



Education Reform Act 1988

1988 CHAPTER 40

PART II

HIGHER AND FURTHER EDUCATION

CHAPTER IV

MISCELLANEOUS AND SUPPLEMENTARY

^{F1}156 Government and conduct of certain further and higher education institutions.

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Textual Amendments

F1 S. 156 repealed (1. 4. 1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(2), [Sch.9](#); S.I. 1992/831, art. 2, [Sch.3](#).

Modifications etc. (not altering text)

C1 S. 156: by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 85(1); S.I. 1992/831, art. 2, [Sch.3](#), it is provided (1. 4. 1993) that s. 156 shall cease to have effect in relation to designated assisted institutions.

157 Variation of trust deeds, etc.

^{F2}(1) An order of the Privy Council may modify any trust deed or other instrument—

- (a) relating to or regulating any such institution as is mentioned in subsection (2) below; or
- (b) relating to any land or other property held by any person for the purposes of any such institution.

(2) The institutions referred to in subsection (1) above are—

- (a) any institution conducted by a higher education corporation [^{F3}in Wales]; and

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- (b) any institution in relation to which a designation made, or having effect as if made, under section 129 of this Act has effect, other than an institution established by Royal Charter.
- (3) Before making any modifications under subsection (1) above of any trust deed or other instrument the Privy Council shall so far as it appears to them to be practicable to do so consult—
- (a) the governing body of the institution;
 - (b) where that deed or instrument, or any other instrument relating to or regulating the institution concerned, confers power on any other persons to modify or replace that deed or instrument, those persons; and
 - (c) where the instrument to be modified is a trust deed and the trustees are different from the persons mentioned in paragraphs (a) and (b) above, the trustees.]
- (4) Any provision of any instrument relating to any land or other property held for the purposes of any institution maintained ^{F4}. . . by a [^{F5}local authority] to which this subsection applies which—
- (a) confers on any person an option to acquire an interest in that land or other property; or
 - (b) provides (in whatever terms) for the determination or forfeiture of any such interest;
- in the event of the institution’s ceasing to be maintained ^{F4}. . . by a [^{F5}local authority] or (as the case may be) by the authority in question shall, if the institution becomes [^{F6}an institution within the further education sector] an institution within [^{F7}the higher education sector] or a grant-aided institution, have effect as if the event referred to were the institution’s ceasing to be a publicly funded institution.
- (5) Subsection (4) above applies—
- (a) to an institution maintained by a [^{F5}local authority] if it is an institution providing full-time education which is maintained by the authority in exercise of their further or higher education functions; and
 - ^{F8}(b)
- (6) In that subsection “publicly funded institution” means an institution which is an institution of any one or more of the following descriptions, that is to say—
- (a) an institution maintained or assisted by a [^{F5}local authority];
 - (b) [^{F9}an institution within the further education sector or] an institution within [^{F10}the higher education sector]; and
 - (c) a grant-aided institution.

Textual Amendments

- F2** S. 157(1)-(3) substituted (6. 5. 1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 75](#); S.I. 1992/831, art. 2, [Sch. 1](#).
- F3** Words in s. 157(2)(a) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 8 para. 19](#); S.I. 2018/1226, reg. 4(o)
- F4** Words in s. 157(4) repealed (1. 4. 1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, [Sch. 8 Pt. I para. 39\(a\)\(i\)](#), [Sch.9](#); S.I. 1992/831, art. 2, [Sch.3](#).
- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 4\(2\)](#)

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- F6** Words in s. 157(4) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(a)(ii)**; S.I. 1992/831, art. 2, **Sch.3**.
- F7** Words in s. 157(4) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(a)(iii)**; S.I. 1992/831, art. 2, **Sch.3**.
- F8** S. 157(5)(b) repealed (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 39(b), **Sch.9**; S.I. 1992/831, art. 2, **Sch.3**.
- F9** Words in s. 157(6)(b) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(c)(i)**; S.I. 1992/831, art. 2, **Sch.3**.
- F10** Words in s. 157(6)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para. 39(c)(ii)**; S.I. 1992/831, art. 2, **Sch.3**.

^{F11}158 Reports and returns to Secretary of State.

