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STATUTORY INSTRUMENTS

1992 No. 831 (C.31)

EDUCATION, ENGLAND AND WALES EDUCATION, SCOTLAND

The Further and Higher Education Act 1992 (Commencement No. 1 and Transitional Provisions) Order 1992

Made - - - - 16th March 1992

In exercise of the powers conferred by section 89(4) and section 94(3) of the Further and Higher Education Act 1992(1), the Secretary of State for Education and Science hereby makes the following Order:

1. This Order may be cited as the Further and Higher Education Act 1992 (Commencement No. 1 and Transitional Provisions) Order 1992.

2. The provisions of the Further and Higher Education Act 1992 (“the Act”) specified in column 1 of Schedules 1 to 4 to this Order (which relate to the matters mentioned in column 2 thereof) shall come into force on the date specified in relation to each Schedule in the following table—

Schedule 1	6th May 1992
Schedule 2	30th September 1992
Schedule 3	1st April 1993
Schedule 4	1st August 1993.

3. Paragraph 10 of Schedule 8 to the Act shall come into force on 1st September 1992 so far as it relates to institutions within the PCFC funding sector and otherwise on 1st April 1993, but this article does not extend to Wales.

4. Notwithstanding the coming into force on 6th May 1992 of paragraphs 61 to 65 of Schedule 8 to the Act(2) paragraph 3 of Schedule 10 to the Education Reform Act 1988(3) shall continue to

(1) 1992 c. 13.

(2) See article 2 and Schedule 1.

(3) 1988 c. 40.

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have effect in relation to any matter notified to the Secretary of State by the Education Assets Board prior to that date pursuant to that paragraph.

5. For the purposes only of ascertaining under section 48(4)(b) of the Act whether a pay and conditions order would have had effect in relation to a person, no account shall be taken in determining the meaning of “secondary education” in the definition of “school teacher” in section 5 of the School Teachers' Pay and Conditions Act 1991(4) of the amendments by the Act to the definitions of “secondary education” and “further education” in the Education Act 1944(5).

16th March 1992

Kenneth Clarke
Secretary of State for Education and Science

(4) 1991 c. 49.

(5) 1944 c. 31; for the definition of secondary education see section 8 as amended by the Education (Miscellaneous Provisions) Act 1948 (c. 40), section 3 and the Education Reform Act 1988 (c. 40), section 120(6)(a) and Schedule 13, Part II; for the definition of “further education” see sections 41 (as substituted by the Education Reform Act 1988, section 120(2)), 67(4a) and 114(1B).

SCHEDULE 1

Provisions coming into force on 6th May 1992.

Provisions of the Act	Subject matter of the provisions
Section 1	The Further Education Funding Councils
Section 5(5), (6), (7) and (8)	Administration of funds by councils
Section 6(2), (3) and (4)	Administration of funds: supplementary
Section 7	Grants to councils
Section 8	Supplementary functions
Section 14(1) to (4) for the purposes of the provisions specified in this Schedule	Meaning of “further education” and “secondary education”
Section 15(1), (2), (3), (5), (6) and (7)	Initial incorporation of existing institutions
Section 17	“Further education corporation” and “operative date”
Section 28	Designation of institutions
Section 29	Government and conduct of designated institutions
Section 30	Special provision for voluntary aided sixth form colleges
Section 31	Designated institutions conducted by companies
Section 32	Transfer of property, etc. to designated institutions
Section 33	Provisions supplementary to section 32
Section 39	Control of disposals of land
Section 40	Wrongful disposals of land
Section 41	Control of contracts
Section 42	Wrongful contracts
Section 43	Remuneration of employees
Section 54(1)	Duty to give information to the Further Education Funding Councils
Section 56	Directions
Section 57(3) to (6) so far as it applies to the Further Education Funding Councils	Intervention in the event of breach of duty
Section 59(3), (4) and (5)	Reorganisations, affecting provision for further education, of schools
Section 61	Interpretation of Part I
Section 62	The Higher Education Funding Councils
Section 64	Transitional arrangements

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Provisions of the Act	Subject matter of the provisions
Section 67(2) to (5)	Payments in respect of persons employed in provision of higher or further education
Section 68	Grants to councils
Section 69	Supplementary functions
Section 70	Assessment of quality of education provided by institutions
Section 71	Higher education corporations: constitution and conduct
Section 72	Further power of designation
Section 73	Government and conduct of designated institutions
Section 75	Variation of trust deeds
Section 76	Power to award degrees, etc.
Section 77	Use of “university” in title of institution
Section 78	Financial years of higher education corporations
Section 79	Duty to give information to the funding councils
Section 80	Dissolution of Council for National Academic Awards
Section 81	Directions
Section 82	Joint exercise of functions
Section 83	Efficiency studies
Section 84	Effect of agreements made before date of transfer
Section 86	Temporary exclusion of section 5 of Data Protection Act 1984 in relation to data transferred to new bodies
Section 88	Stamp Duty
Section 89	Orders, regulations and directions
Section 90	Interpretation
Section 91	Interpretation of Education Acts
Section 92	Index
Section 94	Short title, commencement, etc
Schedule 1	The Further and Higher Education Funding Councils
Schedule 3	Calculation of enrolment numbers

