



Learning and Skills Act 2000

2000 CHAPTER 21

PART V

MISCELLANEOUS AND GENERAL

Further Education Funding Councils

89 Dissolution of FEFC for England

- (1) On the appointed day—
 - (a) the Further Education Funding Council for England shall be dissolved, and
 - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the Learning and Skills Council for England.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

90 Preliminary transfers: FEFC for England

- (1) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of the Further Education Funding Council for England to any of the listed transferees.
- (2) The listed transferees are—
 - (a) the Secretary of State;
 - (b) Her Majesty's Chief Inspector of Schools in England;
 - (c) the Adult Learning Inspectorate.
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.

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- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) The day specified by a scheme under this section for the scheme to come into force must fall before the day appointed under section 154 for the commencement of section 89.

91 Dissolution of FEFC for Wales

- (1) On the appointed day—
 - (a) the Further Education Funding Council for Wales shall be dissolved, and
 - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the National Council for Education and Training for Wales.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

Other transfers

92 Transfers: England

- (1) The Secretary of State may make a scheme providing for the transfer of any of his property, rights and liabilities to any of the listed persons.
- (2) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of a listed person to any other listed person.
- (3) The Secretary of State may make a scheme providing for the transfer to any listed person of any of the property, rights and liabilities of a person with whom the Secretary of State has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (4) The listed persons are—
 - (a) the Learning and Skills Council for England;
 - (b) Her Majesty’s Chief Inspector of Schools in England;
 - (c) the Adult Learning Inspectorate.
- (5) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (6) A scheme under this section comes into force on the day it specifies for it to come into force.
- (7) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (8) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.

- (9) The day specified by a scheme under subsection (2) or (3) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.
- (10) A scheme under subsection (3) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

93 Transfers: Wales

- (1) The National Assembly for Wales may make a scheme providing for the transfer of any of its property, rights and liabilities to the National Council for Education and Training for Wales.
- (2) The National Assembly may make a scheme providing for the transfer to the Council of any of the property, rights and liabilities of a person with whom the National Assembly has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the National Assembly thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.
- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (7) The day specified by a scheme under subsection (2) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (8) A scheme under subsection (2) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

Transfers: further provision

94 Stamp duty

- (1) A transfer effected by virtue of section 89 or 91 is not to give rise to liability to stamp duty.
- (2) Stamp duty is not to be chargeable on a scheme made under section 90, 92 or 93.

95 Contracts of employment

- (1) This section applies if rights and liabilities under a contract of employment are transferred by virtue of—
 - (a) section 89 or 91, or

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- (b) a scheme under section 90, 92 or 93.
- (2) Anything done by or in relation to the transferor in respect of the employee before the day on which the transfer takes effect is to be treated on and after that day as done by or in relation to the transferee.
- (3) For the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc) the employee is not to be regarded as having been dismissed by virtue of the transfer.
- (4) For the purposes of that Act the employee's period of employment with the transferor is to count as a period of employment with the transferee, and the change of employment is not to break the continuity of the period of employment.
- (5) The preceding provisions do not prejudice any right of the employee to terminate the contract of employment if a substantial change is made to his detriment in his working conditions, but no such right arises by reason only of the change in employer effected by the transfer.
- (6) For the purposes of this section—
 - (a) the transferor is the person from whom the rights and liabilities are transferred;
 - (b) the transferee is the person to whom the rights and liabilities are transferred.

External qualifications

96 Persons under 19

- (1) This section applies to a course of education or training—
 - (a) which is provided (or proposed to be provided) by or on behalf of a school or institution or employer,
 - (b) which leads to an external qualification, and
 - (c) which is provided (or proposed to be provided) for pupils who are of compulsory school age or for pupils who are above that age but have not attained the age of 19.
- (2) Unless the external qualification is approved under section 98 or 99, the course must not be—
 - (a) funded by an authorised body (as defined in section 100), or
 - (b) provided by or on behalf of a maintained school.
- (3) In relation to a maintained school, the local education authority and the governing body must carry out their functions with a view to securing that subsection (2)(b) is not contravened.
- (4) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (5) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;

- (e) a course for the Certificate in Education.
- (6) A qualification is awarded by an outside person if it is awarded by a person other than—
 - (a) the school or institution or employer, or
 - (b) a member of the staff of the school or institution or employer.
- (7) A qualification is authenticated by an outside person if it is awarded by the school or institution or employer and is authenticated by a person other than—
 - (a) the school or institution or employer, or
 - (b) a member of the staff of the school or institution or employer.
- (8) These are maintained schools—
 - (a) a community, foundation or voluntary school;
 - (b) a community or foundation special school.

97 Persons over 19

- (1) This section applies if an institution or employer—
 - (a) receives financial resources from an authorised body (as defined in section 100), and
 - (b) provides for persons who have attained the age of 19 a course of education or training which leads to an external qualification.
- (2) The authorised body must carry out its functions with a view to securing that, unless the external qualification is approved under section 98 or 99, the institution or employer does not make a payment which—
 - (a) is a payment in respect of the qualification,
 - (b) is made to the outside person who awards or authenticates the qualification, and
 - (c) can reasonably be said to consist of or come from the financial resources received from the authorised body (or those resources and others).
- (3) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (4) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;
 - (e) a course for the Certificate in Education.
- (5) A qualification is awarded by an outside person if it is awarded by a person other than the institution or employer or a member of its or his staff.
- (6) A qualification is authenticated by an outside person if it is awarded by the institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.
- (7) A payment in respect of a qualification includes a payment in respect of—
 - (a) devising, administering, verifying or certifying the qualification;

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- (b) setting or moderating examinations for the purposes of the qualification;
- (c) registering, assessing or examining candidates.

98 Approved qualifications: England

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England.
- (2) A qualification is approved at a given time if—
 - (a) it is then approved by the Secretary of State, or
 - (b) it is then approved by a body then designated by him for the purposes of this section.
- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the Secretary of State consents to the approval.
- (5) The Secretary of State may at any time revoke—
 - (a) a designation;
 - (b) an approval given by him;
 - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.
- (7) If the Secretary of State asks the Qualifications and Curriculum Authority to do so, it must advise him on any approval he proposes to give under subsection (2)(a).
- (8) If a designated body asks the Qualifications and Curriculum Authority to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

99 Approved qualifications: Wales

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales.
- (2) A qualification is approved at a given time if—
 - (a) it is then approved by the National Assembly for Wales, or
 - (b) it is then approved by a body then designated by the National Assembly for the purposes of this section.
- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the National Assembly consents to the approval.
- (5) The National Assembly may at any time revoke—
 - (a) a designation;
 - (b) an approval given by the National Assembly;
 - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.

- (7) If the National Assembly asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the National Assembly on any approval the National Assembly proposes to give under subsection (2)(a).
- (8) If a designated body asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

100 Authorised bodies

- (1) For the purposes of sections 96 and 97 in their application to England these are authorised bodies—
 - (a) the Learning and Skills Council for England;
 - (b) a local education authority;
 - (c) a body specified by order by the Secretary of State for the purposes of this section.
- (2) For the purposes of sections 96 and 97 in their application to Wales these are authorised bodies—
 - (a) the National Council for Education and Training for Wales;
 - (b) a local education authority;
 - (c) a body specified by order by the National Assembly for Wales for the purposes of this section.

101 Enforcement: England

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England, and it applies if the Secretary of State is satisfied that—
 - (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
 - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
 - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.
- (2) The Secretary of State may give such directions to the authority or body as he thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.
- (4) A specified body is a body specified under section 100(1)(c).

