



# Education Act 1994

## 1994 CHAPTER 30

### PART I **E+W**

#### TEACHER TRAINING

##### *The Teacher Training Agency*

### 1 The Teacher Training Agency. **E+W**

- (1) There shall be established a body corporate to be known as the Teacher Training Agency to exercise—
- their functions as a funding agency under this Part,
  - the function of providing information and advice on teaching as a career, and
  - such other functions as may be conferred on them by or under this Part.

- (2) The objectives of the agency in exercising their functions shall be—
- to contribute to raising the standards of teaching;
  - to promote teaching as a career;
  - to improve the quality and efficiency of all routes into the teaching profession;
  - to secure the involvement of schools in all courses and programmes for the initial training of school teachers;

and generally to secure that teachers are well fitted and trained to promote the spiritual, moral, social, cultural, mental and physical development of pupils and to prepare pupils for the opportunities, responsibilities and experiences of adult life.

- (3) Except where corresponding functions in relation to Wales are conferred on another person or body, the functions of the agency are exercisable in relation to England and Wales generally; but the agency shall not do anything in relation to Wales, or institutions or students in Wales, except at the request of the Secretary of State.

- [<sup>F1</sup>(4) In exercising their functions, the Teacher Training Agency shall have regard to the requirements of persons who are disabled persons for the purposes of the Disability Discrimination Act 1995.]

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### Textual Amendments

**F1** S. 1(4) inserted (31.7.1996) by 1995 c. 50, s. 29(3) (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(2), **Sch. Pt.II**. (Note: the inserting provision was repealed (1.9.2002) by 2001 c. 10, ss. 40(1), 42(6), **Sch. 9**; S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**)

## 2 Membership, &c. of the agency. **E+W**

- (1) The Teacher Training Agency shall consist of between eight and twelve members appointed by the Secretary of State, of whom one shall be so appointed as chairman.
- (2) In appointing the members of the agency the Secretary of State shall have regard to the desirability of including persons who appear to him—
  - (a) to have experience of, and to have shown capacity in—
    - (i) teaching in schools,
    - (ii) teaching in higher education (other than training teachers), or
    - (iii) training teachers, or
  - (b) to have held, and to have shown capacity in, any position carrying responsibility for—
    - (i) the provision of education in schools,
    - (ii) the provision of higher education (other than the training of teachers), or
    - (iii) the training of teachers;

and in appointing such persons he shall have regard to the desirability of their being currently engaged in the provision of, or in carrying responsibility for, such matters.
- (3) In considering the appointment of members in accordance with subsection (2) the Secretary of State shall have regard to the desirability of including persons whose relevant experience or responsibility is, or was, in or in relation to—
  - (a) institutions of a denominational character, or
  - (b) teaching persons with special educational needs.
- (4) In appointing the members of the agency the Secretary of State shall also have regard to the desirability of including persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession.
- (5) Schedule 1 has effect with respect to the agency.

### Funding

## 3 The funding agencies. **E+W**

- (1) Any reference in this Part to a funding agency is—
  - (a) in relation to institutions in England, to the Teacher Training Agency, and
  - (b) in relation to institutions in Wales, to the Higher Education Funding Council for Wales.

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- (2) The references above to institutions in England and in Wales are to institutions whose activities are carried on, or principally carried on, in England or, as the case may be, in Wales; but both references include the Open University.

Any dispute as to which funding agency any functions are exercisable by shall be determined by the Secretary of State.

- (3) The funding agencies shall be responsible for administering funds made available to them by the Secretary of State and others for the purpose of providing financial support for the carrying on by eligible institutions of qualifying activities.

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

C1 S. 3(2) modified (1.7.1999) (W.) by S.I. 1999/672, art. 5, Sch.2

**4 Qualifying activities and eligible institutions. E+W**

- (1) The activities qualifying for funding under this Part (“qualifying activities”) are—
- the provision of teacher training;
  - the provision of facilities, and the carrying on of other activities, by eligible institutions which the governing bodies of the institutions consider it necessary or desirable to provide or carry on for the purpose of or in connection with activities within paragraph (a);
  - the provision by any person of services for the purposes of, or in connection with, such activities.
- (2) The institutions eligible for funding under this Part (“eligible institutions”) are—
- any institution within the higher or further education sector,
  - any school, and
  - any other institution or body designated by order of the Secretary of State, and any partnership or association of eligible institutions, or body established by one or more such institutions, for the purpose of carrying on qualifying activities.
- (3) The Secretary of State may by order provide for references in this Part to the governing body of an institution, in relation to an institution which is conducted by a company, to be read as references to the governing body provided for in the instrument of government, or to the company or to both.
- (4) In relation to a nursery school which is maintained by a local education authority references in this Part to the governing body shall be construed as references to the authority.

