



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART I

#### FURTHER EDUCATION

#### CHAPTER III

##### GENERAL

#### 54 Duty to give information.

- (1) Each of the following shall give [<sup>F1</sup>the Learning and Skills Council for England or the National Assembly for Wales] such information as [<sup>F2</sup>the council or (as the case may be) the National Assembly for Wales may require] for the purposes of the exercise of any of [<sup>F3</sup>the functions of the council or (as the case may be) the National Assembly for Wales] under [<sup>F4</sup>any enactment]—
  - (a) a local education authority,
  - (b) the governing body of any institution maintained by a local education authority, [<sup>F5</sup> . . . city technology college [<sup>F6</sup>, city college for the technology of the arts or [<sup>F7</sup>Academy]],
  - (c) the governing body of any institution within the further education sector or the higher education sector, and
  - (d) the governing body of any institution which is receiving or has received financial support under section 5 of this Act.
- (2) Such information relating to the provision which has been made by a local education authority in respect of any pupil at an institution as the authority may require for the purposes of claiming any amount in respect of the pupil from another authority under [<sup>F8</sup>regulations under section 492 or 493 of the Education Act 1996] shall, where the institution becomes an institution within the further education sector, be provided to the authority by the governing body of the institution.

Status: Point in time view as at 23/12/2007.

Changes to legislation: Further and Higher Education Act 1992, Chapter III is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

- F1** Words in s. 54(1) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 23(a)** (with art. 7)
- F2** Words in s. 54(1) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 23(b)** (with art. 7)
- F3** Words in s. 54(1) substituted (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 23(c)** (with art. 7)
- F4** Words in s. 54(1) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215(1), **Sch. 21 para. 20**; [S.I. 2002/2439](#), **art. 3**; [S.I. 2002/3185](#), **art. 4**, Sch. Pt. I
- F5** Words in s. 54(1)(b) repealed (1.9.1999) by [1998 c. 31](#), s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); [S.I. 1999/2323](#), art. 2(1), **Sch. 1**.
- F6** Words in s. 54(1)(b) substituted (28.7.2000) by [2000 c. 21](#), ss. 149, 154(1), **Sch. 9 para. 31**
- F7** Words in s. 54(1)(b) substituted (26.7.2002) by [Education Act 2002 \(c. 32\)](#), s. 65, **Sch. 7 Pt. 2 para. 4**; [S.I. 2002/2002](#), **art. 2**
- F8** Words in s. 54(2) substituted (1.11.1996) by [1996 c. 56](#), ss. 582(1), 583(2), **Sch. 37 Pt. I para. 111** (with ss. 1(4), 561, 562, Sch. 39)

**Modifications etc. (not altering text)**

- C1** S. 54 modified (1.4.1993) by [S.I. 1993/563](#), art. 2, **Sch. 2**
- C2** S. 54(1) applied (with modifications): (1.4.1994) by [S.I. 1994/653](#), reg. 42(1), **Sch. Pt. I**; (9.5.1994) by [S.I. 1994/1084](#), reg. 8(1), **Sch. 2 Pt. I**

**Commencement Information**

- I1** S. 54 wholly in force: s. 54(1) in force at 6.5.1992, s. 54(2) in force at 1.4.1993 see s. 94(3) and [S.I. 1992/831](#), art. 2, Schs. 1, 3

**55 Inspection etc. of local education authority institutions, other than schools, and advice to Secretary of State.**

- F9**(1) .....
- F9**(2) .....
- F9**(3) .....

- (4) In relation to any local education authority institution maintained or assisted by them, a local education authority—
  - (a) shall keep under review the quality of education provided, the educational standards achieved and whether the financial resources made available are managed efficiently, and
  - (b) may cause an inspection to be made by persons authorised by them.
- (5) A local education authority shall not authorise any person to inspect any institution under this section unless they are satisfied that he is suitably qualified to do so.
- (6) A person who wilfully obstructs any person authorised to inspect an institution under or by virtue of this section in the exercise of his functions shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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(7) In this section—

<sup>F10</sup>(a) .....

<sup>F10</sup>(b) .....

(c) “local education authority institution” means an educational institution, other than a school, maintained or assisted by a local education authority.

