



Learning and Skills Act 2000

2000 CHAPTER 21

PART I

LEARNING AND SKILLS COUNCIL FOR ENGLAND

The Council

1 The Council

- (1) There shall be a body corporate called the Learning and Skills Council for England.
- (2) The Council is to consist of not less than 12 and not more than 16 members appointed by the Secretary of State, and he must appoint one of them as chairman.
- (3) In appointing a member the Secretary of State must have regard to the desirability of appointing a person who has experience relevant to the Council's functions.
- (4) Schedule 1 contains provisions about the Council.
- (5) The Council's functions are to be carried out in relation to England only.

Main duties

2 Education and training for persons aged 16 to 19

- (1) The Council must secure the provision of proper facilities for—
 - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19,
 - (b) training suitable to the requirements of such persons,
 - (c) organised leisure-time occupation connected with such education, and
 - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and

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- (b) of a quality adequate to meet those needs.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
 - (e) make the best use of the Council’s resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
 - (a) education includes both full-time and part-time education;
 - (b) training includes both full-time and part-time training;
 - (c) training includes vocational, social, physical and recreational training;
 - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

3 Education and training for persons over 19

- (1) The Council must secure the provision of reasonable facilities for—
 - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19,
 - (b) training suitable to the requirements of such persons,
 - (c) organised leisure-time occupation connected with such education, and
 - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are reasonable if (taking account of the Council’s resources) the facilities are of such a quantity and quality that the Council can reasonably be expected to secure their provision.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
 - (e) make the best use of the Council’s resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
 - (a) education includes both full-time and part-time education;

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- (b) training includes both full-time and part-time training;
 - (c) training includes vocational, social, physical and recreational training;
 - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) References in this Part to post-16 education are to—
- (a) education falling within section 2(1)(a) or subsection (1)(a) above, and
 - (b) organised leisure-time occupation connected with such education.
- (7) References in this Part to post-16 training are to—
- (a) training falling within section 2(1)(b) or subsection (1)(b) above, and
 - (b) organised leisure-time occupation connected with such training.

4 Encouragement of education and training

The Council must—

- (a) encourage individuals to undergo post-16 education and training;
- (b) encourage employers to participate in the provision of post-16 education and training;
- (c) encourage employers to contribute to the costs of post-16 education and training.

Main powers

5 Provision of financial resources

- (1) The Council may secure the provision of financial resources to—
- (a) persons providing or proposing to provide post-16 education or training;
 - (b) persons providing or proposing to provide goods or services in connection with the provision by others of post-16 education or training;
 - (c) persons receiving or proposing to receive post-16 education or training;
 - (d) persons providing or proposing to provide courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level);
 - (e) institutions within the further or higher education sector (within the meaning of section 91 of the Further and Higher Education Act 1992) which provide or propose to provide secondary education (other than post-16 education);
 - (f) persons undertaking or proposing to undertake research relating to education or training;
 - (g) persons providing or proposing to provide facilities described in section 8(1) or (2);
 - (h) persons carrying out means tests under arrangements made under section 9;
 - (i) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (2) The Council may secure the provision of financial resources under subsection (1)—
- (a) by providing resources itself;
 - (b) by making arrangements for the provision of resources by another person;

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- (c) by making arrangements for the provision of resources by persons jointly (whether or not including the Council).
- (3) In exercising its power under subsection (1)(c) the Council may secure the provision of financial resources by reference to any fees or charges payable by the person receiving or proposing to receive the education or training or to any other matter (such as transport or childcare).

6 Financial resources: conditions

- (1) If the Council itself provides financial resources it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—
- (a) require the Council or a person designated by it to be allowed access to a person's accounts and documents and to be given rights in relation to a person's computers and associated apparatus and material;
 - (b) require a person to whom financial resources are provided to give to the Council information it requests for the purpose of carrying out its functions.
- (3) The conditions may require a person providing or proposing to provide education or training (the provider) to make arrangements providing for all or any of the following—
- (a) for the provider to charge fees by reference to specified criteria;
 - (b) for the provider to make awards by reference to specified criteria;
 - (c) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
 - (d) for amounts to be determined by reference to specified criteria where provision is made under paragraph (c);
 - (e) for specified exemptions to operate where provision is made under paragraph (c);
 - (f) for the provider to make provision specified in a report of an assessment conducted under section 140.
- (4) The conditions may—
- (a) relate to the provision made (or to be made) with respect to disabled persons by a person providing or proposing to provide education or training;
 - (b) require a person providing education or training to publish at specified intervals statements containing information of a specified description about the facilities for education or training provided by him with respect to disabled persons.
- (5) The conditions may—
- (a) enable the Council to require the repayment (in whole or part) of sums paid by the Council if any of the conditions subject to which the sums were paid is not complied with;
 - (b) require the payment of interest in respect of any period in which a sum due to the Council in accordance with any condition is unpaid.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

7 Funding of school sixth-forms

- (1) The Council may make a grant to a local education authority—
 - (a) on the condition that the grant be applied as part of the authority’s local schools budget for a financial year, and
 - (b) with a view to the grant being used for the purposes of, or for purposes connected with, the provision by schools of education suitable to the requirements of persons above compulsory school age.
- (2) A grant made under this section may be made on conditions in addition to the condition mentioned in subsection (1)(a) (including conditions of a kind which could be imposed under section 6).
- (3) “Local schools budget” has the same meaning as in Part II of the School Standards and Framework Act 1998 (framework for maintained schools).

8 Links between education and training and employment

- (1) The Council may secure the provision of facilities for the gaining of work experience by young persons receiving education.
- (2) The Council may secure the provision of facilities designed to form links between (on the one hand) employers and (on the other) persons falling within subsection (3).
- (3) The persons falling within this subsection are—
 - (a) persons who provide education or training, and
 - (b) persons who receive it and who have not attained the age of 19.
- (4) A person is a young person in the period which—
 - (a) starts with the beginning of the year in which he attains the age of 15, and
 - (b) ends with the end of the year in which he attains the age of 19.
- (5) A year is a year beginning with 1 September.

9 Assessments and means tests

- (1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.
- (2) The Council may take the assessments into account in deciding how to exercise its powers under section 5.
- (3) The Council may—
 - (a) carry out means tests;
 - (b) arrange for other persons to carry out means tests.
- (4) The Council may take the results of the tests into account in exercising its power under section 5(1)(c).

10 Qualifying accounts and arrangements

- (1) The Council may promote—
 - (a) the holding of accounts which qualify under section 104;
 - (b) the making of arrangements which qualify under section 105.

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(2) The Council—

- (a) may be specified as a body with which arrangements under section 105 may be made;
- (b) may be designated by the Secretary of State under section 107(1) or (3) and may act in accordance with such a designation;
- (c) may make arrangements under provision made under section 108(5)(d);
- (d) may be designated by the Secretary of State in exercise of a power conferred on him under section 108(6)(b) or (7)(b) and may act in accordance with such a designation.

11 Further education: governors

- (1) The Council may appoint a person to be a member of the governing body of an institution which—
 - (a) falls within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), and
 - (b) mainly serves the population of England.
- (2) But no more than two members of the governing body of a given institution may at any given time have been appointed under this section.

Other functions

12 Research and information

- (1) The Council may carry out research relating to any matter relevant to any of its functions.
- (2) The Council must provide the Secretary of State with such information or advice as he requests about any matter in relation to which the Council has a function.
- (3) The Council may provide the Secretary of State with such information or advice as it thinks fit about any matter in relation to which it has a function.
- (4) The Council may provide any person designated by the Secretary of State with such information as the Council thinks fit about any matter in relation to which it has a function.
- (5) The Council must establish systems for collecting information which is designed to secure that its decisions with regard to education and training are made on a sound basis.
- (6) The Council may secure the provision of facilities for providing information, advice or guidance about education or training or connected matters (including employment).

13 Persons with learning difficulties

- (1) In discharging its functions under sections 2, 3, 5(1)(a) to (d) and (g) and 8 the Council must have regard—
 - (a) to the needs of persons with learning difficulties, and
 - (b) in particular, to any report of an assessment conducted under section 140.

- (2) If the Council is satisfied that it cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (3) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (4) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 25 unless it also secures the provision of boarding accommodation for him, the Council may secure the provision of boarding accommodation for him.
- (5) 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 institutions providing post-16 education or training.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.

14 Equality of opportunity

- (1) In exercising its functions the Council must have due regard to the need to promote equality of opportunity—
 - (a) between persons of different racial groups,
 - (b) between men and women, and
 - (c) between persons who are disabled and persons who are not.
- (2) As soon as is reasonably practicable after the end of each financial year of the Council it must publish a report containing—
 - (a) a statement of the arrangements made under subsection (1) and having effect in the year;
 - (b) an assessment of how effective the arrangements were in promoting equality of opportunity.
- (3) The report must also contain a statement of the arrangements which the Council has made, or proposes to make, under subsection (1) in respect of the financial year immediately following that referred to in subsection (2).
- (4) The Council must send a copy of the report to the Secretary of State.
- (5) “Racial group” has the same meaning as in the Race Relations Act 1976.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

15 Plans

- (1) The Council—
 - (a) must make and publish a plan for each of its financial years;
 - (b) may make and publish such other plans as it thinks fit.
- (2) A plan for the Council's first financial year must be published as soon as is reasonably practicable after the year starts.
- (3) A plan for any subsequent financial year of the Council must be published before the year starts.
- (4) A plan for a financial year must include—
 - (a) proposals as to how the Council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with directions of the Secretary of State or with conditions imposed under section 27;
 - (b) the Council's financial proposals for the year.

16 Strategy

- (1) The Council must formulate a strategy in relation to its functions and keep it under review.
- (2) The Council must have regard to the strategy in exercising its functions.
- (3) The strategy must include proposals as to how the Council intends to develop the skills of persons in employment; but this does not affect the generality of subsection (1).
- (4) The Council must incorporate in the strategy proposals as to—
 - (a) how it intends to achieve any objectives contained in directions of the Secretary of State;
 - (b) how it intends to achieve such objectives within any time limits contained in such directions.

17 Use of information by Council

In carrying out its functions the Council must have regard to information supplied to it by any body designated by the Secretary of State for the purposes of this section.