**5 Grants, loans and other payments. E+W**

- (1) A funding agency may—
- make grants, loans or other payments in respect of expenditure incurred or to be incurred by the governing body of an eligible institution for the purposes of activities qualifying for funding under this Part by virtue of section 4(1) (a) or (b), and

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- (b) make grants, loans or other payments in respect of expenditure incurred or to be incurred for the purposes of the provision of services as mentioned in section 4(1)(c),  
 subject in each case to such terms and conditions as the funding agency think fit.
- (2) The terms and conditions on which a funding agency may make any grants, loans or other payments under this section may in particular—
  - (a) enable the funding agency to require the repayment, in whole or in part, of sums paid by the agency if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the funding agency in accordance with any of the terms and conditions remains unpaid.
- (3) The terms and conditions shall not relate to the application of any sums derived otherwise than from a funding agency.
- (4) In exercising their functions under this section a funding agency shall have regard—
  - (a) generally, to any forecasts of demand for newly-qualified teachers notified to them by the Secretary of State; and
  - (b) in relation to any particular institution, to any assessment of the quality of education provided by the institution—
    - (i) made by either of Her Majesty’s Chief Inspectors of Schools, or
    - (ii) to which the agency think it appropriate to have regard or to which the Secretary of State directs them to have regard.

## 6 Provisions supplementary to s. 5. E+W

- (1) In exercising their functions in relation to the provision of financial support for qualifying activities the funding agencies shall have regard to the desirability of—
  - (a) establishing and maintaining in relation to courses for initial training of school teachers an appropriate balance between school-centred courses and other courses; and
  - (b) not discouraging any institution for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.
- (2) For the purposes of subsection (1)(a) a “school-centred course” means a course provided by a school or schools, or by a partnership or association consisting wholly or mainly of schools or by a body established by a school or institutions consisting wholly or mainly of schools.
- (3) Before exercising their discretion under section 5(1)(a) or (b) with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, a funding agency shall consult such of the following bodies as appear to them to be appropriate to consult in the circumstances—
  - (a) such bodies representing the interests of eligible institutions as appear to the funding agency to be concerned, and
  - (b) the governing body of any particular eligible institution which appears to the funding agency to be concerned.
- (4) In exercising their functions in relation to the provision of financial support for qualifying activities a funding agency shall have regard (so far as they think it

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appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining—

- (a) what appears to them to be an appropriate balance in the support given by them as between institutions which are of a denominational character and other institutions, and
  - (b) any distinctive characteristics of any eligible institution for whose activities financial support is provided under this Part.
- (5) In exercising their functions a funding agency shall take such steps as appear to them appropriate to secure that the governing body of any institution which provides a course of initial teacher training funded by the agency makes available such information relating to the course, in such manner and to such persons, as the agency may require.

## 7 Grants to the funding agencies. **E+W**

- (1) The Secretary of State may make grants to the funding agencies of such amounts and subject to such terms and conditions as he may determine.
- (2) The terms and conditions subject to which grants are made by the Secretary of State to a funding agency—
  - (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of any amount or description so specified is provided by the agency in respect of activities carried on by the institution, but
  - (b) shall not otherwise relate to the provision of financial support by the agency in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference—
  - (a) to particular courses of study or programmes of research (including the contents of such courses or programmes and the manner in which they are taught, supervised or assessed), or
  - (b) to criteria for the selection and appointment of academic staff and for the admission of students.
- (4) Such terms and conditions may in particular—
  - (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.

### Modifications etc. (not altering text)

C2 S. 7 extended (16.7.1998) by 1998 c. 30, s. 26(3) (with s. 42(8)).

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## **8 Directions by the Secretary of State. E+W**

- (1) In exercising their functions under this Part a funding agency shall comply with any directions under this section.
- (2) The Secretary of State may give general directions to a funding agency about the exercise of their functions.
- (3) If it appears to the Secretary of State that the financial affairs of an eligible institution have been or are being mismanaged he may, after consulting the agency and the institution, give such directions to the funding agency about the provision of financial support in respect of the activities carried on by the institution as he considers are necessary or expedient by reason of the mismanagement.
- (4) Directions under this section shall be contained in an order made by the Secretary of State.

## **9 Joint exercise of functions. E+W**

- (1) A funding agency and any other relevant funding body may exercise any of their functions jointly 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) In subsection (1) “other relevant funding body” means the other funding agency, the Higher Education Funding Council for England, a further education funding council or a funding authority for schools.

