "further education"—

(i) in relation to England and Wales, means such further education (within the meaning of the Education Act 1996) as is provided by means of a course of a description mentioned in Schedule 2 to the [M57]Further and Higher Education Act 1992, and

(ii) in relation to Scotland, has the same meaning as in section 1(3) of the [M58]Further and Higher Education (Scotland) Act 1992; and

(c) "relevant qualification" means an external qualification the attainment of which—

(i) would contribute to the attainment of the standard prescribed for the purposes of subsection (1)(c), and

(ii) would be likely to enhance the employee's employment prospects (whether with his employer or otherwise);

and for the purposes of paragraph (c) "external qualification" means an academic or vocational qualification awarded or authenticated by such person or body as may be specified in or under regulations made by the Secretary of State.

(3) An employee who—

(a) satisfies the requirements of paragraphs (a) to (c) of subsection (1), and

(b) is for the time being supplied by his employer to another person ("the principal") to perform work in accordance with a contract made between the employer and the principal,

is entitled to be permitted by the principal to take time off during the employee's working hours in order to undertake study or training leading to a relevant qualification.

(4) Where an employee—

(a) is aged 18,

(b) is undertaking study or training leading to a relevant qualification, and

(c) began such study or training before attaining that age,

subsections (1) and (3) shall apply to the employee, in relation to that study or training, as if "or 18" were inserted at the end of subsection (1)(a).

(5) The amount of time off which an employee is to be permitted to take under this section, and the occasions on which and any conditions subject to which time off may be so taken, are those that are reasonable in all the circumstances having regard, in particular, to—

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(a) the requirements of the employee's study or training, and

(b) the circumstances of the business of the employer or the principal and the effect of the employee's time off on the running of that business.

(6) Regulations made for the purposes of subsections (1)(c) and (2) may make different provision for different cases, and in particular may make different provision in relation to England, Wales and Scotland respectively.

(7) References in this section to study or training are references to study or training on the premises of the employer or (as the case may be) principal or elsewhere.

(8) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work."

Marginal Citations

M54 1996 c. 18.
M55 1996 c. 56.
M56 1980 c. 44.
M57 1992 c. 13.
M58 1992 c. 37.

33 Further provisions as to time off for study or training.

After the section 63A inserted in the [M59]Employment Rights Act 1996 by section 32 there shall be inserted—

"63B Right to remuneration for time off under section 63A.

(1) An employee who is permitted to take time off under section 63A is entitled to be paid remuneration by his employer for the time taken off at the appropriate hourly rate.

(2) The appropriate hourly rate, in relation to an employee, is the amount of one week's pay divided by the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day when the time off is taken.

(3) But where the number of normal working hours differs from week to week or over a longer period, the amount of one week's pay shall be divided instead by—

(a) the average number of normal working hours calculated by dividing by twelve the total number of the employee's working hours during the period of twelve weeks ending with the last complete week before the day on which the time off is taken, or

(b) where the employee has not been employed for a sufficient period to enable the calculation to be made under paragraph (a), a number which fairly represents the number of normal working hours in a week having regard to such of the considerations specified in subsection (4) as are appropriate in the circumstances.

(4) The considerations referred to in subsection (3)(b) are—

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(a) the average number of normal working hours in a week which the employee could expect in accordance with the terms of his contract, and

(b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(5) A right to any amount under subsection (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

(6) Any contractual remuneration paid to an employee in respect of a period of time off under section 63A goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

63C Complaints to employment tribunals.

(1) An employee may present a complaint to an employment tribunal that—

(a) his employer, or the principal referred to in subsection (3) of section 63A, has unreasonably refused to permit him to take time off as required by that section, or

(b) his employer has failed to pay the whole or any part of any amount to which the employee is entitled under section 63B.

(2) An employment tribunal shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the day on which the time off was taken or on which it is alleged the time off should have been permitted, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

(3) Where an employment tribunal finds a complaint under this section well-founded, the tribunal shall make a declaration to that effect.

(4) If the complaint is that the employer or the principal has unreasonably refused to permit the employee to take time off, the tribunal shall also order the employer or the principal, as the case may be, to pay to the employee an amount equal to the remuneration to which he would have been entitled under section 63B if the employer or the principal had not refused.

