



# Further Education and Training Act 2007

## 2007 CHAPTER 25

### PART 2

#### FURTHER EDUCATION INSTITUTIONS

##### *Further education corporations*

#### <sup>F1</sup>14 Incorporation of further education institutions

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##### Textual Amendments

- F1** Ss. 14-16 repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 62, **Sch. 16 Pt. 2**; S.I. 2010/303, art. 3, Sch. 2 (with arts. 1314) (as amended (30.3.2010) by S.I. 2010/1151, art. 22)

#### <sup>F1</sup>15 Dissolution of further education corporations

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##### Textual Amendments

- F1** Ss. 14-16 repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 62, **Sch. 16 Pt. 2**; S.I. 2010/303, art. 3, Sch. 2 (with arts. 1314) (as amended (30.3.2010) by S.I. 2010/1151, art. 22)

#### <sup>F1</sup>16 Publication of proposals

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*Changes to legislation: There are currently no known outstanding effects for the Further Education and Training Act 2007, Part 2. (See end of Document for details)*

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### Textual Amendments

- F1** Ss. 14-16 repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 62, **Sch. 16 Pt. 2**; S.I. 2010/303, art. 3, Sch. 2 (with arts. 1314) (as amended (30.3.2010) by S.I. 2010/1151, art. 22)

### *Intervention in further education institutions*

## 17 Intervention: England

Before section 57 of FHEA 1992, insert—

### “56A Intervention: England

- (1) This section applies if the Learning and Skills Council for England is satisfied as to one or more of the matters listed in subsection (2) in the case of an institution in England within the further education sector; and it is immaterial whether or not a complaint is made by any person.
- (2) The matters are—
  - (a) that the institution's affairs have been or are being mismanaged by the institution's governing body;
  - (b) that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
  - (c) 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) that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.
- (3) If this section applies the council may do one or more of the things listed in subsection (6).
- (4) Before doing one or more of those things, the council must give the Secretary of State a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the council is satisfied;
  - (b) the reasons why the council is so satisfied;
  - (c) the thing or things that the council proposes to do;
  - (d) the reasons why the council proposes to do that thing or those things.
- (5) If the council does one or more of those things, it must at the same time give the institution's governing body a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the council is satisfied;
  - (b) the reasons why the council is so satisfied;
  - (c) the reasons why the council has decided to do that thing or those things.
- (6) The council may—

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- (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 it thinks expedient as to the exercise of their powers and performance of their duties.
- (7) The directions that may be given to a governing body under this section include a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- (9) The council may not direct a governing body under subsection (6)(c) to dismiss a member of staff.
- (10) But subsection (9) does not prevent the council, where it considers that it may be appropriate to dismiss a member of staff whom the governing body have power under their institution's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.
- (11) A governing body must comply with any directions given to them under this section.
- (12) 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.

## **56B Intervention policy: England**

- (1) The Learning and Skills Council for England must—
- (a) prepare a statement of its policy with respect to the exercise of its powers under section 56A,
  - (b) keep it under review, and
  - (c) if it considers it appropriate in consequence of a review, prepare a revised statement of its policy.
- (2) When preparing a statement or revised statement of its policy, the council must—
- (a) undertake such consultation as it thinks appropriate;
  - (b) consider any representations made to it about the policy to be set out in the statement.
- (3) The Secretary of State may give the council guidance in relation to the exercise of its functions under subsections (1) and (2), and in particular in relation to the form and content of the policy.
- (4) It is the duty of the council to have regard to any guidance given to it under subsection (3).

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- (5) The council must send a copy of the statement or revised statement prepared by it to the Secretary of State.
- (6) If the Secretary of State approves it he shall lay a copy of it before each House of Parliament.
- (7) The council must publish—
  - (a) the statement of its policy approved by the Secretary of State;
  - (b) where the Secretary of State approves a revised statement of its policy, the revised statement.
- (8) The council must have regard to the statement most recently published under subsection (7) in exercising, or deciding whether to exercise, any of its powers under section 56A in relation to an institution.