18 Supplementary functions

- (1) The Council may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its other functions.
- (2) In particular it may—
 - (a) acquire and dispose of land and other property;
 - (b) enter into contracts;
 - (c) invest sums not immediately needed for the purpose of exercising its other functions;
 - (d) accept financial resources (whether as gifts or otherwise);
 - (e) accept gifts of land and other property.
- (3) But the Council has no power—

- (a) to borrow money;
 - (b) to lend money unless the Secretary of State consents;
 - (c) to subscribe for or otherwise acquire shares in or securities of a company unless the Secretary of State consents.
- (4) The Secretary of State may by order confer or impose on the Council such supplementary powers or duties relating to the provision of post-16 education or training as he thinks fit.
- (5) For the purposes of subsection (4) a power or duty is supplementary if—
- (a) it is exercisable in connection with functions of the Secretary of State, and
 - (b) it is relevant to the provision of facilities for post-16 education or training.

Local councils

19 Local councils

- (1) The Council must establish a committee (to be called a local learning and skills council) for each area of England specified by the Secretary of State.
- (2) A local council is to consist of not less than 12 and not more than 16 members appointed by the Council with the approval of the Secretary of State.
- (3) The Secretary of State must appoint one of them as chairman after seeking the Council's advice.
- (4) Members of a local council may be (but need not be) members of the Council.
- (5) Schedule 2 contains provisions about local councils.

20 Functions of local councils

- (1) A local council—
 - (a) must perform in relation to its area such of the Council's duties as the Council specifies;
 - (b) may exercise in relation to its area such of the Council's powers as the Council specifies.
- (2) A local council—
 - (a) must perform in relation to such places outside its area as the Council specifies such of the Council's duties as the Council specifies;
 - (b) may exercise in relation to such places outside its area as the Council specifies such of the Council's powers as the Council specifies.

21 Guidance to local councils

- (1) In relation to each financial year of the Council it must prepare guidance for each local council.
- (2) The guidance must include—
 - (a) objectives which a local council should achieve in seeking to carry out its functions;
 - (b) time limits within which it should achieve the objectives.

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- (3) The guidance must set a local council's budget for the financial year.
- (4) The Council must consult the regional development agencies and local education authorities on the guidance.
- (5) After consulting under subsection (4) and (if appropriate) altering the guidance the Council must issue the guidance to the local council.
- (6) A regional development agency is a development agency established by section 1 of the Regional Development Agencies Act 1998.

22 Plans of local councils

- (1) A local council must prepare a plan for each financial year of the Council.
- (2) A plan must include—
 - (a) a statement of the needs regarding education and training of the population of the local council's area;
 - (b) a statement of the needs of employers in the local council's area regarding education and training of their employees and potential employees;
 - (c) a statement of how the local council proposes to carry out its functions in the light of the needs mentioned in paragraphs (a) and (b);
 - (d) proposals as to how the local council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with guidance issued by the Council under section 21;
 - (e) the local council's financial proposals for the year, taking account of guidance issued by the Council under section 21;
 - (f) a statement of the likely effect of the local council's activities on the economic development and regeneration of its area.
- (3) A plan must include—
 - (a) a statement of the education and training (and connected organised leisure-time occupation) whose provision the local council would like a relevant local education authority to secure in the local council's area for persons who have attained the age of 19, and
 - (b) proposals as to the financial resources with which the authority will be provided by the Council to enable the authority to secure the provision of such education and training (and connected organised leisure-time occupation).
- (4) In preparing a plan a local council must have regard to—
 - (a) any matter contained in guidance issued by the Council under section 21 (in addition to the matters mentioned in subsection (2) above);
 - (b) the strategy of any relevant regional development agency prepared under section 7 of the Regional Development Agencies Act 1998 or published under section 7A of that Act;
 - (c) any strategy prepared by any relevant local authority under section 4 of the Local Government Act 2000 (strategies for promoting well-being).
- (5) In preparing a plan a local council must consult—
 - (a) any relevant regional development agency;
 - (b) any relevant local authority;
 - (c) such other persons as the Secretary of State may specify.

- (6) After consulting under subsection (5) and (if appropriate) altering the plan the local council must seek the Council's approval of it; and the Council must consult any relevant regional development agency on whether the plan should be approved.
- (7) The Council must approve the plan or require the local council to make specified alterations of it; and if alterations are required the local council must make them.
- (8) The local council must publish the plan as approved by the Council or as altered in accordance with the Council's requirements.
- (9) A plan must be taken into account in deciding the extent to which—
 - (a) a local council has carried out its functions in a satisfactory way;
 - (b) a director of a local council has carried out his functions in a satisfactory way.
- (10) For the purposes of this section—
 - (a) a regional development agency is a development agency established by section 1 of the Regional Development Agencies Act 1998;
 - (b) a regional development agency is a relevant agency if any of its area falls within the area of the local council concerned;
 - (c) a local education authority is a relevant authority if any of its area falls within the area of the local council concerned;
 - (d) "local authority" means a local authority as defined in section 1(a) of the Local Government Act 2000 and the Greater London Authority;
 - (e) a local authority is a relevant authority if any of its area falls within the area of the local council concerned.

23 Duty of local education authorities

- (1) If a local education authority does not secure the provision of education and training (and connected organised leisure-time occupation) in accordance with provisions included in a plan under section 22(3) the Secretary of State may direct the authority to do so.
- (2) The authority must act in accordance with the direction, but only if the Council provides it with any financial resources which the authority reasonably requires to enable it to do so.

24 Guidance and plans: timing

- (1) This section applies to guidance under section 21 and plans under section 22.
- (2) The guidance in relation to the Council's first financial year must be prepared as soon as is reasonably practicable after the year starts.
- (3) The guidance in relation to any subsequent financial year of the Council must be prepared in time for the guidance to be issued under section 21, and a plan to be published under section 22, before the financial year starts.
- (4) The plan for the Council's first financial year must be prepared as soon as is reasonably practicable after the year starts.
- (5) The plan for any subsequent financial year of the Council must be prepared in time for the plan to be published under section 22 before the financial year starts.

Miscellaneous

25 Directions

- (1) The Secretary of State may give directions to the Council; and the directions may include any provisions described in subsections (2) to (4).
- (2) Directions may contain—
 - (a) objectives which the Council should achieve in seeking to carry out its functions;
 - (b) time limits within which the Council should achieve the objectives;
 - (c) provision relating to the management of the Council.
- (3) Subsection (4) applies if the Secretary of State is satisfied that the Council—
 - (a) has failed to discharge a duty imposed by or under any Act, or
 - (b) has acted or is proposing to act unreasonably with respect to the exercise of a power conferred or the performance of a duty imposed by or under any Act.
- (4) In such a case directions may contain such provision as the Secretary of State thinks fit as to the exercise of the Council's powers and performance of its duties.
- (5) Directions may contain provision described in subsection (4) despite any enactment making the exercise of a power or performance of a duty contingent on the Council's opinion.
- (6) Directions may not concern the provision of financial resources in respect of activities carried on by a particular person or persons.
- (7) If the Secretary of State asks the Council to do so, it must advise him on the formulation of objectives and time limits.
- (8) The Council must comply with any directions given to it by the Secretary of State.

26 Committees

Schedule 3 contains provisions about committees.

27 Grants to Council

- (1) The Secretary of State may make grants to the Council of such amounts and subject to such conditions as he thinks fit; and the conditions may include any provisions described below.
- (2) The conditions may set the Council's budget for any of its financial years.
- (3) The conditions may—
 - (a) require the Council to use the grants for specified purposes;
 - (b) require the Council to comply with specified requirements in respect of every person (or every person of a specified class or description) in securing the provision of specified financial resources to such persons;
 - (c) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any condition imposed is not complied with;
 - (d) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any condition remains unpaid.

- (4) Requirements which may be imposed under subsection (3)(b) include in particular requirements that, if the Council itself provides specified financial resources, it is to impose specified conditions.
- (5) The Secretary of State may not impose conditions which relate to the Council's securing of the provision of financial resources to a particular person or persons.

28 Annual report

- (1) As soon as is reasonably practicable after the end of each financial year of the Council it must prepare a report on its activities in that year and send a copy of the report to the Secretary of State.
- (2) A report—
 - (a) must be in such form and contain such information as the Secretary of State may specify in directions to the Council;
 - (b) must set out any other directions given to the Council under this Part in the financial year to which the report relates.
- (3) Following receipt of a copy of a report under this section the Secretary of State must lay a copy of it before each House of Parliament and arrange for copies of it to be published in such manner as he thinks appropriate.

29 Council's financial year

A financial year of the Council is—

- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;
- (b) each successive period of 12 months.

PART II

NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES

The Council

30 The Council

- (1) There shall be a body corporate called the National Council for Education and Training for Wales or *Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant*.
- (2) The Council is to consist of not less than 10 and not more than 12 members appointed by the National Assembly for Wales (the National Assembly) and the National Assembly must appoint one of them as chairman.
- (3) In appointing a member the National Assembly must have regard to the desirability of appointing a person who has experience relevant to the Council's functions.
- (4) Schedule 4 contains provisions about the Council.
- (5) The Council's functions are to be carried out in relation to Wales only.

Status: This is the original version (as it was originally enacted).

Main duties

31 Education and training for persons aged 16 to 19

- (1) The Council must secure the provision of proper facilities for—
 - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19,
 - (b) training suitable to the requirements of such persons,
 - (c) organised leisure-time occupation connected with such education, and
 - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
 - (b) of a quality adequate to meet those needs.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
 - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
 - (a) education includes both full-time and part-time education;
 - (b) training includes both full-time and part-time training;
 - (c) training includes vocational, social, physical and recreational training;
 - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

32 Education and training for persons over 19

- (1) The Council must secure the provision of reasonable facilities for—
 - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19,
 - (b) training suitable to the requirements of such persons,
 - (c) organised leisure-time occupation connected with such education, and
 - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are reasonable if (taking account of the Council's resources) the facilities are of such a quantity and quality that the Council can reasonably be expected to secure their provision.
- (3) In performing the duty imposed on it by subsection (1) the Council must—

- (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
 - (e) make the best use of the Council's resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
- (a) education includes both full-time and part-time education;
 - (b) training includes both full-time and part-time training;
 - (c) training includes vocational, social, physical and recreational training;
 - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) References in this Part to post-16 education are to—
- (a) education falling within section 31(1)(a) or subsection (1)(a) above, and
 - (b) organised leisure-time occupation connected with such education.
- (7) References in this Part to post-16 training are to—
- (a) training falling within section 31(1)(b) or subsection (1)(b) above, and
 - (b) organised leisure-time occupation connected with such training.