(5) If the complaint is that the employer has failed to pay the employee the whole or part of any amount to which he is entitled under section 63B, the tribunal shall also order the employer to pay to the employee the amount which it finds due to him."

Marginal Citations

M59 1996 c. 18.

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PART IV

MISCELLANEOUS AND GENERAL

Inspection of vocational training, etc: Wales

[F13 34 Inspection of vocational training by HM Chief Inspector of Schools in Wales.

(1) This section applies to training leading to an external qualification which is provided in Wales in pursuance of arrangements made by the Secretary of State under section 2(2)(f) of the M60 Employment and Training Act 1973.

(2) The Chief Inspector shall, if requested to do so by the Secretary of State, arrange for any person providing training to which this section applies to be inspected under this section.

(3) A request by the Secretary of State under this section may relate to one or more such persons, and shall specify—
   (a) the person or persons concerned, and
   (b) the form or forms of vocational training to which the inspection is to relate.

(4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).

(5) Any inspection under this section shall be conducted by one or more of the following, namely—
   (a) any of Her Majesty's Inspectors of Schools in Wales, or
   (b) any additional inspector authorised under paragraph 2 of Schedule 1 to the M61 School Inspections Act 1996;

   but such an inspector or inspectors may be assisted by such other persons (whether or not members of the Chief Inspector's staff) as the Chief Inspector thinks fit.

(6) In conducting an inspection under this section, the inspector or inspectors shall act in accordance with any instructions or guidelines given from time to time by the Secretary of State.

(7) Where an inspection under this section has been completed, the inspector or inspectors shall make a written report on the inspection, and shall send the report to the Secretary of State.

(8) The Secretary of State may arrange for any report of an inspection under this section to be published in such manner as he considers appropriate; and section 42A(2) to (4) of the School Inspections Act 1996 shall apply in relation to the publication of any such report by the Secretary of State as they apply in relation to the publication of a report by the Chief Inspector under any of the provisions mentioned in section 42A(2).

(9) In this section—

   "the Chief Inspector" means Her Majesty's Chief Inspector of Schools in Wales;

   "external qualification" means a vocational qualification awarded or authenticated by such person or body as may be specified in or under regulations.**]**

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Textual Amendments

F13 S. 34 repealed (28.7.2000 for specified purposes otherwise *prosp.*) by 2000 c. 21, ss. 149, 153, 154(5), Sch. 9 para. 76, **Sch. 11**

Marginal Citations

M60 1973 c. 50.

M61 1996 c. 57.

35 Inspection of careers services by HM Chief Inspector of Schools in Wales.

(1) This section applies to relevant services provided in Wales in pursuance of arrangements made or directions given by the Secretary of State under section 10 of the [M62]Employment and Training Act 1973.

(2) The Chief Inspector shall, if requested to do so by the Secretary of State, arrange for any person providing, or arranging for the provision of, relevant services in accordance with such arrangements or directions to be inspected under this section.

(3) An inspection of any such person under this section shall consist of a review of the way in which he is discharging his responsibilities under or by virtue of the arrangements or directions in question, having regard to any guidance given by the Secretary of State with respect to the provision of relevant services.

(4) A request by the Secretary of State under this section may relate to one or more such persons, and shall specify both—

(a) the person or persons concerned, and

(b) the relevant services to which the inspection is to relate.

(5) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (4).

[[F14](6) Any inspection under this section shall be conducted by one or more of the following—

(a) any of Her Majesty's Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru, or

(b) any additional inspector authorised under paragraph 2 of Schedule 1 to the School Inspections Act 1996;

but such an inspector or inspectors may be assisted by such other persons (whether or not members of the Chief Inspector's staff) as the Chief Inspector thinks fit.

(6A) In conducting an inspection under this section, the inspector or inspectors shall act in accordance with any instruction or guidelines given from time to time by the National Assembly for Wales.

(6B) Where an inspection under this section has been completed, the inspector or inspectors shall make a written report on the inspection and shall send the report to the National Assembly for Wales.

(6C) The National Assembly for Wales may arrange for any report of an inspection under this section to be published in such manner as the National Assembly for Wales considers appropriate; and section 42A(2) to (4) of the School Inspections Act 1996 shall apply in relation to the publication of any such report by the National Assembly

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for Wales as they apply to the publication of a report by the Chief Inspector under any of the provisions mentioned in section 42A(2).**]**

(7) In this section— "the Chief Inspector" means Her Majesty's Chief Inspector of Schools in Wales; "relevant services" has the same meaning as in sections 8 and 9 of the [M63]Employment and Training Act 1973 (provision of careers services).