102 Enforcement: Wales

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales, and it applies if the National Assembly for Wales is satisfied that—
 - (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
 - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
 - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.

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- (2) The National Assembly may give such directions to the authority or body as it thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.
- (4) A specified body is a body specified under section 100(2)(c).

103 Amendments relating to external qualifications

- (1) The Education Act 1997 shall be amended as follows.
- (2) In section 24 (functions of Qualifications and Curriculum Authority in relation to external qualifications) in subsection (2) for paragraphs (h) and (i) substitute—
 - “(gg) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.”
- (3) In subsection (3) of section 24 for “(g)” substitute “(gg)”.
- (4) In section 30 (functions of Qualifications, Curriculum and Assessment Authority for Wales in relation to external qualifications)—
 - (a) in subsection (1) omit “or by subsection (3)”;
 - (b) in subsection (2) for “(g)” substitute “(gg)”;
 - (c) omit subsection (3).
- (5) In section 37 (requirement for approval of certain courses leading to external qualifications) omit subsections (1) to (4) and in subsection (5) the words “, which are superseded by this section,”.

Qualifying accounts and arrangements

104 Qualifying accounts

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires an account to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the account to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
 - (a) conditions as to the description of individual who may hold an account;
 - (b) conditions as to the description of institution with which an account may be held;
 - (c) conditions requiring an account not to be a joint one, or not to be held on behalf of a person other than the holder, or not to be held with another account of a specified description, or not to be connected with another account;
 - (d) conditions requiring an account to be identified by a specified name.
- (4) Conditions as to the description of institution with which an account may be held may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.

- (5) The regulations may provide that a specification of a description of institution with which an account may be held may include a requirement for institutions to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.
- (6) The regulations may contain provision securing that an individual may not simultaneously hold more than one account which qualifies under this section.
- (7) The power to make regulations under this section is to be exercised by the Scottish Ministers so far as those regulations are to have effect for the purposes of any provision of, or made under, an Act of the Scottish Parliament authorising grants to be paid to, or in respect of, individuals in connection with their education or training; and for this purpose references in this section to the Secretary of State are to be treated as references to the Scottish Ministers.
- (8) For the purposes of this section an enactment includes an Act of the Scottish Parliament.

105 Qualifying arrangements

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
 - (a) conditions as to the description of individual who may enter into arrangements;
 - (b) conditions as to the description of body with which arrangements may be made;
 - (c) conditions as to the nature of the arrangements and the way they are to be made;
 - (d) conditions requiring the arrangements to be identified by a specified name.
- (4) Conditions as to the description of body with which arrangements may be made may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.
- (5) The regulations may provide that a specification of a description of body with which arrangements may be made may include a requirement for bodies to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.
- (6) The regulations may contain provision securing that an individual may not simultaneously—
 - (a) be a party to more than one set of arrangements which qualify under this section, or
 - (b) be a party to arrangements which qualify under this section and to arrangements falling within subsection (7).
- (7) Arrangements fall within this subsection if they are—
 - (a) arrangements which qualify under such provision of the law of Scotland as in the opinion of the Secretary of State corresponds to this section, or

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- (b) arrangements which qualify under section 106.

106 Qualifying arrangements: Northern Ireland

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Department of Higher and Further Education, Training and Employment in Northern Ireland in regulations made under this section (or to satisfy them at the time concerned).
- (3) Subsections (3) to (7) of section 105 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
 - (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
 - (b) the reference in subsection (7)(b) to arrangements which qualify under this section is to be treated as a reference to arrangements which qualify under section 105.

107 Qualifying arrangements: further provision

- (1) The Secretary of State (or a person designated by him) may make arrangements with a body in connection with the making by that body of arrangements which qualify under section 105.
- (2) Arrangements under subsection (1) may include provision for the remuneration of a body and the payment of its expenses.
- (3) Arrangements under subsection (1) may include provision for a person designated by the Secretary of State to carry out on his behalf such of his functions under the arrangements as he specifies.
- (4) The Secretary of State may pay—
 - (a) to a person designated by him under subsection (1) to make arrangements with a body, or
 - (b) to a person designated by him under subsection (3) to carry out functions on his behalf,remuneration or amounts to meet the person's expenses.
- (5) The Department of Higher and Further Education, Training and Employment in Northern Ireland (or a person designated by it) may make arrangements with a body in connection with the making by that body of arrangements which qualify under section 106.
- (6) Subsections (2) to (4) apply to arrangements under subsection (5) as they apply to arrangements under subsection (1); and for this purpose references in subsections (2) to (4) to the Secretary of State are to be treated as references to the Department.

108 Grants

- (1) The Secretary of State may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.

- (2) The regulations must provide that grants may be paid only to or in respect of individuals—
 - (a) who hold accounts which qualify under section 104,
 - (b) who are parties to arrangements which qualify under section 105, or
 - (c) who hold such accounts and are parties to such arrangements.
- (3) The regulations may provide that grants may not be paid unless other specified conditions are satisfied.
- (4) These conditions may be included—
 - (a) conditions as to the way the accounts qualifying under section 104 are operated (including conditions requiring them to contain a specified balance);
 - (b) conditions as to the way the arrangements qualifying under section 105 are conducted;
 - (c) conditions as to the employment or self-employment of individuals;
 - (d) conditions requiring individuals not to be receiving or have received specified benefits;
 - (e) conditions as to the kinds of education or training which qualify.
- (5) The regulations may provide—
 - (a) that the amounts of grants, and when and how they are paid, are to be decided by the Secretary of State;
 - (b) that grants may be paid on such terms as the Secretary of State decides and that the terms may include terms requiring repayment in specified circumstances;
 - (c) that if grants are payable under the regulations they may be paid to persons providing education or training;
 - (d) that if grants are payable under the regulations they may be paid by the Secretary of State or by other persons under arrangements made with him;
 - (e) that if such arrangements are made the Secretary of State may pay the persons concerned remuneration or amounts to meet their expenses.
- (6) Conditions as to the kinds of education or training which qualify may include provision for the kinds to be specified—
 - (a) by the Secretary of State in a way he thinks fit, or
 - (b) if he so decides, by a person who (at the time of the specification) is designated by the Secretary of State and who specifies in a way the Secretary of State stipulates.
- (7) The regulations may provide that a specification of the kinds of education or training which qualify may include a requirement for the education or training to be provided by persons for the time being approved—
 - (a) by the Secretary of State, or
 - (b) if he so decides, by a person who (at the time of the approval) is designated by the Secretary of State.

109 Grants: Northern Ireland

- (1) The Department of Higher and Further Education, Training and Employment in Northern Ireland may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.

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- (2) The regulations must provide that grants may be paid only to or in respect of individuals—
- (a) who hold accounts which qualify under section 104,
 - (b) who are parties to arrangements which qualify under section 106, or
 - (c) who hold such accounts and are parties to such arrangements.
- (3) Subsections (3) to (7) of section 108 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
- (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
 - (b) the reference in subsection (4)(b) to arrangements which qualify under section 105 is to be treated as a reference to arrangements which qualify under section 106.

