



# Education Act 2005

## 2005 CHAPTER 18

### PART 3

#### TRAINING THE SCHOOL WORKFORCE

##### *The Training and Development Agency for Schools*

#### **74 The Training and Development Agency for Schools**

The body corporate originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency is to continue in existence but is to be known instead as the Training and Development Agency for Schools.

#### **75 Functions of Agency**

- (1) The Agency are to exercise the functions conferred on them by or under this Part or any other enactment.
- (2) The objectives of the Agency in exercising their functions are—
  - (a) to contribute to raising the standards of teaching and of other activities carried out by the school workforce,
  - (b) to promote careers in the school workforce,
  - (c) to improve the quality and efficiency of all routes into the school workforce, and
  - (d) to secure the involvement of schools in all courses and programmes for the initial training of school teachers.
- (3) In the exercise of their functions the Agency shall have regard, in particular, to the desirability of securing that the school workforce is well fitted and trained—
  - (a) to promote the spiritual, moral, behavioural, social, cultural, mental and physical development of children and young people,
  - (b) to contribute to their well-being, and

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- (c) to prepare them for the opportunities, responsibilities and experiences of later life.
- (4) In subsection (3)(b) “well-being”, in relation to children and young people, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004 (c. 31).
- (5) For the purposes of this Part, the school workforce consists of the following members—
  - (a) persons who work in schools, and
  - (b) persons not falling within paragraph (a) who are teachers or carry out work that consists of or includes teaching.

## **76 Functions of Agency in relation to Wales**

- (1) Subject to subsection (2), the functions of the Agency are exercisable in relation to England and Wales generally.
- (2) The Agency must not do anything in relation to Wales unless—
  - (a) the Agency have been requested to do so by the Assembly, and
  - (b) the Agency have given the Assembly notice that they are willing to do so.
- (3) Subsection (2) does not affect any function conferred on the Agency by section 94 or by regulations made under any of sections 132 to 140 of the Education Act 2002 (c. 32) (qualifications etc. of school teachers and persons providing further education).

## **77 Membership etc. of Agency**

- (1) The Agency is to consist of such number of members appointed by the Secretary of State as the Secretary of State may determine, of whom one is to be appointed as chairman.
- (2) Schedule 13 has effect with respect to the Agency.

## **78 Powers of Agency to provide financial support**

- (1) The Agency may provide to any person such financial support as the Agency think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The persons to whom financial support may be provided include, in particular—
  - (a) members of the school workforce,
  - (b) persons training to be members of the school workforce,
  - (c) training providers, and
  - (d) employers or prospective employers of members of the school workforce.
- (3) In this Part “training provider” means a person who provides training for members of the school workforce.

## **79 Forms of financial support under section 78**

- (1) Financial support under section 78 may be given by way of grants, loans or other payments.

- (2) Financial support under section 78 may be given subject to such terms and conditions as the Agency think fit.
- (3) The terms and conditions on which the Agency may make any grants, loans or other payments under section 78 may in particular—
  - (a) enable the 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 Agency in accordance with any of the terms and conditions remains unpaid.
- (4) The power of the Agency to impose conditions on the making of any grants, loans or other payments under section 78 to a training provider includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the provision by that training provider of relevant training of any description specified in the condition.
- (5) Where—
  - (a) a condition is imposed under subsection (4) in connection with any grant, loan or other payment made to a training provider (“T1”), and
  - (b) the grant, loan or other payment is to any extent made in respect of persons undertaking relevant training which is provided in whole or part by another training provider (“T2”),then, for the purposes of the condition, fees payable by such persons to T2 are to be regarded as fees charged by T1.
- (6) The terms and conditions on which the Agency make any grant, loan or other payment under section 78 to a training provider must not relate to the application by the training provider of any sums derived otherwise than from the Agency, but this subsection does not affect the power to impose conditions by virtue of subsection (4).
- (7) In exercising their functions under section 78 and this section the Agency must have regard—
  - (a) generally, to any forecast of demand for members of the school workforce of a particular category that is notified to them by the Secretary of State, and
  - (b) in relation to financial support for any training provider, to any assessment of the quality of the relevant training provided by that person—
    - (i) made by the Chief Inspector for England, or
    - (ii) to which the Agency think it appropriate to have regard or to which the Secretary of State directs them to have regard.
- (8) In this section “relevant training”, in relation to a training provider, means any training provided by the training provider for members of the school workforce.