33 Encouragement of education and training

The Council must—

- (a) encourage individuals to undergo post-16 education and training;
- (b) encourage employers to participate in the provision of post-16 education and training;
- (c) encourage employers to contribute to the costs of post-16 education and training.

Main powers

34 Provision of financial resources

- (1) The Council may secure the provision of financial resources to—
- (a) persons providing or proposing to provide post-16 education or training;
 - (b) persons providing or proposing to provide goods or services in connection with the provision by others of post-16 education or training;
 - (c) persons receiving or proposing to receive post-16 education or training;
 - (d) persons providing or proposing to provide courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level);

Status: This is the original version (as it was originally enacted).

- (e) institutions within the further or higher education sector (within the meaning of section 91 of the Further and Higher Education Act 1992) which provide or propose to provide secondary education (other than post-16 education);
 - (f) persons undertaking or proposing to undertake research relating to education or training;
 - (g) persons providing or proposing to provide facilities designed to form links between (on the one hand) employers and (on the other) persons who provide or receive education or training;
 - (h) persons carrying out means tests under arrangements made under section 37;
 - (i) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (2) The Council may secure the provision of financial resources under subsection (1)—
- (a) by providing resources itself;
 - (b) by making arrangements for the provision of resources by another person;
 - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the Council).
- (3) In exercising its power under subsection (1)(c) the Council may secure the provision of financial resources by reference to any fees or charges payable by the person receiving or proposing to receive the education or training or to any other matter (such as transport or childcare).

35 Financial resources: conditions

- (1) If the Council itself provides financial resources it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—
- (a) require the Council or a person designated by it to be allowed access to a person's accounts and documents and to be given rights in relation to a person's computers and associated apparatus and material;
 - (b) require a person to whom financial resources are provided to give to the Council information it requests for the purpose of carrying out its functions.
- (3) The conditions may require a person providing or proposing to provide education or training (the provider) to make arrangements providing for all or any of the following—
- (a) for the provider to charge fees by reference to specified criteria;
 - (b) for the provider to make awards by reference to specified criteria;
 - (c) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
 - (d) for amounts to be determined by reference to specified criteria where provision is made under paragraph (c);
 - (e) for specified exemptions to operate where provision is made under paragraph (c);
 - (f) for the provider to make provision specified in a report of an assessment conducted under section 140.
- (4) The conditions may—

- (a) relate to the provision made (or to be made) with respect to disabled persons by a person providing or proposing to provide education or training;
 - (b) require a person providing education or training to publish at specified intervals statements containing information of a specified description about the facilities for education or training provided by him with respect to disabled persons.
- (5) The conditions may—
- (a) enable the Council to require the repayment (in whole or part) of sums paid by the Council if any of the conditions subject to which the sums were paid is not complied with;
 - (b) require the payment of interest in respect of any period in which a sum due to the Council in accordance with any condition is unpaid.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

36 Funding of school sixth-forms

- (1) The Council may make a grant to a local education authority—
- (a) on the condition that the grant be applied as part of the authority's local schools budget for a financial year, and
 - (b) with a view to the grant being used for the purposes of, or for purposes connected with, the provision by schools of education suitable to the requirements of persons above compulsory school age.
- (2) A grant made under this section may be made on conditions in addition to the condition mentioned in subsection (1)(a) (including conditions of a kind which could be imposed under section 35).
- (3) "Local schools budget" has the same meaning as in Part II of the School Standards and Framework Act 1998 (framework for maintained schools).

37 Assessments and means tests

- (1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.
- (2) The Council may take the assessments into account in deciding how to exercise its powers under section 34.
- (3) The Council may—
- (a) carry out means tests;
 - (b) arrange for other persons to carry out means tests.
- (4) The Council may take the results of the tests into account in exercising its power under section 34(1)(c).

38 Qualifying accounts and arrangements

- (1) The Council may promote—
- (a) the holding of accounts which qualify under section 104;
 - (b) the making of arrangements which qualify under section 105.

Status: This is the original version (as it was originally enacted).

(2) The Council—

- (a) may be specified as a body with which arrangements under section 105 may be made;
- (b) may be designated by the National Assembly under section 107(1) or (3) and may act in accordance with such a designation;
- (c) may make arrangements under provision made under section 108(5)(d);
- (d) may be designated by the National Assembly in exercise of a power conferred on it under section 108(6)(b) or (7)(b) and may act in accordance with such a designation.

39 Further education: governors

- (1) The Council may appoint a person to be a member of the governing body of an institution which—
 - (a) falls within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), and
 - (b) mainly serves the population of Wales.
- (2) But no more than two members of the governing body of a given institution may at any given time have been appointed under this section.

Other functions

40 Research and information

- (1) The Council may carry out research relating to any matter relevant to any of its functions.
- (2) The Council must provide the National Assembly with such information or advice as the National Assembly requests about any matter in relation to which the Council has a function.
- (3) The Council may provide the National Assembly with such information or advice as the Council thinks fit about any matter in relation to which it has a function.
- (4) The Council may provide any person designated by the National Assembly with such information as the Council thinks fit about any matter in relation to which it has a function.
- (5) The Council must establish systems for collecting information which is designed to secure that its decisions with regard to education and training are made on a sound basis.
- (6) The Council may secure the provision of facilities for providing information, advice or guidance about education or training or connected matters (including employment).

41 Persons with learning difficulties

- (1) In discharging its functions under sections 31, 32 and 34(1)(a) to (d) and (g) the Council must have regard—
 - (a) to the needs of persons with learning difficulties, and
 - (b) in particular, to any report of an assessment conducted under section 140.

Status: This is the original version (as it was originally enacted).

- (2) If the Council is satisfied that it cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (3) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (4) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 25 unless it also secures the provision of boarding accommodation for him, the Council may secure the provision of boarding accommodation for him.
- (5) 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 institutions providing post-16 education or training.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.

42 Equality of opportunity

- (1) In exercising its functions the Council must have due regard to the need to promote equality of opportunity—
 - (a) between persons of different racial groups,
 - (b) between men and women, and
 - (c) between persons who are disabled and persons who are not.
- (2) As soon as is reasonably practicable after the end of each financial year of the Council it must publish a report containing—
 - (a) a statement of the arrangements made under subsection (1) and having effect in the year;
 - (b) an assessment of how effective the arrangements were in promoting equality of opportunity.
- (3) The report must also contain a statement of the arrangements which the Council has made, or proposes to make, under subsection (1) in respect of the financial year immediately following that referred to in subsection (2).
- (4) The Council must send a copy of the report to the National Assembly.
- (5) “Racial group” has the same meaning as in the Race Relations Act 1976.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

Status: This is the original version (as it was originally enacted).

43 Plans

- (1) The Council must make a plan for each of its financial years.
- (2) The Council must send its plan for its first financial year to the National Assembly as soon as is reasonably practicable after the year starts.
- (3) The Council must send its plan for any subsequent financial year of the Council to the National Assembly before the year starts.
- (4) A plan for a financial year must include—
 - (a) proposals as to how the Council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with directions of the National Assembly or with conditions imposed under section 49;
 - (b) the Council's financial proposals for the year;
 - (c) such other matters as the National Assembly specifies.
- (5) The National Assembly must approve the plan or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) The Council must publish the plan as approved by the National Assembly or as altered in accordance with the National Assembly's requirements; and publication must be made at such time and in such manner as the National Assembly specifies.
- (7) The Council may make and publish such other plans as it thinks fit; but any such plan must not conflict with a plan for a financial year.

44 Strategy

- (1) The Council must formulate a strategy in relation to its functions and keep it under review.
- (2) The Council must incorporate in the strategy proposals as to—
 - (a) how it intends to achieve any objectives contained in directions of the National Assembly;
 - (b) how it intends to achieve such objectives within any time limits contained in such directions.
- (3) The strategy must include proposals as to how the Council intends to develop the skills of persons in employment; but this does not affect the generality of subsection (1).
- (4) The Council—
 - (a) may at any time send to the National Assembly a copy of the strategy as it subsists for the time being;
 - (b) must at such times as the National Assembly indicates send to the Assembly a copy of the strategy as it subsists for the time being.
- (5) The National Assembly must approve the strategy sent to it or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) In exercising its functions the Council must have regard to the strategy as approved by the National Assembly or as altered in accordance with its requirements.

45 Use of information by Council

In carrying out its functions the Council must have regard to information supplied to it by any body designated by the National Assembly for the purposes of this section.

46 Supplementary functions

- (1) The Council may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its other functions.
- (2) In particular it may—
 - (a) acquire and dispose of land and other property;
 - (b) enter into contracts;
 - (c) invest sums not immediately needed for the purpose of exercising its other functions;
 - (d) accept financial resources (whether as gifts or otherwise);
 - (e) accept gifts of land and other property.
- (3) But the Council has no power—
 - (a) to borrow money;
 - (b) to lend money unless the National Assembly consents;
 - (c) to subscribe for or otherwise acquire shares in or securities of a company unless the National Assembly consents.
- (4) The National Assembly may by order confer or impose on the Council such supplementary powers or duties relating to the provision of post-16 education or training as the National Assembly thinks fit.
- (5) For the purposes of subsection (4) a power or duty is supplementary if—
 - (a) it is exercisable in connection with functions of the National Assembly, and
 - (b) it is relevant to the provision of facilities for post-16 education or training.

Miscellaneous

47 Directions

- (1) The National Assembly may give directions to the Council; and the directions may include any provisions described in subsections (2) to (4).
- (2) Directions may contain—
 - (a) objectives which the Council should achieve in seeking to carry out its functions;
 - (b) time limits within which the Council should achieve the objectives;
 - (c) provision relating to the management of the Council.
- (3) Subsection (4) applies if the National Assembly is satisfied that the Council—
 - (a) has failed to discharge a duty imposed by or under any Act, or
 - (b) has acted or is proposing to act unreasonably with respect to the exercise of a power conferred or the performance of a duty imposed by or under any Act.
- (4) In such a case directions may contain such provision as the National Assembly thinks fit as to the exercise of the Council's powers and performance of its duties.

Status: This is the original version (as it was originally enacted).

- (5) Directions may contain provision described in subsection (4) despite any enactment making the exercise of a power or performance of a duty contingent on the Council's opinion.
- (6) Directions may not concern the provision of financial resources in respect of activities carried on by a particular person or persons.
- (7) If the National Assembly asks the Council to do so, it must advise the National Assembly on the formulation of objectives and time limits.
- (8) The Council must comply with any directions given to it by the National Assembly.

