

*These notes refer to the Education Act 2005 (c.18)
which received Royal Assent on 7 April 2005*

EDUCATION ACT 2005

EXPLANATORY NOTES

COMMENTARY

Part 3: Training the School Workforce

158. The following definitions occur in the notes in relation to Part 3:

- *The Agency* means the Training and Development Agency for Schools
- *HEFCW* means the Higher Education Funding Council for Wales
- *The Assembly* means the National Assembly for Wales
- *The 1994 Act* is the Education Act 1994

Section 74: The Training and Development Agency for Schools

159. This section renames the Teacher Training Agency as the Training and Development Agency for Schools to reflect their new role in relation to training and development for the whole school workforce.

Section 75: Functions of the Agency

160. The Agency's objectives provide the framework within which they may exercise their functions. *Subsection (2)* extends the objectives of the Agency listed in section 1(2) of the 1994 Act to include matters in relation to all members of the school workforce. The Agency's objectives include encouraging suitable adults to take up careers in teaching and in other parts of the school workforce, improving the means by which they may do so, and generally contributing to raising the standards of teaching and of other activities carried out by the school workforce. *Subsection (3)* also provides context for the exercise of the Agency's functions. The Agency are required to have regard to the desirability of securing that the school workforce is well fitted and trained to pursue a number of outcomes. In addition to the outcomes that feature within the Agency's objectives in the 1994 Act, these outcomes include the contribution of the school workforce to the well-being of children and young people, having regard to the matters mentioned in section 10(2) of the Children Act 2004, and their promotion of the behavioural development of children and young people. *Subsection (5)* defines what is meant by the school workforce.

Section 76: Powers of the Agency in Wales

161. This section allows the Agency to act in Wales as well as in England. However, the Agency must not do anything in Wales (except where the functions have been given to them by section 94 or by regulations made under the Education Act 2002) unless they have been requested to do so by the Assembly and the Agency have given notice that they have agreed to such a request.

Section 77: Membership etc. of Agency

162. *Subsection (1)* allows the Secretary of State to appoint members of the Agency, one of whom must be appointed chairman. There is no longer a restriction, either minimum or maximum, on the number of members. Provision in relation to the conditions of appointment, tenure and remuneration of members is made in Schedule 13.

Schedule 13: The Training and Development Agency for Schools

163. In the main, Schedule 13 reproduces Schedule 1 to the 1994 Act. The changes made within *paragraph 1* are described in the context of section 83. *Paragraph 11* allows the Assembly to send a representative to meetings of the Agency and their committees. The terms of this representation mirror those which already apply to the Secretary of State and Her Majesty's Chief Inspector of Schools in England under the 1994 Act and which are reproduced in *paragraphs 10 and 12*. Minor amendments have also been made to reflect current Government accounting practice.

Sections 78 to 80: Powers of the Agency to provide financial support

164. These sections describe the Agency's powers to provide financial support. They replace the Agency's existing funding powers under section 5 of the 1994 Act, orders made under section 16 of that Act and regulations made under section 50 of the Education (No. 2) Act 1986. The Agency will be able to provide to any person such financial support as they think fit in furtherance of their objectives. This power includes power to provide financial support to, for example, persons undertaking training as well as institutions or other bodies providing training as defined in *subsection (3)* of section 78. References to training in this Part are to be read in accordance with section 96(1).
165. *Section 79* allows the Agency to attach terms and conditions in relation to financial support they provide. This includes, in *subsections (4) and (5)*, a new power for the Agency to control the charging of fees by training providers. It will remain the case, however, that the Agency will have to impose on a training provider any condition of grant governing the charging of fees that the Secretary of State or the Assembly require them to impose under Part 3 of the Higher Education Act 2004 (to which consequential amendments are made by Schedule 14).
166. In addition to the current requirement that the Agency must have regard to teacher training targets when reaching decisions on the provision of financial support, *subsection (7)* requires the Agency to have regard to any other forecast of demand for members of the school workforce that may be notified to them by the Secretary of State. There continues to be provision that the Agency must have regard to whether their funding practices may discourage institutions from obtaining revenue from other sources such as research and development activity (*subsection (1)* of section 80), and that they must take into account the need to keep an appropriate balance between the support given to training providers of a denominational character and other training providers (*subsection (2)* of section 80).

