



Further Education Act 1985

1985 CHAPTER 47

Further education establishments

2 Powers of [^{F1}local authorities].

- (1) A [^{F1}local authority] shall have power—
- (a) to enter into an agreement for the supply of goods or services or both through [^{F2}an institution which is maintained by them and provides higher education or further education (or both)];
 - (b) to lend money for the purposes of such an agreement to a body corporate in which they have a holding such as is mentioned in subsection (8) below.
- (2) A [^{F1}local authority] shall also have power to lend money—
- ^{F3}(a) to a higher education corporation [^{F4}, further education corporation or sixth form college corporation] (within the meaning of the Further and Higher Education Act 1992);
 - (b) in the case of the following institutions—
 - (i) an institution within the higher education sector which is not conducted by a higher education corporation;
 - (ii) an institution within the further education sector which is not conducted by a further education corporation [^{F5}or a sixth form college corporation]; or
 - (iii) an institution which provides higher education or further education and is assisted by a [^{F1}local authority],
to the governing body of the institution or, if it is conducted by a company, to the company; or
 - (c) to a body corporate in which such a corporation or company as is mentioned in paragraph (a) or (b) above has a holding such as is mentioned in subsection (8) below],

if the loan is for the purposes of an agreement for the supply of goods or services or both through the [^{F6}institution conducted by the corporation, company or governing body].

Changes to legislation: There are currently no known outstanding effects for the Further Education Act 1985, Section 2. (See end of Document for details)

- (3) Subject to the following provisions of this section, a [^{F1}local authority] shall not under an agreement under subsection (1)(a) above supply goods or services for less than their open market value.
- (4) Subsection (3) above does not apply to the supply of goods or services where the goods are produced, or the goods or services are supplied, in the normal course of any of the educational activities mentioned in section 1(3)(a) above, or where the supply is—
- (a) for a body which is a Research Council for the purposes of the ^{M1}Science and Technology Act 1965 [^{F7} or for [^{F8}United Kingdom Research and Innovation]] ; or
 - (b) for a body specified in an order under subsection (5) below.
- (5) The Secretary of State may by order made by statutory instrument provide that any person who is specified in the order or is of a description so specified, being a person or description of persons appearing to the Secretary of State to be exercising functions of a public nature, shall be a public body for the purposes of this Act; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (5) above may contain such provisions as the Secretary of State considers appropriate—
- (a) for restricting the application of subsection (4)(b) above to agreements of a description specified in the order;
 - (b) without prejudice to paragraph (a) above, for securing the inclusion of terms imposing restrictions in any agreement to which subsection (4)(b) above applies and which is made by a body to which the order applies.
- (7) For the purposes of this Act the open market value of goods or services shall be taken to be the amount of the consideration in money that would be payable for the supply by a person standing in no such relationship with any person as would affect that consideration.
- (8) The holding referred to in subsections (1)(b) [^{F9} and [^{F10}(2)(c)]] above is a holding of not less than 20 per cent. of the issued shares comprised in the share capital of the body corporate and carrying rights to vote in all circumstances at general meetings of the body corporate.
- (9) Money may be lent under this section for the purposes of an agreement either before the agreement is made or during its currency.
- (10) Nothing in this section shall be construed as derogating from any powers exercisable by a [^{F1}local authority] apart from this section.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 2(2)**
- F2** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 93(2)**
- F3** S. 2(2)(a)-(c) substituted (30.9.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. I para. 21** (1); S.I. 1992/831, art. 2, **Sch. 2**
- F4** Words in s. 2(2)(a) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 87(a)** (with art. 2(3))

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- F5** Words in s. 2(2)(b)(ii) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 87(b)** (with art. 2(3))
- F6** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 93(4)**
- F7** Words in s. 2(4)(a) inserted (16.12.2004) by Higher Education Act 2004 (c. 8), s. 52(2), **Sch. 6 para. 6**; S.I. 2004/3255, art. 2
- F8** Words in s. 2(4)(a) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 12 para. 14**; S.I. 2018/241, reg. 2(t)
- F9** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 237(1), **Sch. 12 para. 93(5)**
- F10** Words in s. 2(8) substituted (30.9.1992) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. 1 para. 21(2)**; S.I. 1992/831, art. 2, **Sch. 2**

Marginal Citations

- M1** 1965 c. 4.

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