48 Committees

Schedule 5 contains provisions about committees.

49 Grants to Council

- (1) The National Assembly may make grants to the Council of such amounts and subject to such conditions as the National Assembly thinks fit; and the conditions may include any provisions described below.
- (2) The conditions may set the Council's budget for any of its financial years.
- (3) The conditions may—
 - (a) require the Council to use the grants for specified purposes;
 - (b) require the Council to comply with specified requirements in respect of every person (or every person of a specified class or description) in securing the provision of specified financial resources to such persons;
 - (c) enable the National Assembly to require the repayment, in whole or in part, of sums paid by it if any condition imposed is not complied with;
 - (d) require the payment of interest in respect of any period during which a sum due to the National Assembly in accordance with any condition remains unpaid.
- (4) Requirements which may be imposed under subsection (3)(b) include in particular requirements that, if the Council itself provides specified financial resources, it is to impose specified conditions.
- (5) The National Assembly may not impose conditions which relate to the Council's securing of the provision of financial resources to a particular person or persons.

50 Annual report

- (1) As soon as is reasonably practicable after the end of each financial year of the Council it must prepare a report on its activities in that year and send a copy of the report to the National Assembly.
- (2) A report—
 - (a) must be in such form and contain such information as the National Assembly may specify in directions to the Council;
 - (b) must set out any other directions given to the Council under this Part in the financial year to which the report relates.

- (3) Following receipt of a copy of a report under this section the National Assembly must arrange for copies of it to be published in such manner as it thinks appropriate.

51 Council’s financial year

A financial year of the Council is—

- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;
- (b) each successive period of 12 months.

PART III

INSPECTIONS IN ENGLAND

CHAPTER I

THE ADULT LEARNING INSPECTORATE

The Inspectorate

52 The Inspectorate

- (1) There shall be a body corporate called the Adult Learning Inspectorate.
- (2) The Inspectorate is to consist of 9 members appointed by the Secretary of State.
- (3) The Secretary of State must appoint one of the members as chairman and another of the members as the Inspectorate’s chief officer.
- (4) The chief officer is to be known as the Chief Inspector of Adult Learning.
- (5) In appointing any member, the Secretary of State must have regard to the desirability of appointing a person who has experience relevant to the Inspectorate’s functions.
- (6) The Secretary of State may make grants to the Inspectorate of such amounts and subject to such conditions as he thinks fit.
- (7) The conditions may—
 - (a) set the Inspectorate’s budget for any of its financial years;
 - (b) require it to use the grants for specified purposes;
 - (c) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any condition imposed is not complied with;
 - (d) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the conditions remains unpaid.
- (8) Schedule 6 contains provisions about the Inspectorate.

Status: This is the original version (as it was originally enacted).

53 The Inspectorate’s remit

- (1) The Inspectorate’s remit is—
 - (a) further education for persons aged 19 or over which is wholly or partly funded by the Learning and Skills Council for England;
 - (b) training for persons aged 16 or over so far as it takes place wholly or partly at the premises of an employer and is wholly or partly funded by the Council;
 - (c) further education funded by a local education authority in England for persons aged 19 or over;
 - (d) training for persons aged 16 or over which is funded by the Secretary of State under section 2 of the Employment and Training Act 1973;
 - (e) such other education or training as may be prescribed by regulations made by the Secretary of State.
- (2) Regulations made under subsection (1)(e) may include within the Inspectorate’s remit training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which otherwise falls within the Inspectorate’s remit.
- (3) “Further education” has the same meaning as it has in the Education Act 1996.

Functions of the Inspectorate and the Chief Inspector

54 Functions of the Inspectorate and Chief Inspector

- (1) The Inspectorate must keep the Secretary of State informed about—
 - (a) the quality of the education and training within its remit;
 - (b) the standards achieved by those receiving that education and training; and
 - (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) When asked to do so by the Secretary of State, the Inspectorate must give the Secretary of State advice on such matters relating to education or training within its remit as he may specify.
- (3) When asked to do so by the Secretary of State, the Chief Inspector of Adult Learning must conduct inspections of such education or training, or such class of education or training, within the Inspectorate’s remit, at such intervals, as the Secretary of State may specify.
- (4) The Inspectorate is to have such other functions in connection with education and training within its remit as the Secretary of State may specify.
- (5) The Chief Inspector is to have such other functions in connection with education and training within the Inspectorate’s remit as the Secretary of State may specify.
- (6) The functions specified under subsection (4) or (5) may include functions with respect to training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which falls within the Inspectorate’s remit.
- (7) In exercising their functions, the Inspectorate and the Chief Inspector must have regard to such aspects of government policy as the Secretary of State may specify.

55 Inspections under section 54

- (1) When an inspection asked for under section 54(3) has been completed, the Chief Inspector of Adult Learning must make a written report on it if asked to do so by the Secretary of State.
- (2) The report—
 - (a) must state whether the Chief Inspector considers the education or training inspected to be of a quality adequate to meet the reasonable needs of those receiving it; and
 - (b) may deal with such other matters as he considers relevant.
- (3) The Chief Inspector must send copies of the report to—
 - (a) the Secretary of State;
 - (b) the Learning and Skills Council for England;
 - (c) any local education authority providing funds for the education or training inspected; and
 - (d) the provider of the inspected education or training.
- (4) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.
- (5) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

56 General powers

- (1) The Inspectorate may give advice to the Secretary of State on any matter relating to education or training within its remit.
- (2) The Inspectorate may inspect, and report on, any education or training within its remit.
- (3) The Inspectorate may inspect any education or training—
 - (a) which is not within its remit, but
 - (b) which would be if it were funded in one of the ways mentioned in section 53, if asked to do so by the provider of the education or training.
- (4) The Inspectorate may charge for the cost of an inspection conducted under subsection (3).
- (5) The Inspectorate must send copies of a report of an inspection conducted under this section otherwise than as a result of a request under subsection (3) to—
 - (a) the Secretary of State;
 - (b) the Learning and Skills Council for England;
 - (c) any local education authority providing funds for the education or training inspected; and
 - (d) the provider of the inspected education or training.
- (6) Copies may also be sent to such other persons as the Inspectorate considers appropriate.
- (7) The Inspectorate must arrange for the report to be published in such manner as it considers appropriate.

Status: This is the original version (as it was originally enacted).

- (8) The Inspectorate may arrange for a report of an inspection carried out as a result of a request under subsection (3) to be published.

57 Right of entry and offences

- (1) This section applies to an inspection conducted under this Chapter other than one conducted as a result of a request under section 56(3).
- (2) An inspector taking part in the inspection has, at all reasonable times—
- (a) a right of entry to premises on which the education or training being inspected is provided;
 - (b) a right of entry to premises of the person providing that education or training used in connection with that provision;
 - (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the inspector requires for the purposes of the inspection.
- (3) In respect of education or training provided by an employer in the workplace, the right of entry conferred by subsection (2) may be exercised only if the employer has been given reasonable notice in writing.
- (4) The right to inspect records conferred by subsection (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (5) That right also includes the right to require—
- (a) the person by whom or on whose behalf the computer is or has been so used, or
 - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
- to afford the Inspectorate or any inspector such assistance as he may reasonably require.
- (6) It is an offence wilfully to obstruct any person exercising functions in relation to an inspection.
- (7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) “Inspector”, in relation to an inspection, means an employee of the Inspectorate taking part in the inspection or any person appointed by the Inspectorate to assist with the inspection and includes the Chief Inspector of Adult Learning where the inspection is being conducted by him.

58 Action plans

- (1) This section applies if the Inspectorate or the Chief Inspector of Adult Learning publishes a report of an inspection conducted otherwise than as a result of a request under section 56(3).
- (2) The provider of the education or training which is the subject of the report must make a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.

- (3) The person making the statement must—
 - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
 - (b) send copies of it to such persons as may be so prescribed.
- (4) The requirements of subsection (2) may be waived by the Inspectorate or the Chief Inspector.

59 Annual report

- (1) The Inspectorate must make an annual report to the Secretary of State.
- (2) The Secretary of State must lay a copy of the annual report before each House of Parliament.
- (3) The annual report must be in such form and contain such information as the Secretary of State specifies in directions given to the Inspectorate.
- (4) The Inspectorate may make such other reports to the Secretary of State, with respect to matters relating to education or training within its remit, as it considers appropriate.
- (5) The Inspectorate may publish any report made under this section in such manner as it considers appropriate.

CHAPTER II

HER MAJESTY’S CHIEF INSPECTOR OF SCHOOLS IN ENGLAND

The Chief Inspector’s extended remit

60 The extended remit

- (1) The following kinds of education and training are brought within the remit of Her Majesty’s Chief Inspector of Schools in England by this Chapter—
 - (a) secondary education provided in institutions which are in England and within the further education sector;
 - (b) further education provided in the further education sector which is suitable to the requirements of those aged 16 or over but under 19 and funded wholly or partly by the Learning and Skills Council for England;
 - (c) further education provided by local education authorities in England for persons aged under 19;
 - (d) such other education or training (which may, in particular, include training of or for teachers or lecturers) as may be prescribed by regulations made by the Secretary of State.
- (2) “Secondary education” and “further education” have the same meaning as they have in the Education Act 1996.

Status: This is the original version (as it was originally enacted).

Additional functions

61 Additional functions of the Chief Inspector

- (1) Her Majesty’s Chief Inspector of Schools in England must keep the Secretary of State informed about—
 - (a) the quality of the education and training brought within the Chief Inspector’s remit by this Chapter;
 - (b) the standards achieved by those receiving that education and training; and
 - (c) whether the financial resources made available to those providing it are managed efficiently and used so as to provide value for money.
- (2) When asked to do so by the Secretary of State, the Chief Inspector must—
 - (a) give him advice on such matters, relating to education or training brought within the Chief Inspector’s remit by this Chapter, as the Secretary of State may specify;
 - (b) inspect such education or training, or such class of education or training, within that remit as the Secretary of State may specify;
 - (c) report on the result of an inspection conducted under this section.
- (3) The Chief Inspector is to have such other functions in connection with education and training brought within the Chief Inspector’s remit by this Chapter, including functions with respect to the training of or for teachers or lecturers, as the Secretary of State may specify.