Sixth-form education

110 Secondary education

- (1) After section 2(2) of the Education Act 1996 (definition of secondary education) there shall be inserted—
- “(2A) Education is also secondary education for the purposes of this Act (subject to subsection (5)) if it is provided by an institution which—
- (a) is maintained by a local education authority, and
 - (b) is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19.
- (2B) Where—
- (a) a person is in full-time education,
 - (b) he receives his education partly at a school and, by virtue of arrangements made by the school, partly at another institution, and
 - (c) the education which he receives at the school would be secondary education if it was full-time education at the school,
- the person’s education, both at the school and at the other institution, is secondary education for the purposes of this Act (subject to subsection (5)).”
- (2) Subsections (3) to (5) apply to an institution which would become a school on the coming into force of subsection (1) (by virtue of section 4(1) of the Education Act 1996 (schools)).
- (3) An institution to which this subsection applies shall not be treated as being a school by virtue of section 4(1) of that Act unless it has been established as a new school in accordance with section 28(1)(a) or (2)(a) or 31(1)(a) of the School Standards and Framework Act 1998 (community or foundation mainstream or special school).
- (4) A local education authority may not continue to maintain an institution to which this subsection applies in pursuance of section 15A of the Education Act 1996 (education for 16 to 18 year olds).

- (5) Section 51(3A) of the Further and Higher Education Act 1992 (incorporation of further education institutions) shall not apply in relation to an institution to which this subsection applies.

111 Further education corporations

- (1) The following shall be substituted for section 16(2) and (3) of the Further and Higher Education Act 1992 (incorporation of further education institutions)—
- “(2) Subsection (1) above does not apply to an institution which is maintained by a local education authority.
- (3) The Secretary of State may by order make provision for the establishment of a body corporate for the purpose of conducting an institution which—
- (a) is maintained by a local education authority, and
- (b) in his opinion, is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.”
- (2) Section 51 of that Act (publication of proposals) shall be amended as follows—
- (a) for subsection (3)(b) substitute—
- “(b) an order under section 16(3) of this Act, other than an order made for the purpose of giving effect to a proposal by a council,” and
- (b) after subsection (3) insert—
- “(3A) A draft proposal or order in respect of an institution which is maintained by a local education authority shall not be published without the consent of the governing body and the local education authority.”

112 Further education institutions: designation

In section 28(3) of the Further and Higher Education Act 1992 (designation of institutions for funding) the following shall be inserted after subsection (3)—

- “(3A) The Secretary of State shall not make an order under this section in respect of a voluntary aided school without the consent of the governing body and the local education authority.”

113 Inadequate sixth-forms

- (1) Schedule 7 (inadequate sixth-forms) shall have effect.
- (2) Expressions used in that Schedule and in the School Inspections Act 1996 have the same meaning in that Schedule as in that Act.
- (3) Sections 496 and 497 of the Education Act 1996 (intervention) shall have effect in relation to powers and duties conferred or imposed by virtue of Schedule 7 as if—
- (a) those powers and duties were conferred or imposed by the Education Act 1996, and
- (b) the bodies specified in sections 496(2) and 497(2) were any local education authority, any school organisation committee and the governing body of any

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maintained school (within the meaning given by section 20(7) of the School Standards and Framework Act 1998).

Support for 13 to 19 year olds: England

114 Provision of services

- (1) The Secretary of State may provide or secure the provision of services which he thinks will encourage, enable or assist (directly or indirectly) effective participation by young persons in education or training.
- (2) In securing the provision of those services the Secretary of State may, in particular—
 - (a) make arrangements with local authorities and other persons for the provision of services;
 - (b) direct local education authorities to provide services, to secure the provision of services or to participate in the provision of services.
- (3) Arrangements and directions under subsection (2) may include provision—
 - (a) for grants, loans and other kinds of financial assistance to be provided by the Secretary of State (whether or not on conditions);
 - (b) requiring persons with whom arrangements are made or to whom directions are given to have regard to guidance issued by the Secretary of State.
- (4) In this section “young persons” means persons who have attained the age of 13 but not the age of 20.
- (5) A direction under this section may be revoked or varied by a later direction.

115 Consultation and coordination

- (1) Before providing or securing the provision of services of the kind mentioned in section 114(1) for residents of a particular place or area, the Secretary of State shall consult each of the following with responsibility for all or part of the place or area—
 - (a) a local authority,
 - (b) a Health Authority,
 - (c) a chief officer of police,
 - (d) a police authority,
 - (e) a probation committee,
 - (f) a youth offending team, and
 - (g) a Primary Care Trust.
- (2) The Secretary of State shall also consult—
 - (a) any voluntary body which provides services for young persons in the place or area concerned and which the Secretary of State thinks it appropriate to consult, and
 - (b) such other persons as he thinks appropriate.
- (3) Subsection (4) applies where the Secretary of State—
 - (a) provides or proposes to provide, or
 - (b) secures or proposes to secure the provision of,

services of the kind mentioned in section 114(1) for the residents of a particular place or area.

- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—
 - (a) exercise their functions so as to support and assist the services provided, secured or proposed by the Secretary of State, and
 - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

116 Local education authorities

- (1) A local education authority—
 - (a) may enter into arrangements under section 114(2)(a) for the provision of services of the kind mentioned in section 114(1),
 - (b) shall comply with a direction given to it under section 114(2)(b), and
 - (c) may provide, secure the provision of or participate in the provision of services of the kind mentioned in section 114(1) otherwise than in accordance with paragraph (a) or (b).
- (2) Action which a local education authority takes in pursuance of subsection (1) may relate to services for a person from another area.
- (3) For the purpose of subsection (1) a local education authority may—
 - (a) incur expenditure;
 - (b) form companies;
 - (c) employ officers;
 - (d) enter into agreements for the supply of goods or services;
 - (e) do anything else which they consider necessary or expedient.
- (4) Nothing in or done under section 114 shall prejudice any power of a local education authority to provide services or incur expenditure.

117 Educational institutions: information and access

- (1) Where a person is involved in the provision of services in pursuance of section 114(1), an educational institution to which this section applies shall, for the purpose of the provision of those services—
 - (a) provide him on request with the name and address of a pupil or student;
 - (b) provide him on request with the name and address of a parent of a pupil or student;
 - (c) provide him on request with information in the institution's possession about a pupil or student;
 - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
 - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.

Status: This is the original version (as it was originally enacted).

- (2) Information shall not be provided under subsection (1)(c)—
- (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or
 - (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
- (a) community, foundation and voluntary schools,
 - (b) community or foundation special schools (other than those established in hospitals),
 - (c) city technology colleges, city colleges for the technology of the arts and city academies,
 - (d) pupil referral units,
 - (e) institutions within the further education sector, and
 - (f) institutions in receipt of funding from the Learning and Skills Council for England.

118 Inspection

- (1) Her Majesty's Chief Inspector of Schools in England—
- (a) shall advise the Secretary of State on request about matters relating to services provided in pursuance of section 114(1),
 - (b) may give the Secretary of State other advice about those matters,
 - (c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services, and
 - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) A request under subsection (1)(c)—
- (a) may be general or in relation to specific matters,
 - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
 - (c) may relate to a specific area.
- (3) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (4) Subsections (5) to (7) apply to an inspection under subsection (1)(c) or (d) of services provided by a person or institution in pursuance of section 114(1).
- (5) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
- (a) section 3(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (6) Section 42A of the 1996 Act (publication of reports) shall apply.