Textual Amendments

F14 S. 35(6)-(6C) substituted for s. 35(6) (28.7.2000 for specified purposes otherwise*prosp.*) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 77**

Marginal Citations

M62 1973 c. 50.

M63 1973 c. 50.

VALID FROM 01/04/2001

[[F15]35A Inspection of other careers services etc. in Wales.

(1) This section applies if a person ("A") who provides a relevant service to which section 35(1) applies also provides education, training or an advisory service—
   (a) in pursuance of arrangements made by the National Assembly for Wales under section 2 of the Employment and Training Act 1973; or
   (b) with the assistance of a grant or loan made under section 12(1) of the Industrial Development Act 1982.

(2) The Chief Inspector for Wales shall, if requested to do so by the National Assembly for Wales, arrange for A to be inspected under this section.

(3) A request may relate to more than one person and shall specify—
   (a) the person or persons concerned, and
   (b) the education, training or advisory service to which the inspection is to relate.

(4) An inspection under this section is to consist of a review of the way in which A is providing the education, training or advisory service specified in the request.

(5) Before making a request, the National Assembly for Wales must consult the Chief Inspector for Wales as to the matters to be specified in the request.

(6) Subsections (6) to (6C) of section 35 apply in relation to an inspection under this section as they apply in relation to an inspection under that section.

(7) In this section "the Chief Inspector for Wales" means Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.**]**

Textual Amendments

F15 S. 35A inserted (1.4.2001 for W.) by 2000 c. 21, **ss. 81**, 154(2); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

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Funding Councils: England, Wales and Scotland

36 Power of funding councils in England and Wales to secure provision of certain further education.

(1) Section 3 of the [M64]Further and Higher Education Act 1992 (functions with respect to part-time education and full-time education for those over 18) shall be amended as follows.

(2) For subsection (3) there shall be substituted—

"(3) A council may secure the provision of facilities for education within paragraph (a) or (b) of subsection (1) above—

(a) for the population of their area, where they are not required to do so by virtue of that subsection, or

(b) for other persons."

(3) In subsection (5), for "to which subsection (1) above applies" there shall be substituted " within paragraph (a) or (b) of subsection (1) above ".

Marginal Citations

M64 1992 c. 13.

37 Joint exercise of functions of funding councils in Scotland.

Before section 60 of the [M65]Further and Higher Education (Scotland) Act 1992 there shall be inserted—

"59A **Joint exercise of certain functions.**

(1) The Scottish Higher Education Funding Council and the Scottish Further Education Funding Council ("the councils") may, with the approval of the Secretary of State, enter into arrangements for the joint discharge of such of their functions as may be so approved.

(2) Without prejudice to the generality of subsection (1) above, arrangements under that subsection may include arrangements—

(a) for an individual to hold appointments as both—

(i) the chief officer of the Scottish Higher Education Funding Council under paragraph 2 of Schedule 7 to this Act; and

(ii) an equivalent officer under an order under section 7 of this Act establishing the Scottish Further Education Funding Council;

(b) for such functions to be carried out by—

(i) a joint committee of the councils,

(ii) a member of either of the councils, or

(iii) an officer or employee of the councils or of either of them;

(c) permitting the creation by the councils of a body corporate to carry out such of their functions to which such arrangements relate as the councils may delegate to it;

(d) for staff to be employed jointly by the councils;

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(e) for the staff of either of the councils—

(i) to carry out such functions on behalf of the other council;

(ii) to be transferred to any body corporate created in accordance with such arrangements.

(3) Where a body corporate is created by virtue of subsection (2)(c) above—

(a) employment with that body shall be included among the kinds of employment to which a scheme under section 1 of the [M66]Superannuation Act 1972 can apply; and

(b) the councils shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to paragraph (a) above in the sums payable out of money provided by Parliament under that Act.

(4) In this section—

"functions" includes powers and duties; and

"joint committee" includes any sub-committee of such a committee."

Marginal Citations

M65 1992 c. 37.

M66 1972 c. 11.

38 Scottish Further Education Funding Council: "relevant body" for purposes of s. 19(5) of Disability Discrimination Act 1995.