62 Inspection of further education institutions

- (1) Her Majesty’s Chief Inspector of Schools in England must inspect all institutions within the further education sector other than those providing education or training falling wholly within the remit of the Adult Learning Inspectorate.
- (2) Inspections are to be conducted at such intervals as may be specified by the Secretary of State.
- (3) When the Chief Inspector has completed an inspection under this section he must make a written report.
- (4) The report—
 - (a) must state whether the Chief Inspector considers the education or training inspected to be adequate to meet the reasonable needs of those receiving it; and
 - (b) may deal with such other matters as the Chief Inspector considers relevant.
- (5) Copies of the report must be sent to—
 - (a) the Secretary of State;
 - (b) the Learning and Skills Council for England;
 - (c) the provider of the education or training inspected.
- (6) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.
- (7) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

63 Right of entry and offences

- (1) This section applies to an inspection conducted under section 61(2)(b), 62, 65 or 68(2).
- (2) When conducting an inspection, Her Majesty’s Chief Inspector of Schools in England has, at all reasonable times—
 - (a) a right of entry to premises on which the education or training being inspected is provided;
 - (b) a right of entry to premises of the provider of that education or training used in connection with that provision;
 - (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the Chief Inspector requires for the purposes of the inspection.
- (3) The right to inspect conferred by subsection (2)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) That right also includes the right to require—
 - (a) the person by whom or on whose behalf the computer is or has been so used, or
 - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford the Chief Inspector such assistance as he may reasonably require.
- (5) It is an offence wilfully to obstruct the Chief Inspector in the exercise of functions in relation to an inspection.
- (6) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

64 Action plans

- (1) This section applies if Her Majesty’s Chief Inspector of Schools in England publishes a report of an inspection conducted under section 61(2)(b), 62 or 68(2).
- (2) The provider of the education or training which is the subject of the report must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (3) The person making the statement must—
 - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
 - (b) send copies of it to such persons as may be so prescribed.
- (4) The requirements of subsection (2) may be waived by the Chief Inspector.

65 Area inspections

- (1) If asked to do so by the Secretary of State, Her Majesty’s Chief Inspector of Schools in England must inspect—
 - (a) the quality and availability of a specified description of education or training, in a specified area in England, for persons who are aged 16 or over but under 19;
 - (b) the standards achieved by those receiving that education or training; and

Status: This is the original version (as it was originally enacted).

- (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) The Chief Inspector may, without being asked to, conduct such an inspection.
- (3) If financial resources have been applied by the Learning and Skills Council for England or a local education authority in respect of education or training which is being inspected under this section, the inspection may extend to considering the manner in which those resources have been applied and whether they have been applied in a way which provides value for money.
- (4) The education or training that may be made the subject of an area inspection is any education or training within—
 - (a) the Chief Inspector’s remit (whether as a result of this Chapter or of any other enactment); or
 - (b) the Adult Learning Inspectorate’s remit.
- (5) If, in connection with an area inspection, the Chief Inspector asks the Chief Inspector of Adult Learning for advice on a matter relating to education or training within the Inspectorate’s remit, he must give such advice as he considers likely to be appropriate for the purposes of the inspection.
- (6) If the Chief Inspector asks the Chief Inspector of Adult Learning to undertake a specified part of an area inspection, he must do so.
- (7) A provider of education or training which is the subject of an area inspection must—
 - (a) provide the Chief Inspector with any information reasonably asked for by him in connection with the inspection;
 - (b) provide the Chief Inspector of Adult Learning with any information reasonably asked for by him in connection with the inspection.
- (8) Any local education authority whose area, or part of whose area, is within the area which is the subject of an area inspection must provide the Chief Inspector with such information as the Chief Inspector may reasonably ask for in connection with the inspection.
- (9) “Area inspection” means an inspection under this section.

66 Reports of area inspections

- (1) On completing an area inspection, Her Majesty’s Chief Inspector of Schools in England must make a written report.
- (2) In preparing the report the Chief Inspector must ensure that the views of the Chief Inspector of Adult Learning in relation to the subject matter of the inspection, so far as—
 - (a) the Chief Inspector is aware of them, and
 - (b) they relate to matters within the Inspectorate’s remit,
 are properly recorded in the report.
- (3) The Chief Inspector must send a copy of the report to—
 - (a) the Secretary of State,
 - (b) the Learning and Skills Council for England;

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- (c) the Adult Learning Inspectorate;
 - (d) each local education authority whose area, or part of whose area, falls within the area which is the subject of the inspection; and
 - (e) such other persons as he considers appropriate.
- (4) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

67 Action plans following section 65 inspections

- (1) This section applies if Her Majesty’s Chief Inspector of Schools in England publishes a report of an area inspection conducted under section 65.
- (2) The Secretary of State may direct the Learning and Skills Council for England to prepare a written statement of the action which it proposes to take in the light of the report and the period within which it proposes to take it.
- (3) The Secretary of State may direct a local education authority whose area is wholly or partly in the area covered by the report to prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (4) In preparing the statement the Council or the authority must consult such persons as the Secretary of State may direct.
- (5) The person making the statement must—
- (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
 - (b) send copies of it to such persons as may be so prescribed.

68 Further powers of the Chief Inspector

- (1) Her Majesty’s Chief Inspector of Schools in England may give advice to the Secretary of State on any matter relating to education or training of a kind brought within his remit by this Chapter.
- (2) The Chief Inspector may—
- (a) inspect any education or training of that kind;
 - (b) report to the Secretary of State on any such inspection; and
 - (c) arrange for any such report to be published in such manner as he considers appropriate.

CHAPTER III

THE COMMON INSPECTION FRAMEWORK AND JOINT INSPECTIONS

The Common Inspection Framework

69 The framework

- (1) The Inspectorate and Her Majesty’s Chief Inspector of Schools in England must devise a common set of principles applicable to all inspections conducted under this Part.
- (2) When they have settled those principles in accordance with the provisions of section 70 they must set them out in a document to be known as the Common Inspection Framework (but referred to in this Part as “the framework”).
- (3) They must then publish the framework in such a way as they consider appropriate.
- (4) The first framework must be settled and come into effect by such date as the Secretary of State may direct.
- (5) The Inspectorate and the Chief Inspector, acting together, may at any time revise the framework.

70 Preparation of the framework

- (1) The Inspectorate and Her Majesty’s Chief Inspector of Schools in England must prepare a draft of the proposed framework and publish it in such a way as they think best calculated to draw it to the attention of the public.
- (2) They must consult—
 - (a) the Secretary of State,
 - (b) the Learning and Skills Council for England, and
 - (c) such other persons as they consider appropriate,about the draft framework, allowing at least three months for those consulted to respond.
- (3) In settling the terms of the framework the Inspectorate and the Chief Inspector must have regard to the results of their consultations on the draft.
- (4) If at any time while preparing the draft framework or settling the terms of the framework, the Inspectorate and the Chief Inspector are unable to agree on any matter—
 - (a) they may refer their disagreement to the Secretary of State; and
 - (b) must have regard to any advice that he gives them.
- (5) If they are still unable to agree on the matter they must tell the Secretary of State and comply with any direction that he gives them as to how to resolve their disagreement.
- (6) If the Inspectorate and the Chief Inspector propose to revise the framework they must prepare a draft of the proposed revision and publish it, together with an explanation of the effect that it would have, in such a way as they think best calculated to draw it to the attention of the public.
- (7) Subsections (2) to (5) apply equally to a revision of the framework.

Joint inspections

71 Joint inspections

- (1) The Secretary of State may by regulations make provision for inspections to be carried out under this Part as joint inspections under the direction of Her Majesty's Chief Inspector of Schools in England in cases in which a person provides—
 - (a) education or training of a kind that is within the remit of the Inspectorate, and
 - (b) education or training of a kind brought within the Chief Inspector's remit by Chapter II.
- (2) The regulations may, in particular, make provision—
 - (a) as to the circumstances in which a joint inspection must be conducted;
 - (b) as to the circumstances in which a joint inspection may be conducted;
 - (c) for establishing the circumstances of a particular case;
 - (d) requiring a joint inspection to be conducted according to a plan prepared by the Chief Inspector in accordance with the regulations;
 - (e) for provisions of this Part to apply in relation to a joint inspection with such modifications as may be prescribed;
 - (f) for the preparation and publication of a single report by the Chief Inspector of the results of a joint inspection;
 - (g) for the making by such persons as may be prescribed of written statements of proposed action (in the light of the report) and of the period within which any such action may be taken.
- (3) The person making a statement required by provision made as a result of subsection (2) (g) must—
 - (a) publish it within such period, and in such manner, as may be prescribed; and
 - (b) send copies of it to such persons as may be prescribed.

CHAPTER IV

GENERAL

72 Defamation

- (1) For the purposes of the law of defamation a report published under a provision of, or made as a result of, this Part is privileged unless its publication is shown to have been made with malice.
- (2) Nothing in subsection (1) limits any privilege subsisting apart from that subsection.

PART IV

INSPECTIONS IN WALES

*New titles***73 Inspectors of Education and Training in Wales**

- (1) Her Majesty’s Chief Inspector of Schools in Wales is renamed Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (2) Her Majesty’s Inspectors of Schools in Wales are renamed Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (3) In any provision of, or made under, any enactment—
 - (a) for “Her Majesty’s Chief Inspector of Schools in Wales” substitute “Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”; and
 - (b) for “Her Majesty’s Inspectors of Schools in Wales” substitute “Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”.

74 Some defined terms

- (1) In this Part—

“Council” means the National Council for Education and Training for Wales or Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant; and

“the National Assembly” means the National Assembly for Wales.
- (2) In this Part, any reference to the Chief Inspector for Wales is to be read as a reference to the person mentioned in section 73(1).

*Extended remit***75 The extended remit of the Chief Inspector for Wales**

- (1) The following kinds of education and training are brought within the remit of the Chief Inspector for Wales by this Part—
 - (a) education or training for persons aged 16 or over where the provider of the education or training is given financial support by the Council or by a local education authority in Wales (either generally or for a specific purpose);
 - (b) education or training for persons aged 16 or over where the Council is, or a local education authority in Wales are, contemplating giving the provider of the education financial support (either generally or for a specific purpose);
 - (c) education or training provided for persons of compulsory school age in an institution in Wales which is within the further education sector;
 - (d) further education provided by a school under section 80 of the School Standards and Framework Act 1998;

- (e) such other education or training in Wales as may be prescribed by regulations made by the National Assembly.
- (2) Neither paragraph (a) nor paragraph (b) of subsection (1) applies—
- (a) to education of a kind that may be inspected under the Schools Inspections Act 1996; or
 - (b) if the financial support mentioned in that paragraph is given for a specific purpose, to education or training at which that support is not directed.