- (7) A person who wilfully obstructs a person in carrying out or participating in the inspection—
- (a) shall be guilty of an offence, and
 - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

119 Information: supply by Secretary of State

- (1) The Secretary of State may supply information, including social security information, to any civil servant or other person for the purpose of the provision of services of the kind mentioned in section 114(1).
- (2) In this section “social security information” means personal information about a young person which is obtained by the Secretary of State in the course of the exercise of a function under—
- (a) the Social Security Contributions and Benefits Act 1992, or
 - (b) the Social Security Administration Act 1992.
- (3) For the purposes of subsection (2) “personal information” means, in relation to a young person—
- (a) his name, address and date of birth, and
 - (b) the name and address of a parent of his.
- (4) A person commits an offence if he discloses information supplied to him under subsection (1) unless the disclosure is made—
- (a) for the purpose of the provision of services in pursuance of section 114(1),
 - (b) in accordance with an enactment or an order of a court,
 - (c) for the purpose of actual or contemplated proceedings before a court,
 - (d) with consent given by or on behalf of the person to whom the information relates, or
 - (e) in such a way as to prevent the identification of the person to whom it relates.
- (5) It is a defence for a person charged with an offence under this section to prove that he reasonably believed that his disclosure was lawful.
- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

120 Information: supply by public bodies

- (1) For the purpose of the provision of services in pursuance of section 114(1), any of the persons or bodies mentioned in subsection (2) may supply information about a young person—
- (a) to the Secretary of State;
 - (b) to any other person or body involved in the provision of those services.
- (2) Those persons and bodies are—
- (a) a local authority,

Status: This is the original version (as it was originally enacted).

- (b) a Health Authority,
- (c) the Learning and Skills Council for England,
- (d) a chief officer of police,
- (e) a probation committee,
- (f) a youth offending team, and
- (g) a Primary Care Trust.

121 Supplementary

(1) In sections 114 to 120—

“local authority” has the meaning given by section 579(1) of the Education Act 1996 (interpretation),

“Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,

“parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,

“probation committee” means a committee established under section 3 of the Probation Service Act 1993,

“police authority” has the meaning given by section 101 of the Police Act 1996,

“young person” has the meaning given by section 114(4), and

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.

(2) The power under section 114 shall not be used to provide or secure the provision of services outside England.

122 Careers services

The following shall be inserted after section 10A of the Employment and Training Act 1973 (careers services)—

“10B Inspection

(1) Her Majesty’s Chief Inspector of Schools in England—

- (a) shall advise the Secretary of State on request about matters relating to services provided in England in pursuance of section 8 or 9,
- (b) may give the Secretary of State other advice about those matters,
- (c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services by any person or institution, and
- (d) may undertake such other inspections of the provision of those services by persons or institutions as he thinks fit.

(2) A request under subsection (1)(c)—

- (a) may be general or in relation to specific matters,
- (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
- (c) may relate to a specific area.

Status: This is the original version (as it was originally enacted).

- (3) An inspection under subsection (1)(c) or (d) may not relate to services provided for persons who have attained the age of 20.
- (4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (5) Subsections (6) to (8) apply to an inspection under subsection (1)(c) or (d) of services provided in pursuance of arrangements under section 10(1) of this Act.
- (6) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
 - (a) section 3(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (7) Section 42A of the 1996 Act (publication of reports) shall apply.
- (8) A person who wilfully obstructs a person in carrying out or participating in the inspection—
 - (a) shall be guilty of an offence, and
 - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

Support for 11 to 25 year olds: Wales

123 Provision of services

- (1) The National Assembly for Wales may direct a local authority—
 - (a) to provide youth support services;
 - (b) to secure the provision of youth support services;
 - (c) to participate in the provision of youth support services.
- (2) In this section “youth support services” means services which in the opinion of the National Assembly will encourage, enable or assist young persons (directly or indirectly)—
 - (a) to participate effectively in education or training,
 - (b) to take advantage of opportunities for employment, or
 - (c) to participate effectively and responsibly in the life of their communities.
- (3) In this section “young persons” means persons who have attained the age of 11 but not the age of 26.
- (4) A direction under subsection (1)—
 - (a) may include provision for grants, loans and other kinds of financial assistance to be provided by the National Assembly (whether or not on conditions),
 - (b) may require local authorities to have regard to guidance issued by the National Assembly, and
 - (c) may require local authorities when making arrangements with other persons to require those persons to have regard to guidance issued by the National Assembly.
- (5) A direction under subsection (1)—

Status: This is the original version (as it was originally enacted).

- (a) may relate to a particular class of young person;
- (b) may make different provision for different classes of young person;
- (c) may be revoked or varied by a later direction.

124 Local authority: duty and powers

- (1) A local authority—
 - (a) shall comply with a direction given to it under section 123(1), and
 - (b) may provide, secure the provision of or participate in the provision of youth support services otherwise than in accordance with paragraph (a).
- (2) Action which a local authority takes in pursuance of subsection (1)—
 - (a) may relate to a particular class of young persons;
 - (b) may relate to services for a person from another area.
- (3) In complying with a direction under section 123(1) a local authority shall have regard to the expediency of co-operation with voluntary organisations.
- (4) For the purpose of subsection (1) a local authority may—
 - (a) incur expenditure;
 - (b) employ officers;
 - (c) enter into agreements for the supply of goods or services;
 - (d) do anything else (other than forming companies) which they consider necessary or expedient.
- (5) Nothing in or done under section 123 shall prejudice any power of a local authority to provide services or incur expenditure.

125 Consultation and coordination

- (1) Before complying with a direction under section 123(1) by providing, securing the provision of or participating in the provision of services for residents of a particular place or area, a local authority shall consult each of the following with responsibility for all or part of the area—
 - (a) a Health Authority,
 - (b) a chief officer of police,
 - (c) a police authority,
 - (d) a probation committee, and
 - (e) a youth offending team.
- (2) The local authority shall also—
 - (a) consult any voluntary body which provides services for young persons in the place or area concerned and which the local authority think it appropriate to consult,
 - (b) consult the National Council for Education and Training for Wales,
 - (c) consult any authority or person with whom arrangements have been made for the place or area concerned under section 10(1) or (3)(a), (b) or (c) of the Employment and Training Act 1973 (careers services),
 - (d) consult any relevant organisation established for the purpose of enabling voluntary bodies to co-operate and co-ordinate their activities,
 - (e) consult such other persons as the local authority think appropriate, and

- (f) provide such opportunities as the local authority think appropriate for young persons in the place or area concerned to express their views.
- (3) Subsection (4) applies where a local authority—
 - (a) provide or propose to provide youth support services for the residents of a particular place or area, or
 - (b) secure or propose to secure the provision of youth support services for the residents of a particular place or area.
- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—
 - (a) exercise their functions so as to support and assist the services provided, secured or proposed by the local authority, and
 - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

126 Educational institutions: information and access

- (1) Where a person is involved in the provision of services in pursuance of section 123(1) (a) or (b), an educational institution to which this section applies shall, for the purpose of the provision of those services—
 - (a) provide him on request with the name and address of a pupil or student;
 - (b) provide him on request with the name and address of a parent of a pupil or student;
 - (c) provide him on request with information in the institution's possession about a pupil or student;
 - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
 - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.
- (2) Information shall not be provided under subsection (1)(c)—
 - (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or
 - (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
 - (a) community, foundation and voluntary schools,
 - (b) community or foundation special schools (other than those established in hospitals),
 - (c) city technology colleges and city colleges for the technology of the arts,
 - (d) pupil referral units,
 - (e) institutions within the further education sector, and

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- (f) institutions in receipt of funding from the National Council for Education and Training for Wales.

