



# Learning and Skills Act 2000

## 2000 CHAPTER 21

An Act to establish the Learning and Skills Council for England and the National Council for Education and Training for Wales, to make other provision about education and training, and for connected purposes. [28th July 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### LEARNING AND SKILLS COUNCIL FOR ENGLAND

##### *The Council*

#### **1 The Council**

- (1) There shall be a body corporate called the Learning and Skills Council for England.
- (2) The Council is to consist of not less than 12 and not more than 16 members appointed by the Secretary of State, and he must appoint one of them as chairman.
- (3) In appointing a member the Secretary of State must have regard to the desirability of appointing a person who has experience relevant to the Council's functions.
- (4) Schedule 1 contains provisions about the Council.
- (5) The Council's functions are to be carried out in relation to England only.

### *Main duties*

## **2 Education and training for persons aged 16 to 19**

- (1) The Council must secure the provision of proper facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are proper if they are—
  - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
  - (b) of a quality adequate to meet those needs.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
  - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
  - (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

## **3 Education and training for persons over 19**

- (1) The Council must secure the provision of reasonable facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are reasonable if (taking account of the Council's resources) the facilities are of such a quantity and quality that the Council can reasonably be expected to secure their provision.
- (3) In performing the duty imposed on it by subsection (1) the Council must—

- (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
- (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) References in this Part to post-16 education are to—
- (a) education falling within section 2(1)(a) or subsection (1)(a) above, and
  - (b) organised leisure-time occupation connected with such education.
- (7) References in this Part to post-16 training are to—
- (a) training falling within section 2(1)(b) or subsection (1)(b) above, and
  - (b) organised leisure-time occupation connected with such training.

#### **4 Encouragement of education and training**

The Council must—

- (a) encourage individuals to undergo post-16 education and training;
- (b) encourage employers to participate in the provision of post-16 education and training;
- (c) encourage employers to contribute to the costs of post-16 education and training.

#### *Main powers*

#### **5 Provision of financial resources**

- (1) The Council 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 Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level);

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- (e) institutions within the further or higher education sector (within the meaning of section 91 of the 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 described in section 8(1) or (2);
  - (h) persons carrying out means tests under arrangements made under section 9;
  - (i) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (2) The Council may secure the provision of financial resources under subsection (1)—
- (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 Council).
- (3) In exercising its power under subsection (1)(c) the Council 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).

## **6 Financial resources: conditions**

- (1) If the Council itself provides financial resources it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—
- (a) require the Council 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 Council information it requests for the purpose of carrying out its functions.
- (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);
  - (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 140.
- (4) The conditions may—
- (a) relate to the provision made (or to be made) with respect to disabled persons by a person providing or proposing to provide education or training;

- (b) require a person providing education or training to publish at specified intervals statements containing information of a specified description about the facilities for education or training provided by him with respect to disabled persons.
- (5) The conditions may—
- (a) enable the Council to require the repayment (in whole or part) of sums paid by the Council 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 Council in accordance with any condition is unpaid.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

## **7 Funding of school sixth-forms**

- (1) The Council may make a grant to a local education authority—
- (a) on the condition that the grant be applied as part of the authority’s local schools budget for a financial year, and
  - (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 6).
- (3) “Local schools budget” has the same meaning as in Part II of the School Standards and Framework Act 1998 (framework for maintained schools).

## **8 Links between education and training and employment**

- (1) The Council may secure the provision of facilities for the gaining of work experience by young persons receiving education.
- (2) The Council may secure the provision of facilities designed to form links between (on the one hand) employers and (on the other) persons falling within subsection (3).
- (3) The persons falling within this subsection are—
- (a) persons who provide education or training, and
  - (b) persons who receive it and who have not attained the age of 19.
- (4) A person is a young person in the period which—
- (a) starts with the beginning of the year in which he attains the age of 15, and
  - (b) ends with the end of the year in which he attains the age of 19.
- (5) A year is a year beginning with 1 September.

## **9 Assessments and means tests**

- (1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.

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- (2) The Council may take the assessments into account in deciding how to exercise its powers under section 5.
- (3) The Council may—
  - (a) carry out means tests;
  - (b) arrange for other persons to carry out means tests.
- (4) The Council may take the results of the tests into account in exercising its power under section 5(1)(c).

## **10 Qualifying accounts and arrangements**

- (1) The Council may promote—
  - (a) the holding of accounts which qualify under section 104;
  - (b) the making of arrangements which qualify under section 105.
- (2) The Council—
  - (a) may be specified as a body with which arrangements under section 105 may be made;
  - (b) may be designated by the Secretary of State under section 107(1) or (3) and may act in accordance with such a designation;
  - (c) may make arrangements under provision made under section 108(5)(d);
  - (d) may be designated by the Secretary of State in exercise of a power conferred on him under section 108(6)(b) or (7)(b) and may act in accordance with such a designation.

## **11 Further education: governors**

- (1) The Council 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 Further and Higher Education Act 1992), and
  - (b) mainly serves the population of England.
- (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.

### *Other functions*

## **12 Research and information**

- (1) The Council may carry out research relating to any matter relevant to any of its functions.
- (2) The Council must provide the Secretary of State with such information or advice as he requests about any matter in relation to which the Council has a function.
- (3) The Council may provide the Secretary of State with such information or advice as it thinks fit about any matter in relation to which it has a function.

- (4) The Council may provide any person designated by the Secretary of State with such information as the Council thinks fit about any matter in relation to which it has a function.
- (5) The Council must establish systems for collecting information which is designed to secure that its decisions with regard to education and training are made on a sound basis.
- (6) The Council may secure the provision of facilities for providing information, advice or guidance about education or training or connected matters (including employment).

### **13 Persons with learning difficulties**

- (1) In discharging its functions under sections 2, 3, 5(1)(a) to (d) and (g) and 8 the Council must have regard—
  - (a) to the needs of persons with learning difficulties, and
  - (b) in particular, to any report of an assessment conducted under section 140.
- (2) If the Council is satisfied that it cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (3) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (4) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 25 unless it also secures the provision of boarding accommodation for him, the Council may secure the provision of boarding accommodation for him.
- (5) A person has a learning difficulty if—
  - (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions providing post-16 education or training.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.

### **14 Equality of opportunity**

- (1) In exercising its functions the Council must have due regard to the need to promote equality of opportunity—
  - (a) between persons of different racial groups,
  - (b) between men and women, and
  - (c) between persons who are disabled and persons who are not.

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- (2) As soon as is reasonably practicable after the end of each financial year of the Council it must publish a report containing—
  - (a) a statement of the arrangements made under subsection (1) and having effect in the year;
  - (b) an assessment of how effective the arrangements were in promoting equality of opportunity.
- (3) The report must also contain a statement of the arrangements which the Council has made, or proposes to make, under subsection (1) in respect of the financial year immediately following that referred to in subsection (2).
- (4) The Council must send a copy of the report to the Secretary of State.
- (5) “Racial group” has the same meaning as in the Race Relations Act 1976.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

## **15 Plans**

- (1) The Council—
  - (a) must make and publish a plan for each of its financial years;
  - (b) may make and publish such other plans as it thinks fit.
- (2) A plan for the Council’s first financial year must be published as soon as is reasonably practicable after the year starts.
- (3) A plan for any subsequent financial year of the Council must be published before the year starts.
- (4) A plan for a financial year must include—
  - (a) proposals as to how the Council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with directions of the Secretary of State or with conditions imposed under section 27;
  - (b) the Council’s financial proposals for the year.

## **16 Strategy**

- (1) The Council must formulate a strategy in relation to its functions and keep it under review.
- (2) The Council must have regard to the strategy in exercising its functions.
- (3) The strategy must include proposals as to how the Council intends to develop the skills of persons in employment; but this does not affect the generality of subsection (1).
- (4) The Council must incorporate in the strategy proposals as to—
  - (a) how it intends to achieve any objectives contained in directions of the Secretary of State;
  - (b) how it intends to achieve such objectives within any time limits contained in such directions.



## **17 Use of information by Council**

In carrying out its functions the Council must have regard to information supplied to it by any body designated by the Secretary of State for the purposes of this section.

## **18 Supplementary functions**

- (1) The Council may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its other functions.
- (2) In particular it may—
  - (a) acquire and dispose of land and other property;
  - (b) enter into contracts;
  - (c) invest sums not immediately needed for the purpose of exercising its other functions;
  - (d) accept financial resources (whether as gifts or otherwise);
  - (e) accept gifts of land and other property.
- (3) But the Council has no power—
  - (a) to borrow money;
  - (b) to lend money unless the Secretary of State consents;
  - (c) to subscribe for or otherwise acquire shares in or securities of a company unless the Secretary of State consents.
- (4) The Secretary of State may by order confer or impose on the Council such supplementary powers or duties relating to the provision of post-16 education or training as he thinks fit.
- (5) For the purposes of subsection (4) a power or duty is supplementary if—
  - (a) it is exercisable in connection with functions of the Secretary of State, and
  - (b) it is relevant to the provision of facilities for post-16 education or training.

### *Local councils*

## **19 Local councils**

- (1) The Council must establish a committee (to be called a local learning and skills council) for each area of England specified by the Secretary of State.
- (2) A local council is to consist of not less than 12 and not more than 16 members appointed by the Council with the approval of the Secretary of State.
- (3) The Secretary of State must appoint one of them as chairman after seeking the Council's advice.
- (4) Members of a local council may be (but need not be) members of the Council.
- (5) Schedule 2 contains provisions about local councils.

## **20 Functions of local councils**

- (1) A local council—

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- (a) must perform in relation to its area such of the Council's duties as the Council specifies;
  - (b) may exercise in relation to its area such of the Council's powers as the Council specifies.
- (2) A local council—
- (a) must perform in relation to such places outside its area as the Council specifies such of the Council's duties as the Council specifies;
  - (b) may exercise in relation to such places outside its area as the Council specifies such of the Council's powers as the Council specifies.

## **21 Guidance to local councils**

- (1) In relation to each financial year of the Council it must prepare guidance for each local council.
- (2) The guidance must include—
  - (a) objectives which a local council should achieve in seeking to carry out its functions;
  - (b) time limits within which it should achieve the objectives.
- (3) The guidance must set a local council's budget for the financial year.
- (4) The Council must consult the regional development agencies and local education authorities on the guidance.
- (5) After consulting under subsection (4) and (if appropriate) altering the guidance the Council must issue the guidance to the local council.
- (6) A regional development agency is a development agency established by section 1 of the Regional Development Agencies Act 1998.

## **22 Plans of local councils**

- (1) A local council must prepare a plan for each financial year of the Council.
- (2) A plan must include—
  - (a) a statement of the needs regarding education and training of the population of the local council's area;
  - (b) a statement of the needs of employers in the local council's area regarding education and training of their employees and potential employees;
  - (c) a statement of how the local council proposes to carry out its functions in the light of the needs mentioned in paragraphs (a) and (b);
  - (d) proposals as to how the local council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with guidance issued by the Council under section 21;
  - (e) the local council's financial proposals for the year, taking account of guidance issued by the Council under section 21;
  - (f) a statement of the likely effect of the local council's activities on the economic development and regeneration of its area.
- (3) A plan must include—

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- (a) a statement of the education and training (and connected organised leisure-time occupation) whose provision the local council would like a relevant local education authority to secure in the local council's area for persons who have attained the age of 19, and
  - (b) proposals as to the financial resources with which the authority will be provided by the Council to enable the authority to secure the provision of such education and training (and connected organised leisure-time occupation).
- (4) In preparing a plan a local council must have regard to—
- (a) any matter contained in guidance issued by the Council under section 21 (in addition to the matters mentioned in subsection (2) above);
  - (b) the strategy of any relevant regional development agency prepared under section 7 of the Regional Development Agencies Act 1998 or published under section 7A of that Act;
  - (c) any strategy prepared by any relevant local authority under section 4 of the Local Government Act 2000 (strategies for promoting well-being).
- (5) In preparing a plan a local council must consult—
- (a) any relevant regional development agency;
  - (b) any relevant local authority;
  - (c) such other persons as the Secretary of State may specify.
- (6) After consulting under subsection (5) and (if appropriate) altering the plan the local council must seek the Council's approval of it; and the Council must consult any relevant regional development agency on whether the plan should be approved.
- (7) The Council must approve the plan or require the local council to make specified alterations of it; and if alterations are required the local council must make them.
- (8) The local council must publish the plan as approved by the Council or as altered in accordance with the Council's requirements.
- (9) A plan must be taken into account in deciding the extent to which—
- (a) a local council has carried out its functions in a satisfactory way;
  - (b) a director of a local council has carried out his functions in a satisfactory way.
- (10) For the purposes of this section—
- (a) a regional development agency is a development agency established by section 1 of the Regional Development Agencies Act 1998;
  - (b) a regional development agency is a relevant agency if any of its area falls within the area of the local council concerned;
  - (c) a local education authority is a relevant authority if any of its area falls within the area of the local council concerned;
  - (d) "local authority" means a local authority as defined in section 1(a) of the Local Government Act 2000 and the Greater London Authority;
  - (e) a local authority is a relevant authority if any of its area falls within the area of the local council concerned.

## **23 Duty of local education authorities**

- (1) If a local education authority does not secure the provision of education and training (and connected organised leisure-time occupation) in accordance with provisions

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included in a plan under section 22(3) the Secretary of State may direct the authority to do so.

- (2) The authority must act in accordance with the direction, but only if the Council provides it with any financial resources which the authority reasonably requires to enable it to do so.

## **24 Guidance and plans: timing**

- (1) This section applies to guidance under section 21 and plans under section 22.
- (2) The guidance in relation to the Council's first financial year must be prepared as soon as is reasonably practicable after the year starts.
- (3) The guidance in relation to any subsequent financial year of the Council must be prepared in time for the guidance to be issued under section 21, and a plan to be published under section 22, before the financial year starts.
- (4) The plan for the Council's first financial year must be prepared as soon as is reasonably practicable after the year starts.
- (5) The plan for any subsequent financial year of the Council must be prepared in time for the plan to be published under section 22 before the financial year starts.

### *Miscellaneous*

## **25 Directions**

- (1) The Secretary of State may give directions to the Council; and the directions may include any provisions described in subsections (2) to (4).
- (2) Directions may contain—
  - (a) objectives which the Council should achieve in seeking to carry out its functions;
  - (b) time limits within which the Council should achieve the objectives;
  - (c) provision relating to the management of the Council.
- (3) Subsection (4) applies if the Secretary of State is satisfied that the Council—
  - (a) has failed to discharge a duty imposed by or under any Act, or
  - (b) has acted or is proposing to act unreasonably with respect to the exercise of a power conferred or the performance of a duty imposed by or under any Act.
- (4) In such a case directions may contain such provision as the Secretary of State thinks fit as to the exercise of the Council's powers and performance of its duties.
- (5) Directions may contain provision described in subsection (4) despite any enactment making the exercise of a power or performance of a duty contingent on the Council's opinion.
- (6) Directions may not concern the provision of financial resources in respect of activities carried on by a particular person or persons.
- (7) If the Secretary of State asks the Council to do so, it must advise him on the formulation of objectives and time limits.

(8) The Council must comply with any directions given to it by the Secretary of State.

## **26 Committees**

Schedule 3 contains provisions about committees.

## **27 Grants to Council**

- (1) The Secretary of State may make grants to the Council of such amounts and subject to such conditions as he thinks fit; and the conditions may include any provisions described below.
- (2) The conditions may set the Council's budget for any of its financial years.
- (3) The conditions may—
  - (a) require the Council to use the grants for specified purposes;
  - (b) require the Council to comply with specified requirements in respect of every person (or every person of a specified class or description) in securing the provision of specified financial resources to such persons;
  - (c) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any condition imposed is not complied with;
  - (d) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any condition remains unpaid.
- (4) Requirements which may be imposed under subsection (3)(b) include in particular requirements that, if the Council itself provides specified financial resources, it is to impose specified conditions.
- (5) The Secretary of State may not impose conditions which relate to the Council's securing of the provision of financial resources to a particular person or persons.

## **28 Annual report**

- (1) As soon as is reasonably practicable after the end of each financial year of the Council it must prepare a report on its activities in that year and send a copy of the report to the Secretary of State.
- (2) A report—
  - (a) must be in such form and contain such information as the Secretary of State may specify in directions to the Council;
  - (b) must set out any other directions given to the Council under this Part in the financial year to which the report relates.
- (3) Following receipt of a copy of a report under this section the Secretary of State must lay a copy of it before each House of Parliament and arrange for copies of it to be published in such manner as he thinks appropriate.

## **29 Council's financial year**

A financial year of the Council is—

- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;

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- (b) each successive period of 12 months.

## PART II

### NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES

#### *The Council*

#### **30 The Council**

- (1) There shall be a body corporate called the National Council for Education and Training for Wales or *Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant*.
- (2) The Council is to consist of not less than 10 and not more than 12 members appointed by the National Assembly for Wales (the National Assembly) and the National Assembly must appoint one of them as chairman.
- (3) In appointing a member the National Assembly must have regard to the desirability of appointing a person who has experience relevant to the Council's functions.
- (4) Schedule 4 contains provisions about the Council.
- (5) The Council's functions are to be carried out in relation to Wales only.

#### *Main duties*

#### **31 Education and training for persons aged 16 to 19**

- (1) The Council must secure the provision of proper facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are proper if they are—
  - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
  - (b) of a quality adequate to meet those needs.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
  - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.

- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
  - (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

### **32 Education and training for persons over 19**

- (1) The Council must secure the provision of reasonable facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are reasonable if (taking account of the Council's resources) the facilities are of such a quantity and quality that the Council can reasonably be expected to secure their provision.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
  - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
  - (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) References in this Part to post-16 education are to—
  - (a) education falling within section 31(1)(a) or subsection (1)(a) above, and
  - (b) organised leisure-time occupation connected with such education.
- (7) References in this Part to post-16 training are to—
  - (a) training falling within section 31(1)(b) or subsection (1)(b) above, and
  - (b) organised leisure-time occupation connected with such training.

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*Status: This is the original version (as it was originally enacted).*

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### **33 Encouragement of education and training**

The Council must—

- (a) encourage individuals to undergo post-16 education and training;
- (b) encourage employers to participate in the provision of post-16 education and training;
- (c) encourage employers to contribute to the costs of post-16 education and training.

*Main powers*

### **34 Provision of financial resources**

- (1) The Council 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 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 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 Council may secure the provision of financial resources under subsection (1)—
  - (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 Council).
- (3) In exercising its power under subsection (1)(c) the Council 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).

### **35 Financial resources: conditions**

- (1) If the Council itself provides financial resources it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—



- (a) require the Council 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 Council information it requests for the purpose of carrying out its functions.
- (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);
  - (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 140.
- (4) The conditions may—
- (a) relate to the provision made (or to be made) with respect to disabled persons by a person providing or proposing to provide education or training;
  - (b) require a person providing education or training to publish at specified intervals statements containing information of a specified description about the facilities for education or training provided by him with respect to disabled persons.
- (5) The conditions may—
- (a) enable the Council to require the repayment (in whole or part) of sums paid by the Council 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 Council in accordance with any condition is unpaid.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

### **36 Funding of school sixth-forms**

- (1) The Council may make a grant to a local education authority—
- (a) on the condition that the grant be applied as part of the authority's local schools budget for a financial year, and
  - (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).

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- (3) “Local schools budget” has the same meaning as in Part II of the School Standards and Framework Act 1998 (framework for maintained schools).

### **37 Assessments and means tests**

- (1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.
- (2) The Council may take the assessments into account in deciding how to exercise its powers under section 34.
- (3) The Council may—
- (a) carry out means tests;
  - (b) arrange for other persons to carry out means tests.
- (4) The Council may take the results of the tests into account in exercising its power under section 34(1)(c).

### **38 Qualifying accounts and arrangements**

- (1) The Council may promote—
- (a) the holding of accounts which qualify under section 104;
  - (b) the making of arrangements which qualify under section 105.
- (2) The Council—
- (a) may be specified as a body with which arrangements under section 105 may be made;
  - (b) may be designated by the National Assembly under section 107(1) or (3) and may act in accordance with such a designation;
  - (c) may make arrangements under provision made under section 108(5)(d);
  - (d) may be designated by the National Assembly in exercise of a power conferred on it under section 108(6)(b) or (7)(b) and may act in accordance with such a designation.

### **39 Further education: governors**

- (1) The Council 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 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.

#### *Other functions*

### **40 Research and information**

- (1) The Council may carry out research relating to any matter relevant to any of its functions.

- (2) The Council must provide the National Assembly with such information or advice as the National Assembly requests about any matter in relation to which the Council has a function.
- (3) The Council may provide the National Assembly with such information or advice as the Council thinks fit about any matter in relation to which it has a function.
- (4) The Council may provide any person designated by the National Assembly with such information as the Council thinks fit about any matter in relation to which it has a function.
- (5) The Council must establish systems for collecting information which is designed to secure that its decisions with regard to education and training are made on a sound basis.
- (6) The Council may secure the provision of facilities for providing information, advice or guidance about education or training or connected matters (including employment).

#### **41 Persons with learning difficulties**

- (1) In discharging its functions under sections 31, 32 and 34(1)(a) to (d) and (g) the Council must have regard—
  - (a) to the needs of persons with learning difficulties, and
  - (b) in particular, to any report of an assessment conducted under section 140.
- (2) If the Council is satisfied that it cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (3) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (4) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 25 unless it also secures the provision of boarding accommodation for him, the Council may secure the provision of boarding accommodation for him.
- (5) A person has a learning difficulty if—
  - (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions providing post-16 education or training.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.

## **42 Equality of opportunity**

- (1) In exercising its functions the Council must have due regard to the need to promote equality of opportunity—
  - (a) between persons of different racial groups,
  - (b) between men and women, and
  - (c) between persons who are disabled and persons who are not.
- (2) As soon as is reasonably practicable after the end of each financial year of the Council it must publish a report containing—
  - (a) a statement of the arrangements made under subsection (1) and having effect in the year;
  - (b) an assessment of how effective the arrangements were in promoting equality of opportunity.
- (3) The report must also contain a statement of the arrangements which the Council has made, or proposes to make, under subsection (1) in respect of the financial year immediately following that referred to in subsection (2).
- (4) The Council must send a copy of the report to the National Assembly.
- (5) “Racial group” has the same meaning as in the Race Relations Act 1976.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

## **43 Plans**

- (1) The Council must make a plan for each of its financial years.
- (2) The Council must send its plan for its first financial year to the National Assembly as soon as is reasonably practicable after the year starts.
- (3) The Council must send its plan for any subsequent financial year of the Council to the National Assembly before the year starts.
- (4) A plan for a financial year must include—
  - (a) proposals as to how the Council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with directions of the National Assembly or with conditions imposed under section 49;
  - (b) the Council’s financial proposals for the year;
  - (c) such other matters as the National Assembly specifies.
- (5) The National Assembly must approve the plan or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) The Council must publish the plan as approved by the National Assembly or as altered in accordance with the National Assembly’s requirements; and publication must be made at such time and in such manner as the National Assembly specifies.
- (7) The Council may make and publish such other plans as it thinks fit; but any such plan must not conflict with a plan for a financial year.

#### **44 Strategy**

- (1) The Council must formulate a strategy in relation to its functions and keep it under review.
- (2) The Council must incorporate in the strategy proposals as to—
  - (a) how it intends to achieve any objectives contained in directions of the National Assembly;
  - (b) how it intends to achieve such objectives within any time limits contained in such directions.
- (3) The strategy must include proposals as to how the Council intends to develop the skills of persons in employment; but this does not affect the generality of subsection (1).
- (4) The Council—
  - (a) may at any time send to the National Assembly a copy of the strategy as it subsists for the time being;
  - (b) must at such times as the National Assembly indicates send to the Assembly a copy of the strategy as it subsists for the time being.
- (5) The National Assembly must approve the strategy sent to it or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) In exercising its functions the Council must have regard to the strategy as approved by the National Assembly or as altered in accordance with its requirements.

#### **45 Use of information by Council**

In carrying out its functions the Council must have regard to information supplied to it by any body designated by the National Assembly for the purposes of this section.

#### **46 Supplementary functions**

- (1) The Council may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its other functions.
- (2) In particular it may—
  - (a) acquire and dispose of land and other property;
  - (b) enter into contracts;
  - (c) invest sums not immediately needed for the purpose of exercising its other functions;
  - (d) accept financial resources (whether as gifts or otherwise);
  - (e) accept gifts of land and other property.
- (3) But the Council has no power—
  - (a) to borrow money;
  - (b) to lend money unless the National Assembly consents;
  - (c) to subscribe for or otherwise acquire shares in or securities of a company unless the National Assembly consents.

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- (4) The National Assembly may by order confer or impose on the Council such supplementary powers or duties relating to the provision of post-16 education or training as the National Assembly thinks fit.
- (5) For the purposes of subsection (4) a power or duty is supplementary if—
  - (a) it is exercisable in connection with functions of the National Assembly, and
  - (b) it is relevant to the provision of facilities for post-16 education or training.

### *Miscellaneous*

#### **47 Directions**

- (1) The National Assembly may give directions to the Council; and the directions may include any provisions described in subsections (2) to (4).
- (2) Directions may contain—
  - (a) objectives which the Council should achieve in seeking to carry out its functions;
  - (b) time limits within which the Council should achieve the objectives;
  - (c) provision relating to the management of the Council.
- (3) Subsection (4) applies if the National Assembly is satisfied that the Council—
  - (a) has failed to discharge a duty imposed by or under any Act, or
  - (b) has acted or is proposing to act unreasonably with respect to the exercise of a power conferred or the performance of a duty imposed by or under any Act.
- (4) In such a case directions may contain such provision as the National Assembly thinks fit as to the exercise of the Council's powers and performance of its duties.
- (5) Directions may contain provision described in subsection (4) despite any enactment making the exercise of a power or performance of a duty contingent on the Council's opinion.
- (6) Directions may not concern the provision of financial resources in respect of activities carried on by a particular person or persons.
- (7) If the National Assembly asks the Council to do so, it must advise the National Assembly on the formulation of objectives and time limits.
- (8) The Council must comply with any directions given to it by the National Assembly.

#### **48 Committees**

Schedule 5 contains provisions about committees.

#### **49 Grants to Council**

- (1) The National Assembly may make grants to the Council of such amounts and subject to such conditions as the National Assembly thinks fit; and the conditions may include any provisions described below.
- (2) The conditions may set the Council's budget for any of its financial years.

- (3) The conditions may—
- (a) require the Council to use the grants for specified purposes;
  - (b) require the Council to comply with specified requirements in respect of every person (or every person of a specified class or description) in securing the provision of specified financial resources to such persons;
  - (c) enable the National Assembly to require the repayment, in whole or in part, of sums paid by it if any condition imposed is not complied with;
  - (d) require the payment of interest in respect of any period during which a sum due to the National Assembly in accordance with any condition remains unpaid.
- (4) Requirements which may be imposed under subsection (3)(b) include in particular requirements that, if the Council itself provides specified financial resources, it is to impose specified conditions.
- (5) The National Assembly may not impose conditions which relate to the Council's securing of the provision of financial resources to a particular person or persons.