Additional functions

76 Additional functions of the Chief Inspector for Wales

- (1) The Chief Inspector for Wales must keep the National Assembly informed about—
- (a) the quality of the education and training which is brought within the remit of the Chief Inspector for Wales by this Part;
 - (b) the standards achieved by those receiving that education and training; and
 - (c) whether the financial resources made available to those providing it are managed efficiently and used so as to provide value for money.
- (2) When asked to do so by the National Assembly, the Chief Inspector for Wales must—
- (a) give the National Assembly advice on such matters, relating to education and training brought within the remit of the Chief Inspector for Wales by this Part, as the National Assembly may specify;
 - (b) inspect such education or training, or such class of education or training, within that remit as the National Assembly may specify;
 - (c) report on the result of an inspection conducted under this section.
- (3) The Chief Inspector for Wales is to have such other functions in connection with education and training brought within the remit of the Chief Inspector for Wales by this Part as the National Assembly may specify.
- (4) The functions specified under subsection (3) may include functions with respect to training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training which is brought within the remit of the Chief Inspector for Wales by this Part.
- (5) In exercising functions under this Part, the Chief Inspector for Wales must have regard to—
- (a) advice given by the National Assembly; and
 - (b) such aspects of the National Assembly's policy as the National Assembly may specify.

77 Inspections

- (1) The Chief Inspector for Wales must inspect education and training brought within the remit of the Chief Inspector for Wales by this Part.
- (2) Inspections are to be conducted at such intervals as may be prescribed.
- (3) The Chief Inspector for Wales must report in writing on—
- (a) the quality of the education or training inspected;

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- (b) the standards achieved by those receiving that education or training; and
 - (c) whether the financial resources made available to the provider of the education or training are managed efficiently and used in a way which provides value for money.
- (4) The report under subsection (3) must be made within such period as may be prescribed.
- (5) The Chief Inspector for Wales must without delay send a copy of the report under subsection (3) to—
- (a) the National Assembly;
 - (b) the Council;
 - (c) any local education authority providing funds for the education or training inspected; and
 - (d) the provider of the inspected education or training.
- (6) Copies may also be sent to such other persons as the Chief Inspector for Wales considers appropriate.
- (7) A copy may be supplied under subsection (6) free of charge or on payment of such fee, not exceeding the cost of supplying the copy, as the Chief Inspector for Wales may determine.
- (8) The Chief Inspector for Wales must arrange for the report to be published in such manner as he considers appropriate.
- (9) “Prescribed” means prescribed in regulations made by the National Assembly.

78 General powers

- (1) The Chief Inspector for Wales may give advice to the National Assembly on any matter relating to education or training brought within the remit of the Chief Inspector for Wales by this Part.
- (2) The Chief Inspector for Wales may inspect, and report on, any education or training of that kind.
- (3) The Chief Inspector for Wales may inspect any education or training—
- (a) which is not of that kind, but
 - (b) which would be if it were funded in one of the ways mentioned in section 75, if the provider of the education or training asks the Chief Inspector for Wales to do so.
- (4) The Chief Inspector for Wales may charge for the cost of an inspection conducted under subsection (3).
- (5) Subsections (5) to (8) of section 77 apply to a report under subsection (2) as they apply to a report under that section.
- (6) The Chief Inspector for Wales may arrange for a report of an inspection carried out as a result of a request under subsection (3) to be published.

79 Right of entry and offences

- (1) When conducting an inspection under this Part, the Chief Inspector for Wales has, at all reasonable times—

- (a) a right of entry to premises on which the education or training being inspected is provided;
 - (b) a right of entry to premises of the provider of that education or training which are used in connection with that provision;
 - (c) a right to inspect, and take copies of, any records kept by that person, and any other documents containing information relating to the education or training, which the inspector requires for the purposes of the inspection.
- (2) In respect of education or training provided by an employer in the workplace, the right of entry conferred by subsection (1) may be exercised only if the employer has been given reasonable notice in writing.
- (3) The right to inspect records conferred by subsection (1)(c) includes the right to have access to, and to inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) That right also includes the right to such assistance from—
- (a) the person by whom or on whose behalf the computer is or has been so used, or
 - (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
- as the Chief Inspector for Wales may reasonably require.
- (5) It is an offence wilfully to obstruct the Chief Inspector for Wales in the exercise of functions in relation to an inspection under this Part.
- (6) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

80 Action plans

- (1) This section applies if the Chief Inspector for Wales publishes a report of an inspection.
- (2) But it does not apply to a report of an inspection conducted—
- (a) as a result of a request under section 78(3); or
 - (b) under section 83.
- (3) The provider of the education or training which is the subject of the report must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (4) The person making the statement must—
- (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the National Assembly; and
 - (b) send copies of it to such persons as may be so prescribed.

81 Inspections of careers services etc

In the Teaching and Higher Education Act 1998, after section 35, insert—

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“35A Inspection of other careers services etc. in Wales

- (1) This section applies if a person (“A”) who provides a relevant service to which section 35(1) applies also provides education, training or an advisory service—
 - (a) in pursuance of arrangements made by the National Assembly for Wales under section 2 of the Employment and Training Act 1973; or
 - (b) with the assistance of a grant or loan made under section 12(1) of the Industrial Development Act 1982.
- (2) The Chief Inspector for Wales shall, if requested to do so by the National Assembly for Wales, arrange for A to be inspected under this section.
- (3) A request may relate to more than one person and shall specify—
 - (a) the person or persons concerned, and
 - (b) the education, training or advisory service to which the inspection is to relate.
- (4) An inspection under this section is to consist of a review of the way in which A is providing the education, training or advisory service specified in the request.
- (5) Before making a request, the National Assembly for Wales must consult the Chief Inspector for Wales as to the matters to be specified in the request.
- (6) Subsections (6) to (6C) of section 35 apply in relation to an inspection under this section as they apply in relation to an inspection under that section.
- (7) In this section “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.”

82 Inspections of education and training provided under 1973 Act arrangements

- (1) The Chief Inspector for Wales may, at the request of the Secretary of State or the Adult Learning Inspectorate, inspect any education or training provided in Wales by the Secretary of State in accordance with arrangements made under section 2 of the Employment and Training Act 1973.
- (2) A report of an inspection conducted under this section at the request of the Secretary of State must be given to the Secretary of State.
- (3) The Secretary of State may arrange for the report to be published in such manner as he considers appropriate.
- (4) A report of an inspection conducted under this section at the request of the Adult Learning Inspectorate must be given to that Inspectorate.
- (5) The Adult Learning Inspectorate may arrange for the report to be published in such manner as it considers appropriate.
- (6) The Chief Inspector for Wales must send a copy of any report under subsection (2) or (4) to the National Assembly.

83 Area inspections

- (1) If asked to do so by the National Assembly, the Chief Inspector for Wales must inspect—
 - (a) the quality and availability of a specified description of education or training, in a specified area in Wales, for persons who are aged 16 or over;
 - (b) the standards achieved by those receiving that education or training; and
 - (c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.
- (2) The Chief Inspector for Wales may, without being asked to, conduct such an inspection.
- (3) If financial resources have been applied by the Council or a local education authority in respect of education or training which is being inspected under this section, the inspection may extend to considering the manner in which those resources have been applied and whether they have been applied in a way which provides value for money.
- (4) The education or training that may be made the subject of an area inspection is any education or training within the remit of the Chief Inspector for Wales (whether as a result of this Part or of any other enactment).
- (5) A provider of education or training which is the subject of an area inspection must provide such information as the Chief Inspector for Wales may reasonably require in connection with the inspection.
- (6) The Council and any local education authority within the area which is the subject of an area inspection must provide such information as the Chief Inspector for Wales may reasonably require in connection with the inspection.
- (7) The National Assembly may by regulations make further provision with respect to the obligation to provide information imposed by this section.
- (8) On completing an area inspection, the Chief Inspector for Wales must make a written report.
- (9) Subsections (4), (5)(a) to (c) and (6) to (9) of section 77 apply to a report under this section as they apply to a report under that section.
- (10) “Area inspection” means an inspection under this section.

84 Action plans following section 83 inspections

- (1) This section applies if the Chief Inspector for Wales publishes a report of an area inspection conducted under section 83.
- (2) The National Assembly may direct the Council to prepare a written statement of the action which it proposes to take in the light of the report and the period within which it proposes to take it.
- (3) The National Assembly may direct a local education authority whose area is wholly or partly in the area covered by the report to prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.

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- (4) In preparing the statement the Council or the authority must consult such persons as the National Assembly may direct.
- (5) The person making the statement must—
 - (a) publish it within such period, and in such manner, as may be prescribed by regulations made by the National Assembly; and
 - (b) send copies of it to such persons as may be so prescribed.

85 Studies across Wales or of provision made outside Wales

- (1) The National Assembly may direct the Chief Inspector for Wales to carry out—
 - (a) a survey of Wales, or of a specified area within Wales, in respect of specified matters relating to policy concerned with education or training for persons aged 16 or over; or
 - (b) a comparative study of the provision made outside Wales in respect of specified matters relating to such education or training.
- (2) The Chief Inspector for Wales may, without being directed to, carry out a survey or study of that kind.

86 Annual reports

- (1) The annual report of the Chief Inspector for Wales required by section 5(7)(a) of the School Inspections Act 1996 must include an account of the exercise of functions of the Chief Inspector for Wales under this Part.
- (2) The power conferred by that section to make other reports includes a power to make reports with respect to matters relating to education or training which is brought within the remit of the Chief Inspector for Wales by this Part.

87 Annual plan of the Chief Inspector for Wales

- (1) The Chief Inspector for Wales must, for the purposes of the consultation required under section 104(4) of the 1998 Act (funding of HM Chief Inspector of Education and Training for Wales), prepare a plan for each financial year.
- (2) The plan must be submitted to the National Assembly by such time before the beginning of the financial year to which it relates as the National Assembly may direct.
- (3) The plan must contain estimates of—
 - (a) the expenditure necessary, in the financial year to which the plan relates, in order to secure that the functions of the Chief Inspector for Wales are discharged effectively; and
 - (b) the income which the Chief Inspector for Wales will receive in that financial year and which may be applied towards meeting the expenses of the Chief Inspector for Wales.
- (4) The plan must also contain proposals for the management of any funds which may be provided by the National Assembly for that financial year.
- (5) The Chief Inspector for Wales may, after the plan has been approved under section 104(4A) of the 1998 Act, publish it in such manner and at such time as appear to the Chief Inspector for Wales to be appropriate.