#### Textual Amendments

**F9** S. 55(1)-(3) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 32, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

**F10** S. 55(7)(a)(b) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 32, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

#### Modifications etc. (not altering text)

**C3** S.55: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by **Contracting Out (Local Education Authority Functions) (England) Order 2002** (S.I. 2002/928), art. 3, **Sch. 3**

#### Commencement Information

**I2** S. 55 wholly in force; s. 55 not in force at Royal assent see s. 94(3); s. 55(1)-(3) (as respects England only) and s. 55(4)-(6)(7)(a)(c) in force at 1.4.1993 by S.I. 1992/831, art. 2, **Sch. 3**; s. 55(1)(2)(3)(7)(b) in force at 1.8.1996 so far as not already in force by S.I. 1996/1897, **art. 3**

<sup>F11</sup>56 .....

#### Textual Amendments

**F11** S. 56 repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 33, **Sch. 11** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**

### [<sup>F12</sup>56A Intervention: England

(1) This section applies if the Learning and Skills Council for England is satisfied as to one or more of the matters listed in subsection (2) in the case of an institution in England within the further education sector; and it is immaterial whether or not a complaint is made by any person.

(2) The matters are—

- (a) that the institution's affairs have been or are being mismanaged by the institution's governing body;
- (b) that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
- (c) that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
- (d) that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.

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- (3) If this section applies the council may do one or more of the things listed in subsection (6).
- (4) Before doing one or more of those things, the council must give the Secretary of State a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the council is satisfied;
  - (b) the reasons why the council is so satisfied;
  - (c) the thing or things that the council proposes to do;
  - (d) the reasons why the council proposes to do that thing or those things.
- (5) If the council does one or more of those things, it must at the same time give the institution's governing body a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the council is satisfied;
  - (b) the reasons why the council is so satisfied;
  - (c) the reasons why the council has decided to do that thing or those things.
- (6) The council may—
  - (a) remove all or any of the members of the institution's governing body;
  - (b) appoint new members of that body if there are vacancies (however arising);
  - (c) give to that body such directions as it thinks expedient as to the exercise of their powers and performance of their duties.
- (7) The directions that may be given to a governing body under this section include a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- (9) The council may not direct a governing body under subsection (6)(c) to dismiss a member of staff.
- (10) But subsection (9) does not prevent the council, where it considers that it may be appropriate to dismiss a member of staff whom the governing body have power under their institution's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.
- (11) A governing body must comply with any directions given to them under this section.
- (12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.

#### Textual Amendments

- F12** Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by [Further Education and Training Act 2007 \(c. 25\)](#), [ss. 17, 32\(5\)](#); [S.I. 2007/3505](#), [arts. 2\(c\), 5](#)

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## **56B Intervention policy: England**

- (1) The Learning and Skills Council for England must—
  - (a) prepare a statement of its policy with respect to the exercise of its powers under section 56A,
  - (b) keep it under review, and
  - (c) if it considers it appropriate in consequence of a review, prepare a revised statement of its policy.
- (2) When preparing a statement or revised statement of its policy, the council must—
  - (a) undertake such consultation as it thinks appropriate;
  - (b) consider any representations made to it about the policy to be set out in the statement.
- (3) The Secretary of State may give the council guidance in relation to the exercise of its functions under subsections (1) and (2), and in particular in relation to the form and content of the policy.
- (4) It is the duty of the council to have regard to any guidance given to it under subsection (3).
- (5) The council must send a copy of the statement or revised statement prepared by it to the Secretary of State.
- (6) If the Secretary of State approves it he shall lay a copy of it before each House of Parliament.
- (7) The council must publish—
  - (a) the statement of its policy approved by the Secretary of State;
  - (b) where the Secretary of State approves a revised statement of its policy, the revised statement.
- (8) The council must have regard to the statement most recently published under subsection (7) in exercising, or deciding whether to exercise, any of its powers under section 56A in relation to an institution.

### **Textual Amendments**

**F12** Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 17, 32(5)**; [S.I. 2007/3505](#), **arts. 2(c), 5**

## **56C Directions**

- (1) This section applies if—
  - (a) the Secretary of State is satisfied as to one or more of the matters listed in section 56A(2) in the case of an institution in England within the further education sector, and
  - (b) the Secretary of State is satisfied that the circumstances are such that it would be appropriate for the Learning and Skills Council for England to do one or more of the things listed in section 56A(6) in relation to the institution.
- (2) In such a case the Secretary of State may give to the council such directions as he thinks fit as to the exercise of the council's powers under section 56A.

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- (3) Where the Secretary of State gives the council a direction under this section, he must at the same time give the council a notice stating the matter or matters listed in section 56A(2) as to which he is satisfied.
- (4) The council must comply with any directions given to it under this section.
- (5) Where the council does a thing listed in section 56A(6) in relation to an institution in compliance with a direction under this section—
  - (a) the council must give the institution's governing body a copy of the relevant notice under subsection (3), and
  - (b) the requirement to give a notice under section 56A(5) does not apply.]