## **50 Annual report**

- (1) As soon as is reasonably practicable after the end of each financial year of the Council it must prepare a report on its activities in that year and send a copy of the report to the National Assembly.
- (2) A report—
- (a) must be in such form and contain such information as the National Assembly may specify in directions to the Council;
  - (b) must set out any other directions given to the Council under this Part in the financial year to which the report relates.
- (3) Following receipt of a copy of a report under this section the National Assembly must arrange for copies of it to be published in such manner as it thinks appropriate.

## **51 Council's financial year**

A financial year of the Council is—

- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;
- (b) each successive period of 12 months.

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## PART III

### INSPECTIONS IN ENGLAND

#### CHAPTER I

##### THE ADULT LEARNING INSPECTORATE

###### *The Inspectorate*

#### **52 The Inspectorate**

- (1) There shall be a body corporate called the Adult Learning Inspectorate.
- (2) The Inspectorate is to consist of 9 members appointed by the Secretary of State.
- (3) The Secretary of State must appoint one of the members as chairman and another of the members as the Inspectorate's chief officer.
- (4) The chief officer is to be known as the Chief Inspector of Adult Learning.
- (5) In appointing any member, the Secretary of State must have regard to the desirability of appointing a person who has experience relevant to the Inspectorate's functions.
- (6) The Secretary of State may make grants to the Inspectorate of such amounts and subject to such conditions as he thinks fit.
- (7) The conditions may—
  - (a) set the Inspectorate's budget for any of its financial years;
  - (b) require it to use the grants for specified purposes;
  - (c) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any condition imposed is not complied with;
  - (d) 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 conditions remains unpaid.
- (8) Schedule 6 contains provisions about the Inspectorate.

#### **53 The Inspectorate's remit**

- (1) The Inspectorate's remit is—
  - (a) further education for persons aged 19 or over which is wholly or partly funded by the Learning and Skills Council for England;
  - (b) training for persons aged 16 or over so far as it takes place wholly or partly at the premises of an employer and is wholly or partly funded by the Council;
  - (c) further education funded by a local education authority in England for persons aged 19 or over;
  - (d) training for persons aged 16 or over which is funded by the Secretary of State under section 2 of the Employment and Training Act 1973;
  - (e) such other education or training as may be prescribed by regulations made by the Secretary of State.



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- (2) Regulations made under subsection (1)(e) may include within the Inspectorate's remit training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which otherwise falls within the Inspectorate's remit.
- (3) "Further education" has the same meaning as it has in the Education Act 1996.

#### *Functions of the Inspectorate and the Chief Inspector*

### **54 Functions of the Inspectorate and Chief Inspector**

- (1) The Inspectorate must keep the Secretary of State informed about—
  - (a) the quality of the education and training within its remit;
  - (b) the standards achieved by those receiving that education and training; and
  - (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) When asked to do so by the Secretary of State, the Inspectorate must give the Secretary of State advice on such matters relating to education or training within its remit as he may specify.
- (3) When asked to do so by the Secretary of State, the Chief Inspector of Adult Learning must conduct inspections of such education or training, or such class of education or training, within the Inspectorate's remit, at such intervals, as the Secretary of State may specify.
- (4) The Inspectorate is to have such other functions in connection with education and training within its remit as the Secretary of State may specify.
- (5) The Chief Inspector is to have such other functions in connection with education and training within the Inspectorate's remit as the Secretary of State may specify.
- (6) The functions specified under subsection (4) or (5) may include functions with respect to training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which falls within the Inspectorate's remit.
- (7) In exercising their functions, the Inspectorate and the Chief Inspector must have regard to such aspects of government policy as the Secretary of State may specify.

### **55 Inspections under section 54**

- (1) When an inspection asked for under section 54(3) has been completed, the Chief Inspector of Adult Learning must make a written report on it if asked to do so by the Secretary of State.
- (2) The report—
  - (a) must state whether the Chief Inspector considers the education or training inspected to be of a quality adequate to meet the reasonable needs of those receiving it; and
  - (b) may deal with such other matters as he considers relevant.
- (3) The Chief Inspector must send copies of the report to—
  - (a) the Secretary of State;

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- (b) the Learning and Skills Council for England;
  - (c) any local education authority providing funds for the education or training inspected; and
  - (d) the provider of the inspected education or training.
- (4) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.
- (5) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

## **56 General powers**

- (1) The Inspectorate may give advice to the Secretary of State on any matter relating to education or training within its remit.
- (2) The Inspectorate may inspect, and report on, any education or training within its remit.
- (3) The Inspectorate may inspect any education or training—
- (a) which is not within its remit, but
  - (b) which would be if it were funded in one of the ways mentioned in section 53, if asked to do so by the provider of the education or training.
- (4) The Inspectorate may charge for the cost of an inspection conducted under subsection (3).
- (5) The Inspectorate must send copies of a report of an inspection conducted under this section otherwise than as a result of a request under subsection (3) to—
- (a) the Secretary of State;
  - (b) the Learning and Skills Council for England;
  - (c) any local education authority providing funds for the education or training inspected; and
  - (d) the provider of the inspected education or training.
- (6) Copies may also be sent to such other persons as the Inspectorate considers appropriate.
- (7) The Inspectorate must arrange for the report to be published in such manner as it considers appropriate.
- (8) The Inspectorate may arrange for a report of an inspection carried out as a result of a request under subsection (3) to be published.

## **57 Right of entry and offences**

- (1) This section applies to an inspection conducted under this Chapter other than one conducted as a result of a request under section 56(3).
- (2) An inspector taking part in the inspection has, at all reasonable times—
- (a) a right of entry to premises on which the education or training being inspected is provided;
  - (b) a right of entry to premises of the person providing that education or training used in connection with that provision;

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- (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the inspector requires for the purposes of the inspection.
- (3) In respect of education or training provided by an employer in the workplace, the right of entry conferred by subsection (2) may be exercised only if the employer has been given reasonable notice in writing.
- (4) The right to inspect records conferred by subsection (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (5) That right also includes the right to require—
  - (a) the person by whom or on whose behalf the computer is or has been so used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford the Inspectorate or any inspector such assistance as he may reasonably require.
- (6) It is an offence wilfully to obstruct any person exercising functions in relation to an inspection.
- (7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) “Inspector”, in relation to an inspection, means an employee of the Inspectorate taking part in the inspection or any person appointed by the Inspectorate to assist with the inspection and includes the Chief Inspector of Adult Learning where the inspection is being conducted by him.

## **58 Action plans**

- (1) This section applies if the Inspectorate or the Chief Inspector of Adult Learning publishes a report of an inspection conducted otherwise than as a result of a request under section 56(3).
- (2) The provider of the education or training which is the subject of the report must make a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (3) The person making the statement must—
  - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
  - (b) send copies of it to such persons as may be so prescribed.
- (4) The requirements of subsection (2) may be waived by the Inspectorate or the Chief Inspector.

## **59 Annual report**

- (1) The Inspectorate must make an annual report to the Secretary of State.
- (2) The Secretary of State must lay a copy of the annual report before each House of Parliament.

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- (3) The annual report must be in such form and contain such information as the Secretary of State specifies in directions given to the Inspectorate.
- (4) The Inspectorate may make such other reports to the Secretary of State, with respect to matters relating to education or training within its remit, as it considers appropriate.
- (5) The Inspectorate may publish any report made under this section in such manner as it considers appropriate.

## CHAPTER II

### HER MAJESTY’S CHIEF INSPECTOR OF SCHOOLS IN ENGLAND

#### *The Chief Inspector’s extended remit*

#### **60 The extended remit**

- (1) The following kinds of education and training are brought within the remit of Her Majesty’s Chief Inspector of Schools in England by this Chapter—
  - (a) secondary education provided in institutions which are in England and within the further education sector;
  - (b) further education provided in the further education sector which is suitable to the requirements of those aged 16 or over but under 19 and funded wholly or partly by the Learning and Skills Council for England;
  - (c) further education provided by local education authorities in England for persons aged under 19;
  - (d) such other education or training (which may, in particular, include training of or for teachers or lecturers) as may be prescribed by regulations made by the Secretary of State.
- (2) “Secondary education” and “further education” have the same meaning as they have in the Education Act 1996.

#### *Additional functions*

#### **61 Additional functions of the Chief Inspector**

- (1) Her Majesty’s Chief Inspector of Schools in England must keep the Secretary of State informed about—
  - (a) the quality of the education and training brought within the Chief Inspector’s remit by this Chapter;
  - (b) the standards achieved by those receiving that education and training; and
  - (c) whether the financial resources made available to those providing it are managed efficiently and used so as to provide value for money.
- (2) When asked to do so by the Secretary of State, the Chief Inspector must—
  - (a) give him advice on such matters, relating to education or training brought within the Chief Inspector’s remit by this Chapter, as the Secretary of State may specify;

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- (b) inspect such education or training, or such class of education or training, within that remit as the Secretary of State may specify;
  - (c) report on the result of an inspection conducted under this section.
- (3) The Chief Inspector is to have such other functions in connection with education and training brought within the Chief Inspector’s remit by this Chapter, including functions with respect to the training of or for teachers or lecturers, as the Secretary of State may specify.

## **62 Inspection of further education institutions**

- (1) Her Majesty’s Chief Inspector of Schools in England must inspect all institutions within the further education sector other than those providing education or training falling wholly within the remit of the Adult Learning Inspectorate.
- (2) Inspections are to be conducted at such intervals as may be specified by the Secretary of State.
- (3) When the Chief Inspector has completed an inspection under this section he must make a written report.
- (4) The report—
- (a) must state whether the Chief Inspector considers the education or training inspected to be adequate to meet the reasonable needs of those receiving it; and
  - (b) may deal with such other matters as the Chief Inspector considers relevant.
- (5) Copies of the report must be sent to—
- (a) the Secretary of State;
  - (b) the Learning and Skills Council for England;
  - (c) the provider of the education or training inspected.
- (6) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.
- (7) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

## **63 Right of entry and offences**

- (1) This section applies to an inspection conducted under section 61(2)(b), 62, 65 or 68(2).
- (2) When conducting an inspection, Her Majesty’s Chief Inspector of Schools in England has, at all reasonable times—
- (a) a right of entry to premises on which the education or training being inspected is provided;
  - (b) a right of entry to premises of the provider of that education or training used in connection with that provision;
  - (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the Chief Inspector requires for the purposes of the inspection.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The right to inspect conferred by subsection (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) That right also includes the right to require—
  - (a) the person by whom or on whose behalf the computer is or has been so used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford the Chief Inspector such assistance as he may reasonably require.
- (5) It is an offence wilfully to obstruct the Chief Inspector in the exercise of functions in relation to an inspection.
- (6) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **64 Action plans**

- (1) This section applies if Her Majesty’s Chief Inspector of Schools in England publishes a report of an inspection conducted under section 61(2)(b), 62 or 68(2).
- (2) The provider of the education or training which is the subject of the report must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (3) The person making the statement must—
  - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
  - (b) send copies of it to such persons as may be so prescribed.
- (4) The requirements of subsection (2) may be waived by the Chief Inspector.

#### **65 Area inspections**

- (1) If asked to do so by the Secretary of State, Her Majesty’s Chief Inspector of Schools in England must inspect—
  - (a) the quality and availability of a specified description of education or training, in a specified area in England, for persons who are aged 16 or over but under 19;
  - (b) the standards achieved by those receiving that education or training; and
  - (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) The Chief Inspector may, without being asked to, conduct such an inspection.
- (3) If financial resources have been applied by the Learning and Skills Council for England or a local education authority in respect of education or training which is being inspected under this section, the inspection may extend to considering the manner in which those resources have been applied and whether they have been applied in a way which provides value for money.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The education or training that may be made the subject of an area inspection is any education or training within—
  - (a) the Chief Inspector’s remit (whether as a result of this Chapter or of any other enactment); or
  - (b) the Adult Learning Inspectorate’s remit.
- (5) If, in connection with an area inspection, the Chief Inspector asks the Chief Inspector of Adult Learning for advice on a matter relating to education or training within the Inspectorate’s remit, he must give such advice as he considers likely to be appropriate for the purposes of the inspection.
- (6) If the Chief Inspector asks the Chief Inspector of Adult Learning to undertake a specified part of an area inspection, he must do so.
- (7) A provider of education or training which is the subject of an area inspection must—
  - (a) provide the Chief Inspector with any information reasonably asked for by him in connection with the inspection;
  - (b) provide the Chief Inspector of Adult Learning with any information reasonably asked for by him in connection with the inspection.
- (8) Any local education authority whose area, or part of whose area, is within the area which is the subject of an area inspection must provide the Chief Inspector with such information as the Chief Inspector may reasonably ask for in connection with the inspection.
- (9) “Area inspection” means an inspection under this section.

## **66 Reports of area inspections**

- (1) On completing an area inspection, Her Majesty’s Chief Inspector of Schools in England must make a written report.
- (2) In preparing the report the Chief Inspector must ensure that the views of the Chief Inspector of Adult Learning in relation to the subject matter of the inspection, so far as—
  - (a) the Chief Inspector is aware of them, and
  - (b) they relate to matters within the Inspectorate’s remit,are properly recorded in the report.
- (3) The Chief Inspector must send a copy of the report to—
  - (a) the Secretary of State,
  - (b) the Learning and Skills Council for England;
  - (c) the Adult Learning Inspectorate;
  - (d) each local education authority whose area, or part of whose area, falls within the area which is the subject of the inspection; and
  - (e) such other persons as he considers appropriate.
- (4) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

**67 Action plans following section 65 inspections**

- (1) This section applies if Her Majesty’s Chief Inspector of Schools in England publishes a report of an area inspection conducted under section 65.
- (2) The Secretary of State may direct the Learning and Skills Council for England to prepare a written statement of the action which it proposes to take in the light of the report and the period within which it proposes to take it.
- (3) The Secretary of State may direct a local education authority whose area is wholly or partly in the area covered by the report to prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (4) In preparing the statement the Council or the authority must consult such persons as the Secretary of State may direct.
- (5) The person making the statement must—
  - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
  - (b) send copies of it to such persons as may be so prescribed.

**68 Further powers of the Chief Inspector**

- (1) Her Majesty’s Chief Inspector of Schools in England may give advice to the Secretary of State on any matter relating to education or training of a kind brought within his remit by this Chapter.
- (2) The Chief Inspector may—
  - (a) inspect any education or training of that kind;
  - (b) report to the Secretary of State on any such inspection; and
  - (c) arrange for any such report to be published in such manner as he considers appropriate.

**CHAPTER III**

## THE COMMON INSPECTION FRAMEWORK AND JOINT INSPECTIONS

*The Common Inspection Framework***69 The framework**

- (1) The Inspectorate and Her Majesty’s Chief Inspector of Schools in England must devise a common set of principles applicable to all inspections conducted under this Part.
- (2) When they have settled those principles in accordance with the provisions of section 70 they must set them out in a document to be known as the Common Inspection Framework (but referred to in this Part as “the framework”).
- (3) They must then publish the framework in such a way as they consider appropriate.
- (4) The first framework must be settled and come into effect by such date as the Secretary of State may direct.



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- (5) The Inspectorate and the Chief Inspector, acting together, may at any time revise the framework.

## **70 Preparation of the framework**

- (1) The Inspectorate and Her Majesty's Chief Inspector of Schools in England must prepare a draft of the proposed framework and publish it in such a way as they think best calculated to draw it to the attention of the public.
- (2) They must consult—
- (a) the Secretary of State,
  - (b) the Learning and Skills Council for England, and
  - (c) such other persons as they consider appropriate,
- about the draft framework, allowing at least three months for those consulted to respond.
- (3) In settling the terms of the framework the Inspectorate and the Chief Inspector must have regard to the results of their consultations on the draft.
- (4) If at any time while preparing the draft framework or settling the terms of the framework, the Inspectorate and the Chief Inspector are unable to agree on any matter—
- (a) they may refer their disagreement to the Secretary of State; and
  - (b) must have regard to any advice that he gives them.
- (5) If they are still unable to agree on the matter they must tell the Secretary of State and comply with any direction that he gives them as to how to resolve their disagreement.
- (6) If the Inspectorate and the Chief Inspector propose to revise the framework they must prepare a draft of the proposed revision and publish it, together with an explanation of the effect that it would have, in such a way as they think best calculated to draw it to the attention of the public.
- (7) Subsections (2) to (5) apply equally to a revision of the framework.

### *Joint inspections*

## **71 Joint inspections**

- (1) The Secretary of State may by regulations make provision for inspections to be carried out under this Part as joint inspections under the direction of Her Majesty's Chief Inspector of Schools in England in cases in which a person provides—
- (a) education or training of a kind that is within the remit of the Inspectorate, and
  - (b) education or training of a kind brought within the Chief Inspector's remit by Chapter II.
- (2) The regulations may, in particular, make provision—
- (a) as to the circumstances in which a joint inspection must be conducted;
  - (b) as to the circumstances in which a joint inspection may be conducted;
  - (c) for establishing the circumstances of a particular case;
  - (d) requiring a joint inspection to be conducted according to a plan prepared by the Chief Inspector in accordance with the regulations;

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- (e) for provisions of this Part to apply in relation to a joint inspection with such modifications as may be prescribed;
  - (f) for the preparation and publication of a single report by the Chief Inspector of the results of a joint inspection;
  - (g) for the making by such persons as may be prescribed of written statements of proposed action (in the light of the report) and of the period within which any such action may be taken.
- (3) The person making a statement required by provision made as a result of subsection (2) (g) must—
- (a) publish it within such period, and in such manner, as may be prescribed; and
  - (b) send copies of it to such persons as may be prescribed.

## CHAPTER IV

### GENERAL

#### 72 Defamation

- (1) For the purposes of the law of defamation a report published under a provision of, or made as a result of, this Part is privileged unless its publication is shown to have been made with malice.
- (2) Nothing in subsection (1) limits any privilege subsisting apart from that subsection.

## PART IV

### INSPECTIONS IN WALES

#### *New titles*

#### 73 Inspectors of Education and Training in Wales

- (1) Her Majesty’s Chief Inspector of Schools in Wales is renamed Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (2) Her Majesty’s Inspectors of Schools in Wales are renamed Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (3) In any provision of, or made under, any enactment—
  - (a) for “Her Majesty’s Chief Inspector of Schools in Wales” substitute “Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”; and
  - (b) for “Her Majesty’s Inspectors of Schools in Wales” substitute “Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”.

## **74 Some defined terms**

(1) In this Part—

“Council” means the National Council for Education and Training for Wales or Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant; and  
“the National Assembly” means the National Assembly for Wales.

(2) In this Part, any reference to the Chief Inspector for Wales is to be read as a reference to the person mentioned in section 73(1).

### *Extended remit*

## **75 The extended remit of the Chief Inspector for Wales**

(1) The following kinds of education and training are brought within the remit of the Chief Inspector for Wales by this Part—

- (a) education or training for persons aged 16 or over where the provider of the education or training is given financial support by the Council or by a local education authority in Wales (either generally or for a specific purpose);
- (b) education or training for persons aged 16 or over where the Council is, or a local education authority in Wales are, contemplating giving the provider of the education financial support (either generally or for a specific purpose);
- (c) education or training provided for persons of compulsory school age in an institution in Wales which is within the further education sector;
- (d) further education provided by a school under section 80 of the School Standards and Framework Act 1998;
- (e) such other education or training in Wales as may be prescribed by regulations made by the National Assembly.

(2) Neither paragraph (a) nor paragraph (b) of subsection (1) applies—

- (a) to education of a kind that may be inspected under the Schools Inspections Act 1996; or
- (b) if the financial support mentioned in that paragraph is given for a specific purpose, to education or training at which that support is not directed.

### *Additional functions*

## **76 Additional functions of the Chief Inspector for Wales**

(1) The Chief Inspector for Wales must keep the National Assembly informed about—

- (a) the quality of the education and training which is brought within the remit of the Chief Inspector for Wales by this Part;
- (b) the standards achieved by those receiving that education and training; and
- (c) whether the financial resources made available to those providing it are managed efficiently and used so as to provide value for money.

(2) When asked to do so by the National Assembly, the Chief Inspector for Wales must—

- (a) give the National Assembly advice on such matters, relating to education and training brought within the remit of the Chief Inspector for Wales by this Part, as the National Assembly may specify;

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- (b) inspect such education or training, or such class of education or training, within that remit as the National Assembly may specify;
  - (c) report on the result of an inspection conducted under this section.
- (3) The Chief Inspector for Wales is to have such other functions in connection with education and training brought within the remit of the Chief Inspector for Wales by this Part as the National Assembly may specify.
- (4) The functions specified under subsection (3) may include functions with respect to training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which is brought within the remit of the Chief Inspector for Wales by this Part.
- (5) In exercising functions under this Part, the Chief Inspector for Wales must have regard to—
- (a) advice given by the National Assembly; and
  - (b) such aspects of the National Assembly’s policy as the National Assembly may specify.

## 77 Inspections

- (1) The Chief Inspector for Wales must inspect education and training brought within the remit of the Chief Inspector for Wales by this Part.
- (2) Inspections are to be conducted at such intervals as may be prescribed.
- (3) The Chief Inspector for Wales must report in writing on—
- (a) the quality of the education or training inspected;
  - (b) the standards achieved by those receiving that education or training; and
  - (c) whether the financial resources made available to the provider of the education or training are managed efficiently and used in a way which provides value for money.
- (4) The report under subsection (3) must be made within such period as may be prescribed.
- (5) The Chief Inspector for Wales must without delay send a copy of the report under subsection (3) to—
- (a) the National Assembly;
  - (b) the Council;
  - (c) any local education authority providing funds for the education or training inspected; and
  - (d) the provider of the inspected education or training.
- (6) Copies may also be sent to such other persons as the Chief Inspector for Wales considers appropriate.
- (7) A copy may be supplied under subsection (6) free of charge or on payment of such fee, not exceeding the cost of supplying the copy, as the Chief Inspector for Wales may determine.
- (8) The Chief Inspector for Wales must arrange for the report to be published in such manner as he considers appropriate.
- (9) “Prescribed” means prescribed in regulations made by the National Assembly.

## **78 General powers**

- (1) The Chief Inspector for Wales may give advice to the National Assembly on any matter relating to education or training brought within the remit of the Chief Inspector for Wales by this Part.
- (2) The Chief Inspector for Wales may inspect, and report on, any education or training of that kind.
- (3) The Chief Inspector for Wales may inspect any education or training—
  - (a) which is not of that kind, but
  - (b) which would be if it were funded in one of the ways mentioned in section 75, if the provider of the education or training asks the Chief Inspector for Wales to do so.
- (4) The Chief Inspector for Wales may charge for the cost of an inspection conducted under subsection (3).
- (5) Subsections (5) to (8) of section 77 apply to a report under subsection (2) as they apply to a report under that section.
- (6) The Chief Inspector for Wales may arrange for a report of an inspection carried out as a result of a request under subsection (3) to be published.

## **79 Right of entry and offences**

- (1) When conducting an inspection under this Part, the Chief Inspector for Wales has, at all reasonable times—
  - (a) a right of entry to premises on which the education or training being inspected is provided;
  - (b) a right of entry to premises of the provider of that education or training which are used in connection with that provision;
  - (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the inspector requires for the purposes of the inspection.
- (2) In respect of education or training provided by an employer in the workplace, the right of entry conferred by subsection (1) may be exercised only if the employer has been given reasonable notice in writing.
- (3) The right to inspect records conferred by subsection (1)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) That right also includes the right to such assistance from—
  - (a) the person by whom or on whose behalf the computer is or has been so used, or
  - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,as the Chief Inspector for Wales may reasonably require.
- (5) It is an offence wilfully to obstruct the Chief Inspector for Wales in the exercise of functions in relation to an inspection under this Part.
- (6) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**80 Action plans**

- (1) This section applies if the Chief Inspector for Wales publishes a report of an inspection.
- (2) But it does not apply to a report of an inspection conducted—
  - (a) as a result of a request under section 78(3); or
  - (b) under section 83.
- (3) The provider of the education or training which is the subject of the report must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (4) The person making the statement must—
  - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the National Assembly; and
  - (b) send copies of it to such persons as may be so prescribed.

**81 Inspections of careers services etc**

In the Teaching and Higher Education Act 1998, after section 35, insert—

**“35A Inspection of other careers services etc. in Wales**

- (1) This section applies if a person (“A”) who provides a relevant service to which section 35(1) applies also provides education, training or an advisory service—
  - (a) in pursuance of arrangements made by the National Assembly for Wales under section 2 of the Employment and Training Act 1973; or
  - (b) with the assistance of a grant or loan made under section 12(1) of the Industrial Development Act 1982.
- (2) The Chief Inspector for Wales shall, if requested to do so by the National Assembly for Wales, arrange for A to be inspected under this section.
- (3) A request may relate to more than one person and shall specify—
  - (a) the person or persons concerned, and
  - (b) the education, training or advisory service to which the inspection is to relate.
- (4) An inspection under this section is to consist of a review of the way in which A is providing the education, training or advisory service specified in the request.
- (5) Before making a request, the National Assembly for Wales must consult the Chief Inspector for Wales as to the matters to be specified in the request.
- (6) Subsections (6) to (6C) of section 35 apply in relation to an inspection under this section as they apply in relation to an inspection under that section.
- (7) In this section “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.”

## **82 Inspections of education and training provided under 1973 Act arrangements**

- (1) The Chief Inspector for Wales may, at the request of the Secretary of State or the Adult Learning Inspectorate, inspect any education or training provided in Wales by the Secretary of State in accordance with arrangements made under section 2 of the Employment and Training Act 1973.
- (2) A report of an inspection conducted under this section at the request of the Secretary of State must be given to the Secretary of State.
- (3) The Secretary of State may arrange for the report to be published in such manner as he considers appropriate.
- (4) A report of an inspection conducted under this section at the request of the Adult Learning Inspectorate must be given to that Inspectorate.
- (5) The Adult Learning Inspectorate may arrange for the report to be published in such manner as it considers appropriate.
- (6) The Chief Inspector for Wales must send a copy of any report under subsection (2) or (4) to the National Assembly.

## **83 Area inspections**

- (1) If asked to do so by the National Assembly, the Chief Inspector for Wales must inspect—
  - (a) the quality and availability of a specified description of education or training, in a specified area in Wales, for persons who are aged 16 or over;
  - (b) the standards achieved by those receiving that education or training; and
  - (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) The Chief Inspector for Wales may, without being asked to, conduct such an inspection.
- (3) If financial resources have been applied by the Council or a local education authority in respect of education or training which is being inspected under this section, the inspection may extend to considering the manner in which those resources have been applied and whether they have been applied in a way which provides value for money.
- (4) The education or training that may be made the subject of an area inspection is any education or training within the remit of the Chief Inspector for Wales (whether as a result of this Part or of any other enactment).
- (5) A provider of education or training which is the subject of an area inspection must provide such information as the Chief Inspector for Wales may reasonably require in connection with the inspection.
- (6) The Council and any local education authority within the area which is the subject of an area inspection must provide such information as the Chief Inspector for Wales may reasonably require in connection with the inspection.
- (7) The National Assembly may by regulations make further provision with respect to the obligation to provide information imposed by this section.

- (8) On completing an area inspection, the Chief Inspector for Wales must make a written report.
- (9) Subsections (4), (5)(a) to (c) and (6) to (9) of section 77 apply to a report under this section as they apply to a report under that section.
- (10) “Area inspection” means an inspection under this section.