In section 19(6) of the Disability Discrimination Act 1995 (meaning of "relevant body" for the purposes of section 19(5)), after paragraph (f) there shall be inserted—

"(ff) the Scottish Further Education Funding Council established by an order under section 7(1) of the Further and Higher Education (Scotland) Act 1992;".

Further and higher education institutions: England and Wales

39 Unauthorised use of "university" in title of educational institution, etc.

(1) A relevant institution in England or Wales shall not, when making available (or offering to make available) educational services, do so under a name which includes the word "university" unless the inclusion of that word in that name is—

(a) authorised by or by virtue of any Act or Royal Charter, or

(b) approved by the Privy Council for the purposes of this section.

(2) A person carrying on such an institution shall not, when making available (or offering to make available) educational services through the institution, use with reference either to himself or the institution a name which includes the word "university" unless the inclusion of that word in that name is authorised or approved as mentioned in subsection (1).

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(3) Subsection (1) or (2) applies where the educational services are made available, or (as the case may be) the offer to make such services available is made, in any part of the United Kingdom.

(4) For the purposes of subsection (1) or (2) the inclusion of the word "university" in any name shall not be taken to be authorised by or by virtue of a Royal Charter relating to a university by reason of any provision of the Charter with respect to—
  (a) the affiliation or association of other institutions to the university, or
  (b) the accreditation by the university of educational services provided by other institutions.

(5) In approving the inclusion of the word "university" in any name for the purposes of this section the Privy Council shall have regard to the need to avoid names which are or may be confusing.

(6) The Privy Council's power of approval under subsection (1) or (2) shall not be exercisable in a case where the inclusion of the word "university" in the name in question may be authorised by virtue of any other Act or any Royal Charter.

(7) In this section— "relevant institution" means an institution within the further education sector or the higher education sector as defined by section 91(3) or (5) of the [M67]Further and Higher Education Act 1992; "university", in the context of the reference in subsection (4) to a Royal Charter relating to a university, has the meaning given by section 90(3) of that Act.

Marginal Citations
M67 1992 c. 13.

40 University college, etc., not to be treated as university.

At the end of section 77(4) of the Further and Higher Education Act 1992 (use of "university" in title of institution), there shall be added " , unless in that name that word is immediately followed by the word "college" or "collegiate". "

41 Charitable status of further and higher education corporations.

(1) After section 125 of the [M68]Education Reform Act 1988 there shall be inserted—

"**125A Charitable status of a higher education corporation.**

(1) A higher education corporation shall be a charity which is an exempt charity for the purposes of the [M69]Charities Act 1993.

(2) So far as it is a charity, any institution which—
  (a) is administered by or on behalf of any higher education corporation, and
  (b) is established for the general purposes of, or for any special purpose of or in connection with, that corporation,

shall also be an exempt charity for the purposes of the Charities Act 1993.

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(3) In this section "charity" and "institution" have the same meaning as in the Charities Act 1993."

(2) After section 22 of the Further and Higher Education Act 1992 there shall be inserted—

"**22A Charitable status of a further education corporation.**

(1) A further education corporation shall be a charity which is an exempt charity for the purposes of the Charities Act 1993.

(2) So far as it is a charity, any institution which—
(a) is administered by or on behalf of any further education corporation, and
(b) is established for the general purposes of, or for any special purpose of or in connection with, that corporation,
shall also be an exempt charity for the purposes of the [M70]Charities Act 1993.

(3) In this section "charity" and "institution" have the same meaning as in the Charities Act 1993."

Marginal Citations
M68 1988 c. 40.
M69 1993 c. 10.
M70 1993 c. 10.

General

42 Orders and regulations.

(1) Any power of the Secretary of State to make an order or regulations under this Act shall be exercised by statutory instrument.

(2) A statutory instrument containing—
(a) an order under section 7 or 8, or
(b) (subject to the following provisions of this section) any regulations under this Act,
shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Subsection (2) does not apply to the first regulations to be made—
(a) in relation to the Council under section 1(5), or
(b) in relation to the General Teaching Council for Wales under section 1(5) as applied by an order under section 8(1),
and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(4) Subsection (2) does not apply to the first regulations to be made under section 22; and no such regulations shall be made (whether alone or with other regulations) unless a

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draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(5) That subsection also does not apply to—

(a) any regulations in relation to which paragraph (b) of section 22(7) applies, or

(b) any other regulations under section 22 a draft of which has been laid before, and approved by a resolution of, each House of Parliament.

