



Learning and Skills Act 2000

2000 CHAPTER 21

PART V

MISCELLANEOUS AND GENERAL

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,

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- (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—
- (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—

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- (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.
- (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

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(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 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.

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- (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—
- (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

Status: This is the original version (as it was originally enacted).

- (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.