#### **84 Action plans following section 83 inspections**

- (1) This section applies if the Chief Inspector for Wales publishes a report of an area inspection conducted under section 83.
- (2) The National Assembly may direct the Council to prepare a written statement of the action which it proposes to take in the light of the report and the period within which it proposes to take it.
- (3) The National Assembly may direct a local education authority whose area is wholly or partly in the area covered by the report to prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (4) In preparing the statement the Council or the authority must consult such persons as the National Assembly may direct.
- (5) The person making the statement must—
  - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the National Assembly; and
  - (b) send copies of it to such persons as may be so prescribed.

#### **85 Studies across Wales or of provision made outside Wales**

- (1) The National Assembly may direct the Chief Inspector for Wales to carry out—
  - (a) a survey of Wales, or of a specified area within Wales, in respect of specified matters relating to policy concerned with education or training for persons aged 16 or over; or
  - (b) a comparative study of the provision made outside Wales in respect of specified matters relating to such education or training.
- (2) The Chief Inspector for Wales may, without being directed to, carry out a survey or study of that kind.

#### **86 Annual reports**

- (1) The annual report of the Chief Inspector for Wales required by section 5(7)(a) of the School Inspections Act 1996 must include an account of the exercise of functions of the Chief Inspector for Wales under this Part.
- (2) The power conferred by that section to make other reports includes a power to make reports with respect to matters relating to education or training which is brought within the remit of the Chief Inspector for Wales by this Part.



## **87 Annual plan of the Chief Inspector for Wales**

- (1) The Chief Inspector for Wales must, for the purposes of the consultation required under section 104(4) of the 1998 Act (funding of HM Chief Inspector of Education and Training for Wales), prepare a plan for each financial year.
- (2) The plan must be submitted to the National Assembly by such time before the beginning of the financial year to which it relates as the National Assembly may direct.
- (3) The plan must contain estimates of—
  - (a) the expenditure necessary, in the financial year to which the plan relates, in order to secure that the functions of the Chief Inspector for Wales are discharged effectively; and
  - (b) the income which the Chief Inspector for Wales will receive in that financial year and which may be applied towards meeting the expenses of the Chief Inspector for Wales.
- (4) The plan must also contain proposals for the management of any funds which may be provided by the National Assembly for that financial year.
- (5) The Chief Inspector for Wales may, after the plan has been approved under section 104(4A) of the 1998 Act, publish it in such manner and at such time as appear to the Chief Inspector for Wales to be appropriate.
- (6) “The 1998 Act” means the Government of Wales Act 1998.

## **88 Defamation**

- (1) For the purposes of the law of defamation, any report under this Part is privileged unless its publication is shown to have been made with malice.
- (2) Nothing in subsection (1) limits any privilege subsisting apart from that subsection.

## **PART V**

### MISCELLANEOUS AND GENERAL

#### *Further Education Funding Councils*

## **89 Dissolution of FEFC for England**

- (1) On the appointed day—
  - (a) the Further Education Funding Council for England shall be dissolved, and
  - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the Learning and Skills Council for England.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

**90 Preliminary transfers: FEFC for England**

- (1) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of the Further Education Funding Council for England to any of the listed transferees.
- (2) The listed transferees are—
  - (a) the Secretary of State;
  - (b) Her Majesty's Chief Inspector of Schools in England;
  - (c) the Adult Learning Inspectorate.
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.
- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) The day specified by a scheme under this section for the scheme to come into force must fall before the day appointed under section 154 for the commencement of section 89.

**91 Dissolution of FEFC for Wales**

- (1) On the appointed day—
  - (a) the Further Education Funding Council for Wales shall be dissolved, and
  - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the National Council for Education and Training for Wales.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

*Other transfers***92 Transfers: England**

- (1) The Secretary of State may make a scheme providing for the transfer of any of his property, rights and liabilities to any of the listed persons.
- (2) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of a listed person to any other listed person.
- (3) The Secretary of State may make a scheme providing for the transfer to any listed person of any of the property, rights and liabilities of a person with whom the Secretary of State has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (4) The listed persons are—
  - (a) the Learning and Skills Council for England;
  - (b) Her Majesty's Chief Inspector of Schools in England;

- (c) the Adult Learning Inspectorate.
- (5) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (6) A scheme under this section comes into force on the day it specifies for it to come into force.
- (7) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (8) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.
- (9) The day specified by a scheme under subsection (2) or (3) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.
- (10) A scheme under subsection (3) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

### **93 Transfers: Wales**

- (1) The National Assembly for Wales may make a scheme providing for the transfer of any of its property, rights and liabilities to the National Council for Education and Training for Wales.
- (2) The National Assembly may make a scheme providing for the transfer to the Council of any of the property, rights and liabilities of a person with whom the National Assembly has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the National Assembly thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.
- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (7) The day specified by a scheme under subsection (2) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (8) A scheme under subsection (2) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

*Transfers: further provision***94 Stamp duty**

- (1) A transfer effected by virtue of section 89 or 91 is not to give rise to liability to stamp duty.
- (2) Stamp duty is not to be chargeable on a scheme made under section 90, 92 or 93.

**95 Contracts of employment**

- (1) This section applies if rights and liabilities under a contract of employment are transferred by virtue of—
  - (a) section 89 or 91, or
  - (b) a scheme under section 90, 92 or 93.
- (2) Anything done by or in relation to the transferor in respect of the employee before the day on which the transfer takes effect is to be treated on and after that day as done by or in relation to the transferee.
- (3) For the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc) the employee is not to be regarded as having been dismissed by virtue of the transfer.
- (4) For the purposes of that Act the employee's period of employment with the transferor is to count as a period of employment with the transferee, and the change of employment is not to break the continuity of the period of employment.
- (5) The preceding provisions do not prejudice any right of the employee to terminate the contract of employment if a substantial change is made to his detriment in his working conditions, but no such right arises by reason only of the change in employer effected by the transfer.
- (6) For the purposes of this section—
  - (a) the transferor is the person from whom the rights and liabilities are transferred;
  - (b) the transferee is the person to whom the rights and liabilities are transferred.

*External qualifications***96 Persons under 19**

- (1) This section applies to a course of education or training—
  - (a) which is provided (or proposed to be provided) by or on behalf of a school or institution or employer,
  - (b) which leads to an external qualification, and
  - (c) which is provided (or proposed to be provided) for pupils who are of compulsory school age or for pupils who are above that age but have not attained the age of 19.
- (2) Unless the external qualification is approved under section 98 or 99, the course must not be—
  - (a) funded by an authorised body (as defined in section 100), or
  - (b) provided by or on behalf of a maintained school.

- (3) In relation to a maintained school, the local education authority and the governing body must carry out their functions with a view to securing that subsection (2)(b) is not contravened.
- (4) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (5) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
  - (a) a course for the further training of teachers or youth and community workers;
  - (b) a post-graduate course (including a higher degree course);
  - (c) a first degree course;
  - (d) a course for the Diploma of Higher Education;
  - (e) a course for the Certificate in Education.
- (6) A qualification is awarded by an outside person if it is awarded by a person other than—
  - (a) the school or institution or employer, or
  - (b) a member of the staff of the school or institution or employer.
- (7) A qualification is authenticated by an outside person if it is awarded by the school or institution or employer and is authenticated by a person other than—
  - (a) the school or institution or employer, or
  - (b) a member of the staff of the school or institution or employer.
- (8) These are maintained schools—
  - (a) a community, foundation or voluntary school;
  - (b) a community or foundation special school.

## **97 Persons over 19**

- (1) This section applies if an institution or employer—
  - (a) receives financial resources from an authorised body (as defined in section 100), and
  - (b) provides for persons who have attained the age of 19 a course of education or training which leads to an external qualification.
- (2) The authorised body must carry out its functions with a view to securing that, unless the external qualification is approved under section 98 or 99, the institution or employer does not make a payment which—
  - (a) is a payment in respect of the qualification,
  - (b) is made to the outside person who awards or authenticates the qualification, and
  - (c) can reasonably be said to consist of or come from the financial resources received from the authorised body (or those resources and others).
- (3) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (4) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
  - (a) a course for the further training of teachers or youth and community workers;

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- (b) a post-graduate course (including a higher degree course);
  - (c) a first degree course;
  - (d) a course for the Diploma of Higher Education;
  - (e) a course for the Certificate in Education.
- (5) A qualification is awarded by an outside person if it is awarded by a person other than the institution or employer or a member of its or his staff.
- (6) A qualification is authenticated by an outside person if it is awarded by the institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.
- (7) A payment in respect of a qualification includes a payment in respect of—
- (a) devising, administering, verifying or certifying the qualification;
  - (b) setting or moderating examinations for the purposes of the qualification;
  - (c) registering, assessing or examining candidates.

## **98 Approved qualifications: England**

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England.
- (2) A qualification is approved at a given time if—
- (a) it is then approved by the Secretary of State, or
  - (b) it is then approved by a body then designated by him for the purposes of this section.
- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the Secretary of State consents to the approval.
- (5) The Secretary of State may at any time revoke—
- (a) a designation;
  - (b) an approval given by him;
  - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.
- (7) If the Secretary of State asks the Qualifications and Curriculum Authority to do so, it must advise him on any approval he proposes to give under subsection (2)(a).
- (8) If a designated body asks the Qualifications and Curriculum Authority to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

## **99 Approved qualifications: Wales**

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales.
- (2) A qualification is approved at a given time if—
- (a) it is then approved by the National Assembly for Wales, or
  - (b) it is then approved by a body then designated by the National Assembly for the purposes of this section.

- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the National Assembly consents to the approval.
- (5) The National Assembly may at any time revoke—
  - (a) a designation;
  - (b) an approval given by the National Assembly;
  - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.
- (7) If the National Assembly asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the National Assembly on any approval the National Assembly proposes to give under subsection (2)(a).
- (8) If a designated body asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

#### **100 Authorised bodies**

- (1) For the purposes of sections 96 and 97 in their application to England these are authorised bodies—
  - (a) the Learning and Skills Council for England;
  - (b) a local education authority;
  - (c) a body specified by order by the Secretary of State for the purposes of this section.
- (2) For the purposes of sections 96 and 97 in their application to Wales these are authorised bodies—
  - (a) the National Council for Education and Training for Wales;
  - (b) a local education authority;
  - (c) a body specified by order by the National Assembly for Wales for the purposes of this section.

#### **101 Enforcement: England**

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England, and it applies if the Secretary of State is satisfied that—
  - (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
  - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
  - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.
- (2) The Secretary of State may give such directions to the authority or body as he thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.
- (4) A specified body is a body specified under section 100(1)(c).

**102 Enforcement: Wales**

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales, and it applies if the National Assembly for Wales is satisfied that—
  - (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
  - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
  - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.
- (2) The National Assembly may give such directions to the authority or body as it thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.
- (4) A specified body is a body specified under section 100(2)(c).

**103 Amendments relating to external qualifications**

- (1) The Education Act 1997 shall be amended as follows.
- (2) In section 24 (functions of Qualifications and Curriculum Authority in relation to external qualifications) in subsection (2) for paragraphs (h) and (i) substitute—
 

“(gg) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.”
- (3) In subsection (3) of section 24 for “(g)” substitute “(gg)”.
- (4) In section 30 (functions of Qualifications, Curriculum and Assessment Authority for Wales in relation to external qualifications)—
  - (a) in subsection (1) omit “or by subsection (3)”;
  - (b) in subsection (2) for “(g)” substitute “(gg)”;
  - (c) omit subsection (3).
- (5) In section 37 (requirement for approval of certain courses leading to external qualifications) omit subsections (1) to (4) and in subsection (5) the words “, which are superseded by this section,”.

*Qualifying accounts and arrangements***104 Qualifying accounts**

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires an account to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the account to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
  - (a) conditions as to the description of individual who may hold an account;



- (b) conditions as to the description of institution with which an account may be held;
  - (c) conditions requiring an account not to be a joint one, or not to be held on behalf of a person other than the holder, or not to be held with another account of a specified description, or not to be connected with another account;
  - (d) conditions requiring an account to be identified by a specified name.
- (4) Conditions as to the description of institution with which an account may be held may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.
- (5) The regulations may provide that a specification of a description of institution with which an account may be held may include a requirement for institutions to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.
- (6) The regulations may contain provision securing that an individual may not simultaneously hold more than one account which qualifies under this section.
- (7) The power to make regulations under this section is to be exercised by the Scottish Ministers so far as those regulations are to have effect for the purposes of any provision of, or made under, an Act of the Scottish Parliament authorising grants to be paid to, or in respect of, individuals in connection with their education or training; and for this purpose references in this section to the Secretary of State are to be treated as references to the Scottish Ministers.
- (8) For the purposes of this section an enactment includes an Act of the Scottish Parliament.

## **105 Qualifying arrangements**

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
- (a) conditions as to the description of individual who may enter into arrangements;
  - (b) conditions as to the description of body with which arrangements may be made;
  - (c) conditions as to the nature of the arrangements and the way they are to be made;
  - (d) conditions requiring the arrangements to be identified by a specified name.
- (4) Conditions as to the description of body with which arrangements may be made may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.
- (5) The regulations may provide that a specification of a description of body with which arrangements may be made may include a requirement for bodies to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.

- (6) The regulations may contain provision securing that an individual may not simultaneously—
- (a) be a party to more than one set of arrangements which qualify under this section, or
  - (b) be a party to arrangements which qualify under this section and to arrangements falling within subsection (7).
- (7) Arrangements fall within this subsection if they are—
- (a) arrangements which qualify under such provision of the law of Scotland as in the opinion of the Secretary of State corresponds to this section, or
  - (b) arrangements which qualify under section 106.

### **106 Qualifying arrangements: Northern Ireland**

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Department of Higher and Further Education, Training and Employment in Northern Ireland in regulations made under this section (or to satisfy them at the time concerned).
- (3) Subsections (3) to (7) of section 105 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
- (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
  - (b) the reference in subsection (7)(b) to arrangements which qualify under this section is to be treated as a reference to arrangements which qualify under section 105.

### **107 Qualifying arrangements: further provision**

- (1) The Secretary of State (or a person designated by him) may make arrangements with a body in connection with the making by that body of arrangements which qualify under section 105.
- (2) Arrangements under subsection (1) may include provision for the remuneration of a body and the payment of its expenses.
- (3) Arrangements under subsection (1) may include provision for a person designated by the Secretary of State to carry out on his behalf such of his functions under the arrangements as he specifies.
- (4) The Secretary of State may pay—
- (a) to a person designated by him under subsection (1) to make arrangements with a body, or
  - (b) to a person designated by him under subsection (3) to carry out functions on his behalf,
- remuneration or amounts to meet the person's expenses.
- (5) The Department of Higher and Further Education, Training and Employment in Northern Ireland (or a person designated by it) may make arrangements with a body

in connection with the making by that body of arrangements which qualify under section 106.

- (6) Subsections (2) to (4) apply to arrangements under subsection (5) as they apply to arrangements under subsection (1); and for this purpose references in subsections (2) to (4) to the Secretary of State are to be treated as references to the Department.

## **108 Grants**

- (1) The Secretary of State may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.
- (2) The regulations must provide that grants may be paid only to or in respect of individuals—
- (a) who hold accounts which qualify under section 104,
  - (b) who are parties to arrangements which qualify under section 105, or
  - (c) who hold such accounts and are parties to such arrangements.
- (3) The regulations may provide that grants may not be paid unless other specified conditions are satisfied.
- (4) These conditions may be included—
- (a) conditions as to the way the accounts qualifying under section 104 are operated (including conditions requiring them to contain a specified balance);
  - (b) conditions as to the way the arrangements qualifying under section 105 are conducted;
  - (c) conditions as to the employment or self-employment of individuals;
  - (d) conditions requiring individuals not to be receiving or have received specified benefits;
  - (e) conditions as to the kinds of education or training which qualify.
- (5) The regulations may provide—
- (a) that the amounts of grants, and when and how they are paid, are to be decided by the Secretary of State;
  - (b) that grants may be paid on such terms as the Secretary of State decides and that the terms may include terms requiring repayment in specified circumstances;
  - (c) that if grants are payable under the regulations they may be paid to persons providing education or training;
  - (d) that if grants are payable under the regulations they may be paid by the Secretary of State or by other persons under arrangements made with him;
  - (e) that if such arrangements are made the Secretary of State may pay the persons concerned remuneration or amounts to meet their expenses.
- (6) Conditions as to the kinds of education or training which qualify may include provision for the kinds to be specified—
- (a) by the Secretary of State in a way he thinks fit, or
  - (b) if he so decides, by a person who (at the time of the specification) is designated by the Secretary of State and who specifies in a way the Secretary of State stipulates.

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- (7) The regulations may provide that a specification of the kinds of education or training which qualify may include a requirement for the education or training to be provided by persons for the time being approved—
- (a) by the Secretary of State, or
  - (b) if he so decides, by a person who (at the time of the approval) is designated by the Secretary of State.

## **109 Grants: Northern Ireland**

- (1) The Department of Higher and Further Education, Training and Employment in Northern Ireland may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.
- (2) The regulations must provide that grants may be paid only to or in respect of individuals—
- (a) who hold accounts which qualify under section 104,
  - (b) who are parties to arrangements which qualify under section 106, or
  - (c) who hold such accounts and are parties to such arrangements.
- (3) Subsections (3) to (7) of section 108 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
- (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
  - (b) the reference in subsection (4)(b) to arrangements which qualify under section 105 is to be treated as a reference to arrangements which qualify under section 106.

### *Sixth-form education*

## **110 Secondary education**

- (1) After section 2(2) of the Education Act 1996 (definition of secondary education) there shall be inserted—
- “(2A) Education is also secondary education for the purposes of this Act (subject to subsection (5)) if it is provided by an institution which—
- (a) is maintained by a local education authority, and
  - (b) is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19.
- (2B) Where—
- (a) a person is in full-time education,
  - (b) he receives his education partly at a school and, by virtue of arrangements made by the school, partly at another institution, and
  - (c) the education which he receives at the school would be secondary education if it was full-time education at the school,
- the person’s education, both at the school and at the other institution, is secondary education for the purposes of this Act (subject to subsection (5)).”

- (2) Subsections (3) to (5) apply to an institution which would become a school on the coming into force of subsection (1) (by virtue of section 4(1) of the Education Act 1996 (schools)).
- (3) An institution to which this subsection applies shall not be treated as being a school by virtue of section 4(1) of that Act unless it has been established as a new school in accordance with section 28(1)(a) or (2)(a) or 31(1)(a) of the School Standards and Framework Act 1998 (community or foundation mainstream or special school).
- (4) A local education authority may not continue to maintain an institution to which this subsection applies in pursuance of section 15A of the Education Act 1996 (education for 16 to 18 year olds).
- (5) Section 51(3A) of the Further and Higher Education Act 1992 (incorporation of further education institutions) shall not apply in relation to an institution to which this subsection applies.

#### **111 Further education corporations**

- (1) The following shall be substituted for section 16(2) and (3) of the Further and Higher Education Act 1992 (incorporation of further education institutions)—
  - “(2) Subsection (1) above does not apply to an institution which is maintained by a local education authority.
  - (3) The Secretary of State may by order make provision for the establishment of a body corporate for the purpose of conducting an institution which—
    - (a) is maintained by a local education authority, and
    - (b) in his opinion, is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.”
- (2) Section 51 of that Act (publication of proposals) shall be amended as follows—
  - (a) for subsection (3)(b) substitute—
    - “(b) an order under section 16(3) of this Act, other than an order made for the purpose of giving effect to a proposal by a council,” and
  - (b) after subsection (3) insert—
    - “(3A) A draft proposal or order in respect of an institution which is maintained by a local education authority shall not be published without the consent of the governing body and the local education authority.”

#### **112 Further education institutions: designation**

In section 28(3) of the Further and Higher Education Act 1992 (designation of institutions for funding) the following shall be inserted after subsection (3)—

- “(3A) The Secretary of State shall not make an order under this section in respect of a voluntary aided school without the consent of the governing body and the local education authority.”

**113 Inadequate sixth-forms**

- (1) Schedule 7 (inadequate sixth-forms) shall have effect.
- (2) Expressions used in that Schedule and in the School Inspections Act 1996 have the same meaning in that Schedule as in that Act.
- (3) Sections 496 and 497 of the Education Act 1996 (intervention) shall have effect in relation to powers and duties conferred or imposed by virtue of Schedule 7 as if—
  - (a) those powers and duties were conferred or imposed by the Education Act 1996, and
  - (b) the bodies specified in sections 496(2) and 497(2) were any local education authority, any school organisation committee and the governing body of any maintained school (within the meaning given by section 20(7) of the School Standards and Framework Act 1998).

*Support for 13 to 19 year olds: England***114 Provision of services**

- (1) The Secretary of State may provide or secure the provision of services which he thinks will encourage, enable or assist (directly or indirectly) effective participation by young persons in education or training.
- (2) In securing the provision of those services the Secretary of State may, in particular—
  - (a) make arrangements with local authorities and other persons for the provision of services;
  - (b) direct local education authorities to provide services, to secure the provision of services or to participate in the provision of services.
- (3) Arrangements and directions under subsection (2) may include provision—
  - (a) for grants, loans and other kinds of financial assistance to be provided by the Secretary of State (whether or not on conditions);
  - (b) requiring persons with whom arrangements are made or to whom directions are given to have regard to guidance issued by the Secretary of State.
- (4) In this section “young persons” means persons who have attained the age of 13 but not the age of 20.
- (5) A direction under this section may be revoked or varied by a later direction.

**115 Consultation and coordination**

- (1) Before providing or securing the provision of services of the kind mentioned in section 114(1) for residents of a particular place or area, the Secretary of State shall consult each of the following with responsibility for all or part of the place or area—
  - (a) a local authority,
  - (b) a Health Authority,
  - (c) a chief officer of police,
  - (d) a police authority,
  - (e) a probation committee,
  - (f) a youth offending team, and

- (g) a Primary Care Trust.
- (2) The Secretary of State shall also consult—
  - (a) any voluntary body which provides services for young persons in the place or area concerned and which the Secretary of State thinks it appropriate to consult, and
  - (b) such other persons as he thinks appropriate.
- (3) Subsection (4) applies where the Secretary of State—
  - (a) provides or proposes to provide, or
  - (b) secures or proposes to secure the provision of, services of the kind mentioned in section 114(1) for the residents of a particular place or area.
- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—
  - (a) exercise their functions so as to support and assist the services provided, secured or proposed by the Secretary of State, and
  - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

## **116 Local education authorities**

- (1) A local education authority—
  - (a) may enter into arrangements under section 114(2)(a) for the provision of services of the kind mentioned in section 114(1),
  - (b) shall comply with a direction given to it under section 114(2)(b), and
  - (c) may provide, secure the provision of or participate in the provision of services of the kind mentioned in section 114(1) otherwise than in accordance with paragraph (a) or (b).
- (2) Action which a local education authority takes in pursuance of subsection (1) may relate to services for a person from another area.
- (3) For the purpose of subsection (1) a local education authority may—
  - (a) incur expenditure;
  - (b) form companies;
  - (c) employ officers;
  - (d) enter into agreements for the supply of goods or services;
  - (e) do anything else which they consider necessary or expedient.
- (4) Nothing in or done under section 114 shall prejudice any power of a local education authority to provide services or incur expenditure.

## **117 Educational institutions: information and access**

- (1) Where a person is involved in the provision of services in pursuance of section 114(1), an educational institution to which this section applies shall, for the purpose of the provision of those services—

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- (a) provide him on request with the name and address of a pupil or student;
  - (b) provide him on request with the name and address of a parent of a pupil or student;
  - (c) provide him on request with information in the institution's possession about a pupil or student;
  - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
  - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.
- (2) Information shall not be provided under subsection (1)(c)—
- (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or
  - (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
- (a) community, foundation and voluntary schools,
  - (b) community or foundation special schools (other than those established in hospitals),
  - (c) city technology colleges, city colleges for the technology of the arts and city academies,
  - (d) pupil referral units,
  - (e) institutions within the further education sector, and
  - (f) institutions in receipt of funding from the Learning and Skills Council for England.

## **118 Inspection**

- (1) Her Majesty's Chief Inspector of Schools in England—
- (a) shall advise the Secretary of State on request about matters relating to services provided in pursuance of section 114(1),
  - (b) may give the Secretary of State other advice about those matters,
  - (c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services, and
  - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) A request under subsection (1)(c)—
- (a) may be general or in relation to specific matters,
  - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
  - (c) may relate to a specific area.
- (3) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.



- (4) Subsections (5) to (7) apply to an inspection under subsection (1)(c) or (d) of services provided by a person or institution in pursuance of section 114(1).
- (5) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
  - (a) section 3(3)(a) and (b) (right of access), and
  - (b) section 42 (computer records).
- (6) Section 42A of the 1996 Act (publication of reports) shall apply.
- (7) A person who wilfully obstructs a person in carrying out or participating in the inspection—
  - (a) shall be guilty of an offence, and
  - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **119 Information: supply by Secretary of State**

- (1) The Secretary of State may supply information, including social security information, to any civil servant or other person for the purpose of the provision of services of the kind mentioned in section 114(1).
- (2) In this section “social security information” means personal information about a young person which is obtained by the Secretary of State in the course of the exercise of a function under—
  - (a) the Social Security Contributions and Benefits Act 1992, or
  - (b) the Social Security Administration Act 1992.
- (3) For the purposes of subsection (2) “personal information” means, in relation to a young person—
  - (a) his name, address and date of birth, and
  - (b) the name and address of a parent of his.
- (4) A person commits an offence if he discloses information supplied to him under subsection (1) unless the disclosure is made—
  - (a) for the purpose of the provision of services in pursuance of section 114(1),
  - (b) in accordance with an enactment or an order of a court,
  - (c) for the purpose of actual or contemplated proceedings before a court,
  - (d) with consent given by or on behalf of the person to whom the information relates, or
  - (e) in such a way as to prevent the identification of the person to whom it relates.
- (5) It is a defence for a person charged with an offence under this section to prove that he reasonably believed that his disclosure was lawful.
- (6) A person guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

**120 Information: supply by public bodies**

- (1) For the purpose of the provision of services in pursuance of section 114(1), any of the persons or bodies mentioned in subsection (2) may supply information about a young person—
- (a) to the Secretary of State;
  - (b) to any other person or body involved in the provision of those services.
- (2) Those persons and bodies are—
- (a) a local authority,
  - (b) a Health Authority,
  - (c) the Learning and Skills Council for England,
  - (d) a chief officer of police,
  - (e) a probation committee,
  - (f) a youth offending team, and
  - (g) a Primary Care Trust.

**121 Supplementary**

- (1) In sections 114 to 120—
- “local authority” has the meaning given by section 579(1) of the Education Act 1996 (interpretation),
- “Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,
- “parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,
- “probation committee” means a committee established under section 3 of the Probation Service Act 1993,
- “police authority” has the meaning given by section 101 of the Police Act 1996,
- “young person” has the meaning given by section 114(4), and
- “youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.
- (2) The power under section 114 shall not be used to provide or secure the provision of services outside England.