(6) Any order 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 Secretary of State thinks fit.

(7) Any order or regulations under this Act may make different provision in relation to England and Wales respectively.

(8) Nothing in this Act shall be read as affecting the generality of subsection (6).

(9) Once the Council or (as the case may be) the General Teaching Council for Wales have been established, the Secretary of State shall, before making regulations under Chapter I of Part I of this Act, consult the Council to which the regulations will relate.

43 General interpretation.

(1) In this Act— "the Council" means the body corporate referred to in section 1(1); "functions" includes powers and duties; "modifications" includes additions, alterations and omissions, and "modify" shall be construed accordingly; "prescribed" means prescribed by regulations; "registered teacher" means (subject to paragraph 8 of Schedule 2) a person for the time being registered under section 3; "regulations" means regulations made by the Secretary of State under this Act.

(2) In the following provisions of this Act, namely—

(a) sections 12, 15 and 19, and

(b) Schedule 2,

"employer", in relation to a teacher, includes a local education authority, governing body or other person who engage (or make arrangements for the engagement of) that person to provide his services as a teacher otherwise than under a contract of employment, and "employed", "employment" and any expressions relating to the termination of employment shall be construed accordingly.

44 Minor and consequential amendments and repeals.

(1) The minor and consequential amendments set out in Schedule 3 shall have effect.

(2) The enactments specified in Schedule 4 are repealed to the extent specified.

Commencement Information

I8 S. 44 partly in force; s. 44 not in force at Royal Assent; s. 44(1) in force for certain purposes at 18.7.1998 by S.I. 1998/1729, **art. 2**; s. 44(2) in force for certain purposes at 13.8.1998 by S.I. 1998/2004, **art. 2**; s. 44(1)(2) in force at 1.10.1998 for certain purposes by S.I. 1998/2215, **art. 2**; s. 44(2) in force at 1.1.1999 for certain purposes by S.I. 1998/3237, **art. 2(1)** (subject to savings in art. 3 and 4) and art. 2(2); s. 44(1) in force at 1.9.1999 so far as it relates to Sch. 3 paras. 10-14 by S.I. 1999/987, **art. 2**; s. 44(1) in force at 1.9.2000 for certain purposes by 2000/970, art. 3

Status: *Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Teaching and Higher Education Act 1998 is up to date with all changes known to be in force on or before 07 August 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)*

45 Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M71]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of sections 22 to 26 and 28 or sections 32 and 33—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M71 1974 c. 28.

46 Short title, commencement and extent.

(1) This Act may be cited as the Teaching and Higher Education Act 1998.

(2) This Act shall be included in the list of Education Acts set out in section 578 of the [M72]Education Act 1996.

(3) In this Act—

sections 22 to 31,

sections 42 and 43,

section 45, and

this section,

come into force on the day on which this Act is passed.

(4) The remaining provisions of 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.

(5) Subject to subsections (6) to (9), this Act extends to England and Wales only.

(6) The following provisions extend to Scotland only—

sections 16 and 17,

section 21,

sections 29 and 30, except that subsections (3) and (11) of section 73B, and section 73A so far as relating to any function exercisable by virtue of those subsections, of the [M73]Education (Scotland) Act 1980 (which are inserted by section 29) shall also extend to England and Wales and Northern Ireland,

section 31, and

sections 37 and 38.

(7) The following provisions also extend to Scotland—

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section 22 so far as relating to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (5) of that section,

section 23 so far as relating to any function exercisable by virtue of any provision so authorised,

sections 32 and 33,

section 39,

section 42, and

this section.

(8) The following provisions extend to Northern Ireland—

section 22 so far as relating to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (5) of that section,

section 23 so far as relating to any function exercisable by virtue of any provision so authorised,

section 39,

section 45, and

this section.