## **10 Efficiency studies. E+W**

- (1) A funding agency 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 which is receiving financial support under this Part.
- (2) A person promoting or carrying out such studies at the request of a funding agency may require the governing body of the institution concerned—
  - (a) to furnish him, or a person authorised by him, with such information, and
  - (b) to make available to him, or a person authorised by him, for inspection their accounts and such other documents,
 as he may reasonably require for that purpose.

## **11 Research. E+W**

- A funding agency may carry out or commission such research as they consider appropriate with a view to improving—
- (a) the training of teachers, or
  - (b) the standards of teaching.

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VALID FROM 01/11/1996

[<sup>F2</sup>General duty of Secretary of State]

**Textual Amendments**

**F2** S. 11A and crossheading inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.126 (with ss. 1(4), 561, 562, Sch. 39).

[11A] <sup>F3</sup>**General duty of Secretary of State with respect to teacher training.** **E+W**

In carrying out his duties under sections 10 and 11 of the Education Act 1996 the Secretary of State shall, in particular, make such arrangements as he considers expedient for securing that sufficient facilities are available for the training of teachers to serve in schools maintained by local education authorities, grant-maintained schools, institutions within the further education sector and institutions which are maintained by such authorities and provide higher education or further education (or both).]

**Textual Amendments**

**F3** S. 11A and crossheading inserted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.126 (with ss. 1(4), 561, 562, Sch. 39).

*Supplementary provisions*

**12 Power of schools to provide courses of initial teacher training.** **E+W**

- (1) The governing body of any county, voluntary or maintained special school, or of any grant-maintained school, may—
  - (a) provide courses of initial training for school teachers, or
  - (b) join in a partnership or association with other eligible institutions, or (alone or jointly with other eligible institutions) establish a body, for the purpose of providing such courses.
- (2) Courses of initial teacher training so provided shall be open only to persons holding a degree or equivalent qualification granted by a United Kingdom institution or an equivalent degree or other qualification granted by a foreign institution.

For this purpose—

- (a) a “United Kingdom institution” means an institution established in the United Kingdom, other than one which is, or is affiliated to or forms part of, an institution whose principal establishment is outside the United Kingdom; and
- (b) a “foreign institution” means any institution other than a United Kingdom institution.

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- (3) In relation to an exercise of the powers conferred by subsection (1), the governing body shall have all the same supplementary and incidental powers as it has in relation to the conduct of the school.
- (4) The above provisions have effect notwithstanding any provisions of the instrument of government or articles of government for the school.
- (5) For the purposes of section 12 or 13 of the <sup>M1</sup>Education Act 1980 or section 96 of the <sup>M2</sup>Education Act 1993 (procedure in case of certain proposals for alteration of school) an exercise of the powers conferred by this section, or ceasing to exercise them, shall not be treated as involving a significant change in the character of the school.
- (6) Any exercise by the governing body of a school of the powers conferred by this section shall not be treated, for the purposes of—
  - (a) sections 33 to 43 of the <sup>M3</sup>Education Reform Act 1988 (financing of schools maintained by local education authorities), or
  - (b) Chapter VI of Part II of the <sup>M4</sup>Education Act 1993 (funding of grant-maintained schools),
 as being undertaken for the purposes of the school.
- (7) Nothing in this section shall be construed as affecting the power of the governing body of a school, as an ordinary incident of the conduct of the school—
  - (a) to provide training for persons employed as teachers at the school, or
  - (b) to participate in the provision of teacher training as part of a course provided by another institution.

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

**C3** S. 12 extended (21.9.1994) by S.I. 1994/2247, reg.2.

**Marginal Citations**

**M1** 1980 c. 20.

**M2** 1993 c. 35.

**M3** 1988 c. 40.

**M4** 1993 c. 35.

**13 Grants for teacher training. E+W**

- (1) Section 50 of the <sup>M5</sup>Education (No.2) Act 1986 (grants for teacher training, &c.) is amended as follows.
- (2) In subsection (1) (power of Secretary of State to make provision for payment of grants), omit “by him”.
- (3) In subsection (3)(b)—
  - (a) omit “by the Secretary of State” in the first place where it occurs; and
  - (b) for “by the Secretary of State” in the second place where it occurs substitute “in accordance with the regulations”.
- (4) After subsection (3) insert—



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“(3A) Grants shall be payable in accordance with the regulations by the Secretary of State or, in the case of grants to facilitate and encourage the training of teachers, by the Teacher Training Agency or the Secretary of State according as the regulations may provide.”.