**122 Careers services**

The following shall be inserted after section 10A of the Employment and Training Act 1973 (careers services)—

**“10B Inspection**

- (1) Her Majesty’s Chief Inspector of Schools in England—
- (a) shall advise the Secretary of State on request about matters relating to services provided in England in pursuance of section 8 or 9,
  - (b) may give the Secretary of State other advice about those matters,

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- (c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services by any person or institution, and
  - (d) may undertake such other inspections of the provision of those services by persons or institutions as he thinks fit.
- (2) A request under subsection (1)(c)—
- (a) may be general or in relation to specific matters,
  - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
  - (c) may relate to a specific area.
- (3) An inspection under subsection (1)(c) or (d) may not relate to services provided for persons who have attained the age of 20.
- (4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (5) Subsections (6) to (8) apply to an inspection under subsection (1)(c) or (d) of services provided in pursuance of arrangements under section 10(1) of this Act.
- (6) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
- (a) section 3(3)(a) and (b) (right of access), and
  - (b) section 42 (computer records).
- (7) Section 42A of the 1996 Act (publication of reports) shall apply.
- (8) A person who wilfully obstructs a person in carrying out or participating in the inspection—
- (a) shall be guilty of an offence, and
  - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

*Support for 11 to 25 year olds: Wales*

### **123 Provision of services**

- (1) The National Assembly for Wales may direct a local authority—
- (a) to provide youth support services;
  - (b) to secure the provision of youth support services;
  - (c) to participate in the provision of youth support services.
- (2) In this section “youth support services” means services which in the opinion of the National Assembly will encourage, enable or assist young persons (directly or indirectly)—
- (a) to participate effectively in education or training,
  - (b) to take advantage of opportunities for employment, or
  - (c) to participate effectively and responsibly in the life of their communities.
- (3) In this section “young persons” means persons who have attained the age of 11 but not the age of 26.

- (4) A direction under subsection (1)—
- (a) may include provision for grants, loans and other kinds of financial assistance to be provided by the National Assembly (whether or not on conditions),
  - (b) may require local authorities to have regard to guidance issued by the National Assembly, and
  - (c) may require local authorities when making arrangements with other persons to require those persons to have regard to guidance issued by the National Assembly.
- (5) A direction under subsection (1)—
- (a) may relate to a particular class of young person;
  - (b) may make different provision for different classes of young person;
  - (c) may be revoked or varied by a later direction.

#### **124 Local authority: duty and powers**

- (1) A local authority—
- (a) shall comply with a direction given to it under section 123(1), and
  - (b) may provide, secure the provision of or participate in the provision of youth support services otherwise than in accordance with paragraph (a).
- (2) Action which a local authority takes in pursuance of subsection (1)—
- (a) may relate to a particular class of young persons;
  - (b) may relate to services for a person from another area.
- (3) In complying with a direction under section 123(1) a local authority shall have regard to the expediency of co-operation with voluntary organisations.
- (4) For the purpose of subsection (1) a local authority may—
- (a) incur expenditure;
  - (b) employ officers;
  - (c) enter into agreements for the supply of goods or services;
  - (d) do anything else (other than forming companies) which they consider necessary or expedient.
- (5) Nothing in or done under section 123 shall prejudice any power of a local authority to provide services or incur expenditure.

#### **125 Consultation and coordination**

- (1) Before complying with a direction under section 123(1) by providing, securing the provision of or participating in the provision of services for residents of a particular place or area, a local authority shall consult each of the following with responsibility for all or part of the area—
- (a) a Health Authority,
  - (b) a chief officer of police,
  - (c) a police authority,
  - (d) a probation committee, and
  - (e) a youth offending team.
- (2) The local authority shall also—

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- (a) consult any voluntary body which provides services for young persons in the place or area concerned and which the local authority think it appropriate to consult,
  - (b) consult the National Council for Education and Training for Wales,
  - (c) consult any authority or person with whom arrangements have been made for the place or area concerned under section 10(1) or (3)(a), (b) or (c) of the Employment and Training Act 1973 (careers services),
  - (d) consult any relevant organisation established for the purpose of enabling voluntary bodies to co-operate and co-ordinate their activities,
  - (e) consult such other persons as the local authority think appropriate, and
  - (f) provide such opportunities as the local authority think appropriate for young persons in the place or area concerned to express their views.
- (3) Subsection (4) applies where a local authority—
- (a) provide or propose to provide youth support services for the residents of a particular place or area, or
  - (b) secure or propose to secure the provision of youth support services for the residents of a particular place or area.
- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—
- (a) exercise their functions so as to support and assist the services provided, secured or proposed by the local authority, and
  - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

## **126 Educational institutions: information and access**

- (1) Where a person is involved in the provision of services in pursuance of section 123(1) (a) or (b), an educational institution to which this section applies shall, for the purpose of the provision of those services—
- (a) provide him on request with the name and address of a pupil or student;
  - (b) provide him on request with the name and address of a parent of a pupil or student;
  - (c) provide him on request with information in the institution's possession about a pupil or student;
  - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
  - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.
- (2) Information shall not be provided under subsection (1)(c)—
- (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or

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- (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
  - (a) community, foundation and voluntary schools,
  - (b) community or foundation special schools (other than those established in hospitals),
  - (c) city technology colleges and city colleges for the technology of the arts,
  - (d) pupil referral units,
  - (e) institutions within the further education sector, and
  - (f) institutions in receipt of funding from the National Council for Education and Training for Wales.

## **127 Inspection**

- (1) Her Majesty's Chief Inspector of Education and Training in Wales—
  - (a) shall advise the National Assembly for Wales on request about matters relating to services provided in pursuance of section 123(1),
  - (b) may give the National Assembly other advice about those matters,
  - (c) shall, when requested to do so by the National Assembly, inspect and report on the provision of those services, and
  - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) The National Assembly shall consult the Chief Inspector before making a request under subsection (1)(a) or (c).
- (3) A request under subsection (1)(c)—
  - (a) may be general or in relation to specific matters,
  - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
  - (c) may relate to a specific area.
- (4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.

## **128 Conduct and effect of inspections**

- (1) This section applies where a service is inspected pursuant to a request under section 127(1)(c) or in accordance with section 127(1)(d).
- (2) A person carrying out or participating in the inspection shall have the same powers as an Inspector under the following provisions of the School Inspections Act 1996—
  - (a) section 6(3)(a) and (b) (right of access), and
  - (b) section 42 (computer records).
- (3) Section 42A of that Act (publication of reports) shall apply.
- (4) Where the Chief Inspector arranges for the publication of a report of an inspection, the person who provides the inspected service shall—

- (a) prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it,
  - (b) publish the statement within such period, and in such manner, as may be prescribed by regulations made by the National Assembly for Wales, and
  - (c) send copies of the statement to such persons as may be prescribed by regulations made by the National Assembly.
- (5) Where a local authority provides an inspected service, or secures or participates in the provision of an inspected service, the authority—
- (a) shall ensure that the action specified in any statement prepared under subsection (4)(a) is sufficient to remedy any weakness mentioned in the report, and
  - (b) shall take all reasonable steps to ensure that the action specified in the statement is taken within the period specified.
- (6) If the National Assembly consider that a local authority is failing to comply with its duties under subsection (5)—
- (a) the National Assembly may give directions to the local authority about the performance of those duties, and
  - (b) the authority shall comply with the directions.

## **129 Supplementary**

- (1) In sections 123 to 128—
- “local authority” means a county council or a county borough council,
  - “Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,
  - “parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,
  - “probation committee” means a committee established under section 3 of the Probation Service Act 1993,
  - “police authority” has the meaning given by section 101 of the Police Act 1996,
  - “young person” has the meaning given by section 123(3),
  - “youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998, and
  - “youth support services” has the meaning given by section 123(2).
- (2) The power under section 123 shall not relate to services which are provided or to be provided outside Wales.

### *City colleges and academies*

## **130 City academies**

- (1) Section 482 of the Education Act 1996 (city technology colleges and city colleges for the technology of the arts) shall be amended as follows.
- (2) In subsection (2)(c)—
- (a) omit “either”, and

- (b) after “arts” insert “or on a subject area mentioned in subsection (2A)”.
- (3) After subsection (2) insert—
- “(2A) The subject areas are—
- (a) modern foreign languages;
  - (b) visual arts, performing arts or media arts (or any combination of them);
  - (c) sport;
  - (d) any subject specified by order by the Secretary of State.”
- (4) In subsection (3) after paragraph (b) insert “; or
- (c) as a city academy, if the emphasis of its curriculum is on a subject area mentioned in subsection (2A).”
- (5) After subsection (3) insert—
- “(3A) A school established on or after the relevant day and which would otherwise, by virtue of subsection (3), be known as a city technology college or a city college for the technology of the arts may instead, if the person carrying it on so chooses, be known as a city academy.
- (3B) Before entering into an agreement under this section in relation to a school to be known as a city academy, the Secretary of State must consult the local education authorities referred to in subsection (3C) about the establishment of the school.
- (3C) The authorities are—
- (a) the local education authority in whose area the school is to be situated, and
  - (b) if the Secretary of State thinks a significant proportion of the pupils at the school is likely to be resident within the area of another local education authority, that authority.”
- (6) After subsection (5) insert—
- “(6) For the purposes of subsection (3A) the relevant day is the day on which section 130 of the Learning and Skills Act 2000 comes into force.”
- (7) This section does not apply to schools in Wales.

### **131 City academies: land**

- (1) Schedule 8 contains provisions about land in relation to city academies.
- (2) That Schedule does not apply to land in Wales.

### **132 City academies: financial provisions**

In section 483 of the Education Act 1996 (city colleges: financial provisions) after subsection (3) there shall be inserted—

- “(3A) If the school is a city academy, subsection (3) shall apply with such modifications (if any) as may be specified by the Secretary of State by order.”



### 133 City colleges and academies: special educational needs

After section 483 of the Education Act 1996 there shall be inserted—

#### “483A City colleges and academies: special educational needs

- (1) This section applies in relation to any child falling within subsection (2) if the condition in subsection (3) is satisfied.
- (2) A child falls within this subsection if—
  - (a) he is a child for whom a statement is maintained under section 324, and
  - (b) he attends (or proposes to attend) a school which is a city technology college, a city college for the technology of the arts or a city academy.
- (3) The condition in this subsection is satisfied if—
  - (a) the school is approved by the Secretary of State under section 347(1), or
  - (b) the Secretary of State consents to the child being educated at the school.
- (4) The Secretary of State may by regulations make provision for securing that arrangements are made—
  - (a) for making the special educational provision specified in the statement;
  - (b) for making any non-educational provision specified in the statement.
- (5) Regulations under subsection (4) may require or authorise a local education authority—
  - (a) to make payments to the school in respect of the child, or
  - (b) to provide any other assistance to the school in respect of the child.
- (6) No condition or requirement imposed by virtue of section 482(4)(a) is to prevent a local education authority making payments or providing assistance by virtue of subsection (5).
- (7) This section does not apply to schools in Wales.”

#### *Pensions*

### 134 Pensions

- (1) Section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons falling within subsection (2).
- (2) This subsection applies to a person if—
  - (a) he has rights and obligations as a pensioner or deferred pensioner under a salary related occupational pension scheme, and
  - (b) the rights and obligations arose by virtue of his or another person’s employment with any of the employers specified in subsection (3).
- (3) The employers are—
  - (a) a person with whom the Secretary of State or the National Assembly for Wales has made arrangements under section 2 of the Employment and Training Act 1973 and who is specified in an order made by the Secretary of State or is of a description so specified;

- (b) a company which is a subsidiary of a person falling within paragraph (a) and which is specified in an order made by the Secretary of State or is of a description so specified.
- (4) A scheme under section 1 of the Superannuation Act 1972 (a new scheme) may not be made in relation to the persons falling within subsection (2) unless—
- (a) the trustees of the occupational scheme consent in writing to the new scheme being made,
  - (b) the rights of the persons under the new scheme are no less generous than their rights as they existed under the occupational scheme, and
  - (c) the obligations of the persons under the new scheme are no more onerous than their obligations as they existed under the occupational scheme.

### **135 Pensions: interpretation**

- (1) This section has effect for the purposes of section 134.
- (2) Rights in relation to a person include—
- (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him;
  - (b) a right of allocation in respect of the present or future payment of a pension.
- (3) A deferred pensioner is a person who has rights under the occupational scheme but is neither a pensioner under it nor a person to whom rights are accruing under it by virtue of his employment.
- (4) “Salary related occupational pension scheme” has the meaning given by section 93(1A) of the Pension Schemes Act 1993.

### **136 Pensions: delegation**

- (1) A function exercisable by virtue of section 1 of the Superannuation Act 1972 in consequence of section 134 or of paragraph 6(1) of Schedule 1 may be exercised by (or by employees of) such person as may be authorised in that behalf by the person whose function it is.
- (2) An authorisation given by virtue of subsection (1) may authorise the exercise of a function—
- (a) either wholly or to such extent as may be specified in the authorisation;
  - (b) either generally or in such cases as may be so specified;
  - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (3) An authorisation given by virtue of subsection (1) is to be treated for all purposes as if it were given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (contracting out of functions of Ministers and office-holders).
- (4) An authorisation given by virtue of subsection (1) may be revoked at any time by the person who gave it.

*Other miscellaneous provisions*

**137 Recreation and social and physical training**

- (1) Section 508 of the Education Act 1996 (local education authorities: recreation and social and physical training) shall be amended as follows.
- (2) In subsection (1) for “secondary and further education” substitute “and secondary education”.
- (3) After subsection (1) insert—
  - “(1A) A local education authority may provide facilities for recreation and social and physical training as part of the facilities for further education provided (whether or not by them) for their area.”
- (4) In subsection (2) for “For that purpose” substitute “For the purpose of subsection (1) or (1A)”.

**138 Wales: provision of information by public bodies**

- (1) For the purpose of the provision in Wales of services mentioned in subsection (2), any of the persons or bodies mentioned in subsection (3) may supply information about a young person—
  - (a) to a local authority;
  - (b) to any other person or body involved in the provision of the services.
- (2) The services are—
  - (a) services provided in pursuance of section 123 of this Act,
  - (b) services provided in pursuance of any of sections 2, 8, 9 and 10 of the Employment and Training Act 1973 (training and careers services), and
  - (c) services wholly or partly funded in pursuance of section 12 of the Industrial Development Act 1982 (careers in industry).
- (3) The persons and bodies are—
  - (a) a local authority,
  - (b) a Health Authority,
  - (c) the National Council for Education and Training for Wales,
  - (d) a chief officer of police,
  - (e) a probation committee, and
  - (f) a youth offending team.

**139 Induction periods for teachers**

- (1) Section 19 of the Teaching and Higher Education Act 1998 (requirement to serve induction period) shall be amended as follows.
- (2) In subsection (1) after paragraph (b) insert—

“or

  - (c) in such circumstances as may be prescribed, a further education institution (or a further education institution of a prescribed description).”

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- (3) In subsection (2)—
- (a) in paragraph (f) omit “employed as a teacher at a school”, and
  - (b) in paragraph (k) after “schools” insert “or to further education institutions”.
- (4) In subsection (6), for “subsection (2)” substitute “subsections (2) and (6A)”.
- (5) After subsection (6) insert—
- “(6A) Regulations under subsection (1)(c) may, in particular—
- (a) provide that an induction period may not be begun without approval of the appropriate body for the serving of that induction period;
  - (b) provide for approval to be general or specific;
  - (c) make provision (including transitional provision) about the withdrawal of approval;
  - (d) impose conditions or limitations on the appropriate body’s power to give or withhold approval.”
- (6) In subsection (10) after paragraph (c) insert—
- “(d) “a further education institution” means an institution within the further education sector.”
- (7) After subsection (10) insert—
- “(11) In the application of this section to a further education institution—
- (a) a reference to a school term shall be taken as a reference to a term of the institution;
  - (b) a reference to the head teacher of a school shall be taken as a reference to the principal of the institution.
- (12) Sections 496 and 497 of the Education Act 1996 shall have effect as if—
- (a) the duties and powers referred to in those sections included duties imposed and powers conferred by virtue of this section, and
  - (b) in relation to those duties and powers, the bodies to which those sections apply included the governing body of a relevant school, the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of a further education institution and an appropriate body for the purposes of subsection (2).”

## **140 Assessments relating to learning difficulties**

- (1) Subsection (2) applies if—
- (a) a local education authority maintains a statement of special educational needs for a person under section 324 of the Education Act 1996, and
  - (b) the Secretary of State believes that the person will leave school at the end of his last year of compulsory schooling to receive post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).
- (2) The Secretary of State must arrange for an assessment of the person to be conducted at some time during the person’s last year of compulsory schooling.

- (3) The Secretary of State may at any time arrange for an assessment to be conducted of a person—
  - (a) who is in his last year of compulsory schooling or who is over compulsory school age but has not attained the age of 25,
  - (b) who appears to the Secretary of State to have a learning difficulty (within the meaning of section 13), and
  - (c) who is receiving, or in the Secretary of State’s opinion is likely to receive, post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).
- (4) For the purposes of this section an assessment of a person is an assessment resulting in a written report of—
  - (a) his educational and training needs, and
  - (b) the provision required to meet them.
- (5) A local education authority must send a copy of a statement maintained by it under section 324 of the Education Act 1996 to the Secretary of State on his request.
- (6) In its application to Wales this section shall have effect with the following modifications (in addition to those specified in section 150)—
  - (a) the reference to Part I of this Act shall be construed as a reference to Part II, and
  - (b) the reference to section 13 shall be construed as a reference to section 41.

#### **141 Training programmes: cessation of funding**

- (1) This section applies to a company if—
  - (a) it has entered into an arrangement with the Secretary of State with a view to receiving payments under section 2(2)(d) of the Employment and Training Act 1973 (arrangements in respect of training) in connection with the provision of facilities,
  - (b) before the passing of this Act the company has received notice from the Secretary of State that he intends to terminate the arrangement mentioned in paragraph (a),
  - (c) the company’s memorandum and articles of association are in a form approved by the Secretary of State generally or specifically for purposes connected with arrangements of the kind described in paragraph (a), and
  - (d) the company’s memorandum of association requires all income and profits to be applied towards the promotion of the company’s objects and not to be distributed to members.
- (2) Unless the Secretary of State consents in writing, a company to which this section applies may not after the passing of this Act—
  - (a) take action of a prescribed kind, or
  - (b) cause or permit a person to take action of a prescribed kind.
- (3) In subsection (2) “prescribed” means prescribed by order of the Secretary of State; and the action which may be prescribed under that subsection includes, in particular—
  - (a) making a disposal or payment of a prescribed kind or in prescribed circumstances,
  - (b) incurring expenditure of a prescribed kind or in prescribed circumstances, and

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- (c) entering into a transaction of a prescribed kind or in prescribed circumstances.
- (4) A company to which this section applies shall comply with a written direction from the Secretary of State given after the passing of this Act which requires it to transfer an asset to—
  - (a) a specified body, or
  - (b) the Secretary of State.
- (5) Before giving a direction to a company under subsection (4) the Secretary of State shall consult the company.
- (6) Where a company to which this section applies takes, causes or permits action in contravention of subsection (2) the High Court may on the application of the Secretary of State make any order which seems to it appropriate.
- (7) An order under subsection (6) may, in particular—
  - (a) provide for a contract or other agreement to be of no effect;
  - (b) vary the terms of a contract or other agreement;
  - (c) require money to be paid to the Secretary of State by or on behalf of the company to which this section applies;
  - (d) require money to be paid to the Secretary of State by or on behalf of any other specified person;
  - (e) require the Secretary of State to pay to a specified person compensation of an amount specified in the order or determined in accordance with the order.
- (8) Section 150 shall not apply to this section; but in the application of this section to a company which operates in Wales—
  - (a) a reference to the Secretary of State in subsection (1)(a) and (b) shall be construed as a reference to the Secretary of State or the National Assembly for Wales,
  - (b) the functions conferred or imposed on the Secretary of State by subsections (2) to (6) shall be exercisable by the National Assembly, and
  - (c) a reference in subsections (2) to (7) to the Secretary of State shall be taken as a reference to the National Assembly.

#### **142 Further and higher education corporations: secondary education**

- (1) Section 18 of the Further and Higher Education Act 1992 (further education corporation: principal powers) shall be amended as follows—
  - (a) for subsection (1)(aa) substitute—
    - “(aa) provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,
    - (ab) provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),
    - (ac) participate in the provision of secondary education at a school,” and
  - (b) after subsection (1) insert—
    - “(1A) A further education corporation may not provide education of a kind specified in subsection (1)(aa), (ab) or (ac) above unless they

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have consulted such local education authorities as they consider appropriate.”

(2) Section 124 of the Education Reform Act 1988 (higher education corporation: powers) shall be amended as follows—

(a) after subsection (1)(b) insert—

“(ba) to provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,

(bb) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),

(bc) to participate in the provision of secondary education at a school,”, and

(b) after subsection (1) insert—

“(1A) A higher education corporation may not provide education of a kind specified in subsection (1)(ba) or (bb) above unless they have consulted such local education authorities as they consider appropriate.”

### **143 Further education sector: designated institutions**

(1) Section 28 of the Further and Higher Education Act 1992 (designation for funding by Further Education Funding Councils) shall be amended as follows—

(a) in subsection (1) for “as eligible to receive support from funds administered by the councils” substitute “for the purposes of this section”,

(b) subsection (2)(b) shall cease to have effect, and

(c) after subsection (2)(c) add—

“or

(d) an institution established for the purpose of being principally concerned with the provision of one or both of the kinds of education specified in subsection (1) above.”

(2) The following shall be substituted for section 30 of the Further and Higher Education Act 1992 (special provision for voluntary aided sixth form colleges)—

#### **“30 Special provision for certain institutions**

(1) Notwithstanding anything in section 29 of this Act, the instrument of government of a designated institution to which this section applies must provide—

(a) for the governing body of the institution to include persons appointed for the purpose of securing so far as practicable that the established character of the institution at the time of its designation is preserved and developed and, in particular, that the institution is conducted in accordance with any trust deed relating to it, and

(b) for the majority of members of the governing body to be such governors.

(2) This section applies to—

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- (a) an institution which, when designated, was a voluntary aided school, and
  - (b) an institution specified, or falling within a class specified, by the Secretary of State by order.
- (3) The Secretary of State may specify an institution or a class of institutions only if the institution or each member of the class is principally concerned with the provision of the education specified in section 28(1)(a) above.
- (4) The reference in subsection (1)(a) above to the established character of an institution is, in relation to an institution established shortly before or at the same time as being designated, a reference to the character which the institution is intended to have on its establishment.”
- (3) Section 32(2A) of the Further and Higher Education Act 1992 (transfer of property on designation) shall cease to have effect.
- (4) The Secretary of State may make an order providing for the constitution as a body corporate of the governing body of an institution in England which is designated under section 28 of the Further and Higher Education Act 1992.
- (5) The National Assembly for Wales may make an order providing for the constitution as a body corporate of the governing body of an institution in Wales which is designated under section 28 of the Further and Higher Education Act 1992.
- (6) An order under subsection (4) or (5) may—
- (a) make provision similar to any provision of section 18 or 19 of the Further and Higher Education Act 1992 (further education corporation: powers);
  - (b) make provision for the continuity of the body corporate, including provision for the continuation of anything done under section 29 of the Further and Higher Education Act 1992 (government and conduct of designated institutions);
  - (c) make provision expressed to have effect subject to the institution’s instrument or articles of government;
  - (d) make provision which confers exempt charitable status (for the purposes of the Charities Act 1993) and which relates to the governing body or to an institution administered by or established for the purposes of that body;
  - (e) make provision about the discontinuance of the institution;
  - (f) make provision about the dissolution of the body corporate (including provision about the treatment of property, rights and liabilities).
- (7) Before making an order in relation to an institution under subsection (4) or (5) the Secretary of State or the National Assembly shall consult—
- (a) the governing body of the institution, and
  - (b) the trustees of any trust relating to the institution.

#### **144 Designated institutions: disposal of land, &c**

- (1) This section applies to land which after the coming into force of this section is transferred to trustees under section 32(3)(b) of the Further and Higher Education Act 1992 (transfer of property on designation of institution).
- (2) This section also applies to land which—



- (a) is held by trustees for the purposes of an institution which became a designated institution after the coming into force of this section, and
  - (b) was acquired or enhanced in value wholly or partly by means of money paid under section 65 of the Education Act 1996 (grants) or paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants).
- (3) If trustees dispose of land to which this section applies they shall notify the appropriate council.
- (4) If trustees dispose of land to which this section applies they shall pay to the appropriate council so much of the proceeds of disposal as may be determined to be just—
  - (a) by agreement between the trustees and the council, or
  - (b) in default of agreement, by the Secretary of State.
- (5) In making a determination under subsection (4) regard shall be had, in particular, to—
  - (a) the value of the land at the date of the determination, and
  - (b) any enhancement of the land's value which is attributable to expenditure by the trustees or the governing body of the designated institution.
- (6) More than one determination may be made under subsection (4) in relation to a particular disposal where it is just to do so, in particular where the disposal involves the creation of a lease.
- (7) If trustees permit land to which this section applies to be used for purposes not connected with the designated institution—
  - (a) they shall be treated for the purposes of this section as having disposed of the land, and
  - (b) subsection (4) shall have effect as if the reference to the proceeds of disposal were a reference to the value of the land.
- (8) Where a designated institution has ceased to exist—
  - (a) this section applies to land which satisfied subsection (1) or (2) immediately before the institution ceased to exist, and
  - (b) in subsection (7) the reference to purposes not connected with the designated institution shall be treated as a reference to purposes not connected with an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992).
- (9) In this section “the appropriate council” means—
  - (a) the Learning and Skills Council for England, in respect of land in England, and
  - (b) the National Council for Education and Training for Wales, in respect of land in Wales.

#### **145 Further education colleges: governors' liability**

- (1) Subsection (2) applies where a member of a body listed in subsection (3) is found liable in civil legal proceedings in respect of something which he did or omitted to do in the course of carrying out his duties as a member of the body.
- (2) If—
  - (a) the member of the body applies to a court for an order under this subsection, and

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- (b) the court considers that the action or omission which gives rise to the member's liability was honest and reasonable,  
the court may make an order extinguishing, reducing or varying the liability.
- (3) The bodies referred to in subsection (1) are—
  - (a) a further education corporation established by virtue of section 15, 16 or 47 of the Further and Higher Education Act 1992, and
  - (b) a body corporate established by virtue of section 143(4) or (5) of this Act.
- (4) Where a member of a body listed in subsection (3) applies to a court for an order under this subsection, the court may make any order which—
  - (a) relates to liability in civil legal proceedings which may come to be incurred by the member in respect of a specified course of action, and
  - (b) is of a kind which the court could have made if the liability had already been incurred.
- (5) In subsections (2)(a) and (4) “a court” means the High Court or a county court; but this subsection is subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation of business between High Court and county courts).

#### **146 Financial support for students**

- (1) The Teaching and Higher Education Act 1998 shall be amended as follows.
- (2) In section 22 (new arrangements for giving financial support to students)—
  - (a) in subsection (1) for “attending” substitute “undertaking”, and
  - (b) in subsections (2)(h) and (7) omit “attendance on”.
- (3) In section 23 (transfer or delegation of functions relating to student support) in subsection (1)(b)—
  - (a) for “at” substitute “with”, and
  - (b) for “attending” substitute “undertaking”.
- (4) In section 26 (imposition of conditions as to fees at further or higher education institutions) in subsections (4), (5) and (10)(b) for “attending” (in each place) substitute “undertaking”.
- (5) In section 28(1) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.