### 56C Directions

- (1) This section applies if—
  - (a) the Secretary of State is satisfied as to one or more of the matters listed in section 56A(2) in the case of an institution in England within the further education sector, and
  - (b) the Secretary of State is satisfied that the circumstances are such that it would be appropriate for the Learning and Skills Council for England to do one or more of the things listed in section 56A(6) in relation to the institution.
- (2) In such a case the Secretary of State may give to the council such directions as he thinks fit as to the exercise of the council's powers under section 56A.
- (3) Where the Secretary of State gives the council a direction under this section, he must at the same time give the council a notice stating the matter or matters listed in section 56A(2) as to which he is satisfied.
- (4) The council must comply with any directions given to it under this section.
- (5) Where the council does a thing listed in section 56A(6) in relation to an institution in compliance with a direction under this section—
  - (a) the council must give the institution's governing body a copy of the relevant notice under subsection (3), and
  - (b) the requirement to give a notice under section 56A(5) does not apply.”

#### Commencement Information

- 11** S. 17 in force at 23.12.2007 for specified purposes by [S.I. 2007/3505, art. 2\(c\)](#)
- 12** S. 17 in force at 18.4.2008 in so far as not already in force by [S.I. 2007/3505, art. 5](#)

### 18 Intervention: Wales

- (1) Section 57 of FHEA 1992 (intervention) is amended as set out in subsections (2) to (4).
- (2) In subsection (2) (conditions for intervention), for paragraph (d) substitute—

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“(d) they are satisfied that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.”

(3) After subsection (5) insert—

“(5A) The directions that may be given to a governing body under this section include a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.”

(4) After subsection (6) insert—

“(6A) The Welsh Ministers may not direct a governing body under subsection (5) (c) to dismiss a member of staff.

(6B) But subsection (6A) does not prevent the Welsh Ministers, where they consider that it may be appropriate to dismiss a member of staff whom the governing body have power under their institution's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.”

<sup>F2</sup>(5) .....

#### Textual Amendments

**F2** S. 18(5) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), **Sch. 2 para. 4(a)**; S.I. 2014/1706, art. 3(h)

#### Commencement Information

**I3** S. 18(1)-(4) in force at 18.4.2008 by [S.I. 2008/983](#), **art. 2**

**I4** S. 18(5) in force at 23.12.2007 by [S.I. 2007/3565](#), **art. 2**

### *Foundation degrees*

## **19 Power to award foundation degrees**

(1) Section 76 of FHEA 1992 (power to award degrees etc) is amended as follows.

(2) In subsection (1) (power of Privy Council to specify institutions by order)—

- (a) the words from “specify any institution” to the end become paragraph (a), and
- (b) after that paragraph insert “;  
(b) specify any institution in England within the further education sector as competent to grant in pursuance of this section an award of the kind mentioned in subsection (2A) below.”

(3) In subsection (2) (kinds of award) for “subsection (1)” substitute “subsection (1)(a)”.

