



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART III

#### MISCELLANEOUS AND GENERAL

#### **82 Joint exercise of functions**

- (1) Any two or more councils may exercise jointly any of their functions where it appears to them that to do so—
  - (a) will be more efficient, or
  - (b) will enable them more effectively to discharge any of their functions.
- (2) Any two or more councils shall, if directed to do so by the Secretary of State, jointly make provision for the assessment by a person appointed by them of matters relating to the arrangements made by each institution in Great Britain which is within the higher education sector for maintaining academic standards in the institution.
- (3) In this section—
  - (a) “council” means a higher education funding council, a further education funding council or the Scottish Higher Education Funding Council, and
  - (b) references to institutions within the higher education sector include institutions within the higher education sector within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.

#### **83 Efficiency studies**

- (1) A further education funding council or a higher education funding council may arrange for the promotion or carrying out by any person of studies designed to improve economy, efficiency and effectiveness in the management or operations of an institution within the further education sector or, as the case may be, the higher education sector.
- (2) A person promoting or carrying out such studies at the request of a council may require the governing body of the institution concerned—

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- (a) to furnish the person, or any person authorised by him, with such information, and
  - (b) to make available to him, or any person so authorised, for inspection their accounts and such other documents,
- as the person may reasonably require for that purpose.

#### **84 Effect of agreements made before date of transfer**

- (1) This section applies where—
- (a) (apart from this section) any land or other property of a local authority would on any date (“the date of transfer”) be transferred under Part I of this Act or Part II of the Education Reform Act 1988 to the governing body of an institution within the further education sector or the higher education sector, and
  - (b) at any time before that date the authority, the governing body of the institution and the governing body of any other institution which will on that date be an institution within the further education sector or the higher education sector have agreed in writing that the land or property should be transferred on that or a subsequent date to the governing body of that other institution.
- (2) If the Secretary of State has approved the agreement at any time before the date of transfer, Part I of this Act or, as the case may be, Part II of the Education Reform Act 1988 shall have effect as if they required the property to be transferred in accordance with the agreement.
- (3) References in this section to anything done include anything done before the passing of this Act.

#### **85 Finance and government of locally funded further and higher education**

- (1) Chapter III of Part II of the Education Reform Act 1988 (finance and government of locally funded further and higher education) shall cease to have effect; and section 156 of that Act (government and conduct of certain further and higher education institutions) shall cease to have effect in relation to designated assisted institutions.
- (2) A local education authority shall have the following powers in relation to any institution, not within the further education sector or the higher education sector, which is maintained by them in the exercise of their further or higher education functions.
- (3) The authority may—
- (a) make such provision as they think fit in respect of the government of the institution (including replacing any instrument of government or articles of government of the institution made under that Chapter or that section), and
  - (b) delegate to the governing body of the institution such functions relating to the management of the finances of the institution, and such other functions relating to the management of the institution (including the appointment and dismissal of staff), as the authority may determine.

**86 Temporary exclusion of section 5 of Data Protection Act 1984 in relation to data transferred to new bodies**

- (1) Where personal data are transferred under any provision of this Act to a body corporate established under this Act, section 5(1) of the Data Protection Act 1984 (prohibition of unregistered holding, etc, of personal data) shall not apply in relation to the holding by that body corporate of the data so transferred or any data of the same description as the data so transferred until the end of the period of six months beginning—
  - (a) in the case of a body established to conduct an educational institution, the date on which the body begins to conduct the institution, and
  - (b) in any other case, when the body is established.
- (2) Expressions used in subsection (1) above and in that Act have the same meaning in that subsection as in that Act.

**87 Transfers of property, etc: supplementary provision**

Schedule 7 to this Act has effect to supplement the provisions of this Act relating to the transfer of property, rights and liabilities.

**88 Stamp duty**

- (1) Subject to subsection (2) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following sections of this Act: 23, 25, 27, 32, 34, 40(5) and (7), 63 and 80.
- (2) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

**89 Orders, regulations and directions**

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.
- (2) For the purposes of subsection (1) above the excepted provisions are sections 22, 29(6) and (8), 38, 46 and 57; but section 14 of the Interpretation Act 1978 (implied power to amend) applies to orders made under those sections as it applies to orders made by statutory instrument.
- (3) A statutory instrument containing any order or regulations under this Act, other than an order under section 94, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Orders or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (5) Section 111 of the Education Act 1944 (revocation and variation) applies to directions given under this Act as it applies to directions given under that Act.