#### **147 Financial support for students: Northern Ireland**

- (1) The Education (Student Support) (Northern Ireland) Order 1998 shall be amended as follows.
- (2) In Article 2(2) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.
- (3) In Article 3 (new arrangements for giving financial support to students)—
  - (a) in paragraph (1) for “attending” substitute “undertaking”;
  - (b) in paragraphs (2)(h) and (7) omit “attendance on”.
- (4) In Article 4 (transfer or delegation of functions relating to student support) in paragraph (1)(b)—

- (a) for “at” substitute “with”, and
  - (b) for “attending” substitute “undertaking”.
- (5) In Article 7 (imposition of conditions as to fees at further or higher education institutions) in paragraphs (1), (2), (3) and (8)(b) for “attending” (in each place) substitute “undertaking”.

#### **148 Sex education**

- (1) The Education Act 1996 shall be amended as follows.
- (2) In section 351 (general duties in respect of the curriculum) after subsection (5) insert—
- “(6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority must have regard to the guidance issued by the Secretary of State under section 403(1A).
  - (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.”
- (3) In section 403 (sex education: manner of provision) in subsection (1) omit “local education authority”.
- (4) After subsection (1) of that section insert—
- “(1A) The Secretary of State must issue guidance designed to secure that when sex education is given to registered pupils at maintained schools—
    - (a) they learn the nature of marriage and its importance for family life and the bringing up of children, and
    - (b) they are protected from teaching and materials which are inappropriate having regard to the age and the religious and cultural background of the pupils concerned.
  - (1B) In discharging their functions under subsection (1) governing bodies and head teachers must have regard to the Secretary of State’s guidance.
  - (1C) Guidance under subsection (1A) must include guidance about any material which may be produced by NHS bodies for use for the purposes of sex education in schools.
  - (1D) The Secretary of State may at any time revise his guidance under subsection (1A).”
- (5) In subsection (2) of that section—
- (a) for “subsection (1)” substitute “this section”, and
  - (b) at the end insert “and “NHS body” has the same meaning as in section 22 of the National Health Service Act 1977.”
- (6) In section 404 (sex education: statements of policy) after subsection (1) insert—
- “(1A) A statement under subsection (1) must include a statement of the effect of section 405.”

**149 Amendments**

Schedule 9 contains miscellaneous and consequential amendments.

*General***150 Wales**

- (1) Where this Part of this Act confers a function on the Secretary of State (whether by amendment of another Act or otherwise)—
  - (a) the function shall be exercisable in relation to Wales by the National Assembly for Wales, and
  - (b) for that purpose any reference to the Secretary of State shall be taken as a reference to the National Assembly.
- (2) Where—
  - (a) this Part confers a function on the Secretary of State by amendment of an Act, and
  - (b) any functions of that Act have before the passing of this Act been transferred to the National Assembly by Order in Council under section 22 of the Government of Wales Act 1998 (transfer of functions),

the Order shall be treated for the purposes of any varying or revoking Order as having transferred to the National Assembly the function mentioned in paragraph (a).
- (3) Subsection (1)(a) has effect subject to any Order in Council made by virtue of subsection (2).
- (4) This section shall not apply in relation to—
  - (a) section 90, 92, 104, 134 or 154 of this Act,
  - (b) the amendment of section 1(3) of the Education (Fees and Awards) Act 1983 (fees at institutions) made by Schedule 9 to this Act,
  - (c) the amendment of section 26 of the Employment Act 1988 (status of trainees etc) made by Schedule 9 to this Act, or
  - (d) the amendment of section 19 of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) made by Schedule 9 to this Act.

**151 Transitional provisions**

- (1) Parts I and II of Schedule 10 contain transitional provisions relating to—
  - (a) the dissolution of the Further Education Funding Councils, and
  - (b) the establishment of the Learning and Skills Council for England and the National Council for Education and Training for Wales.
- (2) Part III of Schedule 10 contains transitional provision relating to the establishment of the Adult Learning Inspectorate.
- (3) Part IV of Schedule 10 contains transitional provision relating to the Education (Student Loans) Act 1990.
- (4) Nothing in that Schedule prejudices the generality of section 152(6).

## **152 Orders and regulations**

- (1) Any power to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if the instrument contains—
  - (a) an order made by the Secretary of State under any provision of this Act other than section 143(4) or 154(1) or (3), or
  - (b) regulations made by the Secretary of State under any provision of this Act.
- (3) A statutory instrument is subject to annulment in pursuance of a resolution of the Scottish Parliament if the instrument contains regulations made by the Scottish Ministers under section 104.
- (4) The power of the Department of Higher and Further Education, Training and Employment in Northern Ireland to make regulations under section 106 or 109 shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.
- (5) An order or regulations under this Act may make different provision for different purposes.
- (6) An order or regulations under this Act may contain such incidental, supplementary, saving or transitional provisions as the person making the order or regulations thinks fit.

## **153 Repeals**

Schedule 11 contains repeals.

## **154 Commencement**

- (1) The following provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order—
  - (a) Parts I and III,
  - (b) sections 89, 90, 92, 94, 98, 100(1), 101, 104 to 109, 114 to 122, 132 to 136, 146 and 147,
  - (c) in Schedule 9, paragraphs 11, 14, 35, 37 to 39, 41 to 43, 47 to 50, 52(3), 83, 87 and 88,
  - (d) Part IV of Schedule 10, and
  - (e) in Schedule 11, the repeals in section 91 of the Further and Higher Education Act 1992 and section 142 of the School Standards and Framework Act 1998 and the repeals consequential upon any provision mentioned in paragraph (c).
- (2) The following provisions of this Act shall come into force in accordance with provision made by the National Assembly for Wales by order—
  - (a) Parts II and IV, and
  - (b) sections 91, 93, 99, 100(2), 102, 123 to 129 and 138.
- (3) If and in so far as a provision of this Part relates to England, the Secretary of State may (subject to subsection (5)) make provision by order about its commencement.

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- (4) If and in so far as a provision of this Part relates to Wales, the National Assembly for Wales may (subject to subsection (5)) make provision by order about its commencement.
- (5) Subsections (3) and (4) do not apply to—
- (a) a provision mentioned in subsection (1) or (2),
  - (b) any of sections 130, 131, 150, 151, 152, 155 and 156,
  - (c) Schedule 8,
  - (d) any provision of Schedule 9 or 11 which is consequential upon section 130 or 131 or Schedule 8,
  - (e) Parts I to III of Schedule 10, or
  - (f) this section.
- (6) The Secretary of State may by order make provision—
- (a) in consequence of a provision of this Act being brought into force at different times in relation to England and in relation to Wales, or
  - (b) in consequence of one provision of this Act being brought into force before another.
- (7) The National Assembly for Wales may by order make provision in relation to Wales in consequence of either of the matters mentioned in subsection (6)(a) and (b).
- (8) An order under subsection (6) or (7) may, in particular, disapply or modify the application of provision made by or under this or any other Act.

## **155 Extent**

- (1) Sections 104, 152, 154, 156 and this section extend to England and Wales, Scotland and Northern Ireland.
- (2) Section 107 extends to England and Wales and Northern Ireland.
- (3) Sections 106, 109 and 147 extend to Northern Ireland only.
- (4) Any amendment or repeal in this Act has the same extent as the provision amended or repealed.
- (5) Subject to the above, this Act extends to England and Wales only.

## **156 Citation**

This Act may be cited as the Learning and Skills Act 2000.

## SCHEDULES

### SCHEDULE 1

Section 1.

#### LEARNING AND SKILLS COUNCIL FOR ENGLAND

##### *Chief executive*

- 1 (1) One of the Council's members is to be its chief executive.
- (2) The first chief executive is to be appointed by the Secretary of State and to hold and vacate office in accordance with the terms of his appointment.
- (3) Each subsequent chief executive is to be appointed by the Council on such terms as it determines.
- (4) An appointment or determination under sub-paragraph (3) requires the Secretary of State's approval.
- (5) If a person to be appointed under sub-paragraph (3) is not already a member of the Council, the Secretary of State must appoint him as a member for the same term as the term of his appointment as chief executive.
- (6) If a person to be appointed under sub-paragraph (3) is already a member of the Council but his term of appointment as such ends before the term of his appointment as chief executive ends, the Secretary of State must extend his term of appointment as a member so that it ends when the term of his appointment as chief executive ends.

##### *Tenure of members*

- 2 (1) A person is to hold and vacate office as a member or as chairman or chief executive of the Council in accordance with the terms of his appointment.
- (2) On ceasing to be a member or chairman or chief executive a person is eligible for re-appointment.
- (3) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or chief executive.
- 3 (1) This paragraph applies if the Secretary of State is satisfied that a member—
  - (a) has been absent from meetings of the Council for a period longer than 6 consecutive months without the Council's permission, or
  - (b) is unable or unfit to carry out the functions of a member.
- (2) The Secretary of State may by notice in writing to the member remove him from office, which shall then become vacant.

##### *Salaries, pensions, etc*

- 4 (1) The Council must pay in respect of its members such salaries and fees and such travelling, subsistence and other allowances as the Secretary of State may determine.

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- (2) A payment under sub-paragraph (1) may be made to the member concerned or (if the member consents) to another person.
- (3) As regards any member in whose case the Secretary of State may so determine, the Council must pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (4) If a person ceases to be a member and it appears to the Secretary of State that there are special circumstances making it right that he should receive compensation, the Secretary of State may direct the Council to make to the person a payment of such amount as the Secretary of State may determine.

#### *Staff*

- 5 (1) The Council may appoint such employees as it thinks fit.
- (2) A person is to be appointed as an employee of the Council on such terms (including terms as to remuneration and allowances) as the Council may determine.
- (3) A determination under this paragraph requires the Secretary of State's approval.
- 6 (1) Employment with the Council is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) The Council must pay to the Minister for the Civil Service such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act; and the Council must pay the sums at such times as that Minister may direct.
- (3) If an employee of the Council is by reference to that employment a participant in a scheme under section 1 of that Act and is also a member of the Council, the Secretary of State may determine that his service as such a member is to be treated for the purposes of the scheme as service as an employee of the Council (whether or not any benefits are payable to or in respect of him by virtue of paragraph 4).

#### *Delegation of functions*

- 7 (1) The Council may authorise the chairman or the chief executive to exercise such of its functions as it may determine.
- (2) If the chairman is authorised to exercise a function he may authorise another member of the Council to exercise it.
- (3) If the chief executive is authorised to exercise a function he may authorise an employee of the Council to exercise it.

#### *Members' interests*

- 8 (1) A member of the Council who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Council or a committee of the Council must disclose the nature of his interest to the meeting.
- (2) If such a disclosure is made—
  - (a) the disclosure must be recorded in the minutes of the meeting, and



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- (b) the member must not take any part in any deliberation or decision of the Council or any committee of the Council with respect to that matter.
- (3) If a member is not present at a meeting at which a matter in which he is interested is brought up for consideration, sub-paragraph (1) only applies to him if he was aware that the matter would be brought up for consideration at the meeting.
- (4) For the purposes of sub-paragraph (1) a general notification given at a meeting by a member to the effect that he—
  - (a) has an interest in a specified company, firm or other organisation, and
  - (b) is to be regarded as interested in any matter involving that company, firm or other organisation,must be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (5) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.
- (6) The Secretary of State may remove a disability under this paragraph subject to such conditions as he considers appropriate.
- (7) The power of the Secretary of State under sub-paragraph (6) includes power to remove (either indefinitely or for any period) a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Secretary of State.
- (8) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or in voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by sub-paragraph (6).

#### *Proceedings*

- 9 (1) A representative of the Secretary of State is entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Council.
- (2) The Council must provide the Secretary of State with such copies (and made in such form) as he may require of any information distributed to members of the Council.
- (3) This paragraph is without prejudice to any other rights the Secretary of State may have as a condition of any grants made to the Council under this Act.
- 10 The validity of any proceedings of the Council is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- 11 The Council may regulate its own procedure, subject to the preceding provisions of this Schedule.

#### *Seal and proof of instruments*

- 12 The application of the Council's seal must be authenticated by the signature—
  - (a) of the chairman or of some other person authorised (generally or specially) by the Council to act for that purpose, and
  - (b) of one other member.

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- 13 (1) This paragraph applies if a document purports to be an instrument made or issued by or on behalf of the Council and—
- (a) to be duly executed under the Council’s seal, or
  - (b) to be signed or executed by a person authorised by the Council to act in that behalf.
- (2) The document must be received in evidence and treated (without further proof) as being so made or issued unless the contrary is shown.

#### *Accounts*

- 14 (1) The Council must—
- (a) keep proper accounts and proper records in relation to them;
  - (b) prepare a statement of accounts in respect of each financial year of the Council;
  - (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (2) The statement of accounts must comply with any directions given by the Secretary of State as to—
- (a) the information to be contained in it;
  - (b) the manner in which the information is to be presented;
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The statement of accounts must contain such additional information as the Secretary of State may require to be provided for the information of Parliament.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement received by him under this paragraph;
  - (b) lay copies of each statement and of his report before each House of Parliament.

#### *Council’s status*

- 15 (1) The Council is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Council’s property is not to be regarded as property of the Crown or as property held by or on its behalf.

## SCHEDULE 2

Section 19.

### LOCAL COUNCILS

#### *Director*

- 1 (1) The Council must appoint one of its employees as the director of a local council.

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- (2) The Council must seek the advice of the chairman of a local council before appointing a director.
- (3) Sub-paragraph (2) does not apply to the appointment of the first director of a local council.
- (4) If a person to be appointed as a director of a local council is not already a member of that local council, the Council must appoint him as a member of the local council for the same term as the term of his appointment as director.
- (5) If a person to be appointed as a director of a local council is already a member of that local council but his term of appointment as such ends before the term of his appointment as director ends, the Council must extend his term of appointment as a member so that it ends when the term of his appointment as director ends.

#### *Tenure of members*

- 2 (1) A person is to hold and vacate office as a member or as chairman of a local council in accordance with the terms of his appointment.
- (2) On ceasing to be a member or chairman a person is eligible for re-appointment.
- (3) A person may at any time by notice in writing to the Council resign his office as a member.
- (4) A person may at any time by notice in writing to the Secretary of State resign his office as chairman.
- 3 (1) This paragraph applies if the Council is satisfied that a member of a local council—
  - (a) has been absent from meetings of the local council for a period longer than 6 consecutive months without the local council's permission, or
  - (b) is unable or unfit to carry out the functions of a member.
- (2) The Council may by notice in writing to the member remove him from office, which shall then become vacant.
- (3) A notice under this paragraph requires the Secretary of State's approval.

#### *Allowances*

- 4 The Council must pay in respect of the members of a local council such travelling, subsistence and other allowances as the Secretary of State may determine.

#### *Staff*

- 5 The Council may appoint such of its employees as it thinks fit to act as the staff of a local council.

#### *Delegation of functions*

- 6 (1) A local council may authorise the chairman or the director to exercise such of its functions as it may determine.
- (2) If the chairman is authorised to exercise a function he may authorise another member of the local council to exercise it.

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- (3) If the director is authorised to exercise a function he may authorise an employee of the local council to exercise it.

*Proceedings*

- 7 The validity of any proceedings of a local council is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- 8 A local council may regulate its own procedure.

SCHEDULE 3

Section 26.

COMMITTEES (ENGLAND)

*General*

- 1 (1) The Council—
- (a) must establish a young people’s learning committee and an adult learning committee;
  - (b) may establish such other committees as it thinks fit.
- (2) Members of a committee may be (but need not be) members of the Council.
- (3) Nothing in this Schedule applies to local learning and skills councils.

*Young people’s learning committee*

- 2 (1) This paragraph applies to the young people’s learning committee.
- (2) The committee must—
- (a) investigate the provision of education and training of young persons and the provision of financial resources for their education and training;
  - (b) advise the Council on the provision of such education and training and the provision of such resources.
- (3) The committee must also consider, and advise the Council on, what education and training would be appropriate for young persons of different abilities and aptitudes in order to prepare them for those opportunities, responsibilities and experiences of adult life which are not connected to employment.
- (4) The committee is to have such other functions relating to the education and training of young persons, and such functions relating to their employment, as the Council specifies.
- (5) The committee’s members are to be appointed by the Council with the approval of the Secretary of State.
- (6) The Secretary of State must appoint one of the members as chairman after seeking the Council’s advice.
- (7) In appointing a member the Council and the Secretary of State must have regard to the desirability of appointing a person who appears to them to understand the needs of young persons receiving education or training.

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*Status: This is the original version (as it was originally enacted).*

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- (8) A person is a young person in the period which—
  - (a) starts with the beginning of the year in which he attains the age of 15, and
  - (b) ends when he attains the age of 19.
- (9) A year is a year beginning with 1 September.

#### *Adult learning committee*

- 3 (1) This paragraph applies to the adult learning committee.
- (2) The committee must—
  - (a) investigate the provision of education and training of adults and the provision of financial resources for their education and training;
  - (b) advise the Council on the provision of such education and training and the provision of such resources.
- (3) The committee is to have such other functions relating to the education and training of adults, and such functions relating to their employment, as the Council specifies.
- (4) The committee's members are to be appointed by the Council with the approval of the Secretary of State.
- (5) The Secretary of State must appoint one of the members as chairman after seeking the Council's advice.
- (6) In appointing a member the Council and the Secretary of State must have regard to the desirability of appointing a person who appears to them to understand the needs of adults receiving education or training.
- (7) An adult is a person who has attained the age of 19.

#### *Other committees*

- 4 (1) This paragraph applies to any committee of the Council other than the young people's learning committee and the adult learning committee.
- (2) The committee's functions—
  - (a) are to be such functions as the Council specifies, and
  - (b) are to concern such matters as the Council specifies.
- (3) The committee's members are to be appointed by the Council.

#### *Tenure of members*

- 5 (1) A person is to hold and vacate office as a member of a committee of the Council in accordance with the terms of his appointment.
- (2) On ceasing to be a member of a committee a person is eligible for re-appointment.
- (3) A person may at any time by notice in writing to the Secretary of State resign his office as a member of the young people's learning committee or of the adult learning committee.
- (4) A person may at any time by notice in writing to the Council resign his office as a member of any other committee.

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*Status: This is the original version (as it was originally enacted).*

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- 6 (1) This paragraph applies if the Council is satisfied that a member of a committee of the Council—
- (a) has been absent from meetings of the committee for a period longer than 6 consecutive months without the committee’s permission, or
  - (b) is unable or unfit to carry out the functions of a member.
- (2) The Council may by notice in writing to the member remove him from office, which shall then become vacant.

#### *Allowances*

- 7 The Council must pay to the members of any of its committees who are not members of the Council such travelling, subsistence and other allowances as the Secretary of State may determine.

#### *Proceedings*

- 8 (1) A representative of the Secretary of State is entitled to attend and take part in any deliberations (but not in decisions) at meetings of any committee of the Council.
- (2) The Council must provide the Secretary of State with such copies as he may require of any documents distributed to members of any committee of the Council.
- 9 The validity of any proceedings of any committee of the Council is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- 10 The Council may regulate the procedure of any of its committees, subject to the preceding provisions of this Schedule.

### SCHEDULE 4

Section 30.

#### NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES

#### *Chief executive*

- 1 (1) One of the Council’s members is to be its chief executive.
- (2) The first chief executive is to be appointed by the National Assembly and to hold and vacate office in accordance with the terms of his appointment.
- (3) Each subsequent chief executive is to be appointed by the Council on such terms as it determines.
- (4) An appointment or determination under sub-paragraph (3) requires the approval of the National Assembly.
- (5) If a person to be appointed under sub-paragraph (3) is not already a member of the Council, the National Assembly must appoint him as a member for the same term as the term of his appointment as chief executive.
- (6) If a person to be appointed under sub-paragraph (3) is already a member of the Council but his term of appointment as such ends before the term of his appointment as chief executive ends, the National Assembly must extend his term of appointment as a member so that it ends when the term of his appointment as chief executive ends.

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*Status: This is the original version (as it was originally enacted).*

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#### *Tenure of members*

- 2 (1) A person is to hold and vacate office as a member or as chairman or chief executive of the Council in accordance with the terms of his appointment.
- (2) On ceasing to be a member or chairman or chief executive a person is eligible for re-appointment.
- (3) A person may at any time by notice in writing to the National Assembly resign his office as a member or as chairman or chief executive.
- 3 (1) This paragraph applies if the National Assembly is satisfied that a member—
- (a) has been absent from meetings of the Council for a period longer than 6 consecutive months without the Council's permission, or
  - (b) is unable or unfit to carry out the functions of a member.
- (2) The National Assembly may by notice in writing to the member remove him from office, which shall then become vacant.

#### *Salaries, pensions, etc*

- 4 (1) The Council must pay in respect of its members such salaries and fees and such travelling, subsistence and other allowances as the National Assembly may determine.
- (2) A payment under sub-paragraph (1) may be made to the member concerned or (if the member consents) to another person.
- (3) As regards any member in whose case the National Assembly may so determine, the Council must pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the National Assembly may determine.
- (4) If a person ceases to be a member and it appears to the National Assembly that there are special circumstances making it right that he should receive compensation, the National Assembly may direct the Council to make to the person a payment of such amount as the National Assembly may determine.

#### *Staff*

- 5 (1) The Council may appoint such employees as it thinks fit.
- (2) A person is to be appointed as an employee of the Council on such terms (including terms as to remuneration and allowances) as the Council may determine.
- (3) A determination under this paragraph requires the approval of the National Assembly.
- 6 (1) Employment with the Council is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) The Council must pay to the Minister for the Civil Service such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act; and the Council must pay the sums at such times as that Minister may direct.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If an employee of the Council is by reference to that employment a participant in a scheme under section 1 of that Act and is also a member of the Council, the National Assembly may determine that his service as such a member is to be treated for the purposes of the scheme as service as an employee of the Council (whether or not any benefits are payable to or in respect of him by virtue of paragraph 4).

#### *Delegation of functions*

- 7 (1) The Council may authorise the chairman or the chief executive to exercise such of its functions as it may determine.
- (2) If the chairman is authorised to exercise a function he may authorise another member of the Council to exercise it.
- (3) If the chief executive is authorised to exercise a function he may authorise an employee of the Council to exercise it.

#### *Members' interests*

- 8 (1) A member of the Council who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Council or a committee of the Council must disclose the nature of his interest to the meeting.
- (2) If such a disclosure is made—
- (a) the disclosure must be recorded in the minutes of the meeting, and
  - (b) the member must not take any part in any deliberation or decision of the Council or any committee of the Council with respect to that matter.
- (3) If a member is not present at a meeting at which a matter in which he is interested is brought up for consideration, sub-paragraph (1) only applies to him if he was aware that the matter would be brought up for consideration at the meeting.
- (4) For the purposes of sub-paragraph (1) a general notification given at a meeting by a member to the effect that he—
- (a) has an interest in a specified company, firm or other organisation, and
  - (b) is to be regarded as interested in any matter involving that company, firm or other organisation,
- must be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (5) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.
- (6) The National Assembly may remove a disability under this paragraph subject to such conditions as it considers appropriate.
- (7) The power of the National Assembly under sub-paragraph (6) includes power to remove (either indefinitely or for any period) a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the National Assembly.



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*Status: This is the original version (as it was originally enacted).*

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- (8) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or in voting on, any question whether an application should be made to the National Assembly for the exercise of the power conferred by sub-paragraph (6).

#### *Proceedings*

- 9 (1) A representative of the National Assembly is entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Council.
- (2) The Council must provide the National Assembly with such copies (and made in such form) as the National Assembly may require of any information distributed to members of the Council.
- (3) This paragraph is without prejudice to any other rights the National Assembly may have as a condition of any grants made to the Council under this Act.
- 10 The validity of any proceedings of the Council is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- 11 The Council may regulate its own procedure, subject to the preceding provisions of this Schedule.

#### *Seal and proof of instruments*

- 12 The application of the Council's seal must be authenticated by the signature—
- (a) of the chairman or of some other person authorised (generally or specially) by the Council to act for that purpose, and
  - (b) of one other member.
- 13 (1) This paragraph applies if a document purports to be an instrument made or issued by or on behalf of the Council and—
- (a) to be duly executed under the Council's seal, or
  - (b) to be signed or executed by a person authorised by the Council to act in that behalf.
- (2) The document must be received in evidence and treated (without further proof) as being so made or issued unless the contrary is shown.

#### *Accounts*

- 14 (1) The Council must—
- (a) keep proper accounts and proper records in relation to them;
  - (b) prepare a statement of accounts in respect of each financial year of the Council;
  - (c) send copies of the statement to the National Assembly and to the Auditor General for Wales before the end of August next following the financial year to which the statement relates.
- (2) The statement of accounts must comply with any directions given by the National Assembly as to—
- (a) the information to be contained in it;
  - (b) the manner in which the information is to be presented;

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*Status: This is the original version (as it was originally enacted).*

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- (c) the methods and principles according to which the statement is to be prepared.
- (3) The statement of accounts must contain such additional information as the National Assembly may require to be included.
- (4) The Auditor General for Wales must—
  - (a) examine, certify and report on each statement received by him under this paragraph;
  - (b) lay copies of each statement and of his report before the National Assembly.

*Council's status*

- 15 (1) The Council is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Council's property is not to be regarded as property of the Crown or as property held by or on its behalf.

SCHEDULE 5

Section 48.

COMMITTEES (WALES)

*General*

- 1 (1) The Council—
  - (a) may establish a regional committee for each region of Wales;
  - (b) may establish such other committees as it thinks fit (whether or not it establishes regional committees).
- (2) The regions of Wales are—
  - (a) North Wales, as constituted by standing orders for the purposes of section 61 of the Government of Wales Act 1998;
  - (b) each of the other regions of Wales, as so constituted.

*Regional committees*

- 2 (1) A regional committee is to consist of not less than 8 members appointed by the Council; and the Council must appoint one of them as chairman.
- (2) The chairman must be a member of the Council.
- (3) Other members may be (but need not be) members of the Council.
- 3 A regional committee—
  - (a) must perform with regard to its area such of the Council's duties as the Council specifies with the National Assembly's approval;
  - (b) may exercise with regard to its area such of the Council's powers as the Council specifies with the National Assembly's approval;
  - (c) must advise the Council on matters which are relevant to education and training in its area and which the Council specifies.

#### *Other committees*

- 4 (1) This paragraph applies to any committee of the Council other than a regional committee.
- (2) The committee's functions—
- (a) are to be such functions as the Council specifies, and
  - (b) are to concern such matters as the Council specifies.
- (3) The committee's members are to be appointed by the Council.
- (4) Members of the committee may be (but need not be) members of the Council.

#### *Tenure of members*

- 5 (1) A person is to hold and vacate office as a member or as chairman of a committee of the Council in accordance with the terms of his appointment.
- (2) On ceasing to be a member or chairman a person is eligible for re-appointment.
- (3) A person may at any time by notice in writing to the Council resign his office as a member.
- (4) A person may at any time by notice in writing to the National Assembly resign his office as chairman.

#### *Allowances*

- 6 The Council must pay to the members of any of its committees who are not members of the Council such travelling, subsistence and other allowances as the National Assembly may determine.

#### *Delegation of functions*

- 7 A committee of the Council may authorise the chairman of the committee to exercise such of the committee's functions as it may determine.

#### *Proceedings*

- 8 (1) A representative of the National Assembly is entitled to attend and take part in any deliberations (but not in decisions) at meetings of any committee of the Council.
- (2) The Council must provide the National Assembly with such copies as the National Assembly may require of any documents distributed to members of any committee of the Council.
- 9 The validity of any proceedings of a committee of the Council is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- 10 A committee of the Council may regulate its own procedure, subject to the preceding provisions of this Schedule.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 6

Section 52.

