



Education Reform Act 1988

1988 CHAPTER 40

PART II

HIGHER AND FURTHER EDUCATION

CHAPTER I

LOCAL EDUCATION AUTHORITY FUNCTIONS WITH RESPECT TO HIGHER AND FURTHER EDUCATION

- 120** (1) A local education authority shall no longer be under a duty to secure the provision for their area of facilities for higher education, that is to say, education provided by means of a course of any description mentioned in Schedule 6 to this Act.
- (2) The following section shall be substituted for section 41 of the 1944 Act—

“41 Functions of local education authorities with respect to further education

- (1) It shall be the duty of every local education authority to secure the provision for their area of adequate facilities for further education.
- (2) Subject to the following provisions of this section, in this Act “further education” means—
- (a) full-time and part-time education for persons over compulsory school age (including vocational, social, physical and recreational training); and
 - (b) organized leisure-time occupation provided in connection with the provision of such education.
- (3) In this Act “further education” does not include higher education.
- (4) Full-time education suitable to the requirements of senior pupils over compulsory school age shall not be regarded for the purposes of this Act as

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further education if it is or is to be provided by an institution which does not provide part-time senior education or post-school age education to a significant extent.

- (5) In this Act—
- (a) “part-time senior education” means part-time education for senior pupils over compulsory school age; and
 - (b) “post-school age education” means full-time or part-time education for persons of or over nineteen years of age.
- (6) The duty of a local education authority under subsection (1) above extends, in the case of further education of a vocational kind, to the provision of facilities for continuing education for persons already in employment or already engaged in a vocation as well as to the provision of facilities for education with a view to entry into any employment or vocation.
- (7) In subsection (2)(b) above “organized leisure time occupation” means leisure-time occupation, in such organized cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- (8) A local education authority shall have power to secure the provision of further education for persons living outside their area.
- (9) In fulfilling their duty under subsection (1) above a local education authority shall have regard to any educational facilities provided by universities, institutions within the PCFC funding sector and other bodies which are provided for, or available for use by persons living in, their area.
- (10) In fulfilling that duty a local education authority shall also have regard to the requirements of persons over compulsory school age who have learning difficulties.
- (11) Subject to subsection (12) below, for the purposes of subsection (10) above 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 the local education authority concerned in pursuance of their duty under subsection (1) above for persons of his age.
- (12) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (13) A local education authority shall have power to 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.”
- (3) A local education authority shall have power—
- (a) to secure the provision for their area of such facilities for higher education as appear to them to be appropriate for meeting the needs of the population of their area;

- (b) to secure the provision of higher education for persons living outside their area; and
 - (c) to do anything which appears to them to be necessary or expedient for the purposes of or in connection with such provision.
- (4) In exercising their power under subsection (3)(a) above a local education authority shall have regard to any facilities for higher education provided by universities, institutions within the PCFC funding sector and other bodies which are provided for, or available for use by persons living in, their area.
- (5) In the 1944 Act—
- (a) section 42 (which contains provisions relating to schemes for regulating the provision by local education authorities of further education and is no longer required for the purposes of section 41 of that Act as substituted by this section); and
 - (b) sections 43 to 46 (which relate to county colleges and have never been put into operation);
- shall cease to have effect.
- (6) In section 8 of that Act (duty of local education authority to secure provision of primary and secondary schools)—
- (a) in subsection (1)(b) (which requires a local education authority to secure that sufficient schools for providing secondary education are available for their area), the words “other than such full-time education as may be provided for senior pupils in pursuance of a scheme made under the provisions of this Act relating to further education” shall be omitted; and
 - (b) at the end there shall be added the following subsection—
 - “(3) In fulfilling their duty under subsection (1)(b) above a local education authority shall have regard to any facilities for full-time education—
 - (a) provided for senior pupils by any educational institution maintained or assisted by the authority in exercise of their functions under section 41 of this Act; or
 - (b) otherwise secured for such pupils by the authority in exercise of those functions.”
- (7) In section 67 of that Act (determination of disputes and questions), at the end there shall be added the following subsection—
- “(4A) If in the case of any institution a question arises as to whether any current or proposed provision of part-time senior education or post-school age education by that institution amounts or would amount to the provision of such education to a significant extent, that question shall be determined by the Secretary of State.”
- (8) References in this Act to an institution within the PCFC funding sector are references to any institution which falls to be treated as within that sector for the purposes of this Act by virtue of section 132 of this Act (which establishes the Polytechnics and Colleges Funding Council).
- (9) In section 114 of the 1944 Act (interpretation)—
- (a) in subsection (1)—
 - (i) after the definition of “further education” there shall be inserted the following definition—

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““Higher education” has the meaning assigned to it by section 120(1) of the Education Reform Act 1988;” and

- (ii) after the definition of “parent” there shall be inserted the following definitions—

““Part-time senior education” has the meaning assigned to it by section 41 of this Act;

“Post-school age education” has the meaning assigned to it by section 41 of this Act;” and

- (b) after that subsection there shall be inserted the following subsections—

“(1A) References in this Act to an institution within the PCFC funding sector are references to any institution which falls to be treated as within that sector for the purposes of the Education Reform Act 1988 by virtue of section 132 of that Act (which establishes the Polytechnics and Colleges Funding Council).

(1B) For the purposes of this Act, an institution which provides part-time senior education or post-school age education shall be regarded as providing such education to a significant extent if the provision of such education by the institution is not merely incidental to the provision of education which is not part-time senior education or post-school age education.

(1C) For the purpose of determining whether an institution is a school as defined by subsection (1) of this section, the provision by the institution of part-time senior education or post-school age education shall be disregarded if the institution does not provide such education to a significant extent.”.

- (10) The Secretary of State may by order amend Schedule 6 to this Act.