## **80 Provisions supplementary to sections 78 and 79**

- (1) In exercising their functions in relation to the provision of financial support, the Agency must have regard to the desirability of not discouraging any training provider for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.

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- (2) In exercising their functions in relation to the provision of financial support for training providers the Agency must have regard (so far as the Agency think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining what appears to the Agency to be an appropriate balance in the support given by the Agency between institutions which are of a denominational character and other training providers.
- (3) In exercising their functions the Agency must take such steps as appear to them appropriate to secure that any person who provides any training funded by the Agency makes available such information relating to the training, in such manner and to such persons, as the Agency may require.
- (4) Subsection (1) does not affect the power by virtue of section 79(4) to impose conditions prohibiting or restricting the charging of fees.

## **81 Grants to Agency by Secretary of State**

- (1) The Secretary of State may make grants to the Agency of such amounts and subject to such terms and conditions as he may determine.
- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Secretary of State to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.
- (3) The terms and conditions—
  - (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider 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 training provider, but
  - (b) must not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (5) The terms and conditions subject to which any grants are made by the Secretary of State to the Agency 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.

## **82 Grants to Agency by Assembly**

- (1) The Assembly may make grants to the Agency of such amounts and subject to such terms and conditions as the Assembly may determine.

- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Assembly to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.
- (3) The terms and conditions—
  - (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider 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 training provider,
  - (b) may include a condition requiring the Agency to impose a specified condition falling within subsection (4) of section 79 in relation to any grants, loans or other payments made by the Agency under section 78 to a training provider specified by the Assembly in the condition under subsection (1), or a training provider of a class so specified, but
  - (c) may not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (5) A condition imposed by virtue of subsection (3)(b) does not apply in relation to grants, loans or other payments made by the Agency in respect of any course which is a qualifying course for the purposes of section 28 of the Higher Education Act 2004 (c. 8).
- (6) The terms and conditions subject to which any grants are made by the Assembly to the Agency may in particular—
  - (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it 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 Assembly in accordance with any of the terms and conditions remains unpaid.

### **83 Non-funding functions of Agency**

- (1) The Agency may do anything which they think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The power conferred by this section includes power to provide information, advice or other services to persons outside England and Wales.
- (3) The Agency may make such charges as they think fit for the provision under this section to any person of information, advice or other services.
- (4) This section—
  - (a) does not authorise the provision of financial support, and
  - (b) is subject to paragraph 1(2) of Schedule 13.

#### **84 Directions by Secretary of State and Assembly**

- (1) In exercising their functions the Agency must comply with any directions under this section.
- (2) The Secretary of State may give general directions to the Agency about the exercise of their functions, except so far as those functions are exercisable in relation to Wales.
- (3) The Assembly may give general directions to the Agency about the exercise of their functions, so far as those functions are exercisable in relation to Wales in accordance with section 76.
- (4) Directions under this section are to be contained in an order made by the Secretary of State or the Assembly.

*Funding of teacher training by Higher Education Funding Council for Wales*

#### **85 Qualifying activities and eligible institutions in relation to HEFCW funding**

- (1) The Higher Education Funding Council for Wales (in this Part referred to as “HEFCW”) are responsible for administering funds made available to them by the Assembly and others for the purpose of providing financial support for the carrying on by eligible institutions of qualifying activities.
- (2) The activities qualifying for funding by HEFCW under this Part (“qualifying activities”) are—
  - (a) the provision of teacher training,
  - (b) the provision of facilities, and the carrying on of other activities, by eligible institutions which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purposes of or in connection with activities within paragraph (a), and
  - (c) the provision by any person of services for the purposes of, or in connection with, such activities.
- (3) The institutions eligible for funding by HEFCW under this Part (“eligible institutions”) are—
  - (a) any institution in Wales within the higher or further education sector,
  - (b) the Open University,
  - (c) any school in Wales, and
  - (d) and other institution or body in Wales designated by order of the Assembly, 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.
- (4) For the purposes of subsection (3), an institution or body is in Wales if its activities are carried on, or principally carried on, in Wales.
- (5) In sections 86 to 91—
  - (a) “qualifying activities” is to be read in accordance with subsection (2);
  - (b) “eligible institution” is to be read in accordance with subsection (3).