- (5) Until the coming into force of the first regulations made under section 50 as amended by this section, the <sup>M6</sup>Education (Bursaries for Teacher Training) Regulations 1988 shall have effect as if so made and as if references therein to the Secretary of State included the Teacher Training Agency.

#### Marginal Citations

- M5** 1986 c. 61.  
**M6** S.I. 1988/1397.

## 14 Qualification of teachers, &c. **E+W**

- (1) In section 218 of the <sup>M7</sup>Education Reform Act 1988 (regulations as to qualification of teachers, &c.), after subsection (2) (meaning of “qualified teacher”) insert—

“(2A) Regulations under subsection (2)(a) above may make provision—

- (a) by reference to the successful completion of a course of initial training for teachers in schools at an accredited institution; and
- (b) conferring on the Teacher Training Agency or the Higher Education Funding Council for Wales such functions in relation to accreditation or otherwise as may be prescribed.”.

- (2) In paragraph 2 of Schedule 3 to the <sup>M8</sup>Education (Teachers) Regulations 1993 (persons who are qualified teachers), after sub-paragraph (1) insert—

“(1A) The person—

- (a) holds a degree or equivalent qualification granted by a United Kingdom institution or an equivalent degree or other qualification granted by a foreign institution, and
- (b) has successfully completed a course of initial training for teachers in schools at an accredited institution in England or Wales.

For the purposes of this sub-paragraph—

- (a) a “United Kingdom institution” means an institution established in the United Kingdom, other than one which is, or is affiliated to or forms part of, an institution whose principal establishment is outside the United Kingdom;
- (b) a “foreign institution” means any institution other than a United Kingdom institution; and
- (c) an “accredited institution” means an institution accredited by the Teacher Training Agency or, in Wales, by the Higher Education Funding Council for Wales as a provider of courses satisfying such criteria as may from time to time be specified by the Secretary of State.”. The above amendment shall not be taken as prejudicing the power to make further regulations revoking or amending the provision inserted.

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- (3) In section 218(3) of the <sup>M9</sup>Education Reform Act 1988 (power to provide for exceptions to requirement that only qualified teachers be employed), for “persons licensed to teach by the Secretary of State” substitute “ persons licensed or otherwise authorised to teach by the Secretary of State or the Teacher Training Agency ”.
- (4) In section 232(6) of that Act (power to make different provision for Wales), in the list of provisions to which the power does not apply, omit the reference to section 218(1) (a) (requirement that only qualified teachers be employed).

#### Marginal Citations

- M7** 1988 c. 40.  
**M8** S.I. 1993/543.  
**M9** 1988 c. 40.

### 15 Duty to provide information, &c. **E+W**

- (1) The Teacher Training Agency—
  - (a) shall provide the Secretary of State (in such manner as he may from time to time determine) with such information or advice relating to matters for which they are responsible as he may from time to time require, and
  - (b) may provide the Secretary of State with such information or advice relating to such matters as they think fit.
- (2) The Teacher Training Agency and the Higher Education Funding Council for Wales shall give each other such information as they may require for the purposes of the exercise of their functions under this Part.
- (3) The following shall give the Teacher Training Agency or the Higher Education Funding Council for Wales such information as they may require for the purpose of the exercise of their functions under this Part—
  - (a) the governing body of any institution receiving, or which has received or applied for, any grant, loan or other payment under this Part;
  - (b) any local education authority.

### 16 Additional, supplementary and ancillary functions. **E+W**

- (1) The Secretary of State may by order confer or impose on the Teacher Training Agency such additional functions as he considers they may appropriately discharge having regard to their general objectives.
- (2) The Secretary of State may by order confer or impose on the Higher Education Funding Council for Wales such functions supplementary to their functions as a funding agency as he thinks fit.

For the purposes of this subsection a function is a supplementary function in relation to the Council if it is exercisable for the purposes of—

- (a) the exercise by the Secretary of State of functions of his under any enactment, or
- (b) the doing by the Secretary of State of anything he has power to do apart from any enactment,

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and it relates to, or to the activities of, an eligible institution.

- (3) Before making an order under subsection (1) or (2) the Secretary of State shall carry out such consultation as appears to him to be appropriate.
- (4) The Teacher Training Agency and the Higher Education Funding Council for Wales shall carry out such activities ancillary to their functions under this Part as the Secretary of State may direct.

**17 The Teaching as a Career Unit: transfer of property and staff. E+W**

The Secretary of State may by order provide for the transfer to the Teacher Training Agency of the property, rights and liabilities (including rights and liabilities arising under contracts of employment) of the Teaching as a Career Unit.