#### Textual Amendments

**F12** Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by [Further Education and Training Act 2007 \(c. 25\)](#), ss. 17, 32(5); S.I. 2007/3505, arts. 2(c), 5

#### [<sup>F13</sup>57] **Intervention.**

- (1) This section applies if one or more of the conditions listed in subsection (2) is satisfied regarding an institution within the further education sector; and it is immaterial whether or not a complaint is made by any person.
- (2) These are the conditions—
  - (a) the Secretary of State is satisfied that the institution's affairs have been or are being mismanaged by its governing body;
  - (b) he is satisfied that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
  - (c) he is satisfied that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
  - (d) a report regarding the institution and made by a person listed in subsection (3) indicates that the institution has serious weaknesses, or is failing or likely to fail to give an acceptable standard of education.
- (3) These are the persons—
  - [<sup>F14</sup>(a) Her Majesty's Chief Inspector of Education, Children's Services and Skills;]
  - (b) Her Majesty's Chief Inspector of Education and Training in Wales;
  - <sup>F15</sup>(c) .....
  - <sup>F15</sup>(d) .....
- (4) If this section applies the Secretary of State may by order—
  - (a) declare which of the conditions is (or are) satisfied, and
  - (b) do one or more of the things listed in subsection (5).
- (5) He may—
  - (a) remove all or any of the members of the institution's governing body;
  - (b) appoint new members of that body if there are vacancies (however arising);
  - (c) give to that body such directions as he thinks expedient as to the exercise of their powers and performance of their duties.

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- (6) Directions may be given to a body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- (7) A governing body must comply with any directions given to them under this section.
- (8) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.

<sup>F16</sup>(9) . . . . . ]

#### Textual Amendments

- F13** S. 57 substituted (1.1.2001 for W. and 1.4.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 34** (with s. 150); S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3)
- F14** S. 57(3)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 18(a)**; S.I. 2007/935, art. 5(gg)
- F15** S. 57(3)(c)(d) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 18(b), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F16** S. 57(9) repealed (7.6.2005) by Inquiries Act 2005 (c. 12), s. 51(1), Sch. 2 para. 13, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, art. 2

#### Modifications etc. (not altering text)

- C4** S. 57(3)(4) amended (22.3.2001) by S.I. 2001/1274, art. 3(4)(b)

#### [<sup>F17</sup>57A Intervention policy: Wales

- (1) The Welsh Ministers must—
  - (a) prepare a statement of their policy with respect to the exercise of their powers under section 57,
  - (b) keep it under review, and
  - (c) if they consider it appropriate in consequence of a review, prepare a revised statement of their policy.
- (2) When preparing a statement or revised statement of their policy, the Welsh Ministers must—
  - (a) undertake such consultation as they think appropriate;
  - (b) consider any representations made to them about the policy to be set out in the statement.
- (3) The Welsh Ministers must lay before the National Assembly for Wales a copy of any statement or revised statement prepared by them under this section.
- (4) The Welsh Ministers must publish any statement or revised statement prepared by them under this section.
- (5) The Welsh Ministers must have regard to the statement most recently published under subsection (4) in exercising, or deciding whether to exercise, any of their powers under section 57 in relation to an institution.]

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### Textual Amendments

- F17** S. 57A inserted (23.12.2007) by [Further Education and Training Act 2007 \(c. 25\)](#), **ss. 18(5), 32(3)**; S.I. 2007/3565, art. 2

## 58 Reorganisations of schools involving establishment of further education corporation.

- (1) Subsection (2) below applies where, in connection with a reorganisation of schools maintained by a local education authority, any land used for the purposes of one or more of the schools affected by the reorganisation or, as the case may be, the school so affected—
- (a) is to cease to be so used or is to continue to be so used for a limited period, and
  - <sup>F18</sup>(b) a prescribed alteration within the meaning of section 28 of the School Standards and Framework Act 1998 has been made to the school,]
- and in that subsection that land is referred to as “the land to be transferred”.
- (2) If the land to be transferred is land of the local authority, the land and any other property of the local authority used for the purposes of the school on that land shall be treated for the purposes of section 23 of this Act as used for the purposes of the educational institution conducted by the corporation.
- (3) For the purposes of this section there is a reorganisation of schools maintained by a local education authority if, in the case of each of the schools affected by the reorganisation or (if there is only one) the school so affected—
- (a) the local education authority cease to maintain the school, or
  - <sup>F19</sup>(b) a prescribed alteration within the meaning of the relevant school organisation provision has been made to the school,]
- whether or not the reorganisation also involves the establishment of one or more new schools.
- <sup>F20</sup>(4) In subsection (3)(b) “the relevant school organisation provision” means—
- (a) in relation to England, section 18 of the Education and Inspections Act 2006, and
  - (b) in relation to Wales, section 28 of the School Standards and Framework Act 1998.]