### THE ADULT LEARNING INSPECTORATE

#### *Tenure of members*

- 1 (1) A person is to hold and vacate office as a member or as chairman or chief officer of the Inspectorate in accordance with the terms of his appointment.
- (2) If a person to be appointed under section 52(3) is not already a member of the Inspectorate, the Secretary of State must appoint him as a member for the same term as his appointment as chairman or chief officer.
- (3) If a person to be appointed under section 52(3) is already a member of the Inspectorate but his term of appointment as such would end before his term of appointment as chairman or chief officer ends, the Secretary of State must extend his term of appointment as a member so that it ends when his appointment as chairman or chief officer ends.
- (4) On ceasing to be a member, chairman or chief officer a person is eligible for re-appointment.
- (5) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or chief officer.
- 2 (1) This paragraph applies if the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Inspectorate for a period longer than 6 consecutive months without the Inspectorate's permission, or
  - (b) is unable or unfit to carry out the functions of a member.
- (2) The Secretary of State may by notice in writing to the member remove him from office, which shall then become vacant.

#### *Salaries, pensions, etc*

- 3 (1) The Inspectorate must pay in respect of its members such salaries and fees and such travelling, subsistence and other allowances as the Secretary of State may determine.
- (2) A payment under sub-paragraph (1) may be made to the member concerned or (if the member consents) to another person.
- (3) As regards any member in whose case the Secretary of State may so determine, the Inspectorate must pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (4) If a person ceases to be a member and it appears to the Secretary of State that there are special circumstances making it right that he should receive compensation, the Secretary of State may direct the Inspectorate to make to that person a payment of such amount as the Secretary of State may determine.

#### *Staff*

- 4 (1) The Inspectorate may appoint such employees, including inspectors, as it thinks fit.
- (2) A person employed as an inspector is to be known as an Inspector of Adult Learning.

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*Status: This is the original version (as it was originally enacted).*

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- (3) In appointing inspectors, the Inspectorate must have regard to the need to appoint persons who have the appropriate experience and expertise.
- 5 (1) The Inspectorate must pay to its employees such remuneration and allowances as it may determine.
- (2) Its employees are to be appointed on such other terms as the Inspectorate may determine.
- (3) A determination under this paragraph requires the Secretary of State's approval.
- 6 (1) Employment with the Inspectorate is to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) The Inspectorate must pay to the Minister for the Civil Service, at such times as he may direct, such sums as that Minister may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.
- (3) If an employee of the Inspectorate is by reference to that employment a participant in a scheme under section 1 of that Act and is also a member of the Inspectorate, the Secretary of State may determine that his service as such a member is to be treated for the purposes of the scheme as service as an employee of the Inspectorate (whether or not any benefits are payable to or in respect of him as a result of paragraph 3).

#### *Committees*

- 7 (1) The Inspectorate may establish such committees as it considers appropriate.
- (2) The members of any committee are to be appointed by the Inspectorate and may include persons who are not members of the Inspectorate.

#### *Supplementary powers*

- 8 (1) The Inspectorate may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its functions.
- (2) In particular it may—
- (a) acquire and dispose of land and other property;
  - (b) enter into contracts;
  - (c) invest sums not immediately needed for the purpose of exercising its other functions;
  - (d) accept gifts of money, land and other property.
- (3) But the Inspectorate has no power—
- (a) to borrow money;
  - (b) to lend money without the consent of the Secretary of State;
  - (c) to hold shares in a company, or otherwise become a member of a company, without his consent.

#### *Delegation of functions*

- 9 The Inspectorate may authorise the chairman, the chief officer or one of its committees to exercise such of its functions as it may determine.

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*Status: This is the original version (as it was originally enacted).*

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### *Members' interests*

- 10 (1) A member of the Inspectorate who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Inspectorate or a committee of the Inspectorate must disclose the nature of his interest to the meeting.
- (2) If such a disclosure is made—
- (a) the disclosure must be recorded in the minutes of the meeting, and
  - (b) the member must not take any part in any deliberation or decision of the Inspectorate or any committee of the Inspectorate with respect to that matter.
- (3) If a member is not present at a meeting at which a matter in which he is interested is brought up for consideration, sub-paragraph (1) only applies to him if he was aware that the matter would be brought up for consideration at the meeting.
- (4) For the purposes of sub-paragraph (1) a general notification given at a meeting by a member to the effect that he—
- (a) has an interest in a specified company, firm or other organisation, and
  - (b) is to be regarded as interested in any matter involving that company, firm or other organisation,
- must be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (5) A member need not attend in person at a meeting in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.
- (6) The Secretary of State may remove a disability under this paragraph subject to such conditions as he considers appropriate.
- (7) The power of the Secretary of State under sub-paragraph (6) includes power to remove (either indefinitely or for any period) a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Secretary of State.
- (8) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or in voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by sub-paragraph (6).

### *Proceedings*

- 11 (1) A representative of the Secretary of State is entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Inspectorate.
- (2) The Inspectorate must provide the Secretary of State with such copies (and made in such form) as he may require of any documents distributed to members of the Inspectorate.
- (3) The validity of any proceedings of the Inspectorate is not to be affected by a vacancy among the members or by any defect in the appointment of a member.
- (4) The Inspectorate may regulate its own procedure, subject to the preceding provisions of this Schedule.

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*Status: This is the original version (as it was originally enacted).*

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#### *Seal and proof of instruments*

- 12 The application of the Inspectorate's seal must be authenticated by the signature—
- (a) of the chairman or of some other person authorised (generally or specially) by the Inspectorate to act for that purpose, and
  - (b) of one other member.
- 13 (1) This paragraph applies if a document purports to be an instrument made or issued by or on behalf of the Inspectorate and—
- (a) to be duly executed under the Inspectorate's seal, or
  - (b) to be signed or executed by a person authorised by the Inspectorate to act in that behalf.
- (2) The document must be received in evidence and treated (without further proof) as being so made or issued unless the contrary is shown.

#### *Accounts*

- 14 (1) The Inspectorate must—
- (a) keep proper accounts and proper records in relation to them;
  - (b) prepare a statement of accounts in respect of each financial year of the Inspectorate;
  - (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (2) The statement of accounts must comply with any directions given by the Secretary of State as to—
- (a) the information to be contained in it;
  - (b) the manner in which the information is to be presented;
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The statement of accounts must contain such additional information as the Secretary of State may require to be provided for the information of Parliament.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement received by him under this paragraph;
  - (b) lay copies of each statement and of his report before each House of Parliament.

#### *Financial year of the Inspectorate*

- 15 A financial year of the Inspectorate is—
- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;
  - (b) each successive period of twelve months.

#### *Inspectorate's status*

- 16 (1) The Inspectorate is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Inspectorate’s property is not to be regarded as property of the Crown or as property held by or on its behalf.

*House of Commons disqualification*

- 17 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) insert at the appropriate place—

“Any member of the Adult Learning Inspectorate.”

SCHEDULE 7

Section 113.

INADEQUATE SIXTH FORMS

**PART I**

POWER TO PUBLISH PROPOSALS

*Secondary schools*

- 1 (1) Paragraphs 2 to 7 apply to a maintained school (within the meaning given by section 20(7) of the School Standards and Framework Act 1998) which—
- (a) provides full-time education suitable to the requirements of pupils over compulsory school age, and
  - (b) provides full-time education suitable to the requirements of pupils of compulsory school age.
- (2) For the purposes of those paragraphs a school has an inadequate sixth-form if—
- (a) the school is failing or likely to fail to give pupils over compulsory school-age an acceptable standard of education, or
  - (b) the school has significant weaknesses in one or more areas of its activities for pupils over compulsory school age.
- 2 If a person who inspects a school—
- (a) states in his report an opinion, in accordance with section 13(8) or 14(2) or (4) of the School Inspections Act 1996 (school no longer requiring special measures), that special measures are not required in relation to the school, but
  - (b) is of the opinion that the school has an inadequate sixth-form,
- he shall state that opinion in his report.
- 3 (1) This paragraph applies if in the course of an area inspection under section 65 or 83 the Chief Inspector forms the opinion that a particular school has an inadequate sixth-form.
- (2) The Chief Inspector shall make a report about the school stating his opinion.
- (3) The report shall be treated for all purposes of this Schedule and the School Inspections Act 1996 as if it were the report of an inspection of a school under section 10 of that Act.



- 4 (1) Parts II and III of this Schedule shall apply in relation to a school if—
- (a) an opinion that it has an inadequate sixth-form is stated in a report in accordance with paragraph 2, and
  - (b) where the person making the report is not a member of the Inspectorate, the report also states that the Chief Inspector agrees with his opinion.
- (2) Parts II and III of this Schedule shall also apply in relation to a school if—
- (a) a report of an inspection under Part I of the School Inspections Act 1996 states the opinion that the school has an inadequate sixth-form,
  - (b) the next report of a kind mentioned in paragraph (a) also states that opinion,
  - (c) each report either results from an inspection by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a) or (b), and
  - (d) neither report states the opinion that special measures are required to be taken in relation to the school.
- 5 (1) Parts II and III of this Schedule shall cease to apply in relation to a school if a report of an inspection under Part I of the School Inspections Act 1996 or section 65 or 83 of this Act concludes—
- (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school does not have an inadequate sixth-form.
- (2) Where the person making a report is not a member of the Inspectorate, sub-paragraph (1) shall not apply unless the report states that the Chief Inspector agrees with the conclusion mentioned in that sub-paragraph.
- (3) Sub-paragraph (1) shall not prevent the continued application of Parts II and III of this Schedule in a case where proposals have been published under paragraph 16 or 20.
- 6 (1) This paragraph applies to a report of an inspection under Part I of the School Inspections Act 1996 which—
- (a) states an opinion that a school has an inadequate sixth-form, and
  - (b) is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).
- (2) The person making a report to which this paragraph applies shall send a copy (together with a copy of the summary, if there is one)—
- (a) to the Secretary of State or, in the case of a school in Wales, the National Assembly for Wales, and
  - (b) if the person making the report is a member of the Inspectorate, to the appropriate authority for the school.
- (3) The following provisions of the School Inspections Act 1996 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—
- (a) section 16(3) (additional copies);
  - (b) section 16(4) (publication by appropriate authority);
  - (c) section 17 (action plan by appropriate authority);
  - (d) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 18(2) and (3) (measures by local education authority).
- (4) In the application of those provisions—

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- (a) a reference to a report and summary shall be taken as a reference to a report and, if there is one, its summary, and
- (b) a reference to a summary alone shall be taken, in a case where there is no summary, as a reference to the report.

7 Section 13(2) to (7) of the School Inspections Act 1996 (inspections by registered inspectors) shall apply, with the necessary modifications, where the inspector is of the opinion that a school has an inadequate sixth-form as it applies where he is of the opinion that special measures are required to be taken in relation to a school.

*Institutions for 16-19 year olds*

8 Paragraphs 9 to 14 apply to a maintained school (within the meaning given by section 20(7) of the School Standards and Framework Act 1998) which—

- (a) provides full-time education suitable to the requirements of pupils over compulsory school age, and
- (b) does not provide full-time education suitable to the requirements of pupils of compulsory school age.

9 If a person who inspects a school—

- (a) states in his report an opinion, in accordance with section 13(8) or 14(2) or (4) of the School Inspections Act 1996 (school no longer requiring special measures), that special measures are not required in relation to the school, but
- (b) is of the opinion that the school has significant weaknesses in one or more areas of its activities,

he shall state that opinion in his report.

10 (1) This paragraph applies if in the course of an area inspection under section 65 or 83 the Chief Inspector forms the opinion that—

- (a) special measures are required to be taken in relation to a particular school, or
- (b) that a particular school has significant weaknesses in one or more areas of its activities.

(2) The Chief Inspector shall make a report about the school stating his opinion.

(3) The report shall be treated for all purposes of this Schedule and the School Inspections Act 1996 as if it were the report of an inspection of a school under section 10 of that Act.

11 (1) Parts II and III of this Schedule shall apply in relation to a school if—

- (a) an opinion that it has significant weaknesses in one or more areas of its activities is stated in a report in accordance with paragraph 9, and
- (b) where the person making the report is not a member of the Inspectorate, the report also states that the Chief Inspector agrees with his opinion.

(2) Parts II and III of this Schedule shall also apply in relation to a school if—

- (a) a report of an inspection under Part I of the School Inspections Act 1996 states that special measures are required to be taken in relation to the school or that the school has significant weaknesses in one or more areas of its activities,
- (b) the next report of a kind mentioned in paragraph (a) also states an opinion of a kind mentioned in that paragraph, and

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- (c) each report either results from an inspection by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a) or (b).
- 12 (1) Parts II and III of this Schedule shall cease to apply in relation to a school if a report of an inspection under Part I of the School Inspections Act 1996 or section 65 or 83 of this Act states—
  - (a) that special measures are not required to be taken in relation to the school, or
  - (b) that the school does not have significant weaknesses in one or more areas of its activities.
- (2) Where the person making a report is not a member of the Inspectorate, sub-paragraph (1) shall not apply unless the report states that the Chief Inspector agrees with the conclusion mentioned in that sub-paragraph.
  - (3) Sub-paragraph (1) shall not prevent the continued application of Parts II and III of this Schedule in a case where proposals have been published under paragraph 24 or 28.
- 13 (1) This paragraph applies to a report of an inspection under Part I of the School Inspections Act 1996 which—
  - (a) states an opinion that a school has significant weaknesses in one or more areas of its activities, and
  - (b) is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).
- (2) The person making a report to which this paragraph applies shall send a copy (together with a copy of the summary, if there is one)—
    - (a) to the Secretary of State or, in the case of a school in Wales, the National Assembly for Wales, and
    - (b) if the person making the report is a member of the Inspectorate, to the appropriate authority for the school.
  - (3) The following provisions of the School Inspections Act 1996 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—
    - (a) section 16(3) (additional copies);
    - (b) section 16(4) (publication by appropriate authority);
    - (c) section 17 (action plan by appropriate authority);
    - (d) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 18(2) and (3) (measures by local education authority).
  - (4) In the application of those provisions—
    - (a) a reference to a report and summary shall be taken as a reference to a report and, if there is one, its summary, and
    - (b) a reference to a summary alone shall be taken, in a case where there is no summary, as a reference to the report.
- 14 Section 13(2) to (7) of the School Inspections Act 1996 (inspections by registered inspectors) shall apply, with the necessary modifications, where the inspector is of the opinion that a school has significant weaknesses in one or more areas of its activities as it applies where he is of the opinion that special measures are required to be taken in relation to a school.

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## PART II

### PUBLICATION OF PROPOSALS

#### *Closure of sixth form: England*

- 15 Paragraphs 16 and 17 apply to a school which is maintained by a local education authority in England and which—
- (a) provides full-time education suitable to the requirements of pupils who are over compulsory school age, and
  - (b) provides full-time education suitable to the requirements of pupils of compulsory school age.
- 16 (1) The Learning and Skills Council for England may publish proposals for an alteration of the school as a result of which it will no longer provide education suitable to the requirements of pupils who are over compulsory school age.
- (2) The proposals shall contain such information and be published in such manner as may be prescribed.
- (3) Before publishing proposals the Council shall, having regard to any guidance issued by the Secretary of State, consult such persons as they consider appropriate.
- 17 (1) The Council shall send—
- (a) a copy of the published proposals, and
  - (b) such other information as may be prescribed,
- to the school organisation committee for the area of the local education authority who maintain the school.
- (2) In the case of a community or foundation special school, the Council shall also send the copy and information mentioned in sub-paragraph (1)(a) and (b) to such other persons as may be prescribed.
- 18 In paragraphs 16 and 17 “prescribed” means prescribed by regulations made by the Secretary of State.

#### *Closure of sixth form: Wales*

- 19 Paragraphs 20 and 21 apply to a school which is maintained by a local education authority in Wales and which—
- (a) provides full-time education suitable to the requirements of pupils who are over compulsory school age, and
  - (b) provides full-time education suitable to the requirements of pupils of compulsory school age.
- 20 (1) The National Council for Education and Training for Wales may publish proposals for an alteration of the school as a result of which it will no longer provide education suitable to the requirements of pupils who are over compulsory school age.
- (2) The proposals shall contain such information and be published in such manner as may be prescribed.
- (3) Before publishing proposals the Council shall, having regard to any guidance issued by the National Assembly for Wales, consult such persons as they consider appropriate.

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- 21 (1) The Council shall send—
- (a) a copy of the published proposals, and
  - (b) such other information as may be prescribed,
- to the National Assembly for Wales.
- (2) In the case of a community or foundation special school, the Council shall also send the copy and information mentioned in sub-paragraph (1)(a) and (b) to such other persons as may be prescribed.
- 22 In paragraphs 20 and 21 “prescribed” means prescribed by regulations made by the National Assembly for Wales.

*Closure of institution for 16-19 year olds: England*

- 23 Paragraphs 24 and 25 apply to a school which—
- (a) is maintained by a local education authority in England,
  - (b) provides full-time education suitable to the requirements of pupils over compulsory school age, and
  - (c) does not provide full-time education suitable to the requirements of pupils of compulsory school age.
- 24 (1) The Learning and Skills Council for England may publish proposals to discontinue the school.
- (2) The proposals shall contain such information and be published in such manner as may be prescribed.
- (3) Before publishing proposals the Council shall, having regard to any guidance issued by the Secretary of State, consult such persons as they consider appropriate.
- 25 (1) The Council shall send—
- (a) a copy of the published proposals, and
  - (b) such other information as may be prescribed,
- to the school organisation committee for the area of the local education authority who maintain the school.
- (2) In the case of a community or foundation special school, the Council shall also send the copy and information mentioned in sub-paragraph (1)(a) and (b) to such other persons as may be prescribed.
- 26 In paragraphs 24 and 25 “prescribed” means prescribed by regulations made by the Secretary of State.

*Closure of institution for 16-19 year olds: Wales*

- 27 Paragraphs 28 and 29 apply to a school which—
- (a) is maintained by a local education authority in Wales,
  - (b) provides full-time education suitable to the requirements of pupils over compulsory school age, and
  - (c) does not provide full-time education suitable to the requirements of pupils of compulsory school age.
- 28 (1) The National Council for Education and Training for Wales may publish proposals to discontinue the school.

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- (2) The proposals shall contain such information and be published in such manner as may be prescribed.
- (3) Before publishing proposals the Council shall, having regard to any guidance issued by the National Assembly for Wales, consult such persons as they consider appropriate.
- 29 (1) The Council shall send—
- (a) a copy of the published proposals, and
  - (b) such other information as may be prescribed,
- to the National Assembly for Wales.
- (2) In the case of a community or foundation special school, the Council shall also send the copy and information mentioned in sub-paragraph (1)(a) and (b) to such other persons as may be prescribed.
- 30 In paragraphs 28 and 29 “prescribed” means prescribed by regulations made by the National Assembly for Wales.

*Schools maintained by LEA outside its area*

- 31 (1) This paragraph applies to a school which—
- (a) is a community, voluntary or foundation school, and
  - (b) is situated in an area other than that of the local education authority who maintain it.
- (2) This Part of this Schedule shall have effect in relation to a school to which this paragraph applies with such modifications as may be prescribed—
- (a) for schools in England, by regulations made by the Secretary of State, and
  - (b) for schools in Wales, by regulations made by the National Assembly for Wales.

### PART III

#### IMPLEMENTATION OF PROPOSALS

*England*

- 32 (1) Paragraphs 33 to 38 apply to schools in England in respect of which proposals are published under this Schedule.
- (2) In those paragraphs—
- “adjudicator” means a person appointed under section 25 of the School Standards and Framework Act 1998 (and that section and Schedule 5 to that Act shall have effect in relation to references to “the adjudicator”),
- “the Council” means the Learning and Skills Council for England,
- “prescribed” means prescribed by or determined in accordance with regulations,
- “regulations” means regulations made by the Secretary of State, and

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“the school organisation committee” means, in relation to a school, the school organisation committee for the area of the local education authority who maintain the school.

- (3) Regulations prescribing the period mentioned in paragraph 35(6) or 37(1) may make provision by reference to the opinion of the committee.
- 33 Regulations may require any of the following to provide prescribed information to prescribed persons at prescribed times—
- (a) the Council,
  - (b) a school organisation committee, and
  - (c) an adjudicator.
- 34 Any person may send objections to the proposals to the school organisation committee within such period as may be prescribed.
- 35 (1) The school organisation committee shall consider the proposals and—
- (a) reject them,
  - (b) approve them without modification, or
  - (c) approve them subject to modifications.
- (2) In considering proposals a school organisation committee shall have regard to—
- (a) any guidance issued by the Secretary of State,
  - (b) the school organisation plan for the committee’s area, and
  - (c) any objections made in accordance with paragraph 34 and not withdrawn.
- (3) Before approving proposals subject to modifications a school organisation committee shall consult such persons as may be prescribed.
- (4) An approval under sub-paragraph (1)(b) or (c) may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind; and if the event does not occur by the specified time, the proposals shall be treated as being rejected at that time.
- (5) A committee shall refer proposals to the adjudicator if—
- (a) the committee votes on a decision in relation to the proposals,
  - (b) the decision is required to be unanimous by regulations under paragraph 5 of Schedule 4 to the School Standards and Framework Act 1998 (school organisation committees), and
  - (c) the result of the vote is not unanimous.
- (6) A committee shall also refer proposals to the adjudicator if—
- (a) by the end of the prescribed period the committee has not determined what action to take in relation to the proposals, and
  - (b) the Council requests that the proposals be referred to the adjudicator.
- (7) Where proposals are referred to the adjudicator—
- (a) he shall consider them afresh, and
  - (b) for that purpose, sub-paragraphs (1) to (4) shall apply to him as they apply to the committee.
- (8) The Council may withdraw proposals by notice in writing to the school organisation committee at any time before a determination has been made by the committee or the adjudicator.

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- 36 (1) Where proposals are approved under paragraph 35 they shall be implemented.
- (2) But the school organisation committee—
- (a) may modify the proposals, after consulting such persons as may be prescribed;
  - (b) where the proposals were approved subject to the occurrence of a specified event by a specified time, may (before the arrival of the specified time) substitute a later time;
  - (c) may determine that the proposals shall not be implemented if implementation would be unreasonably difficult or if it would be inappropriate because of changes in circumstances since the proposals were approved.
- (3) A school organisation committee may act under sub-paragraph (2)(a) or (b) only in response to a request by the Council.
- (4) A determination may be made under sub-paragraph (2)(c) only in response to a proposal of the Council which is published and dealt with in accordance with regulations (which may, in particular, apply any provision of this Schedule with or without modification); and where a determination is made under sub-paragraph (2) (c) in relation to proposals they shall be treated as rejected.
- 37 (1) If a school organisation committee has not, by the end of the prescribed period, determined whether to take any action under paragraph 36(2), the committee shall, if the Council requests, refer the question to the adjudicator.
- (2) A committee shall also refer to the adjudicator the question mentioned in sub-paragraph (1) if—
- (a) the committee votes on the question,
  - (b) the decision is required to be unanimous by regulations under paragraph 5 of Schedule 4 to the School Standards and Framework Act 1998 (school organisation committees), and
  - (c) the result of the vote is not unanimous.
- (3) Where a question is referred to the adjudicator—
- (a) he shall consider the matter afresh, and
  - (b) for that purpose, paragraph 36 shall apply to him as it applies to the committee.
- 38 (1) The duty to implement proposals to alter a school—
- (a) in the case of a community or community special school, shall be a duty of the local education authority, and
  - (b) in the case of a voluntary, foundation or foundation special school, shall be a duty of the governing body.
- (2) The duty to implement proposals to discontinue a school—
- (a) in the case of a community or community special school, shall be a duty of the local education authority, and
  - (b) in the case of a voluntary, foundation or foundation special school, shall be a shared duty of the governing body and the local education authority.
- (3) For the purpose of sub-paragraph (2)(a) or (b), a local education authority's duty to discontinue a school is a duty to cease maintaining it.



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*Wales*

- 39 (1) Paragraphs 40 to 44 apply to schools in Wales in respect of which proposals are published under this Schedule.
- (2) In those paragraphs—
- “the National Assembly” means the National Assembly for Wales,
  - “the Council” means the National Council for Education and Training for Wales,
  - “prescribed” means prescribed by or determined in accordance with regulations, and
  - “regulations” means regulations made by the National Assembly.
- 40 Regulations may require any of the following to provide prescribed information to prescribed persons at prescribed times—
- (a) the Council, and
  - (b) the National Assembly.
- 41 Any person may send objections to the proposals to the National Assembly within such period as may be prescribed.
- 42 (1) The National Assembly shall consider the proposals and—
- (a) reject them,
  - (b) approve them without modification, or
  - (c) approve them subject to modifications.
- (2) In considering proposals the National Assembly shall have regard to—
- (a) the school organisation plan for the school’s area, and
  - (b) any objections made in accordance with paragraph 41 and not withdrawn.
- (3) Before approving proposals subject to modifications the National Assembly shall consult such persons as they consider appropriate.
- (4) An approval under sub-paragraph (1)(b) or (c) may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind; and if the event does not occur by the specified time, the proposals shall be treated as being rejected at that time.
- (5) The Council may withdraw proposals by notice in writing to the National Assembly at any time before a determination has been made.
- 43 (1) Where proposals are approved under paragraph 42 they shall be implemented.
- (2) But the National Assembly—
- (a) may modify the proposals, after consulting such persons as they consider appropriate;
  - (b) where the proposals were approved subject to the occurrence of a specified event by a specified time, may (before the arrival of the specified time) substitute a later time;
  - (c) may determine that the proposals shall not be implemented if implementation would be unreasonably difficult or if it would be inappropriate because of changes in circumstances since the proposals were approved.

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- (3) The National Assembly may act under sub-paragraph (2)(a) or (b) only in response to a request by the Council.
- (4) A determination may be made under sub-paragraph (2)(c) only in response to a proposal of the Council which is published and dealt with in accordance with regulations (which may, in particular, apply any provision of this Schedule with or without modification); and where a determination is made under sub-paragraph (2)(c) in relation to the proposals they shall be treated as rejected.
- 44 (1) The duty to implement proposals to alter a school—
- (a) in the case of a community or community special school, shall be a duty of the local education authority, and
  - (b) in the case of a voluntary, foundation or foundation special school, shall be a duty of the governing body.
- (2) The duty to implement proposals to discontinue a school—
- (a) in the case of a community or community special school, shall be a duty of the local education authority, and
  - (b) in the case of a voluntary, foundation or foundation special school, shall be a shared duty of the governing body and the local education authority.
- (3) For the purpose of sub-paragraph (2)(a) or (b), a local education authority's duty to discontinue a school is a duty to cease maintaining it.

*Schools maintained by LEA outside its area*

- 45 (1) This paragraph applies to a school which—
- (a) is a community, voluntary or foundation school, and
  - (b) is situated in an area other than that of the local education authority who maintain it.
- (2) This Part of this Schedule shall have effect in relation to a school to which this paragraph applies with such modifications as may be prescribed—
- (a) for schools in England, by regulations made by the Secretary of State, and
  - (b) for schools in Wales, by regulations made by the National Assembly for Wales.

SCHEDULE 8

Section 131.