(4) After subsection (2) insert—

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- “(2A) The kind of award referred to in subsection (1)(b) above is a foundation degree granted to persons who complete an appropriate course of study and satisfy an appropriate assessment.”
- (5) After subsection (2A) (as inserted by subsection (4)) insert—
- “(2B) Where the Privy Council is considering whether to make an order under subsection (1) above specifying an institution as mentioned in subsection (1) (b) above, the Privy Council may not make the order unless—
- (a) the institution gives the Privy Council a statement setting out what it proposes to do as regards making arrangements for securing that any person granted an award under or by virtue of any power that would be conferred on the institution if the order were made (other than the power described in subsection (4A) below) has an opportunity to progress to one or more particular courses of more advanced study, and
  - (b) the Privy Council considers that the proposals are satisfactory and are likely to be carried out.”
- (6) In subsection (3) (power to grant awards), after “subsection (2)(a) or (b)” insert “ or (2A) ”.
- (7) In subsection (4) (power to grant honorary degrees etc), after “such an order” insert “ as competent to grant in pursuance of this section either or both of the kinds of award mentioned in subsection (2)(a) or (b) above ”.
- (8) After subsection (4) insert—
- “(4A) An institution specified in such an order as competent to grant in pursuance of this section the kind of award mentioned in subsection (2A) above may also—
- (a) grant honorary foundation degrees, and
  - (b) grant foundation degrees to members of the academic and other staff of the institution.”
- (9) In subsection (5) (powers comprised in the power to grant awards), for “Any” substitute “ Subject to subsection (5A) below, any ”.
- (10) After subsection (5) insert—
- “(5A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution's power to grant such awards does not include the power described in subsection (5)(a) above.”
- (11) In subsection (6) (power of institution to determine appropriate course of study etc) for “It” substitute “ Subject to subsection (6A) below, it ”.
- (12) After subsection (6) insert—
- “(6A) An order under subsection (1) above specifying an institution as competent to grant in pursuance of this section only the kind of award mentioned in subsection (2A) above may provide that the institution is not to grant such an award to a person unless he was enrolled at the institution at the time he completed the course of study for which the award is granted.”

*Changes to legislation: There are currently no known outstanding effects for the Further Education and Training Act 2007, Part 2. (See end of Document for details)*

**Commencement Information**

**I5** S. 19 in force at 1.5.2008 by [S.I. 2007/3505](#), [art. 6](#)

**20 Report**

Within the period of four years beginning with the commencement of section 19, the Secretary of State must lay before Parliament a report about the effect of that section.

**Commencement Information**

**I6** S. 20 in force at 1.5.2008 by [S.I. 2007/3505](#), [art. 6](#)

*Other provisions relating to further education institutions*

**21 Powers of a further education corporation to form or be involved in certain bodies corporate**

(1) Section 19 of FHEA 1992 (supplementary powers of a further education corporation) is amended as set out in subsections (2) to (6).

(2) In subsection (4), for paragraph (bb), substitute—

“(bb) form, participate in forming or invest in a company,

(bc) form, participate in forming or otherwise become a member of a charitable incorporated organisation (within the meaning of section 69A of the Charities Act 1993),”.

<sup>F3</sup>(3) .....

<sup>F3</sup>(4) .....

<sup>F3</sup>(5) .....

(6) At the end, insert—

“(8) A reference in this section to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.”

(7) In relation to the period beginning on 1st April 2001 and ending immediately before the coming into force of this section, the power conferred by section 19(4)(bb) of FHEA 1992 is to be taken to have included power to form, participate in forming or become a member of a company limited by guarantee.

**Textual Amendments**

**F3** S. 21(3)-(5) omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), [Sch. 2 para. 4\(b\)](#); [S.I. 2014/1706](#), art. 3(h)

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## **F<sup>4</sup>22 Consultation by governing bodies of further education institutions**

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### **Textual Amendments**

- F4** S. 22 omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), **Sch. 2 para. 4(c)**; S.I. 2014/1706, art. 3(h)

### **Commencement Information**

- I7** S. 22 in force at 23.12.2007 for E. by [S.I. 2007/3505](#), **art. 2(d)**

## **23 Qualifications of principals of further education institutions**

- (1) Section 137 of the Education Act 2002 (c. 32) (power of Secretary of State or Welsh Ministers to make regulations requiring principals of further education institutions to have specified qualifications) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Regulations under subsection (1) may limit the period of time during which a person may serve as the principal of an institution in reliance on subsection (2).”
- (3) In subsection (3) (regulations made for England or Wales not to apply to persons already appointed to institutions)—
- (a) for “under subsection (1)” substitute “made under subsection (1) by the Welsh Ministers in relation to Wales”, and
- (b) after “an institution” insert “in England or Wales”.

### **Commencement Information**

- I8** S. 23 in force at 23.12.2007 for E. by [S.I. 2007/3505](#), **art. 2(d)**



**Changes to legislation:**

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