



Teaching and Higher Education Act 1998

1998 CHAPTER 30

PART II

FINANCIAL PROVISION FOR HIGHER AND FURTHER EDUCATION

CHAPTER I

ENGLAND AND WALES

Student support

23 **Transfer or delegation of functions relating to student support.** **E+W**

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations under section 22 shall, to such extent as is specified in his determination, be exercisable instead by such body as is so specified which is either—
- (a) a [^{F1}local authority]^{F2}..., or
 - (b) the governing body of an institution [^{F3}with] which eligible students (within the meaning of such regulations) are [^{F4}undertaking] courses.
- (2) A body by whom any function is for the time being exercisable by virtue of subsection (1) shall comply with any directions given by the Secretary of State as to the exercise of that function.

- ^{F5}[^{F6}(3) Where any function is so exercisable by a [^{F1}local authority], the functions shall be taken to be a function of that authority for the purposes of—
- (a) in the case of an authority which is not operating executive arrangements, section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities),
 - (b) section 70 of the Deregulation and Contracting Out Act 1994 (contracting out of functions of local authorities), and

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- (c) in the case of an authority which is operating executive arrangements, section 13 of the Local Government Act 2000 and accordingly—
- (i) if, or to the extent that, that function is the responsibility of the executive of that authority sections 14 to 16 and any regulations made under sections 17 to 20 of that Act shall apply; or
 - (ii) if, or to the extent that, that function is not the responsibility of that executive section 101 of the Local Government Act 1972 shall apply]
- (4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of regulations under section 22 (including any such function in relation to appeals).
- (5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.
- (6) The Secretary of State may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of subsection (1) or (4) as he may determine, and
 - (b) to be so made to a person or body appointed by him for the purpose.
- (7) The Secretary of State may pay to any body or person by whom any function is exercisable by virtue of subsection (1) or (4)—
- (a) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—
 - (i) in making grants or loans under section 22, or
 - (ii) by way of administrative expenses,
 in, or in connection with, the exercise of that function;
 - (b) in a case where the function is exercisable by virtue of subsection (4), such remuneration as he may determine.
- (8) Any payment under subsection (7)(a) may be made subject to such terms and conditions as the Secretary of State may determine; and any such conditions may in particular—
- (a) require the provision of returns or other information before any such payment is made;
 - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (9) The Secretary of State may pay to any person or body appointed by him under subsection (6) such remuneration or administrative expenses (or both) as he may determine.
- (10) In relation to any function which, by virtue of subsection (1) or (4), is exercisable to a specified extent, references in any other provision of this section to the exercise of that function are accordingly to its exercise to that extent.
- ^{F7}^{F8}(11) In this section “executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000.]

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Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

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. 9(2)**
- F2** Words in s. 23(1)(a) repealed (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. 9(3), **Sch. 3 Pt. 1**
- F3** Word in s. 23(1)(b) substituted (1.10.2000) by [2000 c. 21, s. 146\(3\)\(a\)](#); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**
- F4** Word in s. 23(1)(b) substituted (1.10.2000) by [2000 c. 21, s. 146\(3\)\(b\)](#); S.I. 2000/2559, art. 2(1), **Sch. Pt. I**
- F5** S. 23(3) substituted (W.) (1.4.2002) by [S.I. 2002/808](#), **art. 33(a)**
- F6** S. 23(3) substituted (E.) (11.7.2001) by [S.I. 2001/2237](#), **arts. 2, 34(a)**
- F7** S. 23(11) inserted (W.) (1.4.2002) by [S.I. 2002/808](#), **art. 33(b)**
- F8** S. 23(11) inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), **arts. 2, 34(b)**

Modifications etc. (not altering text)

- C1** S. 23: transfer of functions (23.6.2006 for W.) by [Higher Education Act 2004 \(c. 8\)](#), **ss. 44(4), 52(3)**; [S.I. 2005/1833](#), **art. 5** (as substituted (21.6.2006) by [S.I. 2006/1660](#), art. 2)
- C2** S. 23(7)(8) functions made exercisable concurrently (temp.) (7.7.2005 for W.) by [Higher Education Act 2004 \(c. 8\)](#), **s. 44(5)(6), 52(3)**; [S.I. 2005/1833](#), **art. 4(b)** (with art. 6)

23 Transfer or delegation of functions relating to student support. **S+N.I.**

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations under section 22 shall, to such extent as is specified in his determination, be exercisable instead by such body as is so specified which is either—
- a ^{F1}local authority^{F2}..., or
 - the governing body of an institution ^{F9}with which eligible students (within the meaning of such regulations) are ^{F10}undertaking courses.
- (2) A body by whom any function is for the time being exercisable by virtue of subsection (1) shall comply with any directions given by the Secretary of State as to the exercise of that function.
- (3) Where any function is so exercisable by a ^{F1}local authority], the function shall be taken to be a function of that authority for the purposes of—
- section 101 of the ^{M1}Local Government Act 1972 (arrangements for discharge of functions by local authorities), and
 - section 70 of the ^{M2}Deregulation and Contracting Out Act 1994 (contracting out of functions of local authorities).
- (4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of regulations under section 22 (including any such function in relation to appeals).

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- (5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.
- (6) The Secretary of State may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of subsection (1) or (4) as he may determine, and
 - (b) to be so made to a person or body appointed by him for the purpose.
- (7) The Secretary of State may pay to any body or person by whom any function is exercisable by virtue of subsection (1) or (4)—
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- (9) The Secretary of State may pay to any person or body appointed by him under subsection (6) such remuneration or administrative expenses (or both) as he may determine.
- (10) In relation to any function which, by virtue of subsection (1) or (4), is exercisable to a specified extent, references in any other provision of this section to the exercise of that function are accordingly to its exercise to that extent.

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- E2** This version of this provision extends to Scotland and Northern Ireland only; separate versions have been created for England only and Wales only

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- 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. 9(2)**
- F2** Words in s. 23(1)(a) repealed (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. 9(3), **Sch. 3 Pt. 1**
- F9** Word in s. 23(1)(b) substituted (1.10.2000) by [2000 c. 21, s. 146\(3\)\(a\)](#); S.I. 2000/2559, art. 2(1), **Sch. Pt. 1**
- F10** Word in s. 23(1)(b) substituted (1.10.2000) by [2000 c. 21, s. 146\(3\)\(b\)](#); S.I. 2000/2559, art. 2(1), **Sch. Pt. 1**

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Marginal Citations

- M1** 1972 c. 70.
M2 1994 c. 40.

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Changes and effects yet to be applied to :

- s. 23(7)(a)(i) words substituted by [2017 c. 29 s. 87\(2\)](#)

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. 22(4A)(4B) inserted by [2017 c. 29 s. 86\(4\)](#)
- s. 22(5)(ea) inserted by [2017 c. 29 s. 86\(5\)\(d\)](#)
- s. 22(11) inserted by [2017 c. 29 s. 86\(7\)](#)
- s. 28A inserted by [2022 c. 21 s. 15\(1\)](#)