**18 Power to reimburse certain payments to persons formerly employed in teacher training. E+W**

- (1) A higher education funding council may make payments, subject to such terms and conditions as they think fit, to—
  - (a) the governing body of a grant-maintained school or grant-maintained special school, or
  - (b) a further education corporation or the governing body of any institution designated under section 28 of the <sup>M10</sup>Further and Higher Education Act 1992, in respect of expenditure incurred or to be incurred by that body in making safeguarded salary payments to which this section applies.
- (2) This section applies to payments made to a person who in consequence of a direction given by the Secretary of State under—
  - (a) regulation 3(2) of the <sup>M11</sup>Further Education Regulations 1975,
  - (b) regulation 15 of the <sup>M12</sup>Education (Schools and Further Education) Regulations 1981, being a direction relating to a course for the training of teachers, or
  - (c) regulation 16 of those Regulations,ceased before 1st April 1989 to be employed in a college for the training of teachers, or in a department for the training of teachers in any other establishment of further education.
- (3) The amount of the safeguarded salary payment is the amount by which, in consequence of the matters mentioned in subsection (2), a person's salary exceeds that which would normally be appropriate to the post held by him.
- (4) A body to which subsection (1)(a) or (b) applies shall give to a higher education funding council such information as the council may require for the purposes of the exercise of their power under that subsection.

**Marginal Citations**

**M10** 1992 c. 13.

**M11** S.I. 1975/1092.

**M12** S.I. 1981/1086.

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VALID FROM 01/10/1998

**[18A F<sup>4</sup>Inspection of institutions training teachers for schools. E+W**

- (1) The Chief Inspector may inspect and report on—
  - (a) any initial training of teachers, or of specialist teaching assistants, for schools, or
  - (b) any in-service training of such teachers or assistants, which is provided by a relevant institution.
- (2) When asked to do so by the Secretary of State, the Chief Inspector shall—
  - (a) give advice to the Secretary of State on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Secretary of State's request;
  - (b) inspect and report on such one or more relevant institutions as may be so specified.
- (3) The Chief Inspector may at any time give advice to—
  - (a) the Secretary of State,
  - (b) a funding agency,
  - (c) the General Teaching Council for England, or
  - (d) the General Teaching Council for Wales,
 on any matter connected with training falling within subsection (1)(a) or (b).
- (4) The Chief Inspector may—
  - (a) make such reports of inspections carried out by him under this section as he considers appropriate, and
  - (b) arrange for any such report to be published in such manner as he considers appropriate,
 and section 42A(2) to (4) of the <sup>M13</sup>School Inspections Act 1996 (publication of inspection reports) shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in section 42A(2).
- (5) When inspecting a relevant institution under this section, the Chief Inspector shall have at all reasonable times—
  - (a) a right of entry to the premises of the institution, and
  - (b) a right to inspect, and take copies of, any records kept by the institution, and any other documents containing information relating to the institution, which he considers relevant to the exercise of his functions under this section;
 and section 42 of the School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.
- (6) Without prejudice to subsection (5), a relevant institution to which an inspection under this section relates—
  - (a) shall give the Chief Inspector all assistance in connection with the exercise of his functions under this section which it is reasonably able to give; and
  - (b) shall secure that all such assistance is also given by persons who work for the institution.

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- (7) The Chief Inspector shall not carry out any inspection under subsection (1) unless—
- (a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—
    - (i) to the relevant institution concerned, or
    - (ii) where that institution is a partnership or association of eligible institutions, to one of those institutions; or
  - (b) with the agreement of that institution or (as the case may be) one of those institutions, he has given it shorter notice of that intention.
- (8) Any notice under subsection (7)—
- (a) shall be given in writing, and
  - (b) may be sent by post;
- and any such notice may (without prejudice to any other lawful method of giving it) be addressed to an institution at any address which the institution has notified to a funding agency as its address.
- (9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).
- (10) In this section—
- (a) “the Chief Inspector” means—
    - (i) in relation to England, Her Majesty’s Chief Inspector of Schools in England, and
    - (ii) in relation to Wales, Her Majesty’s Chief Inspector of Schools in Wales;
  - (b) “relevant institution” means—
    - (i) any eligible institution, or
    - (ii) any other institution, body or person designated by the Secretary of State as being in receipt of public funding in respect of the provision of training falling within subsection (1)(a) or (b);
  - (c) “in-service training” includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998); and
  - (d) “document” and “records” each include information recorded in any form.
- (11) Any reference in this section to the Chief Inspector shall be read, in relation to any inspection which he is authorised or required to carry out under this section, as including a reference to any person authorised to act on his behalf under subparagraph (1) or (2) of paragraph 5 of Schedule 1 to the <sup>M14</sup>School Inspections Act 1996.
- (12) Nothing in this section shall be taken as prejudicing the generality of section 2 or 5 of that Act or of paragraph 5(1) or (2) of Schedule 1 to that Act.]