CITY ACADEMIES: LAND

*Transfer schemes*

- 1 (1) The Secretary of State may make a scheme in relation to land if these requirements are met—
- (a) a local education authority holds a freehold or leasehold interest in the land when the scheme is made;
  - (b) at some time in the period of 5 years ending with the day on which this Act is passed the land was used wholly or mainly for the purposes of a county school or community school;

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- (c) at the time the scheme is made the land is no longer used as mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used;
  - (d) before making the scheme the Secretary of State consulted the authority.
- (2) These requirements must be met as regards a scheme—
- (a) the scheme must provide for a transfer of the authority's interest in the land or in such part of it as is specified in the scheme;
  - (b) the transfer must be to a person (the transferee) who is specified in the scheme and is concerned with the running of a city academy;
  - (c) the transfer must be made to the transferee for the purposes of the city academy;
  - (d) the scheme must provide for the transfer to the transferee of any right or liability held by the authority as holder of the interest in the land or specified part concerned.
- (3) In sub-paragraph (2) the reference to a right or liability—
- (a) includes a reference to a right or liability as a trustee, but
  - (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (4) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (5) A scheme must be so expressed that it does not come into force while the land concerned is used as mentioned in sub-paragraph (1)(b).
- (6) A scheme comes into force—
- (a) on the day it specifies for it to come into force, or
  - (b) on the day it otherwise identifies as the day for it to come into force.
- (7) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interests, rights and liabilities to which it applies.
- (8) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

#### *Restriction on disposal*

- 2 (1) Sub-paragraph (2) applies if—
- (a) a freehold or leasehold interest in land is held by a local education authority,
  - (b) at any time in the period of 5 years ending with the day on which this Act is passed the land was used wholly or mainly for the purposes of a county school or community school, and
  - (c) the authority proposes to make a disposal in respect of the interest, or to enter into a contract to make a disposal in respect of it, or to grant an option to make an acquisition in respect of it.
- (2) Unless the Secretary of State consents, the authority must not make the disposal or enter into the contract or grant the option.
- (3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before the coming into force of this paragraph.

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- (4) Sub-paragraph (2) does not apply to—
    - (a) a disposal in favour of a person for the purposes of a city academy and for no consideration;
    - (b) a contract to make such a disposal;
    - (c) a grant of an option for a person to make an acquisition for the purposes of a city academy and for no consideration.
  - (5) A disposal or contract or grant is not invalid by reason only that it is made in contravention of sub-paragraph (2).
  - (6) A person acquiring an interest in land or entering into a contract to acquire it is not to be concerned to enquire whether consent required by sub-paragraph (2) has been given.
- 3
- (1) This paragraph applies if an authority makes a disposal or enters into a contract or grants an option in contravention of paragraph 2(2).
  - (2) In the case of a grant of an option, the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.
  - (3) In the case of a contract to make a disposal in respect of an interest, the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the interest concerned is executed.
  - (4) A repudiation under sub-paragraph (2) or (3) has effect—
    - (a) when the notice is served, and
    - (b) as if the repudiation were made by the authority.
  - (5) In the case of a disposal in respect of an interest (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the interest concerned compulsorily.
  - (6) The Acquisition of Land Act 1981 is to apply in relation to the compulsory purchase of an interest under sub-paragraph (5).
  - (7) On completion of a compulsory purchase of an interest under sub-paragraph (5) the Secretary of State must transfer it to a person concerned with the running of a city academy.
  - (8) If the Secretary of State acquires an interest by compulsory purchase under sub-paragraph (5) he is entitled to recover from the authority an amount equal to the aggregate of—
    - (a) the compensation agreed or awarded in respect of the purchase,
    - (b) any interest payable by him in respect of the compensation, and
    - (c) the costs and expenses incurred by him in connection with the making of the compulsory purchase order.
  - (9) The authority must provide the Secretary of State with such information as he may require it to provide in connection with a compulsory purchase under sub-paragraph (5).
- 4
- (1) For the purposes of paragraphs 2 and 3—
    - (a) references to a disposal in respect of an interest are to a disposal of the whole interest or of a lesser interest;

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(b) references to an acquisition in respect of an interest are to an acquisition of the whole interest or of a lesser interest.

(2) If the disposal referred to in paragraph 3(3) or (5) is a disposal of a lesser interest, the reference there to the interest concerned is to the lesser interest.

#### *Restriction on appropriation*

- 5 (1) Sub-paragraph (2) applies if—
- (a) a freehold or leasehold interest in land is held by a local education authority,
  - (b) at any time in the period of 5 years ending with the day on which this Act is passed the land was used wholly or mainly for the purposes of a county school or community school, and
  - (c) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972.

(2) Unless the Secretary of State consents, the authority must not make the appropriation.

- 6 (1) This paragraph applies if an authority makes an appropriation in contravention of paragraph 5(2).

(2) The Secretary of State may purchase the interest concerned compulsorily.

(3) Paragraph 3(6) to (9) apply to a compulsory purchase of an interest under sub-paragraph (2) above as they apply to a compulsory purchase of an interest under paragraph 3(5).

#### *Duty to inform*

- 7 (1) Sub-paragraph (2) applies if—
- (a) a freehold or leasehold interest in land is held by a local education authority,
  - (b) at any time in the period of 5 years ending with the day on which this Act is passed the land was used wholly or mainly for the purposes of a county school or community school, and
  - (c) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school.

(2) The authority must inform the Secretary of State of the proposal.

#### *Former city academies*

- 8 (1) This paragraph applies if—
- (a) a freehold or leasehold interest in land is transferred from a local education authority on or after the day on which this Act is passed,
  - (b) the transfer is made to a person for the purposes of a city academy, and
  - (c) the first or the second condition set out below is satisfied.

(2) The first condition is that—

- (a) the school concerned ceases to be a city academy, and
- (b) immediately before the school ceases to be a city academy the interest is held by a person for the purposes of the city academy.

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- (3) The second condition is that, although the school concerned continues to be a city academy, the interest ceases to be held for the purposes of the city academy.
- (4) This paragraph applies whether or not the transfer is made by virtue of a scheme under paragraph 1.
- (5) Sub-paragraph (2) applies whether or not, on the school ceasing to be a city academy, it simultaneously ceases to function as a school.
- (6) The Secretary of State may make a scheme providing for the transfer of the interest—
  - (a) from the person holding it;
  - (b) to the authority from which the transfer mentioned in sub-paragraph (1)(a) was made.
- (7) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (8) A scheme comes into force on the day it specifies for it to come into force.
- (9) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interest to which it applies.
- (10) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

#### *Other Acts*

- 9 (1) Section 123(2) of the Local Government Act 1972 (disposal for consideration less than the best reasonably obtainable) does not apply to a disposal to a person for the purposes of a city academy.
- (2) Section 123(2A) of that Act (disposal of open space requires certain procedures) does not apply to a disposal which is made—
  - (a) to a person for the purposes of a city academy, and
  - (b) for no consideration.
- (3) Section 77(1) of the School Standards and Framework Act 1998 (restriction on disposal of playing fields) does not apply to a disposal which is made—
  - (a) by a local authority to a person for the purposes of a city academy, and
  - (b) for no consideration.

#### *Regulations*

- 10 The Secretary of State may make regulations containing such incidental, consequential, transitional or supplementary provisions as he thinks are appropriate in consequence of this Schedule or for giving it full effect; and in particular the regulations may include provision described below.
- 11 (1) The regulations may include—
  - (a) provision requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1;
  - (b) provision requiring the appointed person to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1;

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- (c) provision requiring the authority concerned to provide the appointed person with such documents as he may require in order to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1.
- (2) The regulations may include—
- (a) provision requiring an authority whose interest is (or is to be) transferred by virtue of a scheme under paragraph 1 to execute instruments and deliver certificates for the purposes of the enactments relating to registered land;
  - (b) provision treating such an authority as having given acknowledgement in writing of the right to production of documents.
- 12 The regulations may include—
- (a) provision that consent under paragraph 2 is to be sought in a specified way;
  - (b) provision that information is to be given under paragraph 7 in a specified way.

#### *General*

- 13 A dwelling-house used by an authority for occupation by a person employed to work at a school is to be treated for the purposes of this Schedule as used for the purposes of the school.
- 14 For the purposes of this Schedule—
- (a) a city academy is a city academy within the meaning of section 482 of the Education Act 1996;
  - (b) a community school is a community school within the meaning of the School Standards and Framework Act 1998;
  - (c) a county school is a county school within the meaning of the Education Act 1996 (as that Act had effect before 1 September 1999).

## SCHEDULE 9

Section 149.

### AMENDMENTS

#### *Introduction*

- 1 The amendments specified in this Schedule shall have effect.

#### *Public Records Act 1958 (c. 51)*

- 2 In Schedule 1 to the Public Records Act 1958 (definition of public records) in Part II of the Table at the end of paragraph 3, insert at the appropriate places—
- ““Adult Learning Inspectorate.”,
  - “Learning and Skills Council for England.””

#### *Superannuation Act 1972 (c. 11)*

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which schemes may apply) in the list of “Other Bodies”, insert at the appropriate places—

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“Adult Learning Inspectorate.”,

“Learning and Skills Council for England.”,

“National Council for Education and Training for Wales.”

*House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) insert at the appropriate places—

“Any member of the Learning and Skills Council for England in receipt of remuneration.”,

“Any member of the National Council for Education and Training for Wales in receipt of remuneration.”

*Sex Discrimination Act 1975 (c. 65)*

- 5 In section 23A of the Sex Discrimination Act 1975 (discrimination by further education and higher education funding councils)—

(a) for “the Further Education Funding Council for England, the Further Education Funding Council for Wales,” substitute “the Learning and Skills Council for England, the National Council for Education and Training for Wales,”, and

(b) after “the Education Acts” insert “and the Learning and Skills Act 2000”.

- 6 After section 25 of that Act insert—

**“25A General duty: post-16 education and training etc**

(1) The Learning and Skills Council for England and the National Council for Education and Training for Wales shall be under a general duty to secure that the facilities falling within subsection (2) and any ancillary benefits or services are provided without sex discrimination.

(2) Facilities falling within this subsection are facilities for—

(a) education,

(b) training, and

(c) organised leisure-time occupation connected with such education or training,

the provision of which is secured by the Learning and Skills Council for England or the National Council for Education and Training for Wales.

(3) The provisions of sections 25 and 47 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general duty in subsection (1), but without prejudice to the enforcement of section 23A under section 66 or otherwise (where the breach is also a contravention of that section).”

- 7 (1) Section 26 of that Act (exception for single-sex establishments) is amended as follows.

(2) In subsections (1) and (2) for “and 25” in each place where the words occur substitute “, 25 and 25A”.



(3) In subsection (3) after “section 25” insert “or 25A”.

8 In section 28 of that Act (exception for physical training) for “and 25” substitute “, 25 and 25A”.

*Race Relations Act 1976 (c. 74)*

9 In section 18A of the Race Relations Act 1976 (discrimination by further education and higher education funding councils)—

(a) for “the Further Education Funding Council for England, the Further Education Funding Council for Wales,” substitute “the Learning and Skills Council for England, the National Council for Education and Training for Wales,”, and

(b) after “the Education Acts” insert “and the Learning and Skills Act 2000”.

10 After section 19 of that Act insert—

**“19ZA General duty: post-16 education and training etc**

(1) The Learning and Skills Council for England and the National Council for Education and Training for Wales shall be under a general duty to secure that the facilities falling within subsection (2) and any ancillary benefits or services are provided without racial discrimination.

(2) Facilities falling within this subsection are facilities for—

(a) education,

(b) training, and

(c) organised leisure-time occupation connected with such education or training,

the provision of which is secured by the Learning and Skills Council for England or the National Council for Education and Training for Wales.

(3) The provisions of sections 25 and 47 of the Learning and Skills Act 2000 shall be the only sanction for breach of the general duty in subsection (1), but without prejudice to the enforcement of section 18A under section 57 or otherwise (where the breach is also a contravention of that section).”

*Education (Fees and Awards) Act 1983 (c. 40)*

11 In section 1 of the Education (Fees and Awards) Act 1983 (higher fees for students without UK connection) in subsection (3) insert after paragraph (e)—

“(f) any institution which receives funding from the Learning and Skills Council for England (whatever proportion that funding represents of the institution’s total funding) and which is specified in, or is of a class or description specified in, the regulations;

(g) any institution which receives funding from the National Council for Education and Training for Wales (whatever proportion that funding represents of the institution’s total funding) and which is specified in, or is of a class or description specified in, the regulations.”

*Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 12 In section 5(9) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) in the definition of “the responsible authority”, in paragraph (c) for “a further education funding council” substitute “the Learning and Skills Council for England or the National Council for Education and Training for Wales”.

*Local Government Act 1988 (c. 9)*

- 13 In paragraph 8(3)(a)(i) of Schedule 1 to the Local Government Act 1988 (competition: excluded activities) for “section 15” substitute “section 15A or 15B”.

*Employment Act 1988 (c. 19)*

- 14 In section 26 of the Employment Act 1988 (status of trainees etc) after subsection (1) insert—

“(1A) Where it appears to the Secretary of State that provision has been made under section 5(1)(c) or 34(1)(c) of the Learning and Skills Act 2000 for trainees to receive payments from the Learning and Skills Council for England or the National Council for Education and Training for Wales, the Secretary of State may by order provide—

- (a) that those trainees are, for the purposes and in the cases specified or described in or determined under the order, to be treated in respect of the training as being or as not being employed;
- (b) that where those trainees are treated as being employed they are to be treated as being the employees of the persons so specified, described or determined and of no others;
- (c) that where those trainees are treated as not being employed they are to be treated in such other manner as may be so specified, described or determined; and
- (d) that those payments are to be treated for the purposes of such enactments and subordinate legislation as may be so specified, described or determined in such manner as may be so specified, described or determined;

and for the purposes of this subsection trainees are persons receiving or proposing to receive training.”

*Education Reform Act 1988 (c. 40)*

- 15 In section 124 of the Education Reform Act 1988 (powers of higher education corporations)—

- (a) in subsection (2)(b) omit the words “, as defined by section 15(6) and (7) of the Education Act 1996”,
- (b) in subsection (2) for paragraph (f) substitute—
  - “(f) to subscribe for or otherwise acquire shares in or securities of a company for the purpose of carrying on any such activities;”, and
- (c) at the end insert—

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- “(5) For the purposes of subsection (2)(b) a person has a learning difficulty if—
- (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions within the higher education sector for persons of his age.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.”
- 16 In section 128(1)(b) of that Act (dissolution of higher education corporations) for sub-paragraph (v) substitute—
- “(v) the Learning and Skills Council for England or the National Council for Education and Training for Wales.”
- 17 For section 161(1)(b) of that Act (interpretation: further or higher education functions) substitute—
- “(b) references to the further or higher education functions of a local education authority are references to the functions of the authority (except in so far as they relate to secondary education) under sections 15A and 15B of the Education Act 1996 (post-16 education) and section 120 of this Act (higher education);”.
- 18 In section 218(2B) of that Act (school and further and higher education regulations)
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- (a) for “or city colleges for the technology of the arts” substitute “, city colleges for the technology of the arts or city academies”, and
  - (b) after “such colleges” insert “or academies”.

*Environmental Protection Act 1990 (c. 43)*

- 19 In section 98 of the Environmental Protection Act 1990 (definitions) in subsection (2)(e) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy,”.

*Further and Higher Education Act 1992 (c. 13)*

- 20 In the Further and Higher Education Act 1992, omit sections 1 to 9 (the Further Education Funding Councils for England and Wales).
- 21 In section 18 of that Act (further education corporation: powers)—
- (a) after subsection (1)(b) insert “and those powers are referred to in section 19 of this Act as the corporation’s principal powers”;
  - (b) subsections (4) to (6) shall cease to have effect.
- 22 (1) Section 19 of that Act (supplementary powers of a further education corporation) is amended as follows.
- (2) In subsection (3) omit “within the meaning of section 4(6) of this Act”.

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- (3) In subsection (4) after paragraph (b) insert—  
“(bb) subscribe for or otherwise acquire shares in or securities of a company.”
- (4) After subsection (4) insert—  
“(4A) The power conferred by subsection (4)(bb) above may not be exercised for the purpose of conducting an educational institution.  
(4B) The power conferred by subsection (4)(bb) above may not be exercised for the purpose of the provision of education if the provision is secured (wholly or partly) by financial resources provided by the Learning and Skills Council for England or the National Council for Education and Training for Wales.  
(4C) But subsection (4B) above shall not apply to the extent that the Council concerned consents to the exercise of the power conferred by subsection (4)(bb) above in a way which does not comply with the restriction in subsection (4B).”
- (5) After subsection (5) insert—  
“(6) A person has a learning difficulty if—  
(a) he has a significantly greater difficulty in learning than the majority of persons of his age, or  
(b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions within the further education sector for persons of his age.  
(7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.”
- 23 (1) Section 22 of that Act (subsequent instruments and articles) is amended as follows.  
(2) In subsection (2) for “any instrument” substitute “, replace or revoke any instrument of government or articles”.  
(3) In subsection (5)—  
(a) in paragraph (a) after “modify” insert “, replace or revoke”;  
(b) in paragraph (b) after “modified” insert “, replaced or revoked”.
- 24 (1) Section 29 of that Act (government and conduct of designated institutions) is amended as follows.  
(2) In subsection (2) for “subsection (3)” substitute “subsections (3) and (7A)”.  
(3) After subsection (7) insert—  
“(7A) Provision made by the instrument in relation to the appointment of members of the governing body shall take into account the members who may be appointed by—  
(a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or  
(b) the National Council for Education and Training for Wales under section 39 of that Act.”

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- (4) In subsection (8) after “modify” insert “, replace or revoke” and after “modified” insert “, replaced or revoked”.
- 25 In section 31 of that Act (designated institutions conducted by companies) after subsection (2) insert—
- “(2A) Provision made by the articles of association of the company in relation to the appointment of members of the governing body shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
  - (b) the National Council for Education and Training for Wales under section 39 of that Act.”
- 26 In section 41(10) of that Act (control of contracts) after “This section does not apply” insert—
- “(a) in relation to a relevant institution which does not provide full-time education suitable to the requirements of pupils of compulsory school age, or
- (b)”.
- 27 (1) Section 44 of that Act (collective worship) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies to any institution within the further education sector which is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.
- (2) An institution is of voluntary origin for the purposes of this section if—
- (a) immediately before it joined the further education sector it was a voluntary school (within the meaning of the Education Act 1996),
  - (b) immediately before it joined the further education sector it was a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) having a foundation established otherwise than under that Act,
  - (c) it is designated for the purposes of this paragraph by order of the Secretary of State, or
  - (d) it is formed by or for the purpose of merging two institutions both of which were within paragraphs (a) to (c).
- (2A) The governing body of an institution to which this section applies shall ensure that at an appropriate time on at least one day in each week during which the institution is open an act of collective worship is held at the institution which persons receiving education at the institution may attend.”
- (3) In subsection (3)(b) for “became a further education institution” substitute “joined the further education sector”.
- (4) In subsection (4) for “other further education institutions” substitute “other institutions to which this section applies”.
- (5) In subsection (5) for “a further education institution” substitute “an institution to which this section applies”.

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- (6) Omit subsection (6).
- (7) At the end of the section insert—
- “(7) In the application of this section to an institution which is of voluntary origin by virtue of subsection (2)(d), subsection (3)(b) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in subsection (2)(d).”
- 28 (1) Section 45 of that Act (religious education) shall be amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies to any institution to which section 44 of this Act applies.
- (2) An institution is of voluntary origin for the purposes of this section if it is of voluntary origin for the purposes of section 44 of this Act.
- (2A) The governing body of an institution to which this section applies shall ensure that religious education is provided at the institution for all persons attending the institution who wish to receive it.”
- (3) In subsection (3) for “a further education institution” substitute “an institution to which this section applies”.
- (4) In subsection (5)—
- (a) for “each further education institution” substitute “institution to which this section applies”,
- (b) in paragraph (a)(ii) for “became a further education institution” substitute “joined the further education sector”, and
- (c) in paragraph (b) for “further education institutions” substitute “other institutions to which this section applies”.
- (5) Omit subsection (6).
- (6) At the end of the section insert—
- “(7) In the application of this section to an institution which is an institution of voluntary origin by virtue of section 44(2)(d), subsection (5)(a)(ii) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in section 44(2)(d).”
- 29 In section 52 of that Act (duty to provide for named individuals) in subsection (1) omit “full-time”.
- 30 In section 52A of that Act (pupils receiving secondary education) for “pupils in the fourth key stage” substitute “persons who would, if they were pupils at a school, be in the fourth key stage”.
- 31 In section 54 of that Act (duty to give information) in subsection (1)(b) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.
- 32 In section 55 of that Act (inspections etc of local authority institutions other than schools), subsections (1) to (3) and paragraphs (a) and (b) of subsection (7) shall cease to have effect.
- 33 Section 56 of that Act (directions) shall cease to have effect.

34 In that Act for section 57 substitute—

**“57 Intervention**

- (1) This section applies if one or more of the conditions listed in subsection (2) is satisfied regarding an institution within the further education sector; and it is immaterial whether or not a complaint is made by any person.
- (2) These are the conditions—
  - (a) the Secretary of State is satisfied that the institution’s affairs have been or are being mismanaged by its governing body;
  - (b) he is satisfied that the institution’s governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
  - (c) he is satisfied that the institution’s governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
  - (d) a report regarding the institution and made by a person listed in subsection (3) indicates that the institution has serious weaknesses, or is failing or likely to fail to give an acceptable standard of education.
- (3) These are the persons—
  - (a) Her Majesty’s Chief Inspector of Schools in England;
  - (b) Her Majesty’s Chief Inspector of Education and Training in Wales;
  - (c) the Adult Learning Inspectorate;
  - (d) the Chief Inspector of Adult Learning.
- (4) If this section applies the Secretary of State may by order—
  - (a) declare which of the conditions is (or are) satisfied, and
  - (b) do one or more of the things listed in subsection (5).
- (5) He may—
  - (a) remove all or any of the members of the institution’s governing body;
  - (b) appoint new members of that body if there are vacancies (however arising);
  - (c) give to that body such directions as he thinks expedient as to the exercise of their powers and performance of their duties.
- (6) Directions may be given to a body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body’s opinion.
- (7) A governing body must comply with any directions given to them under this section.
- (8) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.

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(9) Section 507 of the Education Act 1996 (power to direct local inquiries) applies for the purposes of the Secretary of State’s functions under this section as it applies for the purposes of his functions under that Act.”

35 In section 60 of that Act (saving as to persons detained by order of a court) for “further education funding council” substitute “learning and skills council”.

36 Section 60A of that Act (partnership arrangements: Wales) shall cease to have effect.

37 In that Act, after section 61 insert—

**“61A References to councils**

(1) In this Part of this Act any reference to a council is to a learning and skills council.

(2) In this Part of this Act a reference to the appropriate council, in relation to any educational institution, is to be construed as follows—

- (a) if the institution mainly serves the population of England, the reference is to the Learning and Skills Council for England;
- (b) if the institution mainly serves the population of Wales, the reference is to the National Council for Education and Training for Wales;
- (c) if the institution receives financial support from the other council, the reference is to that council also.”

38 In section 82 of that Act (joint exercise of functions) in subsection (3)(a) for “further education funding council” substitute “learning and skills council”.

39 In section 83 of that Act (efficiency studies) in subsection (1) for “further education funding council” substitute “learning and skills council”.

40 In section 89(2) of that Act (orders and regulations)—

- (a) after “29(6) and (8),” insert “30(2)(b),”, and
- (b) after “38,” insert “44(2)(c),”.

41 In section 90 of that Act (interpretation) after subsection (2) insert—

“(2A) For the purposes of this Act the learning and skills councils are the Learning and Skills Council for England and the National Council for Education and Training for Wales.

(2B) If in construing this Act or any other Act a dispute arises as to whether any functions are exercisable by one of the learning and skills councils, the dispute shall be determined by the Secretary of State after consulting the National Assembly for Wales.”

42 In section 91 of that Act (interpretation of Education Acts) omit subsection (2) (references to a further education funding council).

43 In section 92 of that Act (index) in the table for the entry beginning “council (in Part I)” substitute—

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“council (in Part I), or learning and skills council	sections 61A(1) and 90(2A)”.
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- 44 (1) Schedule 4 to that Act (instruments and articles of government for further education corporations) is amended as follows.
- (2) After paragraph 1 insert—
- “1A Provision made by an instrument under this Schedule in relation to the appointment of members shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
- (b) the National Council for Education and Training for Wales under section 39 of that Act.”
- (3) In paragraph 5, at the end insert “or to the principal of the institution”.
- (4) That Act shall be taken to have been enacted with the amendment made by subparagraph (3).
- 45 Schedule 5A to that Act (partnership arrangements: Wales) shall cease to have effect.

*Welsh Language Act 1993 (c. 38)*

- 46 In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”) for paragraph (j) substitute—
- “(j) the National Council for Education and Training for Wales;”.

*Value Added Tax Act 1994 (c. 23)*

- 47 (1) In Schedule 9 to the Value Added Tax Act 1994 (exemptions) Group 6 (education) is amended as follows.
- (2) In item 3 (provision of examination services) in paragraph (b)(i) for “or 5” substitute “, 5 or 5A”.
- (3) After item 5 insert—
- “5A The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to the extent that the consideration payable is ultimately a charge to funds provided by the Learning and Skills Council for England or the National Council for Education and Training for Wales under Part I or Part II of the Learning and Skills Act 2000.”
- (4) After Note (5) insert—
- “(5A) For the purposes of item 5A a supply of any goods or services shall not be taken to be essential to the provision of education or vocational training unless—
- (a) in the case of the provision of education, the goods or services are provided directly to the person receiving the education;
- (b) in the case of the provision of vocational training, the goods or services are provided directly to the person receiving the training.”

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*Education Act 1994 (c. 30)*

- 48 In section 9(2) of the Education Act 1994 (joint exercise of functions) for “a further education funding council” substitute “the Learning and Skills Council for England, the National Council for Education and Training for Wales”.

*Disability Discrimination Act 1995 (c. 50)*

- 49 In section 19 of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) in subsection (5), after paragraph (a) insert—
- “(aa) education which is provided by an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992);
  - (ab) education which is provided by such establishments as may be specified by the Secretary of State by order;”.

*Employment Rights Act 1996 (c. 18)*

- 50 In section 63A of the Employment Rights Act 1996 (right of young persons to time off for study or training) in subsection (2)(b)(i) for the words from “means such” to “1992,” substitute “has the same meaning as in the Education Act 1996,”.

*Education Act 1996 (c. 56)*

- 51 In section 1 of the Education Act 1996 (the stages of education) in subsection (3) for the words from “confers functions” to the end substitute “makes provision with respect to further education.”
- 52 (1) Section 13 of that Act (general responsibility for education) is amended as follows.
- (2) In subsection (1) for “, secondary education and further education” substitute “and secondary education”.
- (3) In subsection (2) for paragraphs (a) and (b) substitute—
- “(a) the Learning and Skills Council for England or the National Council for Education and Training for Wales, or
  - (b) the higher education funding councils established under section 62 of the Further and Higher Education Act 1992.”
- 53 Section 15 of that Act (functions in respect of provision of further education) shall cease to have effect.
- 54 (1) Section 15A of that Act (functions of local education authorities in respect of full-time education for 16 to 18 year olds) is amended as follows.
- (2) In subsection (1) after “full-time” insert “or part-time”.
- (3) After subsection (1) insert—
- “(1A) The power under subsection (1) to secure the provision of education includes power to secure the provision—
  - (a) of training, including vocational, social, physical and recreational training, and

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- (b) of organised leisure time occupation (within the meaning of section 2(6)) which is provided in connection with the provision of education or of training within paragraph (a).”
- (4) In subsection (2) after “functions under this section” insert “in respect of secondary education”.
- (5) After subsection (2) insert—
  - “(3) In exercising their functions under this section in respect of further education a local education authority shall in particular have regard to the needs of persons with learning difficulties (within the meaning of section 13(5) and (6) of the Learning and Skills Act 2000).
  - (4) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.”