(6) “The 1998 Act” means the Government of Wales Act 1998.

88 Defamation

- (1) For the purposes of the law of defamation, any report under this Part is privileged unless its publication is shown to have been made with malice.
- (2) Nothing in subsection (1) limits any privilege subsisting apart from that subsection.

PART V

MISCELLANEOUS AND GENERAL

Further Education Funding Councils

89 Dissolution of FEFC for England

- (1) On the appointed day—
 - (a) the Further Education Funding Council for England shall be dissolved, and
 - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the Learning and Skills Council for England.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

90 Preliminary transfers: FEFC for England

- (1) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of the Further Education Funding Council for England to any of the listed transferees.
- (2) The listed transferees are—
 - (a) the Secretary of State;
 - (b) Her Majesty’s Chief Inspector of Schools in England;
 - (c) the Adult Learning Inspectorate.
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.
- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) The day specified by a scheme under this section for the scheme to come into force must fall before the day appointed under section 154 for the commencement of section 89.

91 Dissolution of FEFC for Wales

- (1) On the appointed day—
 - (a) the Further Education Funding Council for Wales shall be dissolved, and
 - (b) all property, rights and liabilities to which it was entitled or subject immediately before that day shall by virtue of this section become property, rights and liabilities of the National Council for Education and Training for Wales.
- (2) The appointed day is the day appointed under section 154 for the commencement of this section.

*Other transfers***92 Transfers: England**

- (1) The Secretary of State may make a scheme providing for the transfer of any of his property, rights and liabilities to any of the listed persons.
- (2) The Secretary of State may make a scheme providing for the transfer of any of the property, rights and liabilities of a listed person to any other listed person.
- (3) The Secretary of State may make a scheme providing for the transfer to any listed person of any of the property, rights and liabilities of a person with whom the Secretary of State has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (4) The listed persons are—
 - (a) the Learning and Skills Council for England;
 - (b) Her Majesty's Chief Inspector of Schools in England;
 - (c) the Adult Learning Inspectorate.
- (5) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate.
- (6) A scheme under this section comes into force on the day it specifies for it to come into force.
- (7) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (8) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.
- (9) The day specified by a scheme under subsection (2) or (3) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 89.
- (10) A scheme under subsection (3) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

93 Transfers: Wales

- (1) The National Assembly for Wales may make a scheme providing for the transfer of any of its property, rights and liabilities to the National Council for Education and Training for Wales.
- (2) The National Assembly may make a scheme providing for the transfer to the Council of any of the property, rights and liabilities of a person with whom the National Assembly has made arrangements under section 2 of the Employment and Training Act 1973 (arrangements regarding employment).
- (3) A scheme under this section may include such supplementary, incidental, consequential or transitional provisions as the National Assembly thinks are appropriate.
- (4) A scheme under this section comes into force on the day it specifies for it to come into force.
- (5) When a scheme under this section comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) If a scheme under subsection (1) includes provision for the transfer of liabilities, the day specified by the scheme for it to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (7) The day specified by a scheme under subsection (2) for the scheme to come into force must not fall after the end of the period of 3 years starting with the day appointed under section 154 for the commencement of section 91.
- (8) A scheme under subsection (2) is invalid unless it is made with the consent of the person from whom the transfer is to be made.

Transfers: further provision

94 Stamp duty

- (1) A transfer effected by virtue of section 89 or 91 is not to give rise to liability to stamp duty.
- (2) Stamp duty is not to be chargeable on a scheme made under section 90, 92 or 93.

95 Contracts of employment

- (1) This section applies if rights and liabilities under a contract of employment are transferred by virtue of—
 - (a) section 89 or 91, or
 - (b) a scheme under section 90, 92 or 93.
- (2) Anything done by or in relation to the transferor in respect of the employee before the day on which the transfer takes effect is to be treated on and after that day as done by or in relation to the transferee.

- (3) For the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc) the employee is not to be regarded as having been dismissed by virtue of the transfer.
- (4) For the purposes of that Act the employee's period of employment with the transferor is to count as a period of employment with the transferee, and the change of employment is not to break the continuity of the period of employment.
- (5) The preceding provisions do not prejudice any right of the employee to terminate the contract of employment if a substantial change is made to his detriment in his working conditions, but no such right arises by reason only of the change in employer effected by the transfer.
- (6) For the purposes of this section—
 - (a) the transferor is the person from whom the rights and liabilities are transferred;
 - (b) the transferee is the person to whom the rights and liabilities are transferred.

External qualifications

96 Persons under 19

- (1) This section applies to a course of education or training—
 - (a) which is provided (or proposed to be provided) by or on behalf of a school or institution or employer,
 - (b) which leads to an external qualification, and
 - (c) which is provided (or proposed to be provided) for pupils who are of compulsory school age or for pupils who are above that age but have not attained the age of 19.
- (2) Unless the external qualification is approved under section 98 or 99, the course must not be—
 - (a) funded by an authorised body (as defined in section 100), or
 - (b) provided by or on behalf of a maintained school.
- (3) In relation to a maintained school, the local education authority and the governing body must carry out their functions with a view to securing that subsection (2)(b) is not contravened.
- (4) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (5) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;
 - (e) a course for the Certificate in Education.
- (6) A qualification is awarded by an outside person if it is awarded by a person other than—
 - (a) the school or institution or employer, or

- (b) a member of the staff of the school or institution or employer.
- (7) A qualification is authenticated by an outside person if it is awarded by the school or institution or employer and is authenticated by a person other than—
 - (a) the school or institution or employer, or
 - (b) a member of the staff of the school or institution or employer.
- (8) These are maintained schools—
 - (a) a community, foundation or voluntary school;
 - (b) a community or foundation special school.

97 Persons over 19

- (1) This section applies if an institution or employer—
 - (a) receives financial resources from an authorised body (as defined in section 100), and
 - (b) provides for persons who have attained the age of 19 a course of education or training which leads to an external qualification.
- (2) The authorised body must carry out its functions with a view to securing that, unless the external qualification is approved under section 98 or 99, the institution or employer does not make a payment which—
 - (a) is a payment in respect of the qualification,
 - (b) is made to the outside person who awards or authenticates the qualification, and
 - (c) can reasonably be said to consist of or come from the financial resources received from the authorised body (or those resources and others).
- (3) The course mentioned in subsection (1) may be one of two or more components leading to the same qualification.
- (4) An external qualification is a qualification awarded or authenticated by an outside person, other than a qualification resulting from any of these courses—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;
 - (e) a course for the Certificate in Education.
- (5) A qualification is awarded by an outside person if it is awarded by a person other than the institution or employer or a member of its or his staff.
- (6) A qualification is authenticated by an outside person if it is awarded by the institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.
- (7) A payment in respect of a qualification includes a payment in respect of—
 - (a) devising, administering, verifying or certifying the qualification;
 - (b) setting or moderating examinations for the purposes of the qualification;
 - (c) registering, assessing or examining candidates.

98 Approved qualifications: England

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England.
- (2) A qualification is approved at a given time if—
 - (a) it is then approved by the Secretary of State, or
 - (b) it is then approved by a body then designated by him for the purposes of this section.
- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the Secretary of State consents to the approval.
- (5) The Secretary of State may at any time revoke—
 - (a) a designation;
 - (b) an approval given by him;
 - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.
- (7) If the Secretary of State asks the Qualifications and Curriculum Authority to do so, it must advise him on any approval he proposes to give under subsection (2)(a).
- (8) If a designated body asks the Qualifications and Curriculum Authority to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

99 Approved qualifications: Wales

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales.
- (2) A qualification is approved at a given time if—
 - (a) it is then approved by the National Assembly for Wales, or
 - (b) it is then approved by a body then designated by the National Assembly for the purposes of this section.
- (3) Approval may be given generally or in relation to particular cases.
- (4) An approval given by a designated body is ineffective unless the National Assembly consents to the approval.
- (5) The National Assembly may at any time revoke—
 - (a) a designation;
 - (b) an approval given by the National Assembly;
 - (c) an approval given by a designated body.
- (6) A designated body may at any time revoke an approval given by it.
- (7) If the National Assembly asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the National Assembly on any approval the National Assembly proposes to give under subsection (2)(a).

- (8) If a designated body asks the Qualifications, Curriculum and Assessment Authority for Wales to do so, it must advise the body on any approval the body proposes to give under subsection (2)(b).

100 Authorised bodies

- (1) For the purposes of sections 96 and 97 in their application to England these are authorised bodies—
- (a) the Learning and Skills Council for England;
 - (b) a local education authority;
 - (c) a body specified by order by the Secretary of State for the purposes of this section.
- (2) For the purposes of sections 96 and 97 in their application to Wales these are authorised bodies—
- (a) the National Council for Education and Training for Wales;
 - (b) a local education authority;
 - (c) a body specified by order by the National Assembly for Wales for the purposes of this section.

101 Enforcement: England

- (1) This section has effect for the purposes of sections 96 and 97 in their application to England, and it applies if the Secretary of State is satisfied that—
- (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
 - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
 - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.
- (2) The Secretary of State may give such directions to the authority or body as he thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.
- (4) A specified body is a body specified under section 100(1)(c).

102 Enforcement: Wales

- (1) This section has effect for the purposes of sections 96 and 97 in their application to Wales, and it applies if the National Assembly for Wales is satisfied that—
- (a) a local education authority or specified body has failed to comply with section 96(2)(a) or is proposing to do so,
 - (b) a local education authority or governing body has failed to comply with section 96(3) or is proposing to do so, or
 - (c) a local education authority or specified body has failed to comply with section 97(2) or is proposing to do so.
- (2) The National Assembly may give such directions to the authority or body as it thinks fit.
- (3) An authority or body must comply with any directions given to it under this section.

- (4) A specified body is a body specified under section 100(2)(c).