Provisions of the Act	Subject matter of the provisions
Schedule 6	New Schedule 7A to the Education Reform Act 1988
Paragraphs 1, 9, 13(1) and (2)(a) but only in relation to references to “further education” in provisions of the Act as they are brought into force, 18, 27, 31, 32(b), 34, 36(a), 37(b), 38, 43, 48, 50 (so far as it relates to section 219(2) (e) of the Education Reform Act 1988 only), 51, 54, 56(b) and (c), 59, 61 to 65, 68, 75, 76, 78, 79, 84, 85, 87, 88 and 93(b) of Schedule 8, and section 93(1) so far as it relates to those provisions.	Minor and consequential amendments
Schedule 9 so far as it relates to the repeals of the following provisions of the Education Reform Act 1988: sections 122(2) to (5), section 129(3) and (4), section 136(3) to (7), in section 137(2) “or 129(3)”, section 156 (so far as it relates to institutions designated under section 129 of the Education Reform Act 1988), 219(2)(e), 227(2) to (4), in section 232(3) “or 227”, in section 232(4) (b) “227”, paragraph 19 of Schedule 7, and section 93(2) so far as it relates to those provisions.	Repeals

SCHEDULE 2

Provisions coming into force on 30th September 1992

Provisions of the Act	Subject matter of the provisions
Section 5(3)	Administration of funds by councils
Section 6(5) and (6)	Administration of funds: supplementary
Section 14(1) to (4) for the purposes of the provisions specified in this Schedule	Meaning of “further education” and “secondary education”
Section 15(4)	Initial incorporation of existing institutions
Section 16	Orders incorporating further institutions
Section 18	Principal powers of a further education corporation
Section 19	Supplementary powers of a further education corporation
Section 20	Constitution of corporation and conduct of the institution
Section 21	Initial instruments and articles

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Provisions of the Act	Subject matter of the provisions
Section 22	Subsequent instruments and articles
Section 23	Transfer of property, etc.: institutions maintained by local education authorities
Section 24	Provisions supplementary to section 23
Section 25	Transfer of property, etc.: grant-maintained schools
Section 26	Transfer of staff to further education corporations
Section 27	Dissolution of further education corporations
Section 36	General provisions about transfers under Chapter II
Section 51	Publication of proposals
Section 53	Inspection of accounts
Section 58	Reorganisations of schools involving establishment of further education corporations
Section 59(1) and (2)	Reorganisations, affecting provision for further education, of schools
Section 87	Transfers of property, etc.: supplementary provision
Schedule 2	Courses of further education
Schedule 4	Instruments and articles of government for further education corporations
Schedule 5	Identification and apportionment, etc. of property
Schedule 7	Transfer: Supplementary Provisions
Paragraphs 21, 69 and 89 of Schedule 8 and section 93(1) so far as it relates to those provisions	Minor and consequential amendments

SCHEDULE 3

Provisions coming into force on 1st April 1993.

Provisions of the Act	Subject matter of the provisions
Section 2	Full-time education for 16—18 year-olds
Section 3	Part-time education and full-time education for those over 18
Section 4	Persons with learning difficulties
Section 5(1), (2) and (4)	Administration of funds by councils

Provisions of the Act	Subject matter of the provisions
Section 6(1)	Administration of funds: supplementary
Section 9 except for subsection (4)	Assessment of quality of education provided in institutions
Section 10	Functions of local education authorities in respect of secondary education
Section 11	Functions of local education authorities in respect of further education
Section 14(1) to (5) so far as not already in force	Meaning of “further education”, “secondary education” and “school”
Section 34	Making additional property available for use
Section 35	Voluntary transfers of staff in connection with section 34
Section 37	Attribution of surpluses and deficits
Section 38	Payments by council in respect of loan liabilities
Section 44 only in respect of institutions which before they became institutions within the further education sector were schools maintained by a local education authority or grant-maintained schools	Collective worship
Section 45 only in respect of institutions which before they became institutions within the further education sector were schools maintained by a local education authority or grant-maintained schools	Religious education
Section 46	Variation of trust deeds
Section 47	Transfer of higher education institutions to further education sector
Section 48	Statutory conditions of employment
Section 49	Avoidance of certain contractual terms
Section 50	Information with respect to institutions within the further education sector
Section 52	Duty to provide for named individuals
Section 54(2)	Duty to give information to local education authorities
Section 55(1) to (3) (as respects England only), (4) to (6) and (7)(a) and (c)	Inspection of local education authority institutions, other than schools, and advice to the Secretary of State
Section 57 (so far as not already in force)	Intervention in the event of mismanagement or breach of duty