127 Inspection

- (1) Her Majesty's Chief Inspector of Education and Training in Wales—
 - (a) shall advise the National Assembly for Wales on request about matters relating to services provided in pursuance of section 123(1),
 - (b) may give the National Assembly other advice about those matters,
 - (c) shall, when requested to do so by the National Assembly, inspect and report on the provision of those services, and
 - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) The National Assembly shall consult the Chief Inspector before making a request under subsection (1)(a) or (c).
- (3) A request under subsection (1)(c)—
 - (a) may be general or in relation to specific matters,
 - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
 - (c) may relate to a specific area.
- (4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.

128 Conduct and effect of inspections

- (1) This section applies where a service is inspected pursuant to a request under section 127(1)(c) or in accordance with section 127(1)(d).
- (2) A person carrying out or participating in the inspection shall have the same powers as an Inspector under the following provisions of the School Inspections Act 1996—
 - (a) section 6(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (3) Section 42A of that Act (publication of reports) shall apply.
- (4) Where the Chief Inspector arranges for the publication of a report of an inspection, the person who provides the inspected service shall—
 - (a) prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it,
 - (b) publish the statement within such period, and in such manner, as may be prescribed by regulations made by the National Assembly for Wales, and
 - (c) send copies of the statement to such persons as may be prescribed by regulations made by the National Assembly.
- (5) Where a local authority provides an inspected service, or secures or participates in the provision of an inspected service, the authority—
 - (a) shall ensure that the action specified in any statement prepared under subsection (4)(a) is sufficient to remedy any weakness mentioned in the report, and

- (b) shall take all reasonable steps to ensure that the action specified in the statement is taken within the period specified.
- (6) If the National Assembly consider that a local authority is failing to comply with its duties under subsection (5)—
 - (a) the National Assembly may give directions to the local authority about the performance of those duties, and
 - (b) the authority shall comply with the directions.

129 Supplementary

- (1) In sections 123 to 128—
 - “local authority” means a county council or a county borough council,
 - “Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,
 - “parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,
 - “probation committee” means a committee established under section 3 of the Probation Service Act 1993,
 - “police authority” has the meaning given by section 101 of the Police Act 1996,
 - “young person” has the meaning given by section 123(3),
 - “youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998, and
 - “youth support services” has the meaning given by section 123(2).
- (2) The power under section 123 shall not relate to services which are provided or to be provided outside Wales.

City colleges and academies

130 City academies

- (1) Section 482 of the Education Act 1996 (city technology colleges and city colleges for the technology of the arts) shall be amended as follows.
- (2) In subsection (2)(c)—
 - (a) omit “either”, and
 - (b) after “arts” insert “or on a subject area mentioned in subsection (2A)”.
- (3) After subsection (2) insert—
 - “(2A) The subject areas are—
 - (a) modern foreign languages;
 - (b) visual arts, performing arts or media arts (or any combination of them);
 - (c) sport;
 - (d) any subject specified by order by the Secretary of State.”
- (4) In subsection (3) after paragraph (b) insert “; or

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- (c) as a city academy, if the emphasis of its curriculum is on a subject area mentioned in subsection (2A).”

(5) After subsection (3) insert—

“(3A) A school established on or after the relevant day and which would otherwise, by virtue of subsection (3), be known as a city technology college or a city college for the technology of the arts may instead, if the person carrying it on so chooses, be known as a city academy.

(3B) Before entering into an agreement under this section in relation to a school to be known as a city academy, the Secretary of State must consult the local education authorities referred to in subsection (3C) about the establishment of the school.

(3C) The authorities are—

- (a) the local education authority in whose area the school is to be situated, and
 (b) if the Secretary of State thinks a significant proportion of the pupils at the school is likely to be resident within the area of another local education authority, that authority.”

(6) After subsection (5) insert—

“(6) For the purposes of subsection (3A) the relevant day is the day on which section 130 of the Learning and Skills Act 2000 comes into force.”

(7) This section does not apply to schools in Wales.

131 City academies: land

- (1) Schedule 8 contains provisions about land in relation to city academies.
 (2) That Schedule does not apply to land in Wales.

132 City academies: financial provisions

In section 483 of the Education Act 1996 (city colleges: financial provisions) after subsection (3) there shall be inserted—

“(3A) If the school is a city academy, subsection (3) shall apply with such modifications (if any) as may be specified by the Secretary of State by order.”

133 City colleges and academies: special educational needs

After section 483 of the Education Act 1996 there shall be inserted—

“483A City colleges and academies: special educational needs

- (1) This section applies in relation to any child falling within subsection (2) if the condition in subsection (3) is satisfied.
 (2) A child falls within this subsection if—
 (a) he is a child for whom a statement is maintained under section 324, and

- (b) he attends (or proposes to attend) a school which is a city technology college, a city college for the technology of the arts or a city academy.
- (3) The condition in this subsection is satisfied if—
 - (a) the school is approved by the Secretary of State under section 347(1), or
 - (b) the Secretary of State consents to the child being educated at the school.
- (4) The Secretary of State may by regulations make provision for securing that arrangements are made—
 - (a) for making the special educational provision specified in the statement;
 - (b) for making any non-educational provision specified in the statement.
- (5) Regulations under subsection (4) may require or authorise a local education authority—
 - (a) to make payments to the school in respect of the child, or
 - (b) to provide any other assistance to the school in respect of the child.
- (6) No condition or requirement imposed by virtue of section 482(4)(a) is to prevent a local education authority making payments or providing assistance by virtue of subsection (5).
- (7) This section does not apply to schools in Wales.”

Pensions

134 Pensions

- (1) Section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons falling within subsection (2).
- (2) This subsection applies to a person if—
 - (a) he has rights and obligations as a pensioner or deferred pensioner under a salary related occupational pension scheme, and
 - (b) the rights and obligations arose by virtue of his or another person’s employment with any of the employers specified in subsection (3).
- (3) The employers are—
 - (a) a person with whom the Secretary of State or the National Assembly for Wales has made arrangements under section 2 of the Employment and Training Act 1973 and who is specified in an order made by the Secretary of State or is of a description so specified;
 - (b) a company which is a subsidiary of a person falling within paragraph (a) and which is specified in an order made by the Secretary of State or is of a description so specified.
- (4) A scheme under section 1 of the Superannuation Act 1972 (a new scheme) may not be made in relation to the persons falling within subsection (2) unless—
 - (a) the trustees of the occupational scheme consent in writing to the new scheme being made,
 - (b) the rights of the persons under the new scheme are no less generous than their rights as they existed under the occupational scheme, and

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- (c) the obligations of the persons under the new scheme are no more onerous than their obligations as they existed under the occupational scheme.

135 Pensions: interpretation

- (1) This section has effect for the purposes of section 134.
- (2) Rights in relation to a person include—
 - (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him;
 - (b) a right of allocation in respect of the present or future payment of a pension.
- (3) A deferred pensioner is a person who has rights under the occupational scheme but is neither a pensioner under it nor a person to whom rights are accruing under it by virtue of his employment.
- (4) “Salary related occupational pension scheme” has the meaning given by section 93(1A) of the Pension Schemes Act 1993.

136 Pensions: delegation

- (1) A function exercisable by virtue of section 1 of the Superannuation Act 1972 in consequence of section 134 or of paragraph 6(1) of Schedule 1 may be exercised by (or by employees of) such person as may be authorised in that behalf by the person whose function it is.
- (2) An authorisation given by virtue of subsection (1) may authorise the exercise of a function—
 - (a) either wholly or to such extent as may be specified in the authorisation;
 - (b) either generally or in such cases as may be so specified;
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (3) An authorisation given by virtue of subsection (1) is to be treated for all purposes as if it were given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (contracting out of functions of Ministers and office-holders).
- (4) An authorisation given by virtue of subsection (1) may be revoked at any time by the person who gave it.