#### **86 Grants, loans and other payments by HEFCW**

- (1) HEFCW may—

- (a) 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 by HEFCW under this Part by virtue of section 85(2)(a) or (b), and
  - (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 85(2)(c),subject in each case to such terms and conditions as HEFCW think fit.
- (2) The terms and conditions on which HEFCW may make any grants, loans or other payments under this section may in particular—
  - (a) enable HEFCW to require the repayment, in whole or in part, of sums paid by HEFCW 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 HEFCW in accordance with any of the terms and conditions remains unpaid.
- (3) The power of HEFCW to impose conditions on the making of any grants, loans or other payments under this section to an eligible institution includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the carrying out by that institution of qualifying activities.
- (4) Where—
  - (a) a condition is imposed under subsection (3) in connection with any grant, loan or other payment to an eligible institution, and
  - (b) the grant, loan or other payment is to any extent made in respect of persons undertaking training which is provided in whole or in part by another training provider,then, for the purposes of the condition, fees payable by such persons to the other training provider are to be regarded as fees charged by the eligible institution.
- (5) The terms and conditions must not relate to the application of any sums derived otherwise than from HEFCW, but this subsection does not affect the power to impose conditions by virtue of subsection (3).
- (6) In exercising their functions under this section HEFCW must have regard—
  - (a) generally, to any forecast of demand for newly-qualified teachers that is notified to them by the Assembly, and
  - (b) in relation to any particular institution, to any assessment of the quality of the teacher training provided by that institution—
    - (i) made by the Chief Inspector for Wales, or
    - (ii) to which HEFCW think it appropriate to have regard or to which the Assembly directs them to have regard.

## **87 Provisions supplementary to section 86**

- (1) In exercising their functions in relation to the provision of financial support for qualifying activities, HEFCW must have regard to the desirability of not discouraging any institution for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.

- (2) Before exercising their discretion under section 86(1)(a) or (b) with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, HEFCW must 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 HEFCW to be concerned, and
  - (b) the governing body of any particular eligible institution which appears to HEFCW to be concerned.
- (3) In exercising their functions in relation to the provision of financial support for qualifying activities HEFCW must have regard (so far as they think it relevant 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 to 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.
- (4) In exercising their functions HEFCW must 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 HEFCW makes available such information relating to the course, in such manner and to such persons, as HEFCW may require.
- (5) Subsection (1) does not affect the power by virtue of section 86(3) to impose conditions prohibiting or restricting the charging of fees.

## **88 Grants to HEFCW**

- (1) The Assembly may make grants to HEFCW of such amounts and subject to such conditions as the Assembly may determine.
- (2) The terms and conditions subject to which grants are made by the Assembly to HEFCW under this section—
  - (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 HEFCW in respect of activities carried on by the institution, but
  - (b) may not otherwise relate to the provision of financial support by HEFCW in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (4) Such terms and conditions may in particular—
  - (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it 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 Assembly in accordance with any of the terms and conditions remains unpaid.



- (5) Section 68 of the Further and Higher Education Act 1992 (c. 13) does not apply in relation to grants made to HEFCW under this section.

## **89 Power of HEFCW to carry out or commission research**

HEFCW 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.

## **90 Supplementary and ancillary functions of HEFCW**

- (1) The Assembly may by order confer or impose on HEFCW such functions supplementary to their functions under this Part as the Assembly thinks fit.
- (2) For the purposes of subsection (1) a function is a supplementary function in relation to HEFCW if—
  - (a) it is exercisable for the purposes of the exercise by the Assembly of functions of the Assembly under any enactment, and
  - (b) it relates to, or to the activities of, an eligible institution.
- (3) Before making an order under subsection (1) the Assembly must carry out such consultation as appears to it to be appropriate.
- (4) HEFCW may carry out such activities ancillary to their functions under this Part as the Assembly may direct.

## **91 Directions by Assembly**

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

### *Common provisions*

## **92 Joint exercise of functions**

- (1) A funding agency and any other relevant funding body may exercise any of their functions jointly.
- (2) In subsection (1) “other relevant funding body” means the other funding agency, the Higher Education Funding Council for England, the Learning and Skills Council for England or the National Council for Education and Training for Wales.

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- (3) The Agency and any body specified in an order made by the Secretary of State for the purposes of this subsection may exercise their functions jointly.
- (4) The Assembly may by order authorise HEFCW to exercise their functions under this Part jointly with a body specified in the order, and the specified body to exercise its functions jointly with HEFCW.