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Provisions of the Act	Subject matter of the provisions
Section 60	Saving as to persons detained by order of a court
Section 63	Dissolution of existing councils
Section 65	Administration of funds by councils
Section 66	Administration of funds: supplementary
Section 67(1)	Payments in respect of persons employed in provision of higher or further education
Section 74	Transfer of further education institutions to higher education sector
Section 85	Finance and government of locally funded further and higher education
Paragraphs 2, 3, 4, 5, 6, 7, 8, 11, 12, 13 so far as not already in force and except for sub-paragraph (2)(d), 14, 15, 16, 19, 20, 22, 23, 24 (but the amendments by sub-paragraph (a) shall not have effect in relation to provision for further education made by a local education authority before 1st April 1993), 25, 26, 28, 30, 32(a), 33, 35, 36(b), 37(a), 39, 40, 41, 42, 44, 45, 46, 47, 49, 50 (so far as not already in force), 52, 53, 55, 56(a), 57, 58, 60, 66, 67, 70, 71, 72, 73, 74, 81, 82, 83, 90, 91, 92, 93(a), 94 and 95 of Schedule 8, and section 93(1) so far as it relates to those provisions	Minor and consequential amendments
Section 93(2) and Schedule 9, so far as they relate to the repeals set out in the appendix to this Schedule	Repeals.

APPENDIX TO SCHEDULE 3

Chapter	Short title	Extent of repeal
1944 c. 31.	The Education Act 1944.	Section 8(3). Section 67(4A). In section 85(2) and (3) “for providing primary or secondary education”. In section 114(1), the definitions of “part-time senior education” and “post-school age education”. Section 114(1A), (1B) and (1C).
1948 c. 40.	The Education (Miscellaneous Provisions) Act 1948.	Section 3(3).
1972 c. 11.	The Superannuation Act 1972.	In Schedule 1 the entries relating to the Universities Funding Council and the Polytechnics and Colleges Funding Council.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1 the entries relating to the Polytechnics and Colleges Funding Council and the Universities Funding Council.
1986 c. 61.	The Education (No. 2) Act 1986.	Section 43(5)(c) and, in subsection (7), paragraph (b) and “or authorities maintaining or (as the case may be) assisting the establishment”. Section 49(3)(d) and (da). In section 51, in subsection (2) (b) the words from “made” to the end (but this repeal shall not have effect in relation to provision for further education made by a local education authority before 1st April 1993) and subsections (5) and (6). Section 58(3), (4) and (5) (a) and in subsection (5) (ab) “and are not designated establishments of higher or further education”.

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Chapter	Short title	Extent of repeal
1988 c. 40.	The Education Reform Act 1988.	<p>Section 120(2), (6), (7), (8), (9) (a)(ii) and (9)(b).</p> <p>Section 124(4).</p> <p>Sections 131 and 132.</p> <p>Section 134.</p> <p>Chapter III of Part II.</p> <p>Section 156 (so far as still in force).</p> <p>In section 157 the words “or assisted” in both places in subsection (4) and subsection (5)(b).</p> <p>Section 158(2)(a)(i) and (iii) and (b).</p> <p>Section 159(2)(b).</p> <p>Section 161(1)(c).</p> <p>Section 205(6).</p> <p>Section 211(c).</p> <p>Section 218(10)(b).</p> <p>Section 219(1)(b), (2)(d) and (3)(c)(ii).</p> <p>In section 221, subsection (1) (c) and, in subsection (3), the definition of “relevant institution”.</p> <p>In section 222, subsection (2) (b) and, in subsection (3)(c), “or institutions required to be covered by schemes under section 139 of this Act”.</p> <p>In section 230, in subsection (1) “section 136(2)” and subsection (3)(c)(ii).</p> <p>In section 232, in subsection (2) “140(1), 141(6), 145(6), 151(4), 156(10)”.</p> <p>Section 234(2)(b).</p> <p>Section 235(2)(a) and (h).</p> <p>Paragraphs 68, 69(2), 70, 100(2) and 101(4) of Schedule 12.</p>

Chapter	Short title	Extent of repeal
1990 c. 43.	The Environmental Protection Act 1990.	Section 98(2)(a).

SCHEDULE 4

Provisions coming into force on 1st August 1993.

<i>Provisions of the Act</i>	<i>Subject matter of the provisions</i>
Section 12	Provision of further education in maintained schools
Section 13	Provision of further education in grant-maintained schools
Section 14(6)	Meaning of “pupil”
Paragraphs 13(2)(d), 17, 29, 77, 80 and 86 of Schedule 8 and section 93(1) so far as it relates to those provisions.	Minor and consequential amendments.
Section 93(1) and Schedule 9 so far as they relate to the repeal in section 105(2)(b) of the Education Reform Act 1988 of the words “but not the age of nineteen years”.	Repeals

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of the Further and Higher Education Act 1992 specified in the Schedules thereto on the dates specified in the Schedules.

The Higher Education Funding Councils and the Further Education Funding Councils are established on 6th May 1992.

The appointed day for the establishment of further education corporations under section 15 is 30th September 1992.

The new further education sector, which involves the transfer of certain duties regarding the provision of further education from local education authorities to the Further Education Funding Councils, is created on 1st April 1993.

The governing body of a maintained school may decide to provide part-time education suitable to the requirements of persons of any age over compulsory school age and fulltime education suitable to the requirements of persons who have attained the age of nineteen years from 1st August 1993.

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