



Learning and Skills Act 2000

2000 CHAPTER 21

PART II

[^{F1}FURTHER EDUCATION AND SIXTH FORM EDUCATION: WALES]

Main powers

34 Provision of financial resources.

- (1) The [^{F1}National Assembly] may secure the provision of financial resources to—
- (a) persons providing or proposing to provide post-16 education or training;
 - (b) persons providing or proposing to provide goods or services in connection with the provision by others of post-16 education or training;
 - (c) persons receiving or proposing to receive post-16 education or training;
 - (d) persons providing or proposing to provide courses falling within paragraph 1(g) or (h) of Schedule 6 to the ^{M1}Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level);
 - (e) institutions within the further or higher education sector (within the meaning of section 91 of the ^{M2}Further and Higher Education Act 1992) which provide or propose to provide secondary education (other than post-16 education);
 - (f) persons undertaking or proposing to undertake research relating to education or training;
 - (g) persons providing or proposing to provide facilities designed to form links between (on the one hand) employers and (on the other) persons who provide or receive education or training;
 - (h) persons carrying out means tests under arrangements made under section 37;
 - (i) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (2) The [^{F2}National Assembly] may secure the provision of financial resources under subsection (1)—

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- (a) by providing resources itself;
 - (b) by making arrangements for the provision of resources by another person;
 - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the ^{F2}National Assembly).
- (3) In exercising its power under subsection (1)(c) the ^{F1}National Assembly may secure the provision of financial resources by reference to any fees or charges payable by the person receiving or proposing to receive the education or training or to any other matter (such as transport or childcare).

Textual Amendments

- F1** Words in s. 34(1)(3) substituted (1.4.2006) by [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. 54(a)** (with art. 7)
- F2** Words in s. 34(2) substituted (1.4.2006) by [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. 54(b)** (with art. 7)

Commencement Information

- I1** S. 34 not in force at Royal Assent see s. 154; s. 34 in force for W. at 1.4.2001 by [S.I. 2001/1274](#), art. 2, **Sch. Pt. 1**

Marginal Citations

- M1** 1988 c. 40.
M2 1992 c. 13.

35 Financial resources: conditions.

- (1) If the ^{F3}National Assembly itself provides financial resources ^{F4}under section 34] it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—
- (a) require the ^{F5}National Assembly] or a person designated by it to be allowed access to a person’s accounts and documents and to be given rights in relation to a person’s computers and associated apparatus and material;
 - (b) require a person to whom financial resources are provided to give to the ^{F6}National Assembly] information it requests for the purpose of carrying out its functions ^{F7}under this Part].
- (3) The conditions may require a person providing or proposing to provide education or training (the provider) to make arrangements providing for all or any of the following—
- (a) for the provider to charge fees by reference to specified criteria;
 - (b) for the provider to make awards by reference to specified criteria;
 - (c) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
 - (d) for amounts to be determined by reference to specified criteria where provision is made under paragraph (c);

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- (e) for specified exemptions to operate where provision is made under paragraph (c);
 - (f) for the provider to make provision specified in a report of an assessment conducted under section [F8]139A or] 140.
- (4) F9
- (5) The conditions may—
- (a) enable the [F10]National Assembly] to require the repayment (in whole or part) of sums paid by the [F10]National Assembly] if any of the conditions subject to which the sums were paid is not complied with;
 - (b) require the payment of interest in respect of any period in which a sum due to the [F10]National Assembly] in accordance with any condition is unpaid.
- (6) F9

Textual Amendments

- F3** Words in s. 35(1) substituted (1.4.2006) by [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. 55(a)(i)** (with art. 7)
- F4** Words in s. 35(1) inserted (1.4.2006) by [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. 55(a)(ii)** (with art. 7)
- F5** Words in s. 35(2) substituted (1.4.2006) by [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. 55(b)(i)** (with art. 7)
- F6** Words in s. 35(2) inserted (1.4.2006) by [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. 55(b)(ii)** (with art. 7)
- F7** Words in s. 35(2) inserted (1.4.2006) by [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. 55(b)(ii)** (with art. 7)
- F8** Words in s. 35(3)(f) inserted (26.11.2008) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(1)(g), **Sch. 1 para. 76(c)**
- F9** S. 35(4)(6) repealed (1.9.2002) by [2001 c. 10](#), ss. 34(8), 42(6), [Sch. 9](#) (with s. 43(13)); [S.I. 2002/2217](#), **art. 3**, **Sch. 1 Pt. 1**
- F10** Words in s. 35(5) substituted (1.4.2006) by [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. 55(c)** (with art. 7)