### **93 Efficiency studies**

- (1) A funding agency may arrange for the promotion or the carrying out by any person of studies designed to improve economy, efficiency and effectiveness in the management or operations of a qualifying person.
- (2) A person promoting or carrying out such studies at the request of a funding agency may require the qualifying person concerned—
  - (a) to provide 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.
- (3) In this section “qualifying person” means—
  - (a) a training provider receiving financial support under this Part from the Agency, or
  - (b) the governing body of an eligible institution, as defined by section 85(3), receiving financial support under this Part from HEFCW.

### **94 Duty to provide information**

- (1) The Agency—
  - (a) must 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 Agency must provide the Assembly (in such manner as the Assembly may from time to time determine) with such information or advice relating to matters for which the Agency are responsible by virtue of section 76(2) or by virtue of regulations made by the Assembly under any of sections 132 to 140 of the Education Act 2002 (c. 32) as the Assembly may from time to time require.
- (3) The Agency may provide the Assembly with such information or advice relating to other matters as the Agency think fit.
- (4) The Agency and HEFCW must give each other such information as they may require for the purposes of the exercise of their functions under any enactment.
- (5) The following must give the Agency or HEFCW such information as they may require for the purpose of the exercise of their functions under any enactment—
  - (a) any person receiving, or who has received or applied for, any grant, loan or other payment under this Part;
  - (b) any local education authority.

### *Provision of training in schools*

## **95 Power of maintained schools to provide training for the school workforce**

- (1) The governing body of a maintained school may—
  - (a) provide courses of initial or further training for school teachers,
  - (b) provide courses of training for other members of the school workforce, or
  - (c) join in partnership with other training providers, or (alone or jointly with other training providers) establish a body, for the purpose of providing training falling within paragraph (a) or (b).
- (2) It is immaterial for the purposes of subsection (1) whether or not the training constitutes higher education.
- (3) In relation to an exercise of the powers conferred by subsection (1), the governing body has all the same supplementary and incidental powers as it has in relation to the conduct of the school.
- (4) Any exercise by the governing body of a maintained school of the powers conferred by this section is not to be treated, for the purposes of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (financing of maintained schools) as being undertaken for the purposes of the school.
- (5) Section 80 of the School Standards and Framework Act 1998 (exercise of power to provide further education) does not apply in relation to any course of training that is provided under this section.
- (6) Nothing in this section is to be read 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 members of the school workforce who work at the school, or
  - (b) to participate in the provision of training for members of the school workforce as part of a course provided by another training provider.

### *Supplementary*

## **96 Interpretation of references to training**

- (1) References in this Part to training, in relation to teachers or other members of the school workforce (including references to the provision of training “for” teachers or other members of the school workforce), include—
  - (a) any training or education with the object of fitting persons to be teachers or other members of the school workforce, or to be better teachers or other members of the school workforce, and
  - (b) any assessment related to the award of any qualification or status as a teacher or other member of the school workforce.
- (2) References elsewhere in the Education Acts to training, in relation to teachers, include any training or education with a view to fitting persons to be teachers, or better teachers.

## **97 Institutions of a denominational character**

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 is to 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.

## **98 Further amendments relating to Part 3**

Schedule 14 contains amendments related to the preceding provisions of this Part.

## **99 Transitional and transitory provisions relating to Part 3**

Schedule 15 contains transitional and transitory provisions related to the preceding provisions of this Part.

## **100 Interpretation of Part 3**

(1) In this Part—

- “the Agency” means the Training and Development Agency for Schools;
- “the Chief Inspector for England” means Her Majesty’s Chief Inspector of Schools in England;
- “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales;
- “denominational character”, in relation to an institution, is to be read in accordance with section 97;
- “a funding agency” means the Agency or HEFCW;
- “governing body”, in relation to an institution conducted by a company, is to be read in accordance with an order under subsection (2);
- “HEFCW” means the Higher Education Funding Council for Wales;
- “maintained school” means—
  - (a) a community, foundation or voluntary school,
  - (b) a community or foundation special school, or
  - (c) a maintained nursery school;
- “the school workforce” and “member of the school workforce” are to be read in accordance with section 75(5);
- “training”, in relation to members of the school workforce, is to be read in accordance with section 96(1);
- “training provider” has the meaning given by section 78(3).

- (2) The Assembly may by order provide for references in sections 85 to 91 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.
- (3) Other expressions, if used in this Part and the Education Act 1996 (c. 56), have the same meaning in this Part as in that Act.