Other miscellaneous provisions

137 Recreation and social and physical training

- (1) Section 508 of the Education Act 1996 (local education authorities: recreation and social and physical training) shall be amended as follows.
- (2) In subsection (1) for “secondary and further education” substitute “and secondary education”.
- (3) After subsection (1) insert—

“(1A) A local education authority may provide facilities for recreation and social and physical training as part of the facilities for further education provided (whether or not by them) for their area.”

- (4) In subsection (2) for “For that purpose” substitute “For the purpose of subsection (1) or (1A)”.

138 Wales: provision of information by public bodies

- (1) For the purpose of the provision in Wales of services mentioned in subsection (2), any of the persons or bodies mentioned in subsection (3) may supply information about a young person—

- (a) to a local authority;
- (b) to any other person or body involved in the provision of the services.

- (2) The services are—

- (a) services provided in pursuance of section 123 of this Act,
- (b) services provided in pursuance of any of sections 2, 8, 9 and 10 of the Employment and Training Act 1973 (training and careers services), and
- (c) services wholly or partly funded in pursuance of section 12 of the Industrial Development Act 1982 (careers in industry).

- (3) The persons and bodies are—

- (a) a local authority,
- (b) a Health Authority,
- (c) the National Council for Education and Training for Wales,
- (d) a chief officer of police,
- (e) a probation committee, and
- (f) a youth offending team.

139 Induction periods for teachers

- (1) Section 19 of the Teaching and Higher Education Act 1998 (requirement to serve induction period) shall be amended as follows.

- (2) In subsection (1) after paragraph (b) insert—

“or

- (c) in such circumstances as may be prescribed, a further education institution (or a further education institution of a prescribed description).”

- (3) In subsection (2)—

- (a) in paragraph (f) omit “employed as a teacher at a school”, and
- (b) in paragraph (k) after “schools” insert “or to further education institutions”.

- (4) In subsection (6), for “subsection (2)” substitute “subsections (2) and (6A)”.

- (5) After subsection (6) insert—

“(6A) Regulations under subsection (1)(c) may, in particular—

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- (a) provide that an induction period may not be begun without approval of the appropriate body for the serving of that induction period;
 - (b) provide for approval to be general or specific;
 - (c) make provision (including transitional provision) about the withdrawal of approval;
 - (d) impose conditions or limitations on the appropriate body’s power to give or withhold approval.”
- (6) In subsection (10) after paragraph (c) insert—
- “(d) “a further education institution” means an institution within the further education sector.”
- (7) After subsection (10) insert—
- “(11) In the application of this section to a further education institution—
- (a) a reference to a school term shall be taken as a reference to a term of the institution;
 - (b) a reference to the head teacher of a school shall be taken as a reference to the principal of the institution.
- (12) Sections 496 and 497 of the Education Act 1996 shall have effect as if—
- (a) the duties and powers referred to in those sections included duties imposed and powers conferred by virtue of this section, and
 - (b) in relation to those duties and powers, the bodies to which those sections apply included the governing body of a relevant school, the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of a further education institution and an appropriate body for the purposes of subsection (2).”

140 Assessments relating to learning difficulties

- (1) Subsection (2) applies if—
- (a) a local education authority maintains a statement of special educational needs for a person under section 324 of the Education Act 1996, and
 - (b) the Secretary of State believes that the person will leave school at the end of his last year of compulsory schooling to receive post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).
- (2) The Secretary of State must arrange for an assessment of the person to be conducted at some time during the person’s last year of compulsory schooling.
- (3) The Secretary of State may at any time arrange for an assessment to be conducted of a person—
- (a) who is in his last year of compulsory schooling or who is over compulsory school age but has not attained the age of 25,
 - (b) who appears to the Secretary of State to have a learning difficulty (within the meaning of section 13), and
 - (c) who is receiving, or in the Secretary of State’s opinion is likely to receive, post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).

- (4) For the purposes of this section an assessment of a person is an assessment resulting in a written report of—
 - (a) his educational and training needs, and
 - (b) the provision required to meet them.
- (5) A local education authority must send a copy of a statement maintained by it under section 324 of the Education Act 1996 to the Secretary of State on his request.
- (6) In its application to Wales this section shall have effect with the following modifications (in addition to those specified in section 150)—
 - (a) the reference to Part I of this Act shall be construed as a reference to Part II, and
 - (b) the reference to section 13 shall be construed as a reference to section 41.

141 Training programmes: cessation of funding

- (1) This section applies to a company if—
 - (a) it has entered into an arrangement with the Secretary of State with a view to receiving payments under section 2(2)(d) of the Employment and Training Act 1973 (arrangements in respect of training) in connection with the provision of facilities,
 - (b) before the passing of this Act the company has received notice from the Secretary of State that he intends to terminate the arrangement mentioned in paragraph (a),
 - (c) the company's memorandum and articles of association are in a form approved by the Secretary of State generally or specifically for purposes connected with arrangements of the kind described in paragraph (a), and
 - (d) the company's memorandum of association requires all income and profits to be applied towards the promotion of the company's objects and not to be distributed to members.
- (2) Unless the Secretary of State consents in writing, a company to which this section applies may not after the passing of this Act—
 - (a) take action of a prescribed kind, or
 - (b) cause or permit a person to take action of a prescribed kind.
- (3) In subsection (2) "prescribed" means prescribed by order of the Secretary of State; and the action which may be prescribed under that subsection includes, in particular—
 - (a) making a disposal or payment of a prescribed kind or in prescribed circumstances,
 - (b) incurring expenditure of a prescribed kind or in prescribed circumstances, and
 - (c) entering into a transaction of a prescribed kind or in prescribed circumstances.
- (4) A company to which this section applies shall comply with a written direction from the Secretary of State given after the passing of this Act which requires it to transfer an asset to—
 - (a) a specified body, or
 - (b) the Secretary of State.
- (5) Before giving a direction to a company under subsection (4) the Secretary of State shall consult the company.

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- (6) Where a company to which this section applies takes, causes or permits action in contravention of subsection (2) the High Court may on the application of the Secretary of State make any order which seems to it appropriate.
- (7) An order under subsection (6) may, in particular—
- (a) provide for a contract or other agreement to be of no effect;
 - (b) vary the terms of a contract or other agreement;
 - (c) require money to be paid to the Secretary of State by or on behalf of the company to which this section applies;
 - (d) require money to be paid to the Secretary of State by or on behalf of any other specified person;
 - (e) require the Secretary of State to pay to a specified person compensation of an amount specified in the order or determined in accordance with the order.
- (8) Section 150 shall not apply to this section; but in the application of this section to a company which operates in Wales—
- (a) a reference to the Secretary of State in subsection (1)(a) and (b) shall be construed as a reference to the Secretary of State or the National Assembly for Wales,
 - (b) the functions conferred or imposed on the Secretary of State by subsections (2) to (6) shall be exercisable by the National Assembly, and
 - (c) a reference in subsections (2) to (7) to the Secretary of State shall be taken as a reference to the National Assembly.