### Textual Amendments

- F18** S. 58(1)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.45** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.
- F19** S. 58(3)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 6(2)**; S.I. 2007/935, art. 7(o)
- F20** S. 58(4) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 6(3)**; S.I. 2007/935, art. 7(o)

### Commencement Information

- I3** S. 58 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**



*Status: Point in time view as at 23/12/2007.*

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F21 **59** .....

**Textual Amendments**

**F21** S. 59 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39)

**60** **Saving as to persons detained by order of a court.**

F22 .....

**Textual Amendments**

**F22** S. 60 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), s. 215, Sch. 21 para. 21, **Sch. 22 Pt. 3**; S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Sch. Pt. I

F23 **60A** .....

**Textual Amendments**

**F23** S. 60A repealed (28.7.2000 for E. for specified purposes, 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 36, **Sch. 11**; S.I. 2000/3230, **art. 2**, **Sch.**; S.I. 2001/654, **art. 2**, **Sch. Pt. III** (with transitional provisions in **art. 3**)

**61** **Interpretation of Part I.**

- (1) In this Part of this Act—
  - “functions” includes powers and duties,
  - “modifications” includes additions, alterations and omissions and
  - “modify” shall be construed accordingly, and
  - “regulations” means regulations made by the Secretary of State.
- (2) References in this Part of this Act, except section 26, to the transfer of any person’s rights or liabilities do not include—
  - (a) rights or liabilities under a contract of employment, or
  - (b) liabilities of that person in respect of compensation for premature retirement of any person formerly employed by him.
- (3) In relation to any time before the commencement of section 65 of this Act, references in this Part of this Act and, so far as relating to this Part, Part III of this Act—
  - (a) to institutions within the higher education sector are to universities, to institutions within the PCFC funding sector and to higher education institutions which receive, or are maintained by persons who receive, grants under regulations made under section 100(1)(b) of the <sup>M1</sup>Education Act 1944, and
  - (b) to a higher education funding council are to the Universities Funding Council established under section 131 of the <sup>M2</sup>Education Reform Act 1988 and to the

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Polytechnics and Colleges Funding Council established under section 132 of that Act.

#### Modifications etc. (not altering text)

**C5** S. 61(3)(a) applied by 1973 c. 50, s. 8(4) (as substituted (1.4.1994 in relation to England and Scotland and 1.4.1995 for all other purposes) by 1993 c. 19, s.45; S.I. 1993/2503, art. 2(3)(a)(b), Sch.3)

#### Commencement Information

**I4** S. 61 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

#### Marginal Citations

**M1** 1944 c. 31.

**M2** 1988 c. 40.

### [<sup>F24</sup>61A References to [<sup>F25</sup>appropriate bodies] .

<sup>F26</sup>(1) .....

(2) In this Part of this Act a reference to the appropriate [<sup>F27</sup>body], in relation to any educational institution, is to be construed as follows—

- (a) if the institution mainly serves the population of England, the reference is to the Learning and Skills Council for England;
- (b) if the institution mainly serves the population of Wales, the reference is to the [<sup>F28</sup>National Assembly for Wales];
- (c) if the institution receives financial support from the other [<sup>F29</sup>body], the reference is to that [<sup>F29</sup>body] also.]

#### Textual Amendments

**F24** S. 61A inserted (28.7.2000 for specified purposes and otherwise 1.4.2001) by 2000 c. 21, s. 149, Sch. 9 para. 37; S.I. 2001/654, art. 2, Sch. Pt. II (with transitional provisions in art. 3)

**F25** Words in s. 61A heading substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), Sch. 1 para. 24(a) (with art. 7)

**F26** S. 61A(1) omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), Sch. 1 para. 24(b) (with art. 7)

**F27** Word in s. 61A(2) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), Sch. 1 para. 24(c) (with art. 7)

**F28** Words in s. 61A(2)(b) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), Sch. 1 para. 24(d) (with art. 7)

**F29** Word in s. 61A(2)(c) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), Sch. 1 para. 24(e) (with art. 7)

**Status:**

Point in time view as at 23/12/2007.

**Changes to legislation:**

Further and Higher Education Act 1992, Chapter III is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.