55 After section 15A of that Act insert—

**“15B Functions in respect of education for persons over 19**

- (1) A local education authority may secure the provision for their area of full-time or part-time education suitable to the requirements of persons who have attained the age of 19, including provision for persons from other areas.
- (2) The power under subsection (1) to secure the provision of education includes power to secure the provision—
  - (a) of training, including vocational, social, physical and recreational training, and
  - (b) of organised leisure time occupation (within the meaning of section 2(6)) which is provided in connection with the provision of education or of training within paragraph (a).
- (3) In exercising their functions under this section a local education authority shall in particular have regard to the needs of persons with learning difficulties (within the meaning of section 13(5) and (6) of the Learning and Skills Act 2000).
- (4) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.
- (5) This section does not apply to higher education.”

56 In section 312(2) of that Act (meaning of “learning difficulty”) for “section 15(5)” substitute “section 15A or 15B”.

- 57 (1) Section 408 of that Act (provision of information) is amended as follows.
- (2) In subsection (1)(a) after “Education Act 1997” insert “or section 96 of the Learning and Skills Act 2000”.
  - (3) In subsection (2) after paragraph (d) insert “, and
    - (e) arrangements relating to external qualifications (within the meaning given by section 96(5) of the Learning and Skills Act 2000) and to courses leading to such qualifications.”

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- 58 (1) Section 490 of that Act (grants in respect of special provision for ethnic minorities) is amended as follows.
- (2) In subsection (1)(b) for “or a city college for the technology of the arts” substitute “, a city college for the technology of the arts or a city academy”.
- (3) In subsection (2) for “or college” substitute “, college or academy”.
- 59 (1) Section 509 of that Act (provision of transport etc) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (b) insert “or”;
  - (b) omit paragraph (d) and the word “or” immediately preceding it.
- (3) After subsection (1) insert—
- “(1A) A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purpose of facilitating the attendance of persons receiving education or training at an institution outside both the further education and higher education sectors.
- (1B) Arrangements under subsection (1A) may be made in relation to a person only if the Learning and Skills Council for England or the National Council for Education and Training for Wales has secured for him—
- (a) the provision of education or training at the institution, and
  - (b) the provision of boarding accommodation under section 13 or 41 of the Learning and Skills Act 2000.”

(4) In subsection (2) after “subsection (1)” insert “or (1A)”.

(5) In subsection (3)—

    - (a) after “education” insert “or training”;
    - (b) in paragraph (b) after “subsection (1)” insert “or (1A)”;
    - (c) in the words following paragraph (b), for “that subsection” substitute “either of those subsections”.

(6) In subsection (4)—

    - (a) after “subsection (1)” insert “or (1A)”;
    - (b) in paragraph (b) after “education” insert “or training”.

(7) In subsection (5)—

    - (a) after “subsection (1)” insert “or (1A)”;
    - (b) in paragraph (c) for “education at institutions mentioned in subsection (1)(d)” substitute “education or training at institutions mentioned in subsection (1A)”;
    - (c) in paragraph (c)(i) for “section 15(5)” substitute “section 13 of the Learning and Skills Act 2000”.

(8) In subsection (6)(a) for “or (d)” substitute “or (1A)”.

60 In section 537 of that Act (power of the Secretary of State to require information from governing bodies etc) in subsection (7)(b) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.

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*Status: This is the original version (as it was originally enacted).*

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- 61 In section 541 of that Act (distribution of information about further education institutions) in subsection (1)(b) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.
- 62 In section 550B of that Act (detention outside school hours) in subsection (2)(c) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.
- 63 In section 580 of that Act (index) in the table at the appropriate place insert—

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“city academy	section 482(3)”.
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- 64 In Schedule 1 to that Act (pupil referral units) in paragraph 8 for “county schools” substitute “community schools”.

*School Inspections Act 1996 (c. 57)*

- 65 In section 5 of the School Inspections Act 1996 (functions of the Chief Inspector in Wales), at the end insert—

“(11) This section does not apply in relation to education which is brought within the remit of Her Majesty’s Chief Inspector of Education and Training in Wales by Part IV of the Learning and Skills Act 2000.”

- 66 In section 6 of that Act (power of Chief Inspector to arrange for inspections in Wales), at the end insert—

“(11) An inspection of a school conducted under subsection (1) may not extend to any education of a kind brought within the remit of Her Majesty’s Chief Inspector of Education and Training in Wales by Part IV of the Learning and Skills Act 2000 that is provided by the school.”

- 67 (1) Section 10 of that Act (inspection of certain schools by registered inspectors) is amended as follows.

- (2) In subsection (3) after paragraph (g) insert—

“(gg) city academies; and”.

- (3) At the end of subsection (4B)(a) insert “or approved under Schedule 7 to the Learning and Skills Act 2000”.

- (4) In subsection (4B)(e) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.

- (5) In subsection (8), after “education” insert—

“(aa) education which is brought within the remit of Her Majesty’s Chief Inspector of Education and Training in Wales by Part IV of the Learning and Skills Act 2000”.

- 68 In section 16 of that Act (destination of reports) after subsection (4) insert—

“(5) Subsection (6) applies to a report of an inspection of a school falling within section 11(2) if—

- (a) the inspection was a section 10 inspection or was carried out by a member of the Inspectorate, and
- (b) the school provides full-time education suitable to the requirements of pupils over compulsory school age.

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- (6) The person making the report shall send a copy (together with a copy of the summary, if there is one) to—
- (a) the Learning and Skills Council for England, if the school is in England, or
  - (b) the National Council for Education and Training for Wales, if the school is in Wales.”

*Education Act 1997 (c. 44)*

- 69 In section 25 of the Education Act 1997 (other functions of the Qualifications and Curriculum Authority) after subsection (4) insert—

“(5) The Authority may supply any person designated by the Secretary of State with such information as the Authority thinks fit about any matter in relation to which it has a function.”

- 70 In section 31 of that Act (other functions of the Qualifications, Curriculum and Assessment Authority for Wales) after subsection (4) insert—

“(5) The Authority may supply any person designated by the National Assembly for Wales with such information as the Authority thinks fit about any matter in relation to which it has a function.”

- 71 In section 43 of that Act (provision of careers education in schools) in subsection (2) (d) for “and city colleges for the technology of the arts” substitute “, city colleges for the technology of the arts and city academies”.

- 72 In section 44(3)(a) of that Act (co-operation with careers advisers) for “the age of 18” there shall be substituted “the age of 16”.

*Audit Commission Act 1998 (c. 18)*

- 73 (1) Section 36 of the Audit Commission Act 1998 (studies at request of educational bodies) is amended as follows.

- (2) In subsection (1), in the Table, after the entry relating to the governing body of an institution receiving funding under Part I of the Education Act 1994 insert—

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“The Learning and Skills Council for England.	The council.
The National Council for Education and Training for Wales.	The council.”

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- (3) In that Table, in the entry relating to the governing body of an institution within the further education sector, in the second column for “or the appropriate further education funding council” substitute “, the Learning and Skills Council for England or the National Council for Education and Training for Wales”.

- (4) In subsection (2) omit “or a further education funding council”.

*Teaching and Higher Education Act 1998 (c. 30)*

- 74 (1) Section 26 of the Teaching and Higher Education Act 1998 (imposition of conditions as to fees at further or higher education institutions) is amended as follows.

- (2) Omit subsections (1) and (2).
- (3) In each of subsections (6), (7), (10)(a) and (11)(b) for “subsection (2) or (4)” substitute “subsection (4)”.
- (4) In subsection (9)—
- (a) in the definition of “the relevant academic year” for “subsection (2) or (4)” substitute “subsection (4)”, and
  - (b) in the definition of “specified” for “subsection (1) or (3), as the case may be” substitute “subsection (3)”.
- (5) In subsection (11) for “subsection (1) or (3)”, in both places where the words occur, substitute “subsection (3)”.
- 75 In section 28(1) of that Act (interpretation) in the definition of “publicly-funded institution”, in paragraph (a)—
- (a) omit “5 or”,
  - (b) omit the words from “from a further” to “its costs”, and
  - (c) after “1996” insert “or any institution receiving financial resources under section 5 or 34 of the Learning and Skills Act 2000”.
- 76 Section 34 of that Act (inspection of vocational training in Wales) shall cease to have effect.
- 77 In section 35 of that Act (inspection of careers services in Wales), for subsection (6) substitute—
- “(6) Any inspection under this section shall be conducted by one or more of the following—
- (a) any of Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru, or
  - (b) any additional inspector authorised under paragraph 2 of Schedule 1 to the School Inspections Act 1996;
- but such an inspector or inspectors may be assisted by such other persons (whether or not members of the Chief Inspector’s staff) as the Chief Inspector thinks fit.
- (6A) In conducting an inspection under this section, the inspector or inspectors shall act in accordance with any instruction or guidelines given from time to time by the National Assembly for Wales.
- (6B) Where an inspection under this section has been completed, the inspector or inspectors shall make a written report on the inspection and shall send the report to the National Assembly for Wales.
- (6C) The National Assembly for Wales may arrange for any report of an inspection under this section to be published in such manner as the National Assembly for Wales considers appropriate; and section 42A(2) to (4) of the School Inspections Act 1996 shall apply in relation to the publication of any such report by the National Assembly for Wales as they apply to the publication of a report by the Chief Inspector under any of the provisions mentioned in section 42A(2).”

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*Status: This is the original version (as it was originally enacted).*

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*School Standards and Framework Act 1998 (c. 31)*

78 In section 15 of the School Standards and Framework Act 1998 (intervention by LEA) after subsection (6) insert—

“(7) For the purposes of this section a report of an inspection under section 65 or 83 of the Learning and Skills Act 2000 shall be treated as a report of an inspection under Part I of the School Inspections Act 1996.”

79 In section 19(2) of that Act (power of Secretary of State to close school) after paragraph (c) (before the word “and”) insert—

“(ca) in the case of a school which provides education suitable to the requirements of persons over compulsory school age, the Learning and Skills Council for England (if the school is in England) or the National Council for Education and Training for Wales (if the school is in Wales);”.

80 In section 26 of that Act (school organisation plans), in subsection (2)—

(a) in paragraph (a) for “primary and secondary education” substitute “primary education, and secondary education suitable to the requirements of pupils of compulsory school age;”;

(b) after paragraph (a) insert—

“(ab) how the authority propose to exercise their powers during the prescribed period with a view to securing the provision of secondary education suitable to the requirements of pupils over compulsory school age during that period;”;

(c) in paragraph (b) for “such education” substitute “education of a kind referred to in paragraph (a) or (ab)”.

81 After section 26 of that Act insert—

**“26A Plans of local learning and skills councils**

(1) In preparing a school organisation plan a local education authority in England shall have regard to the plans of any relevant local learning and skills council published under section 22 of the Learning and Skills Act 2000.

(2) Subsection (3) applies if a school organisation plan prepared by a local education authority in England is being considered by the school organisation committee or by the adjudicator.

(3) The committee or the adjudicator shall have regard to the plans of any relevant local learning and skills council published under section 22 of the Learning and Skills Act 2000.

(4) A local learning and skills council is a relevant council if any of its area falls within the area of the local education authority concerned.

**26B Plans of National Council**

(1) In preparing a school organisation plan a local education authority in Wales shall have regard to the plans of the National Council for Education and Training for Wales published under section 43 of the Learning and Skills Act 2000.



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*Status: This is the original version (as it was originally enacted).*

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- (2) Subsection (3) applies if a school organisation plan prepared by a local education authority in Wales is being considered by the school organisation committee or by the adjudicator.
  - (3) The committee or the adjudicator shall have regard to the plans of the National Council for Education and Training for Wales published under section 43 of the Learning and Skills Act 2000.
  - (4) In this section references to the school organisation committee are to the committee established by the authority under regulations made under section 27.
  - (5) In this section references to the adjudicator are to—
    - (a) such person appointed as adjudicator under those regulations as may be determined in accordance with them, or
    - (b) such persons appointed as a panel of adjudicators under those regulations as may be so determined.”
- 82 (1) Section 27 of that Act (committees and adjudicators for Wales) shall be amended as follows.
- (2) In subsection (1) for “sections 24 and 25 and Schedules 4 and 5” substitute “sections 24 and 25 of, and Schedules 4 and 5 to, this Act and Schedule 7 to the Learning and Skills Act 2000”.
  - (3) In subsection (2) for “or Chapter I of Part III” substitute “, Chapter I of Part III or Schedule 7 to the Learning and Skills Act 2000”.
- 83 In section 30(3) of that Act (notice by governing body to discontinue foundation or voluntary school) for “the appropriate further education funding council” substitute “the Learning and Skills Council for England (if the school is in England) or the National Council for Education and Training for Wales (if the school is in Wales)”.
- 84 In section 33(1) of that Act (establishment, alteration and discontinuance of schools) after “Schedule 6” insert “to this Act or under Schedule 7 to the Learning and Skills Act 2000”.
- 85 In section 110 of that Act (home-school agreements) in subsection (1)(b) for “or a city college for the technology of the arts” substitute “, a city college for the technology of the arts or a city academy”.
- 86 Part VI of that Act (partnership arrangements in Wales) shall cease to have effect.
- 87 (1) Section 137 of that Act (Education Transfer Council: alteration and dissolution) shall be amended as follows.
- (2) In subsection (3)(c) for “or under the Education Reform Act 1988” substitute “, under the Education Reform Act 1988 or under the Further and Higher Education Act 1992”.
  - (3) At the end of subsection (4)(a) insert “or section 34 or 36 of, or Schedule 5 or 7 to, the Further and Higher Education Act 1992”.
- 88 In section 142(1) of that Act (general interpretation) omit the definition of “the appropriate further education funding council”.
- 89 (1) Schedule 6 to that Act (statutory proposals: procedure and implementation) shall be amended as follows.

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- (2) In paragraph 4(3) after paragraph (d) insert—
- “or
- (e) any undetermined proposals published under Schedule 7 to the Learning and Skills Act 2000.”
- (3) In paragraph 4(4)(a) for “or under paragraph 8 or 9 of Schedule 7” substitute “of this Schedule, under paragraph 8 or 9 of Schedule 7 or under Schedule 7 to the Learning and Skills Act 2000”.
- 90 (1) Schedule 7 to that Act (rationalisation of school places) shall be amended as follows.
- (2) In paragraph 4(5)—
- (a) in paragraph (b) for “or under paragraph 5” substitute “of this Act, paragraph 5 of this Schedule or Schedule 7 to the Learning and Skills Act 2000”;
- (b) in paragraph (c) after sub-paragraph (ii) insert—
- “or
- (iii) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.”
- (3) In paragraph 8(7) after paragraph (c) insert—
- “and
- (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).”
- (4) In paragraph 8(10) after paragraph (b) insert—
- “or
- (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.”
- (5) In paragraph 13(4) after paragraph (c) insert—
- “and
- (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).”
- (6) In paragraph 13(7) after paragraph (b) insert—
- “or
- (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.”
- 91 In paragraph 5(1) of Schedule 22 to that Act (discontinuance of school: land)—
- (a) for “or paragraph 5 of Schedule 7” substitute “, paragraph 5 of Schedule 7 to this Act or Schedule 7 to the Learning and Skills Act 2000”;
- (b) after paragraph (a)(ii) insert—
- “or

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(iii) have been approved under Schedule 7 to the Learning and Skills Act 2000.”

*Government of Wales Act 1998 (c. 38)*

- 92 (1) Section 104 of the Government of Wales Act 1998 (funding of the Chief Inspector of Education and Training in Wales) is amended as follows.
- (2) In subsection (4), omit the words from “; and in determining” to the end.
- (3) After subsection (4), insert—
- “(4A) The Assembly shall—
- (a) approve the plan submitted to it under section 87 of the Learning and Skills Act 2000; and
- (b) determine the amount of the funding it is to provide under this section in accordance with the plan as approved by it.
- (4B) But before it gives its approval under subsection (4A)(a), the Assembly may require the Chief Inspector to modify the plan.”
- 93 In section 118(2) of that Act (meaning of “Welsh public records”) after paragraph (h) insert—
- “(ha) the National Council for Education and Training for Wales.”
- 94 In Part I of Schedule 4 to that Act (public bodies subject to reform by Assembly) for the entry relating to the Further Education Funding Council for Wales substitute—
- “5 The National Council for Education and Training for Wales.”

SCHEDULE 10

Section 151.

TRANSITIONAL PROVISIONS

**PART I**

ENGLISH COUNCILS

*Introduction*

- 1 For the purposes of this Part of this Schedule—
- (a) the appointed day is the day appointed under section 154 for the commencement of section 89;
- (b) the old Council is the Further Education Funding Council for England;
- (c) the new Council is the Learning and Skills Council for England;
- (d) the new Council’s full functions are its functions under sections 2 to 18.

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*Transitional provisions*

- 2 The old Council must do its best to secure that any functions remaining to be discharged by it at any time after the commencement of this paragraph are discharged before the appointed day.
- 3 (1) Anything being done by or in relation to the old Council immediately before the appointed day may be continued on or after that day by or in relation to the new Council.
- (2) In particular, any legal proceedings to which the old Council is a party immediately before the appointed day may be continued on or after that day by or in relation to the new Council.
- 4 Every agreement (whether written or not), and every instrument or other document, which relates to any property, right or liability to which section 89(1)(b) applies shall have effect, so far as may be required for continuing its effect on or after the appointed day, as if—
- (a) where the old Council is a party to it, the new Council were substituted as that party,
  - (b) for a reference to the old Council there were substituted a reference to the new Council,
  - (c) for a reference (however worded and whether express or implied) to the chairman, the chief officer or a member of the old Council there were substituted a reference to the chairman, the chief executive or a member of the new Council, and
  - (d) for a reference to the office or place of business of the old Council there were substituted a reference to the office or place of business of the new Council.
- 5 (1) This paragraph applies if the new Council is established before it acquires its full functions.
- (2) The Secretary of State may by order make provision—
- (a) conferring such powers on the new Council as the Secretary of State thinks will help it to carry out its full functions when it acquires them;
  - (b) imposing on the old Council a duty to give such assistance to the new Council as the new Council may reasonably require to help it to carry out its full functions when it acquires them.
- (3) The Secretary of State may make an order under this paragraph at any time before the day on which the new Council acquires its full functions.
- 6 At any time before the day on which the new Council acquires its full functions, section 1(2) has effect as if for “12” there were substituted “2”.
- 7 (1) The new Council must discharge a duty which satisfies the following three conditions.
- (2) The first condition is that the duty arises under—
- (a) section 8(6)(a) of the Further and Higher Education Act 1992 (report on further education for disabled students), or
  - (b) paragraph 16 of Schedule 1 to that Act (accounts).
- (3) The second condition is that the duty arises in respect of a period ending before the appointed day.

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- (4) The third condition is that apart from this Act the duty—
- (a) would have fallen to be discharged by the old Council after the appointed day, or
  - (b) fell to be discharged by the old Council before the appointed day but has not been discharged.
- 8 If an order under section 8(4) of the Further and Higher Education Act 1992 confers or imposes a function on the old Council, on or after the appointed day the order is to be treated as if—
- (a) it were made under section 18(4) of this Act, and
  - (b) it conferred or imposed the function on the new Council.

## PART II

### WELSH COUNCILS

#### *Introduction*

- 9 For the purposes of this Part of this Schedule—
- (a) the appointed day is the day appointed under section 154 for the commencement of section 91;
  - (b) the old Council is the Further Education Funding Council for Wales;
  - (c) the new Council is the National Council for Education and Training for Wales;
  - (d) the new Council's full functions are its functions under sections 31 to 46.

#### *Transitional provisions*

- 10 The old Council must do its best to secure that any functions remaining to be discharged by it at any time after the commencement of this paragraph are discharged before the appointed day.
- 11 (1) Anything being done by or in relation to the old Council immediately before the appointed day may be continued on or after that day by or in relation to the new Council.
- (2) In particular, any legal proceedings to which the old Council is a party immediately before the appointed day may be continued on or after that day by or in relation to the new Council.
- 12 Every agreement (whether written or not), and every instrument or other document, which relates to any property, right or liability to which section 91(1)(b) applies shall have effect, so far as may be required for continuing its effect on or after the appointed day, as if—
- (a) where the old Council is a party to it, the new Council were substituted as that party,
  - (b) for a reference to the old Council there were substituted a reference to the new Council,
  - (c) for a reference (however worded and whether express or implied) to the chairman, the chief officer or a member of the old Council there were

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- substituted a reference to the chairman, the chief executive or a member of the new Council, and
- (d) for a reference to the office or place of business of the old Council there were substituted a reference to the office or place of business of the new Council.
- 13 (1) This paragraph applies if the new Council is established before it acquires its full functions.
- (2) The National Assembly may by order make provision—
- (a) conferring such powers on the new Council as the National Assembly thinks will help the new Council to carry out its full functions when it acquires them;
- (b) imposing on the old Council a duty to give such assistance to the new Council as the new Council may reasonably require to help it to carry out its full functions when it acquires them.
- (3) The National Assembly may make an order under this paragraph at any time before the day on which the new Council acquires its full functions.
- 14 At any time before the day on which the new Council acquires its full functions, section 30(2) has effect as if for “10” there were substituted “2”.
- 15 (1) The new Council must discharge a duty which satisfies the following three conditions.
- (2) The first condition is that the duty arises under—
- (a) section 8(6)(a) of the Further and Higher Education Act 1992 (report on further education for disabled students), or
- (b) paragraph 16 of Schedule 1 to that Act (accounts).
- (3) The second condition is that the duty arises in respect of a period ending before the appointed day.
- (4) The third condition is that apart from this Act the duty—
- (a) would have fallen to be discharged by the old Council after the appointed day, or
- (b) fell to be discharged by the old Council before the appointed day but has not been discharged.
- 16 If an order under section 8(4) of the Further and Higher Education Act 1992 confers or imposes a function on the old Council, on or after the appointed day the order is to be treated as if—
- (a) it were made under section 46(4) of this Act, and
- (b) it conferred or imposed the function on the new Council.

### PART III

#### ADULT LEARNING INSPECTORATE

- 17 (1) During the interim period, section 52(2) has effect as if for “9” there were substituted “not less than 2 and not more than 9”.
- (2) The interim period begins on the day on which section 52 comes into force.

- (3) The interim period ends on the first day on which there are 9 members of the Inspectorate.

## PART IV

### STUDENT LOANS

- 18 (1) Sub-paragraph (2) has effect in relation to the Education (Student Loans) Act 1990 to the extent that it continues in force by virtue of any savings made, in connection with its repeal by the Teaching and Higher Education Act 1998, by an order under section 46(4) of the Teaching and Higher Education Act 1998.
- (2) Section 1(3) of the Education (Student Loans) Act 1990 shall have effect as if the definition of “institutions receiving support from public funds” included a reference to institutions which receive financial resources under section 5 or 34 of this Act.

## SCHEDULE 11

Section 153.

### REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
<a href="#">1972 c. 11.</a>	Superannuation Act 1972.	In Schedule 1, in the list of “Other Bodies”, the words “Further Education Funding Council for England in receipt of remuneration.” and “Further Education Funding Council for Wales in receipt of remuneration.”.
<a href="#">1975 c. 24.</a>	House of Commons Disqualification Act 1975.	In Schedule 1, in Part III the words “Any member of the Further Education Funding Council for England in receipt of remuneration.” and “Any member of the Further Education Funding Council for Wales in receipt of remuneration.”.
<a href="#">1975 c. 65.</a>	Sex Discrimination Act 1975.	Section 25(6)(d).
<a href="#">1976 c. 74.</a>	Race Relations Act 1976.	Section 19(6)(d).
<a href="#">1988 c. 40.</a>	Education Reform Act 1988.	In section 124(2)(b), the words “, as defined by section 15(6) and (7) of the Education Act 1996”.
<a href="#">1992 c. 13.</a>	Further and Higher Education Act 1992.	Sections 1 to 9. Section 18(4) to (6).

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Section 28(2)(b).
		Section 32(2A).
		Section 44(6).
		Section 45(6).
		In section 52(1), the word “full-time”.
		In section 55, subsections (1) to (3) and paragraphs (a) and (b) of subsection (7).
		Section 56.
		Section 60A.
		Section 91(2).
		In Schedule 1, paragraph 9.
		Schedule 2.
		Schedule 5A.
1995 c. 50.	Disability Discrimination Act 1995.	Section 19(6)(e) and (f).
		Section 30(2) to (4).
1996 c. 56.	Education Act 1996.	Section 15.
		In section 403(1) the words “local education authority,”.
		In section 482, in subsection (2)(c) the word “either” and in subsection (3) the word “or” immediately preceding paragraph (b).
		In section 509(1), paragraph (d) and the word “or” immediately preceding that paragraph.
		In Schedule 37, paragraphs 70, 112 and 113.
1996 c. 57.	School Inspections Act 1996.	In section 10(3) the word “and” at the end of paragraph (g).
1997 c. 44.	Education Act 1997.	In section 30, in subsection (1) the words “or by subsection (3)” and subsection (3).
		In section 37, subsections (1) to (4) and in subsection (5)



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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1998 c. 18.	Audit Commission Act 1998.	<p>the words “, which are superseded by this section,”.</p> <p>In section 36(1), in the Table, the entry relating to a further education funding council.</p> <p>In section 36(2), the words “or a further education funding council”.</p>
1998 c. 30.	Teaching and Higher Education Act 1998.	<p>In section 19, in subsection (1) the word “or” immediately preceding paragraph (b), in subsection (2)(f) the words “employed as a teacher at a school” and in subsection (10) the word “and” immediately preceding paragraph (c).</p> <p>In section 22(2)(h) and (7) the words “attendance on”.</p> <p>Section 26(1) and (2).</p> <p>In section 28(1), in the definition of “publicly-funded institution”, in paragraph (a) the words “5 or” and the words from “from a further” to “its costs”.</p> <p>Section 34.</p>
1998 c. 31.	School Standards and Framework Act 1998.	<p>Sections 125 and 126.</p> <p>In section 142(1), the definition of “the appropriate further education funding council”.</p> <p>In Schedule 6, in paragraph 4(3) the word “or” immediately after paragraph (c).</p> <p>In Schedule 7, in paragraph 4(5) the word “or” immediately after paragraph (c)(i), in paragraph 8(7) the word “or” immediately after paragraph (b), in paragraph 8(10) the word “or” immediately</p>

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		after paragraph (a), in paragraph 13(4) the word “and” immediately after paragraph (b) and in paragraph 13(7) the word “or” immediately after paragraph (a).
		In Schedule 22, in paragraph 5(1) the word “or” immediately after paragraph (a)(i).
		Schedule 27.
		In Schedule 30, paragraphs 41 and 42.
1998 c. 38.	Government of Wales Act 1998.	In section 104(4), the words from “; and in determining” to the end.

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