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## 90 Interpretation

### (1) In this Act—

“contract of employment”, “employee” and “employer” have the same meaning as in the Employment Protection (Consolidation) Act 1978, and “employed” means employed under a contract of employment,

“the Education Acts” means the Education Acts 1944 to 1992,

“governing body”, in relation to an institution, means, subject to subsection (2) below—

- (a) in the case of an institution conducted by a further education corporation or a higher education corporation, the corporation,
- (b) in the case of a university not falling within paragraph (a) above, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs,
- (c) in the case of any other institution not falling within paragraph (a) or (b) above for which there is an instrument of government providing for the constitution of a governing body, the governing body so provided for, and
- (d) in any other case, any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors,

“higher education” has the same meaning as in the Education Reform Act 1988,

“higher education corporation” means a body corporate established under section 121 or 122 of the Education Reform Act 1988, including those sections as applied by section 227(4) of that Act (application to Wales), or a body corporate which has become a higher education corporation by virtue of section 122A of that Act,

“interest in land” includes any easement, right or charge in, to or over land,

“land” includes buildings and other structures, land covered with water and any interest in land,

“liability” includes obligation, and

“local authority” means a county council, a district council, a London borough council or (in their capacity as a local authority) the Common Council of the City of London.

### (2) The Secretary of State may by order provide for any reference in the Education Acts to the governing body of an institution, in relation to an institution which is—

- (a) a designated institution for the purposes of Part I or Part II of this Act, and
- (b) conducted by a company,

to be read as a reference to the governing body provided for in the instrument of government, or to the company or to both.

### (3) In this Act “university” includes a university college and any college, or institution in the nature of a college, in a university; but where a college or institution would not, apart from this subsection, fall to be treated separately it shall not be so treated for the purpose of determining whether any institution is in England or in Wales.

### (4) References in this Act to institutions within the PCFC funding sector are to be construed in accordance with section 132(6) of the Education Reform Act 1988.

- (5) Subject to the provisions of this Act, expressions used in this Act and in the Education Act 1944 have the same meaning in this Act as in that Act.

## 91 Interpretation of Education Acts

- (1) This section applies for the interpretation of the Education Acts.
- (2) References to a further education funding council are to a council established under section 1 of this Act.
- (3) References to institutions within the further education sector are to—
- (a) institutions conducted by further education corporations, and
  - (b) designated institutions for the purposes of Part I of this Act (defined in section 28(4) of this Act),
- and references to institutions outside the further education sector are to be read accordingly.
- (4) References to a higher education funding council are to a council established under section 62 of this Act, subject to subsection (6) of that section.
- (5) References to institutions within the higher education sector are to—
- (a) universities receiving financial support under section 65 of this Act,
  - (b) institutions conducted by higher education corporations, and
  - (c) designated institutions for the purposes of Part II of this Act (defined in section 72(3) of this Act),
- and references to institutions outside the higher education sector are to be read accordingly.
- (6) References, in relation to a further education corporation or higher education corporation, to the institution—
- (a) in relation to any time before the operative date for the purposes of Part I of this Act (defined in section 17 of this Act) or, as the case may be, the transfer date for the purposes of the Education Reform Act 1988 (defined in section 123 of that Act), are to the institution the corporation is established to conduct, and
  - (b) in relation to any later time or to any corporation which is a further education corporation by virtue of section 47 of this Act or a higher education corporation by virtue of section 122A of that Act, are to any institution for the time being conducted by the corporation in the exercise of their powers under this or that Act.

## 92 Index

The expressions listed in the left-hand column below are respectively defined by or (as the case may be) are to be interpreted in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
appropriate further education funding council	section 1(6)
contract of employment, etc.	section 90(1)

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<i>Expression</i>	<i>Relevant provision</i>
council (in Part I), or further education funding council	sections 1(5) and 91(2)
council (in Part II), or higher education funding council	sections 61(3)(b), 62(5) and (6) and 91(4)
designated institution (in Part I)	section 28(4)
designated institution (in Part II)	section 72(3)
the Education Acts	section 90(1)
functions	section 61(1)
further education	section 14(1) to (4)
further education corporation	section 17(1)
governing body	section 90(1) and (2)
higher education	section 90(1)
higher education corporation	section 90(1)
institution in England or in Wales (in relation to higher education funding councils)	section 62(7)
institutions within or outside the further education sector	section 91(3)
institutions within or outside the higher education sector	sections 61(3)(a) and 91(5)
institutions within the PCFC funding sector	section 90(4)
interest in land	section 90(1)
land	section 90(1)
liability	section 90(1)
local authority	section 90(1)
modification	section 61(1)
operative date	sections 17 and 33(4)
pupil	section 14(6)
regulations	section 61(1)
secondary education	section 14(2) to (4)
school	section 14(5)
transfer of rights or liabilities	section 61(2)
university	section 90(3)

### 93 Amendments and repeals

(1) Schedule 8 (which makes minor and consequential amendments) shall have effect.

- (2) The enactments mentioned in Schedule 9 to this Act are repealed to the extent mentioned in the third column.

**94 Short title, commencement, etc**

- (1) This Act may be cited as the Further and Higher Education Act 1992.
- (2) The Education Acts 1944 to 1990, the School Teachers' Pay and Conditions Act 1991 and this Act may be cited together as the Education Acts 1944 to 1992.
- (3) This Act shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions and for different purposes.
- (4) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (5) Sections 63, 64 and 82 of this Act extend also to Scotland.
- (6) Section 80 extends also to Scotland and Northern Ireland.
- (7) The amendment by this Act of an enactment which extends to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.