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Textual Amendments

- F11** S. 158 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 3(2)**

^{F12}159 Information with respect to educational provision in institutions providing further or higher education.

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Textual Amendments

- F12** S. 159 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 3(3)**

160 Adjustments of block grant in respect of expenditure on advanced further education.

- ^{F13}(1) The block grant payable to a local authority in England for any year beginning on or after the date appointed for the purposes of section 126(1) of this Act shall not be subject to adjustment in accordance with paragraph 6 of Schedule 10 to the ^{M1}Local Government, Planning and Land Act 1980 (which relates to adjustments of block grant in respect of expenditure on advanced further education as between local authorities).
- (2) In relation to any expenditure incurred by such an authority on or after that date in the exercise of the authority's functions as a ^{F5}local authority], sub-paragraphs (3)(a) and (5)(b) of paragraph 5 of that Schedule (which define certain expenditure for the purposes of that paragraph) shall each have effect as if the words "other than that to which paragraph 6 below applies" were omitted.
- (3) On that date Part I of that Schedule (which relates to adjustments of block grant in respect of expenditure on advanced further education as between England and Wales) shall cease to have effect.
- (4) Anything done by the Secretary of State before the passing of this Act for the purpose of making in the block grant payable to a local authority in England adjustments under paragraph 5 or 6 of that Schedule in respect of expenditure incurred in the years beginning in 1985, 1986 and 1987 by local authorities in England in connection with

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further education of an advanced character (including the training of teachers) shall be deemed to have been done in accordance with that paragraph.

(5) In this section—

“local authority” means a body which is a local authority for the purposes of Part VI of that Act; and

“year” has the same meaning as in that Part.]

Textual Amendments

- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 4(2)**
- F13** S. 160 repealed (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); [S.I. 2003/124](#), art. 4

Marginal Citations

- M1** 1980 c. 65.

161 Interpretation of Part II.

(1) In this Part of this Act, except where the context otherwise requires—

(a) references to courses of advanced further education shall be read in accordance with section 121(4);

[^{F14}(b) references to the further or higher education functions of a [^{F5}local authority] are references to the functions of the authority (except in so far as they relate to secondary education) under sections [^{F15}15ZA,] 15A and 15B of the Education Act 1996 (post-16 education) and section 120 of this Act (higher education);]

[^{F16}(ba) “further education corporation in England” means a further education corporation established to conduct an institution whose activities are carried on, or principally carried on, in England;

(bb) “further education corporation in Wales” means a further education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales;]

[^{F17}(c)

(d) “governing body” includes, in relation to any institution, a board of governors of the institution or any persons responsible for the management of the institution (but not formally constituted as such a body or board).

[^{F18}(e) “higher education corporation in England” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in England;

(f) “higher education corporation in Wales” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.]

(2) References in this Part of this Act to the total full-time equivalent enrolment number of any institution at any time are references to the aggregate of its full-time equivalent enrolment numbers at that time for courses of all descriptions then offered by that institution.

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- (3) For the purposes of this Part of this Act the full-time equivalent enrolment number at any time of any institution for courses of any description shall be determined in accordance with Schedule 9 to this Act.

Textual Amendments

- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 4(2)**
- F14** S. 161(1)(b) substituted (28.7.2000 insofar as consequential on ss. 130, 131, [Sch. 8](#) of the amending Act and otherwise 1.4.2001) by [2000 c. 21, s. 149](#), **Sch. 9 para. 17**; [S.I. 2001/654, art. 2\(2\)](#), **Sch. Pt. II**; [S.I. 2001/1274, art. 2\(1\)](#), **Sch. Pt. I**
- F15** Word in s. 161(1)(b) 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. 17** (with art. 2(3))
- F16** S. 161(1)(ba)(bb) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 8 para. 20(a)**; [S.I. 2018/1226, reg. 4\(o\)](#)
- F17** S. 161(1)(c) repealed (1. 4. 1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, [Sch. 8 Pt. I para. 42](#), **Sch.9**; [S.I. 1992/831, art. 2](#), **Sch.3**.
- F18** S. 161(1)(e)(f) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 8 para. 20(b)**; [S.I. 2018/1226, reg. 4\(o\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)