(9) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Subordinate Legislation Made

P1 S. 46(4) power partly exercised (17.7.1998): 18.7.1998 appointed for specified provisions by S.I. 1998/1729
S. 46(4) power partly exercised (12.8.1998): 13.8.1998 appointed for specified provisions by S.I. 1998/2004
S. 46(4) power partly exercised (3.9.1998): 1.10.1998 and 1.4.1999 appointed for specified provisions by S.I. 1998/2215
S. 46(4) power partly exercised (21.12.1998): 1.1.1999, 1.2.1999 and 1.4.1999 appointed for specified provisions by S.I. 1998/3237
s. 46(4) power partly exercised (24.3.1999): 1.9.1999 appointed for specified provisions by S.I. 1999/987, **art. 2**
S. 46(4) power partly exercised: different dates appointed for specified provisions by S.I. 2000/970, **arts. 2**, 3
S. 46(4) power partly exercised: 15.8.2000 appointed for specified provisions by S.I. 2000/2199, **art. 2**
S. 46(4) power partly exercised: different dates appointed for specified provisions by S.I. 2001/1211, **arts. 2-4**

Marginal Citations

M72 1996 c. 56.
M73 1980 c. 44.

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SCHEDULES

[F16]SCHEDULE 1

Section 1(9).

GENERAL TEACHING COUNCIL FOR ENGLAND

Textual Amendments

F16 Sch. 1 applied (with modifications) (30.12.1998) by S.I. 1998/2911, **art.3** (as amended (31.3.2003) by 2002/2940, art. 2)

Status of Council

1 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.

Powers

2 (1) The Council may, subject to sub-paragraph (3), do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.

(2) In particular, the Council may—

(a) acquire and dispose of land or other property;
(b) enter into contracts;
(c) invest sums not immediately required for the purpose of carrying out their functions;
(d) accept gifts of money, land or other property;
(e) form bodies corporate or associated or other bodies which are not bodies corporate;
(f) enter into joint ventures with other persons;
(g) subscribe for shares and stock; and
(h) borrow money.

(3) The consent of the Secretary of State is required for the exercise of any power conferred by sub-paragraph (2)(e), (f), (g) or (h).

Chairman and members of Council

3 (1) Regulations may make provision with respect to—

(a) the appointment or election of one of the members of the Council to be chairman of the Council,
(b) the period for which the chairman is to hold office, and
(c) the appointment or election and tenure of office of, and the vacation of office by, members of the Council.

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(2) Regulations made under this paragraph before the establishment of the Council may enable the Secretary of State to make provision with respect to any of the matters referred to in sub-paragraph (1); but regulations made under this paragraph after the Council have been established may authorise the Council to make rules with respect to any such matters.

Salaries, allowances, pensions and other payments

4 (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 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) The Council may pay to the employer of a person who is a member of the Council (or a member of any of their committees but not a member of the Council) such compensation in respect of the loss of that person's services as the Secretary of State may determine.

Staff

5 (1) The Council may (subject to sub-paragraph (5)) appoint a chief officer and such other 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) requires the approval of the Secretary of State.

(5) The Secretary of State shall appoint the first chief officer who shall be employed on such terms and conditions as the Secretary of State may determine.

6 (1) The Council, with the consent of the Secretary of State, may—

(a) pay, or make payments in respect of, pensions or gratuities to or in respect of employees or former employees;

(b) provide and maintain such schemes (whether contributory or not) for the payment of pensions and gratuities to or in respect of employees or former employees.

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(2) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.

(3) If any person—

(a) on ceasing to be employed by the Council, becomes or continues to be one of their members, and

(b) was, by reference to his employment, a participant in a pension scheme maintained by the Council,

the Council may, with the consent of the Secretary of State, make provision for that person to continue to participate in that scheme, on such terms and conditions as they may with the consent of the Secretary of State determine, as if his service as a member were service as an employee; and any such provision shall be without prejudice to paragraph 4.

7 (1) Employment with the Council shall be included among the kinds of employment to which a scheme under section 1 of the [M74]Superannuation Act 1972 can apply.

(2) The Council shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

(3) 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 Secretary of State may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee (whether or not any benefits are payable to or in respect of him by virtue of paragraph 4).

Marginal Citations

M74 1972 c. 11.

Finance

8 The Secretary of State may make grants to the Council of such amounts and subject to such terms and conditions as he may determine.

Committees

9 (1) The Council—

(a) may establish a committee for any purpose; and

(b) if so required by regulations, shall establish such committees for such purposes as are specified in the regulations.

(2) Subject to sub-paragraph (3), the Council shall determine the number of members which a committee established under this paragraph are to have, and the terms on which they are to hold and vacate office.