142 Further and higher education corporations: secondary education

- (1) Section 18 of the Further and Higher Education Act 1992 (further education corporation: principal powers) shall be amended as follows—
- (a) for subsection (1)(aa) substitute—
 - “(aa) provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,
 - (ab) provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),
 - (ac) participate in the provision of secondary education at a school,” and
 - (b) after subsection (1) insert—

“(1A) A further education corporation may not provide education of a kind specified in subsection (1)(aa), (ab) or (ac) above unless they have consulted such local education authorities as they consider appropriate.”
- (2) Section 124 of the Education Reform Act 1988 (higher education corporation: powers) shall be amended as follows—
- (a) after subsection (1)(b) insert—
 - “(ba) to provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,
 - (bb) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),

- (bc) to participate in the provision of secondary education at a school,”, and
- (b) after subsection (1) insert—
 - “(1A) A higher education corporation may not provide education of a kind specified in subsection (1)(ba) or (bb) above unless they have consulted such local education authorities as they consider appropriate.”

143 Further education sector: designated institutions

- (1) Section 28 of the Further and Higher Education Act 1992 (designation for funding by Further Education Funding Councils) shall be amended as follows—
 - (a) in subsection (1) for “as eligible to receive support from funds administered by the councils” substitute “for the purposes of this section”,
 - (b) subsection (2)(b) shall cease to have effect, and
 - (c) after subsection (2)(c) add—
 - “or
 - (d) an institution established for the purpose of being principally concerned with the provision of one or both of the kinds of education specified in subsection (1) above.”
- (2) The following shall be substituted for section 30 of the Further and Higher Education Act 1992 (special provision for voluntary aided sixth form colleges)—

“30 Special provision for certain institutions

- (1) Notwithstanding anything in section 29 of this Act, the instrument of government of a designated institution to which this section applies must provide—
 - (a) for the governing body of the institution to include persons appointed for the purpose of securing so far as practicable that the established character of the institution at the time of its designation is preserved and developed and, in particular, that the institution is conducted in accordance with any trust deed relating to it, and
 - (b) for the majority of members of the governing body to be such governors.
- (2) This section applies to—
 - (a) an institution which, when designated, was a voluntary aided school, and
 - (b) an institution specified, or falling within a class specified, by the Secretary of State by order.
- (3) The Secretary of State may specify an institution or a class of institutions only if the institution or each member of the class is principally concerned with the provision of the education specified in section 28(1)(a) above.
- (4) The reference in subsection (1)(a) above to the established character of an institution is, in relation to an institution established shortly before or at

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the same time as being designated, a reference to the character which the institution is intended to have on its establishment.”

- (3) Section 32(2A) of the Further and Higher Education Act 1992 (transfer of property on designation) shall cease to have effect.
- (4) The Secretary of State may make an order providing for the constitution as a body corporate of the governing body of an institution in England which is designated under section 28 of the Further and Higher Education Act 1992.
- (5) The National Assembly for Wales may make an order providing for the constitution as a body corporate of the governing body of an institution in Wales which is designated under section 28 of the Further and Higher Education Act 1992.
- (6) An order under subsection (4) or (5) may—
 - (a) make provision similar to any provision of section 18 or 19 of the Further and Higher Education Act 1992 (further education corporation: powers);
 - (b) make provision for the continuity of the body corporate, including provision for the continuation of anything done under section 29 of the Further and Higher Education Act 1992 (government and conduct of designated institutions);
 - (c) make provision expressed to have effect subject to the institution’s instrument or articles of government;
 - (d) make provision which confers exempt charitable status (for the purposes of the Charities Act 1993) and which relates to the governing body or to an institution administered by or established for the purposes of that body;
 - (e) make provision about the discontinuance of the institution;
 - (f) make provision about the dissolution of the body corporate (including provision about the treatment of property, rights and liabilities).
- (7) Before making an order in relation to an institution under subsection (4) or (5) the Secretary of State or the National Assembly shall consult—
 - (a) the governing body of the institution, and
 - (b) the trustees of any trust relating to the institution.

144 Designated institutions: disposal of land, &c

- (1) This section applies to land which after the coming into force of this section is transferred to trustees under section 32(3)(b) of the Further and Higher Education Act 1992 (transfer of property on designation of institution).
- (2) This section also applies to land which—
 - (a) is held by trustees for the purposes of an institution which became a designated institution after the coming into force of this section, and
 - (b) was acquired or enhanced in value wholly or partly by means of money paid under section 65 of the Education Act 1996 (grants) or paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants).
- (3) If trustees dispose of land to which this section applies they shall notify the appropriate council.
- (4) If trustees dispose of land to which this section applies they shall pay to the appropriate council so much of the proceeds of disposal as may be determined to be just—

- (a) by agreement between the trustees and the council, or
 - (b) in default of agreement, by the Secretary of State.
- (5) In making a determination under subsection (4) regard shall be had, in particular, to—
 - (a) the value of the land at the date of the determination, and
 - (b) any enhancement of the land's value which is attributable to expenditure by the trustees or the governing body of the designated institution.
- (6) More than one determination may be made under subsection (4) in relation to a particular disposal where it is just to do so, in particular where the disposal involves the creation of a lease.
- (7) If trustees permit land to which this section applies to be used for purposes not connected with the designated institution—
 - (a) they shall be treated for the purposes of this section as having disposed of the land, and
 - (b) subsection (4) shall have effect as if the reference to the proceeds of disposal were a reference to the value of the land.
- (8) Where a designated institution has ceased to exist—
 - (a) this section applies to land which satisfied subsection (1) or (2) immediately before the institution ceased to exist, and
 - (b) in subsection (7) the reference to purposes not connected with the designated institution shall be treated as a reference to purposes not connected with an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992).
- (9) In this section “the appropriate council” means—
 - (a) the Learning and Skills Council for England, in respect of land in England, and
 - (b) the National Council for Education and Training for Wales, in respect of land in Wales.

145 Further education colleges: governors' liability

- (1) Subsection (2) applies where a member of a body listed in subsection (3) is found liable in civil legal proceedings in respect of something which he did or omitted to do in the course of carrying out his duties as a member of the body.
- (2) If—
 - (a) the member of the body applies to a court for an order under this subsection, and
 - (b) the court considers that the action or omission which gives rise to the member's liability was honest and reasonable,the court may make an order extinguishing, reducing or varying the liability.
- (3) The bodies referred to in subsection (1) are—
 - (a) a further education corporation established by virtue of section 15, 16 or 47 of the Further and Higher Education Act 1992, and
 - (b) a body corporate established by virtue of section 143(4) or (5) of this Act.
- (4) Where a member of a body listed in subsection (3) applies to a court for an order under this subsection, the court may make any order which—

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- (a) relates to liability in civil legal proceedings which may come to be incurred by the member in respect of a specified course of action, and
 - (b) is of a kind which the court could have made if the liability had already been incurred.
- (5) In subsections (2)(a) and (4) “a court” means the High Court or a county court; but this subsection is subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation of business between High Court and county courts).

146 Financial support for students

- (1) The Teaching and Higher Education Act 1998 shall be amended as follows.
- (2) In section 22 (new arrangements for giving financial support to students)—
- (a) in subsection (1) for “attending” substitute “undertaking”, and
 - (b) in subsections (2)(h) and (7) omit “attendance on”.
- (3) In section 23 (transfer or delegation of functions relating to student support) in subsection (1)(b)—
- (a) for “at” substitute “with”, and
 - (b) for “attending” substitute “undertaking”.
- (4) In section 26 (imposition of conditions as to fees at further or higher education institutions) in subsections (4), (5) and (10)(b) for “attending” (in each place) substitute “undertaking”.
- (5) In section 28(1) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.

