

# LEARNING AND SKILLS ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 9: Amendments*

#### **Amendments to the Further and Higher Education Act 1992**

238. **Paragraph 20** repeals sections 1 to 9 of the Further and Higher Education Act 1992 which, together with Schedules 1 and 2 to that Act, refer to the establishment of the FEFCs and their functions.
239. **Paragraphs 36 and 45** provide for section 60A and Schedule 5A (inserted into the 1992 Act by the School Standards and Framework Act 1998) to cease to have effect. These provisions allowed for partnership arrangements in Wales between LEAs and the governing bodies of FE institutions for the purpose of securing secondary education for 16 to 18 year olds. These provisions will no longer be required when section 142 comes into force.
240. **Paragraph 22** amends section 19(4) to enable FE corporations to form companies. The power may not be exercised for the purpose of providing education or of conducting an educational institution: this is the responsibility of the FE corporation.
241. **Paragraphs 23 and 24** amend sections 22 and 29 of the 1992 Act to make provision for the Secretary of State or the National Assembly not only to modify (as now) but to replace or revoke any instrument of government of FE corporations or designated institutions. Provision is also made for the Secretary of State (or the National Assembly) to modify, replace or revoke articles of government for FE corporations. At present he may only direct corporations to carry out modifications to articles and may not modify them himself. This provision will enable the consolidation of colleges' original instruments and articles of government with subsequent modifications.
242. Section 44 of the Further and Higher Education Act 1992 provides that sixth form colleges in the FE sector should provide an act of collective worship at least once each week. At subsection (3), provision is made to ensure that, at institutions of a voluntary origin, this collective worship should comply with any trust deed and reflect the religious traditions and practices of the institution before it entered the sector. Section 45 of the 1992 Act provides similarly for the provision of religious education. **Paragraphs 27 and 28** correct certain technical defects in these provisions. In particular, the amended sections 44 and 45 would apply to any new 16 to 19 institutions that may enter the FE sector in future, by allowing the Secretary of State to designate an institution for the purposes of those sections. The amended sections will also apply to institutions created through the merger of existing institutions which fall within the definitions of the new subsections (2)(a) to (2)(c) of section 44.
243. The LSC and CETW have a duty under sections 2 and 32 of this Act to secure provision to meet the reasonable needs of 16 to 19 year olds, whether full-time or part-time. **Paragraph 29** amends section 52 of the 1992 Act (duty to provide for named individuals) to ensure that the Councils will, as a last resort, be able to require an FE

*These notes refer to the Learning and Skills Act 2000  
(c.21) which received Royal Assent on 28 July 2000*

institution to secure provision for an individual, even where that individual's needs are for part-time provision.

244. The definition of education and training brought within the remits of ALI, HMCI for England and HMCI for Wales through the powers and duties provided by Parts III and IV of this Act encompasses education provided by LEAs. As a consequence the specific duties in section 55 of the Further and Higher Education Act 1992 for the Chief Inspectors in England and Wales to inspect LEA provision are redundant, and the amendment made by **paragraph 32** means that they cease to have effect. However LEAs will retain a duty to keep the quality of its education provision under review.
245. **Paragraph 34** replaces section 57 of the 1992 Act with revised arrangements in relation to the Secretary of State's powers of intervention in FE sector colleges. The Secretary of State may intervene if he is satisfied that there has been mismanagement at the college, if the educational provision has been assessed by HMCI or ALI as being seriously weak or to be failing, if a governing body fails to discharge a duty, or if it acts or proposes to act unreasonably in the exercise of its functions. The Secretary of State may act either on the recommendation of the LSC or on his own account. If he is satisfied that intervention is warranted, the Secretary of State may remove any or all of the governors of the college, may make appointments to any vacancies on the governing body as he sees fit and may issue directions. These powers apply to the National Assembly, the Inspectorate for Wales and the CETW.
246. **Paragraph 44(3)** amends paragraph 5 of Schedule 4 to the 1992 Act to provide that the instrument and articles of government of a FE corporation may allow delegation of functions of the corporation to the principal of the institution.