Section 81: Grants to Agency by Secretary of State

167. This section largely re-enacts the Secretary of State's funding power under section 7 of the 1994 Act. The Secretary of State continues to be prohibited from imposing terms and conditions relating to the admission of students or the selection of staff as a condition of funding (*subsection (4)*).

Section 82: Grants to the Agency by the Assembly

168. This section gives the Assembly power to pay grants to the Agency in respect of any activities undertaken at the Assembly's request in relation to Wales. The Assembly may set terms and conditions on grants to the Agency, and may require the Agency

to impose a condition on a training provider in relation to the charging of fees under section 79 (*subsection (3)(b)*).

Section 83: Non-funding functions of the Agency

169. This section provides the Agency with a new broad power to do anything they think fit in furtherance of their objectives. This will allow the Agency to undertake functions such as setting standards for the award of qualifications and the administration of schemes. This power includes power to do anything currently done by the Agency by virtue of orders made under section 16 of the 1994 Act. *Subsection (2)* provides that the Agency will be able to provide information, advice and other services to persons outside England and Wales. *Subsection (3)* enables the Agency to levy a charge for providing information, advice and other services under this section.
170. **Paragraph 1** of Schedule 13 makes more detailed provision as to the nature of the Agency's power under section 83. The Agency will no longer be prohibited from borrowing money but paragraph 1(2) of Schedule 13 prohibits the Agency from borrowing money without the consent of the Secretary of State. This power will allow the Agency, for example, to make use of the Government Procurement Card where this would offer value for money benefits.

Section 84: Directions by the Secretary of State and Assembly

171. This section replaces the existing power of the Secretary of State in section 8 of the 1994 Act to issue general directions by order about the exercise of the Agency's functions.

Sections 85 to 91: Provisions relating to HEFCW

172. These provisions re-enact existing provisions in sections 3(3), 4 to 8 and 16(2) to (4) of the 1994 Act in their application to the HEFCW. They make some minor adjustments and include new powers on fee regulation in section 86, in particular, *subsections (3) and (4)*, which correspond to the Agency's powers in *subsections (4) and (5)* of section 79.

Section 92: Joint exercise of functions

173. This section largely re-enacts the powers of the Agency, HEFCW and certain specified bodies under section 9 of the 1994 Act to exercise their functions jointly. In addition, *subsection (3)* enables the Secretary of State to permit the Agency to exercise their functions jointly with other bodies by order. *Subsection (4)* similarly enables the Assembly to permit HEFCW and any other body specified by order to exercise their functions jointly.

Section 94: Duty to provide information

174. This section re-enacts section 15 of the 1994 Act. It also makes clear that the Agency have functions in relation to the provision of information to the Assembly as well as to the Secretary of State.

Section 95: Power of maintained schools to provide training for the school workforce

175. This section replaces section 12 of the 1994 Act. It allows the governing bodies of maintained schools to provide training for members of the school workforce in addition to the power they already have to provide training for teachers. This provision enables schools to provide training in the nature of, for example, school-centred initial teacher training, which they provide either on their own or in partnership with other schools and training providers.

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Section 99 and Schedule 14: Amendments relating to the training of the school workforce

176. **Schedule 14** makes consequential amendments to other enactments to reflect the changes made by provisions of this Act relating to the training of the school workforce. Many of the changes are to reflect either the change in name of the Agency or the change in the funding power of the Agency from one of funding “eligible institutions” to one of funding “training providers”. In addition, **paragraph 23** amends section 14 of the Education Act 2002 to provide that “training”, in the context of the powers of the Secretary of State and the Assembly to give financial assistance in connection with training for teachers or for non-teaching staff, has a meaning corresponding to that used for the purposes of Part 3 of this Act. **Paragraph 27** ensures that, should the Agency carry out funding functions in relation to Wales, the Assembly would have the same power to impose conditions in relation to the charging of fees over the Agency as they do over HEFCW.