Commencement Information

- I2** S. 35 not in force at Royal Assent see s. 154; s. 35 in force for W. at 1.4.2001 by [S.I. 2001/1274](#), **art. 2**, **Sch. Pt. 1**

36 Funding of school sixth-forms.

- (1) The [F11]National Assembly] may make a grant to a [F12]local authority] —
 - (a) on the condition that the grant be applied as part of the authority's [F13]schools budget] for a [F14]funding period], and

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- (b) with a view to the grant being used for the purposes of, or for purposes connected with, the provision by schools of education suitable to the requirements of persons above compulsory school age.
- (2) A grant made under this section may be made on conditions in addition to the condition mentioned in subsection (1)(a) (including conditions of a kind which could be imposed under section 35).
- [^{F15}(3) In this section—
“funding period” means a financial year or, if some other period is prescribed in relation to Wales under subsection (1B) of section 45 of the School Standards and Framework Act 1998 (maintained schools to have budget shares), that other period;
[^{F16}“local authority” means a local authority in Wales (within the meaning of section 579(1) of the Education Act 1996);]
“schools budget” has the same meaning as in Part 2 of that Act (framework for maintained schools).]

Textual Amendments

- F11** Words in s. 36(1) substituted (1.4.2006) by [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. 56** (with art. 7)
- F12** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 46(2)**
- F13** Words in s. 36(1)(a) substituted (4.12.2003 for W., 6.11.2006 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 125(2)** (with ss. 210(8), 214(4); S.I. 2003/2959, regs. 1(1), 5); S.I. 2003/2961, art. 5, Sch. Pt. 2; S.I. 2006/2895, art. 2
- F14** Words in s. 36(1)(a) substituted (1.4.2010 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 18 para. 13(2)** (with s. 119); S.I. 2010/735, art. 2(e)
- F15** S. 36(3) substituted (1.4.2010 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 18 para. 13(3)** (with s. 119); S.I. 2010/735, art. 2(e)
- F16** Words in s. 36(3) inserted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 46(3)**

Modifications etc. (not altering text)

- C1** S. 36 savings for effects of 2002 c. 32, ss. 41(3), 215, Sch. 21 paras. 100(1)(2), 113, 125, Sch. 22 Pt. 3 (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), regs. 1(1), 5

Commencement Information

- I3** S. 36 not in force at Royal Assent see s. 154; s. 36 in force for W. at 1.4.2002 by [S.I. 2001/2705](#), art. 2, **Sch. Pt. 1**

37 Assessments and means tests.

- (1) The [^{F17}National Assembly] may develop schemes for the assessment of the performance of persons in providing post-16 education and training.
- (2) The [^{F17}National Assembly] may take the assessments into account in deciding how to exercise its powers under section 34.
- (3) The [^{F17}National Assembly] may—
(a) carry out means tests;

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- (b) arrange for other persons to carry out means tests.
- (4) The [^{F17}National Assembly] may take the results of the tests into account in exercising its power under section 34(1)(c).

Textual Amendments

F17 Words in s. 37(1)-(4) substituted (1.4.2006) by 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. 57** (with art. 7)

Commencement Information

I4 S. 37 not in force at Royal Assent see s. 154; s. 37 in force for W. at 1.4.2001 by S.I. 2001/1274, art. 2, **Sch. Pt. I**

38 Qualifying accounts and arrangements.

- (1) The [^{F18}National Assembly] may promote—
 - (a) the holding of accounts which qualify under section 104;
 - (b) the making of arrangements which qualify under section 105.

^{F19}(2)

Textual Amendments

F18 Words in s. 38(1) substituted (1.4.2006) by 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. 58(a)** (with art. 7)

F19 S. 38(2) omitted (1.4.2006) by virtue of 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. 58(b)** (with art. 7)

Commencement Information

I5 S. 38 not in force at Royal Assent see s. 154; s. 38 in force for W. at 1.4.2001 by S.I. 2001/1274, art. 2, **Sch. Pt. I**

39 Further education: governors.

- (1) The [^{F20}National Assembly] may appoint a person to be a member of the governing body of an institution which—
 - (a) falls within the further education sector (within the meaning given by section 91(3) of the ^{M3}Further and Higher Education Act 1992), and
 - (b) mainly serves the population of Wales.
- (2) But no more than two members of the governing body of a given institution may at any given time have been appointed under this section.

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Textual Amendments

F20 Words in s. 39(1) substituted (1.4.2006) by [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. 59](#) (with art. 7)

Commencement Information

I6 S. 39 not in force at Royal Assent see s. 154; s. 39 in force for W. at 1.4.2001 by [S.I. 2001/1274](#), art. 2, [Sch. Pt. I](#)

Marginal Citations

M3 1992 c. 13.

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