(3) Regulations under sub-paragraph (1)(b) may make provision as to—

(a) the membership of a committee established under the regulations;

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(b) the terms on which such a committee's members are to hold and vacate office; and

(c) the procedure of any such committee;

and such regulations may authorise the Council to make provision with respect to any matter as to which provision may be made by those regulations.

(4) Subject to such conditions as may be imposed by such regulations, the Council may include on a committee persons who are not members of the Council.

Delegation of functions

10 (1) The Council may authorise the chairman, the chief officer or any committee established under paragraph 9 to exercise such of their functions as they may determine.

(2) Sub-paragraph (1) has effect without prejudice to any power to authorise an employee of the Council to carry out any of the Council's activities on behalf of the Council.

Proceedings

11 (1) The following persons, namely—

(a) two representatives of the Secretary of State, and

(b) one representative of such body as the Secretary of State may designate,

shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Council or of any committee of the Council.

(2) 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.

12 The validity of the Council's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.

13 Subject to the preceding provisions of this Schedule, the Council may regulate their own procedure and that of any of their committees.

Accounts

14 (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 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 require to be provided for the information of Parliament.

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(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.

(4) In this paragraph "financial year" means the period beginning with the date on which the Council are established and ending with the 31st March following that date, and each successive period of twelve months.

Modifications etc. (not altering text)

C4 Sch. 1 para. 14: functions transferred (1.8.2001) by S.I. 2001/2479, **art. 2(1)**

C5 Sch. 1 para. 14(3) modified (1.8.2001) by S.I. 2001/2479, **art. 2(2)**

Annual reports

15 The Council—

(a) shall make an annual report to the Secretary of State, who shall lay a copy of it before each House of Parliament; and

(b) may arrange for any such report to be published in such manner as the Council consider appropriate.

Application of seal and proof of instruments

16 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.

17 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.

VALID FROM 01/10/2002

Power to amend Schedule

[F17 18 (1) The Secretary of State may by order amend the preceding provisions of this Schedule for the purpose of removing or relaxing any control exercisable by him by virtue of any of the provisions of this Schedule specified in sub-paragraph (2).

(2) Those provisions are—

(a) paragraph 2(3),

(b) paragraph 4,

(c) paragraph 5,

(d) paragraph 6,

(e) paragraph 11

(f) paragraph 14(2).]

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Textual Amendments

F17 Sch. 1 para. 18 inserted (1.10.2002 for E. and otherwise *prosp.*) by 2002 c. 32, ss. 148, 216, **Sch. 12 para. 11** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**

VALID FROM 28/02/2001

SCHEDULE 2

Section 6.

DISCIPLINARY POWERS OF COUNCIL

. . . . . .

SCHEDULE 3

Section 44(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/09/2000

Public Records Act 1958 (c.51)

1 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), insert at the appropriate places—

"General Teaching Council for England."

"General Teaching Council for Wales."

VALID FROM 01/09/2000

Superannuation Act 1972 (c.11)

2 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which schemes may apply), in the list of "Other Bodies", insert at the appropriate places—

"A body corporate created by virtue of section 59A(2)(c) of the Further and Higher Education (Scotland) Act 1992."

"General Teaching Council for England."

"General Teaching Council for Wales."

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VALID FROM 01/09/2000

House of Commons Disqualification Act 1975 (c.24)

3 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) insert at the appropriate places—

"Any member of the General Teaching Council for England in receipt of remuneration."

"Any member of the General Teaching Council for Wales in receipt of remuneration."

Education (Scotland) Act 1980 (c.44)

4 In section 133 of the Education (Scotland) Act 1980 (regulations)—

(a) in subsection (2), at the beginning insert " Subject to subsections (2A) and (2B) below, "; and

(b) after subsection (2) insert—

"(2A) Subsection (2) above shall not apply to the first regulations to be made under section 73(f) of this Act with respect to loans; and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(2B) Subsection (2) above shall not apply to any regulations under section 73(f) of this Act with respect to loans, other than the regulations mentioned in subsection (2A) above, where a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament."

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

5 In section 1(6) of the Education (Fees and Awards) Act 1983 (fees at further education establishments), for "section 27(6) of the Education Act 1980" substitute " section 218(9) of the Education Reform Act 1988 ".

Education Reform Act 1988 (c.40)

6 In section 232(6) of the Education Reform Act 1988 (orders and regulations: provision for Wales) omit "other than section 218(1)(b) or (c), (5) or (6)".

