



Higher Education Act 2004

2004 CHAPTER 8

PART 5

MISCELLANEOUS AND GENERAL

Staff disputes: jurisdiction of visitor

46 Exclusion of visitor's jurisdiction in relation to staff disputes

- (1) The visitor of a qualifying institution has no jurisdiction in respect of—
 - (a) any dispute relating to a member of staff which concerns his appointment or employment or the termination of his appointment or employment,
 - (b) any other dispute between a member of staff and the qualifying institution in respect of which proceedings could be brought before any court or tribunal, or
 - (c) any dispute as to the application of the statutes or other internal laws of the institution in relation to a matter falling within paragraph (a) or (b).
- (2) In subsection (1) “qualifying institution” has the meaning given by section 11.
- (3) In determining whether a dispute falls within subsection (1)(b) it is to be assumed that the visitor does not have jurisdiction to determine the dispute.
- (4) Section 206 of the Education Reform Act 1988 (c. 40) (which is superseded by subsection (1)) shall cease to have effect.

General

47 Orders and regulations

- (1) Any power—
 - (a) of the Secretary of State or the Assembly to make an order or regulations under this Act, or
 - (b) of the Scottish Ministers to make an order under this Act,

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is exercisable by statutory instrument.

- (2) Any statutory instrument containing—
- (a) an order made by the Secretary of State under section 18, or
 - (b) regulations made by the Secretary of State under any provision of this Act,
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) does not apply to—
- (a) regulations to which section 26(1) or (2)(a)(ii) or (b)(ii) applies,
 - (b) regulations to which paragraph 12(3) of Schedule 2 applies, or
 - (c) regulations to which subsection (4) applies.
- (4) A statutory instrument which contains (whether alone or with other provisions) regulations made by the Secretary of State by virtue of section 33(2), 34 or 37(3)(c) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Any order or regulations under this Act may—
- (a) make different provision for different cases or different areas,
 - (b) make provision generally or only in relation to specified cases, and
 - (c) contain such incidental, supplemental, saving or transitional provisions as the person making the order or regulations thinks fit.
- (6) Nothing in this Act is to be regarded as affecting the generality of subsection (5).

48 General interpretation

In this Act—

- “the 1992 Act” means the Further and Higher Education Act 1992 (c. 13);
- “the 1994 Act” means the Education Act 1994 (c. 30);
- “the 1998 Act” means the Teaching and Higher Education Act 1998 (c. 30);
- “the Assembly” means the National Assembly for Wales.

49 Consequential amendments

Schedule 6 contains amendments related to the provisions of this Act.

50 Repeals

Schedule 7 contains repeals.

51 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State by virtue of this Act, and
 - (b) any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money so provided.
- (2) There shall be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act.

52 Commencement

- (1) The following provisions come into force on the passing of this Act—
- section 22, so far as relating to England;
 - section 24(6), so far as enabling regulations to be made;
 - section 26;
 - section 29, so far as relating to England;
 - section 30(1), so far as relating to England;
 - section 31;
 - section 32(1);
 - sections 33 and 34, so far as relating to England;
 - sections 35 to 37, so far as enabling regulations to be made in relation to England;
 - section 39, so far as relating to England;
 - section 40;
 - section 41, so far as relating to England;
 - section 42;
 - sections 47 and 48;
 - section 51, this section and sections 53 and 54;
 - Schedule 5; and
 - paragraph 1 of Schedule 6 and, so far as relating to the Director of Fair Access to Higher Education, paragraphs 4 and 10 of that Schedule (and section 49 so far as relating to those provisions).
- (2) The following provisions (so far as not coming into force in accordance with subsection (1)) come into force in accordance with provision made by the Secretary of State by order—
- Part 1, except section 10(2) and (3);
 - section 19;
 - section 23;
 - section 37;
 - section 43;
 - section 45;
 - paragraphs 2 to 6 and 9 and 10 of Schedule 6 (and section 49 so far as relating to those paragraphs); and
 - in Schedule 7, the repeals in the Superannuation Act 1972 (c. 11) and in section 22 of the 1998 Act (and section 50 so far as relating to those repeals).
- (3) The following provisions come into force in accordance with provision made by the Assembly by order—
- section 10(2);
 - sections 27 and 28;
 - section 30(2) and (3);
 - section 32(4);
 - section 38; and
 - section 44.
- (4) The Assembly may not make an order under subsection (3) in relation to section 44 except with the agreement of the Secretary of State.

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- (5) Section 10(3) comes into force in accordance with provision made by the Scottish Ministers by order.
- (6) Except as provided by subsections (1) to (5), the provisions of this Act come into force—
 - (a) in relation to England, in accordance with provision made by the Secretary of State by order, and
 - (b) in relation to Wales, in accordance with provision made by the Assembly by order.

53 Extent

- (1) Subject to subsections (2) to (4), this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland and Northern Ireland—
 - (a) Part 1,
 - (b) section 45,
 - (c) sections 47, 48, 51 and 52, and
 - (d) this section and section 54.
- (3) Subsections (1), (2) and (5) of section 42 also extend to Northern Ireland.
- (4) Any amendment or repeal made by this Act has the same extent within the United Kingdom as the enactment to which it relates.

54 Short title, etc.

- (1) This Act may be cited as the Higher Education Act 2004.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).