147 Financial support for students: Northern Ireland

- (1) The Education (Student Support) (Northern Ireland) Order 1998 shall be amended as follows.
- (2) In Article 2(2) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.
- (3) In Article 3 (new arrangements for giving financial support to students)—
- (a) in paragraph (1) for “attending” substitute “undertaking”;
 - (b) in paragraphs (2)(h) and (7) omit “attendance on”.
- (4) In Article 4 (transfer or delegation of functions relating to student support) in paragraph (1)(b)—
- (a) for “at” substitute “with”, and
 - (b) for “attending” substitute “undertaking”.
- (5) In Article 7 (imposition of conditions as to fees at further or higher education institutions) in paragraphs (1), (2), (3) and (8)(b) for “attending” (in each place) substitute “undertaking”.

148 Sex education

- (1) The Education Act 1996 shall be amended as follows.

- (2) In section 351 (general duties in respect of the curriculum) after subsection (5) insert—
- “(6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority must have regard to the guidance issued by the Secretary of State under section 403(1A).
 - (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.”
- (3) In section 403 (sex education: manner of provision) in subsection (1) omit “local education authority.”
- (4) After subsection (1) of that section insert—
- “(1A) The Secretary of State must issue guidance designed to secure that when sex education is given to registered pupils at maintained schools—
 - (a) they learn the nature of marriage and its importance for family life and the bringing up of children, and
 - (b) they are protected from teaching and materials which are inappropriate having regard to the age and the religious and cultural background of the pupils concerned.
 - (1B) In discharging their functions under subsection (1) governing bodies and head teachers must have regard to the Secretary of State’s guidance.
 - (1C) Guidance under subsection (1A) must include guidance about any material which may be produced by NHS bodies for use for the purposes of sex education in schools.
 - (1D) The Secretary of State may at any time revise his guidance under subsection (1A).”
- (5) In subsection (2) of that section—
- (a) for “subsection (1)” substitute “this section”, and
 - (b) at the end insert “and “NHS body” has the same meaning as in section 22 of the National Health Service Act 1977.”
- (6) In section 404 (sex education: statements of policy) after subsection (1) insert—
- “(1A) A statement under subsection (1) must include a statement of the effect of section 405.”

149 Amendments

Schedule 9 contains miscellaneous and consequential amendments.

General

150 Wales

- (1) Where this Part of this Act confers a function on the Secretary of State (whether by amendment of another Act or otherwise)—

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- (a) the function shall be exercisable in relation to Wales by the National Assembly for Wales, and
 - (b) for that purpose any reference to the Secretary of State shall be taken as a reference to the National Assembly.
- (2) Where—
- (a) this Part confers a function on the Secretary of State by amendment of an Act, and
 - (b) any functions of that Act have before the passing of this Act been transferred to the National Assembly by Order in Council under section 22 of the Government of Wales Act 1998 (transfer of functions),
- the Order shall be treated for the purposes of any varying or revoking Order as having transferred to the National Assembly the function mentioned in paragraph (a).
- (3) Subsection (1)(a) has effect subject to any Order in Council made by virtue of subsection (2).
- (4) This section shall not apply in relation to—
- (a) section 90, 92, 104, 134 or 154 of this Act,
 - (b) the amendment of section 1(3) of the Education (Fees and Awards) Act 1983 (fees at institutions) made by Schedule 9 to this Act,
 - (c) the amendment of section 26 of the Employment Act 1988 (status of trainees etc) made by Schedule 9 to this Act, or
 - (d) the amendment of section 19 of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) made by Schedule 9 to this Act.

151 Transitional provisions

- (1) Parts I and II of Schedule 10 contain transitional provisions relating to—
- (a) the dissolution of the Further Education Funding Councils, and
 - (b) the establishment of the Learning and Skills Council for England and the National Council for Education and Training for Wales.
- (2) Part III of Schedule 10 contains transitional provision relating to the establishment of the Adult Learning Inspectorate.
- (3) Part IV of Schedule 10 contains transitional provision relating to the Education (Student Loans) Act 1990.
- (4) Nothing in that Schedule prejudices the generality of section 152(6).

152 Orders and regulations

- (1) Any power to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if the instrument contains—
- (a) an order made by the Secretary of State under any provision of this Act other than section 143(4) or 154(1) or (3), or
 - (b) regulations made by the Secretary of State under any provision of this Act.

- (3) A statutory instrument is subject to annulment in pursuance of a resolution of the Scottish Parliament if the instrument contains regulations made by the Scottish Ministers under section 104.
- (4) The power of the Department of Higher and Further Education, Training and Employment in Northern Ireland to make regulations under section 106 or 109 shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.
- (5) An order or regulations under this Act may make different provision for different purposes.
- (6) An order or regulations under this Act may contain such incidental, supplementary, saving or transitional provisions as the person making the order or regulations thinks fit.

153 Repeals

Schedule 11 contains repeals.

154 Commencement

- (1) The following provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order—
 - (a) Parts I and III,
 - (b) sections 89, 90, 92, 94, 98, 100(1), 101, 104 to 109, 114 to 122, 132 to 136, 146 and 147,
 - (c) in Schedule 9, paragraphs 11, 14, 35, 37 to 39, 41 to 43, 47 to 50, 52(3), 83, 87 and 88,
 - (d) Part IV of Schedule 10, and
 - (e) in Schedule 11, the repeals in section 91 of the Further and Higher Education Act 1992 and section 142 of the School Standards and Framework Act 1998 and the repeals consequential upon any provision mentioned in paragraph (c).
- (2) The following provisions of this Act shall come into force in accordance with provision made by the National Assembly for Wales by order—
 - (a) Parts II and IV, and
 - (b) sections 91, 93, 99, 100(2), 102, 123 to 129 and 138.
- (3) If and in so far as a provision of this Part relates to England, the Secretary of State may (subject to subsection (5)) make provision by order about its commencement.
- (4) If and in so far as a provision of this Part relates to Wales, the National Assembly for Wales may (subject to subsection (5)) make provision by order about its commencement.
- (5) Subsections (3) and (4) do not apply to—
 - (a) a provision mentioned in subsection (1) or (2),
 - (b) any of sections 130, 131, 150, 151, 152, 155 and 156,
 - (c) Schedule 8,

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- (d) any provision of Schedule 9 or 11 which is consequential upon section 130 or 131 or Schedule 8,
 - (e) Parts I to III of Schedule 10, or
 - (f) this section.
- (6) The Secretary of State may by order make provision—
- (a) in consequence of a provision of this Act being brought into force at different times in relation to England and in relation to Wales, or
 - (b) in consequence of one provision of this Act being brought into force before another.
- (7) The National Assembly for Wales may by order make provision in relation to Wales in consequence of either of the matters mentioned in subsection (6)(a) and (b).
- (8) An order under subsection (6) or (7) may, in particular, disapply or modify the application of provision made by or under this or any other Act.

155 Extent

- (1) Sections 104, 152, 154, 156 and this section extend to England and Wales, Scotland and Northern Ireland.
- (2) Section 107 extends to England and Wales and Northern Ireland.
- (3) Sections 106, 109 and 147 extend to Northern Ireland only.
- (4) Any amendment or repeal in this Act has the same extent as the provision amended or repealed.
- (5) Subject to the above, this Act extends to England and Wales only.

156 Citation

This Act may be cited as the Learning and Skills Act 2000.