Further and Higher Education Act 1992 (c.13)

7 In section 17 of the Further and Higher Education Act 1992 ("further education corporation" and "operative date"), at the end of subsection (1) add "or which has become a further education corporation by virtue of section 47 of this Act".

8 In section 90(3) of that Act (interpretation), after " "university"" insert " (except where the context otherwise requires) ".

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Charities Act 1993 (c.10)

9 In section 3 of the Charities Act 1993 (the register of charities), after subsection (5) insert—

"(5A) In subsection (5) above, paragraph (a) shall be read as referring also to—

(a) any higher education corporation within the meaning of the Education Reform Act 1988, and

(b) any further education corporation within the meaning of the Further and Higher Education Act 1992."

Employment Rights Act 1996 (c.18)

10 After section 47 of the Employment Rights Act 1996 insert—

"**47A Employees exercising right to time off work for study or training.**

(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer or the principal (within the meaning of section 63A(3)) done on the ground that, being a person entitled to—

(a) time off under section 63A(1) or (3), and

(b) remuneration under section 63B(1) in respect of that time taken off,

the employee exercised (or proposed to exercise) that right or received (or sought to receive) such remuneration.

(2) Except where an employee is dismissed in circumstances in which, by virtue of section 197, Part X does not apply to the dismissal, this section does not apply where the detriment in question amounts to dismissal (within the meaning of that Part)."

11 In section 48 of that Act (complaints to employment tribunals)—

(a) in subsection (1) for "46 or 47" substitute " 46, 47 or 47A "; and

(b) at the end insert—

"(5) In this section and section 49 any reference to the employer includes, where a person complains that he has been subjected to a detriment in contravention of section 47A, the principal (within the meaning of section 63A(3))."

12 In section 58 of that Act (right to time off for occupational pension scheme trustees), at the end of subsection (3) add ", and

(c) references to training are to training on the employer's premises or elsewhere."

13 In section 104 of that Act (assertion of statutory right) at the end insert—

"(5) In this section any reference to an employer includes, where the right in question is conferred by section 63A, the principal (within the meaning of section 63A(3))."

14 In section 225 of that Act (rights during employment), after subsection (4) insert—

"(4A) Where the calculation is for the purposes of section 63B, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted."

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Education Act 1996 (c.56)

15 In section 578 of the Education Act 1996 (meaning of "the Education Acts"), insert at the appropriate place—

"the Teaching and Higher Education Act 1998".

SCHEDULE 4

Section 44(2).

REPEALS

Commencement Information

I13 Sch. 4 partly in force; Sch. 4 not in force at Royal Assent; Sch. 4 in force for specified repeals at 13.8.1998 by S.I. 1998/2004, **art. 2** (subject to savings in arts. 3-7); Sch. 4 in force for specified repeals at 1.10.1998 by S.I. 1998/2215, **art. 2**; Sch. 4 in force for specified repeals at 1.1.1999 by S.I. 1998/3237, **art. 2(1)** (subject to savings in arts. 3 and 4) and art 2(2)

Chapter	Short title	Extent of repeal
1962 c. 12.	Education Act 1962.	The whole Act.
1973 c. 16.	Education Act 1973.	Section 3.
1980 c. 20.	Education Act 1980.	Section 19.
		Schedule 5.
1983 c. 40.	Education (Fees and Awards) Act 1983.	In section 2(3), paragraph (a) and in paragraph (b) the word "other".
1988 c. 40.	Education Reform Act 1988.	Section 209.
		In section 218(1)(c), the words "schools and".
		In section 232(6), the words "other than section 218(1)(b) or (c), (5) or (6)".
1990 c. 6.	Education (Student Loans) Act 1990.	The whole Act.
1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraphs (h) and (j).
1996 c. 9.	Education (Student Loans) Act 1996.	The whole Act.
1996 c. 56.	Education Act 1996.	In section 578, the entries relating to the Education Act 1962 and the Education (Student Loans) Acts of 1990, 1996 and 1998.

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		In Schedule 37, paragraphs 4 to 7 and 98.
1998 c. 1.	Education (Student Loans) Act 1998.	The whole Act.

Status:
Point in time view as at 28/07/2000. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Teaching and Higher Education Act 1998 is up to date with all changes known to be in force on or before 07 August 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.