#### Textual Amendments

**F4** S. 18A inserted (1.10.1998) by 1998 c. 30, s.20 (with s. 42(8)); S.I. 1998/2215, art.2.

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### Marginal Citations

M13 1996 c. 57.

M14 1996 c. 57.

## 19 Interpretation. **E+W**

(1) In this Part—

“denominational character”, in relation to an institution, shall be construed in accordance with subsection (2) below;

“eligible institution” has the meaning given by section 4(2);

“funding agency” has the meaning given by section 3(1);

“governing body”—

(a) in relation to an institution conducted by a company, shall be construed in accordance with any order under section 4(3), and

(b) in relation to a nursery school maintained by a local education authority, shall be construed in accordance with section 4(4);

“qualifying activities” has the meaning given by section 4(1);

“special educational needs” shall be construed in accordance with subsection (3) below; and

“training”, in relation to teachers, shall be construed in accordance with subsection (4) below.

(2) For the purposes of this Part an institution is of a denominational character if—

(a) at least one quarter of the members of the governing body of the institution, or in the case of a school at least one-fifth, are persons appointed to represent the interests of a religion or religious denomination, or

(b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned shall be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or

(c) any of the property held for the purposes of the institution is held on trust for or in connection with—

(i) the provision of education, or

(ii) the conduct of an educational institution,

in accordance with the tenets of a religion or religious denomination.

(3) For the purposes of this Part persons with special educational needs are—

(a) children with special educational needs as defined in section 156 of the <sup>M15</sup>Education Act 1993, or

(b) persons (other than children within the meaning of that section) who—

(i) have a significantly greater difficulty in learning than the majority of persons of their age, or

(ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

(4) It is hereby declared that references in this Part (and elsewhere in the Education Acts) to training, in relation to teachers, include any training or education with the object of fitting persons to be teachers, or better teachers.

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- (5) Other expressions, if used in this Part and in the <sup>M16</sup>Education Act 1944, have the same meaning in this Part as in that Act.

#### Marginal Citations

M15 1993 c. 35.

M16 1944 c. 31.

## PART II E+W+S

### STUDENTS’ UNIONS

#### 20 Meaning of “students’ union”. E+W+S

- (1) In this Part a “students’ union” means—
- an association of the generality of students at an establishment to which this Part applies whose principal purposes include promoting the general interests of its members as students; or
  - a representative body (whether an association or not) whose principal purposes include representing the generality of students at an establishment to which this Part applies in academic, disciplinary or other matters relating to the government of the establishment.
- (2) References in this Part to a students’ union include an association or body which would fall within subsection (1) if for the references to the generality of students at the establishment there were substituted a reference to—
- the generality of undergraduate students, or graduate students, at the establishment; or
  - the generality of students at a particular hall of residence of the establishment.
- (3) References in this Part to a students’ union include an association or body which consists wholly or mainly of—
- constituent or affiliated associations or bodies which are themselves students’ unions within subsection (1) or (2), or
  - representatives of such constituent or affiliated associations, and which fulfils the functions of a students’ union within subsection (1) or (2) in relation to students at an establishment to which this Part applies.
- (4) An association or body may be a students’ union within the meaning of this Part in relation to more than one establishment but not in relation to establishments generally in the United Kingdom or a part of the United Kingdom.
- (5) References in this section to an association of the generality of students, or of any description of students, include—
- any association which the generality of students, or of students of that description, may join, whether or not it has in membership a majority of them, and
  - any association which would fall within paragraph (a) if the references there to students were confined to full-time students;

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and references to a representative body whose principal purposes include representing the generality of students, or of any description of students, shall be similarly construed.

## 21 Establishments to which Part II applies. **E+W+S**

- (1) The establishments in England and Wales to which this Part applies are—
- (a) any university receiving financial support under section 65 of the <sup>M17</sup>Further and Higher Education Act 1992;
  - (b) any institution conducted by a higher education corporation or further education corporation within the meaning of that Act;
  - (c) any institution designated under section 129 of the <sup>M18</sup>Education Reform Act 1988 as eligible to receive support from funds administered by a higher education funding council;
  - (d) any institution designated under section 28 of the <sup>M19</sup>Further and Higher Education Act 1992 as eligible to receive support from funds administered by a further education funding council;
  - (e) any institution substantially dependent on financial support under section 6(5) of that Act (certain institutions providing facilities for part-time, or adult, further education);
  - (f) any institution designated, or of a description designated, by order of the Secretary of State;
  - (g) any college, school or hall in an establishment within any of the above paragraphs.
- (2) The establishments in Scotland to which this Part applies are—
- (a) any institution within the higher education sector for the purposes of section 56(2) of the <sup>M20</sup>Further and Higher Education (Scotland) Act 1992;
  - (b) any college of further education (within the meaning of section 36(1) of that Act), the board of management of which, or in respect of which an appropriate person, is in receipt of a grant, loan or other payment as mentioned in section 4(1) of that Act;
  - (c) any central institution within the meaning of section 135(1) of the <sup>M21</sup>Education (Scotland) Act 1980;
  - (d) any institution designated, or of a description designated, by order of the Secretary of State.
- (3) For the purposes of subsection (1)(e) an institution is substantially dependent on financial support under section 6(5) of the <sup>M22</sup>Further and Higher Education Act 1992 in any year in which such support amounts to 25 per cent. or more of its income.
- For this purpose “year” means an accounting year of the institution, and “income” means receipts of any description, including capital receipts.
- (4) In subsection (1)(g) “college” includes any institution in the nature of a college.
- (5) References in this Part to the governing body of an establishment are to the executive governing body which has responsibility for the conduct of affairs of the establishment and the management and administration of its revenue and property.



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#### Marginal Citations

- M17 1992 c. 13.
- M18 1988 c. 40.
- M19 1992 c. 13.
- M20 1992 c. 37.
- M21 1980 c. 44.
- M22 1992 c. 13.

## 22 Requirements to be observed in relation to students' unions. **E+W+S**

- (1) The governing body of every establishment to which this Part applies shall take such steps as are reasonably practicable to secure that any students' union for students at the establishment operates in a fair and democratic manner and is accountable for its finances.
- (2) The governing body shall in particular take such steps as are reasonably practicable to secure that the following requirements are observed by or in relation to any students' union for students at the establishment—
  - (a) the union should have a written constitution;
  - (b) the provisions of the constitution should be subject to the approval of the governing body and to review by that body at intervals of not more than five years;
  - (c) a student should have the right—
    - (i) not to be a member of the union, or
    - (ii) in the case of a representative body which is not an association, to signify that he does not wish to be represented by it,and students who exercise that right should not be unfairly disadvantaged, with regard to the provision of services or otherwise, by reason of their having done so;
  - (d) appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote;
  - (e) the governing body should satisfy themselves that the elections are fairly and properly conducted;
  - (f) a person should not hold sabbatical union office, or paid elected union office, for more than two years in total at the establishment;
  - (g) the financial affairs of the union should be properly conducted and appropriate arrangements should exist for the approval of the union's budget, and the monitoring of its expenditure, by the governing body;
  - (h) financial reports of the union should be published annually or more frequently, and should be made available to the governing body and to all students, and each such report should contain, in particular—
    - (i) a list of the external organisations to which the union has made donations in the period to which the report relates, and
    - (ii) details of those donations;
  - (i) the procedure for allocating resources to groups or clubs should be fair and should be set down in writing and freely accessible to all students;
  - (j) if the union decides to affiliate to an external organisation, it should publish notice of its decision stating—

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- (i) the name of the organisation, and
    - (ii) details of any subscription or similar fee paid or proposed to be paid, and of any donation made or proposed to be made, to the organisation,

and any such notice should be made available to the governing body and to all students;
  - (k) where the union is affiliated to any external organisations, a report should be published annually or more frequently containing—
    - (i) a list of the external organisations to which the union is currently affiliated, and
    - (ii) details of subscriptions or similar fees paid, or donations made, to such organisations in the past year (or since the last report),

and such reports should be made available to the governing body and to all students;
  - (l) there should be procedures for the review of affiliations to external organisations under which—
    - (i) the current list of affiliations is submitted for approval by members annually or more frequently, and
    - (ii) at such intervals of not more than a year as the governing body may determine, a requisition may be made by such proportion of members (not exceeding 5 per cent.) as the governing body may determine, that the question of continued affiliation to any particular organisation be decided upon by a secret ballot in which all members are entitled to vote;
  - (m) there should be a complaints procedure available to all students or groups of students who—
    - (i) are dissatisfied in their dealings with the union, or
    - (ii) claim to be unfairly disadvantaged by reason of their having exercised the right referred to in paragraph (c)(i) or (ii) above,

which should include provision for an independent person appointed by the governing body to investigate and report on complaints;
  - (n) complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.
- (3) The governing body of every establishment to which this Part applies shall for the purposes of this section prepare and issue, and when necessary revise, a code of practice as to the manner in which the requirements set out above are to be carried into effect in relation to any students' union for students at the establishment, setting out in relation to each of the requirements details of the arrangements made to secure its observance.
- (4) The governing body of every establishment to which this Part applies shall as regards any students' union for students at the establishment bring to the attention of all students, at least once a year—
- (a) the code of practice currently in force under subsection (3),
  - (b) any restrictions imposed on the activities of the union by the law relating to charities, and
  - (c) where the establishment is one to which section 43 of the <sup>M23</sup>Education (No.2) Act 1986 applies (freedom of speech in universities and colleges), the provisions of that section, and of any code of practice issued under it, relevant to the activities or conduct of the union.

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- (5) The governing body of every establishment to which this Part applies shall bring to the attention of all students, at least once a year, and shall include in any information which is generally made available to persons considering whether to become students at the establishment—
- (a) information as to the right referred to in subsection (2)(c)(i) and (ii), and
  - (b) details of any arrangements it has made for services of a kind which a students’ union at the establishment provides for its members to be provided for students who are not members of the union.
- (6) In subsections (2), (4) and (5) the expression “all students” shall be construed as follows—
- (a) in relation to an association or body which is a students’ union by virtue of section 20(1), the reference is to all students at the establishment;
  - (b) in relation to an association or body which is a students’ union by virtue of section 20(2), the reference is to all undergraduate, or all graduate, students at the establishment or to all students at the hall of residence in question, as the case may be;
  - (c) in relation to an association or body which is a students’ union by virtue of section 20(3), the reference is to all the students who by virtue of section 20(1) or (2) are comprehended by that expression in relation to its constituent or affiliated associations or bodies.
- (7) In this section the expression “members”, in relation to a representative body which is not an association, means those whom it is the purpose of the union to represent, excluding any student who has exercised the right referred to in subsection (2)(c)(ii).
- (8) In subsection (2)(j) to (l) the references to affiliation to an external organisation, in relation to a students’ union for students at an establishment, include any form of membership of, or formal association with, an organisation whose purposes are not confined to purposes connected with that establishment.
- (9) Subsection (2)(d) and (1)(ii) (elections and affiliations: requirements to hold secret ballot of all members) do not apply in the case of an open or distance learning establishment, that is, an establishment where the students, or the great majority of them, are provided with materials for private study and are not required to attend the establishment to any significant extent or at all.

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**Commencement Information**

**II** S. 22 wholly in force at 1.4.1995: s. 22 not in force at Royal Assent see s. 26; s. 22(1)(2)(6)-(9) in force at 21.9.1994 and s. 22(3)-(5) in force at 1.4.1995 by S.I. 1994/2204, art.2(2).

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**Marginal Citations**

**M23** 1986 c. 61.

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## PART III E+W+S

### GENERAL PROVISIONS

#### 23 Orders and directions. E+W+S

- (1) Any power of the Secretary of State to make orders under Part I or II shall be exercised by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Orders under Part I or II may make different provision for different cases, circumstances or areas and may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks fit.
- (3) Any power conferred by Part I to give directions includes power, exercisable in the same manner and subject to the same conditions or limitations, to revoke or vary directions previously given.

#### 24 Consequential amendments. U.K.

The enactments specified in Schedule 2 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.

#### 25 Extent. U.K.

- (1) The following provisions of this Act extend to England and Wales—  
Part I (teacher training),  
Part II (students' unions),  
the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to England and Wales,  
the other provisions of this Part so far as relating to the above provisions.
- (2) The following provisions of this Act extend to Scotland—  
Part II (students' unions),  
the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to Scotland,  
the other provisions of this Part so far as relating to the above provisions.
- (3) The following provisions of this Act extend to Northern Ireland—  
the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to Northern Ireland,  
the other provisions of this Part so far as relating to the above provisions.

#### 26 Commencement. U.K.

The provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions and for different purposes.

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**Subordinate Legislation Made**

**P1** [S. 26](#) power fully exercised (23.8.1994): 21.9.1994 appointed for the commencement of the whole Act by [S.I. 1994/2204](#) with the exception of s. 22(3)-(5) for which 1.4.1995 is appointed.

**27 Short title and citation. U.K.**

- (1) This Act may be cited as the Education Act 1994.
- (2) The Education Acts 1944 to 1993 and this Act may be cited together as the Education Acts 1944 to 1994.

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