103 Amendments relating to external qualifications

- (1) The Education Act 1997 shall be amended as follows.
- (2) In section 24 (functions of Qualifications and Curriculum Authority in relation to external qualifications) in subsection (2) for paragraphs (h) and (i) substitute—
“*(gg)* to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.”
- (3) In subsection (3) of section 24 for “*(g)*” substitute “*(gg)*”.
- (4) In section 30 (functions of Qualifications, Curriculum and Assessment Authority for Wales in relation to external qualifications)—
(a) in subsection (1) omit “or by subsection (3)”;
(b) in subsection (2) for “*(g)*” substitute “*(gg)*”;
(c) omit subsection (3).
- (5) In section 37 (requirement for approval of certain courses leading to external qualifications) omit subsections (1) to (4) and in subsection (5) the words “, which are superseded by this section,”.

Qualifying accounts and arrangements

104 Qualifying accounts

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires an account to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the account to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
(a) conditions as to the description of individual who may hold an account;
(b) conditions as to the description of institution with which an account may be held;
(c) conditions requiring an account not to be a joint one, or not to be held on behalf of a person other than the holder, or not to be held with another account of a specified description, or not to be connected with another account;
(d) conditions requiring an account to be identified by a specified name.
- (4) Conditions as to the description of institution with which an account may be held may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.
- (5) The regulations may provide that a specification of a description of institution with which an account may be held may include a requirement for institutions to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.

- (6) The regulations may contain provision securing that an individual may not simultaneously hold more than one account which qualifies under this section.
- (7) The power to make regulations under this section is to be exercised by the Scottish Ministers so far as those regulations are to have effect for the purposes of any provision of, or made under, an Act of the Scottish Parliament authorising grants to be paid to, or in respect of, individuals in connection with their education or training; and for this purpose references in this section to the Secretary of State are to be treated as references to the Scottish Ministers.
- (8) For the purposes of this section an enactment includes an Act of the Scottish Parliament.

105 Qualifying arrangements

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Secretary of State in regulations made under this section (or to satisfy them at the time concerned).
- (3) These conditions may be included—
 - (a) conditions as to the description of individual who may enter into arrangements;
 - (b) conditions as to the description of body with which arrangements may be made;
 - (c) conditions as to the nature of the arrangements and the way they are to be made;
 - (d) conditions requiring the arrangements to be identified by a specified name.
- (4) Conditions as to the description of body with which arrangements may be made may themselves specify the description or may allow the Secretary of State to specify it in a way he thinks fit.
- (5) The regulations may provide that a specification of a description of body with which arrangements may be made may include a requirement for bodies to have the benefit of approvals which have been given by the Secretary of State and not withdrawn.
- (6) The regulations may contain provision securing that an individual may not simultaneously—
 - (a) be a party to more than one set of arrangements which qualify under this section, or
 - (b) be a party to arrangements which qualify under this section and to arrangements falling within subsection (7).
- (7) Arrangements fall within this subsection if they are—
 - (a) arrangements which qualify under such provision of the law of Scotland as in the opinion of the Secretary of State corresponds to this section, or
 - (b) arrangements which qualify under section 106.

106 Qualifying arrangements: Northern Ireland

- (1) Subsection (2) applies if a provision contained in or made under an enactment requires arrangements to qualify under this section (or to qualify under it at a particular time).
- (2) The provision is to be taken to require the arrangements to satisfy conditions specified by the Department of Higher and Further Education, Training and Employment in Northern Ireland in regulations made under this section (or to satisfy them at the time concerned).
- (3) Subsections (3) to (7) of section 105 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
 - (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
 - (b) the reference in subsection (7)(b) to arrangements which qualify under this section is to be treated as a reference to arrangements which qualify under section 105.

107 Qualifying arrangements: further provision

- (1) The Secretary of State (or a person designated by him) may make arrangements with a body in connection with the making by that body of arrangements which qualify under section 105.
- (2) Arrangements under subsection (1) may include provision for the remuneration of a body and the payment of its expenses.
- (3) Arrangements under subsection (1) may include provision for a person designated by the Secretary of State to carry out on his behalf such of his functions under the arrangements as he specifies.
- (4) The Secretary of State may pay—
 - (a) to a person designated by him under subsection (1) to make arrangements with a body, or
 - (b) to a person designated by him under subsection (3) to carry out functions on his behalf,remuneration or amounts to meet the person's expenses.
- (5) The Department of Higher and Further Education, Training and Employment in Northern Ireland (or a person designated by it) may make arrangements with a body in connection with the making by that body of arrangements which qualify under section 106.
- (6) Subsections (2) to (4) apply to arrangements under subsection (5) as they apply to arrangements under subsection (1); and for this purpose references in subsections (2) to (4) to the Secretary of State are to be treated as references to the Department.

108 Grants

- (1) The Secretary of State may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.
- (2) The regulations must provide that grants may be paid only to or in respect of individuals—

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- (a) who hold accounts which qualify under section 104,
 - (b) who are parties to arrangements which qualify under section 105, or
 - (c) who hold such accounts and are parties to such arrangements.
- (3) The regulations may provide that grants may not be paid unless other specified conditions are satisfied.
- (4) These conditions may be included—
- (a) conditions as to the way the accounts qualifying under section 104 are operated (including conditions requiring them to contain a specified balance);
 - (b) conditions as to the way the arrangements qualifying under section 105 are conducted;
 - (c) conditions as to the employment or self-employment of individuals;
 - (d) conditions requiring individuals not to be receiving or have received specified benefits;
 - (e) conditions as to the kinds of education or training which qualify.
- (5) The regulations may provide—
- (a) that the amounts of grants, and when and how they are paid, are to be decided by the Secretary of State;
 - (b) that grants may be paid on such terms as the Secretary of State decides and that the terms may include terms requiring repayment in specified circumstances;
 - (c) that if grants are payable under the regulations they may be paid to persons providing education or training;
 - (d) that if grants are payable under the regulations they may be paid by the Secretary of State or by other persons under arrangements made with him;
 - (e) that if such arrangements are made the Secretary of State may pay the persons concerned remuneration or amounts to meet their expenses.
- (6) Conditions as to the kinds of education or training which qualify may include provision for the kinds to be specified—
- (a) by the Secretary of State in a way he thinks fit, or
 - (b) if he so decides, by a person who (at the time of the specification) is designated by the Secretary of State and who specifies in a way the Secretary of State stipulates.
- (7) The regulations may provide that a specification of the kinds of education or training which qualify may include a requirement for the education or training to be provided by persons for the time being approved—
- (a) by the Secretary of State, or
 - (b) if he so decides, by a person who (at the time of the approval) is designated by the Secretary of State.

109 Grants: Northern Ireland

- (1) The Department of Higher and Further Education, Training and Employment in Northern Ireland may make regulations authorising grants to be paid to or in respect of individuals in connection with their education or training.
- (2) The regulations must provide that grants may be paid only to or in respect of individuals—
- (a) who hold accounts which qualify under section 104,

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- (b) who are parties to arrangements which qualify under section 106, or
 - (c) who hold such accounts and are parties to such arrangements.
- (3) Subsections (3) to (7) of section 108 apply to regulations under this section as they apply to regulations under that section; and for this purpose—
- (a) references in those subsections to the Secretary of State are to be treated as references to the Department;
 - (b) the reference in subsection (4)(b) to arrangements which qualify under section 105 is to be treated as a reference to arrangements which qualify under section 106.

Sixth-form education

110 Secondary education

- (1) After section 2(2) of the Education Act 1996 (definition of secondary education) there shall be inserted—
- “(2A) Education is also secondary education for the purposes of this Act (subject to subsection (5)) if it is provided by an institution which—
- (a) is maintained by a local education authority, and
 - (b) is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19.
- (2B) Where—
- (a) a person is in full-time education,
 - (b) he receives his education partly at a school and, by virtue of arrangements made by the school, partly at another institution, and
 - (c) the education which he receives at the school would be secondary education if it was full-time education at the school,
- the person’s education, both at the school and at the other institution, is secondary education for the purposes of this Act (subject to subsection (5)).”
- (2) Subsections (3) to (5) apply to an institution which would become a school on the coming into force of subsection (1) (by virtue of section 4(1) of the Education Act 1996 (schools)).
- (3) An institution to which this subsection applies shall not be treated as being a school by virtue of section 4(1) of that Act unless it has been established as a new school in accordance with section 28(1)(a) or (2)(a) or 31(1)(a) of the School Standards and Framework Act 1998 (community or foundation mainstream or special school).
- (4) A local education authority may not continue to maintain an institution to which this subsection applies in pursuance of section 15A of the Education Act 1996 (education for 16 to 18 year olds).
- (5) Section 51(3A) of the Further and Higher Education Act 1992 (incorporation of further education institutions) shall not apply in relation to an institution to which this subsection applies.

111 Further education corporations

(1) The following shall be substituted for section 16(2) and (3) of the Further and Higher Education Act 1992 (incorporation of further education institutions)—

“(2) Subsection (1) above does not apply to an institution which is maintained by a local education authority.

(3) The Secretary of State may by order make provision for the establishment of a body corporate for the purpose of conducting an institution which—

- (a) is maintained by a local education authority, and
- (b) in his opinion, is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.”

(2) Section 51 of that Act (publication of proposals) shall be amended as follows—

(a) for subsection (3)(b) substitute—

“(b) an order under section 16(3) of this Act, other than an order made for the purpose of giving effect to a proposal by a council,” and

(b) after subsection (3) insert—

“(3A) A draft proposal or order in respect of an institution which is maintained by a local education authority shall not be published without the consent of the governing body and the local education authority.”

112 Further education institutions: designation

In section 28(3) of the Further and Higher Education Act 1992 (designation of institutions for funding) the following shall be inserted after subsection (3)—

“(3A) The Secretary of State shall not make an order under this section in respect of a voluntary aided school without the consent of the governing body and the local education authority.”

113 Inadequate sixth-forms

(1) Schedule 7 (inadequate sixth-forms) shall have effect.

(2) Expressions used in that Schedule and in the School Inspections Act 1996 have the same meaning in that Schedule as in that Act.

(3) Sections 496 and 497 of the Education Act 1996 (intervention) shall have effect in relation to powers and duties conferred or imposed by virtue of Schedule 7 as if—

- (a) those powers and duties were conferred or imposed by the Education Act 1996, and
- (b) the bodies specified in sections 496(2) and 497(2) were any local education authority, any school organisation committee and the governing body of any maintained school (within the meaning given by section 20(7) of the School Standards and Framework Act 1998).

*Support for 13 to 19 year olds: England***114 Provision of services**

- (1) The Secretary of State may provide or secure the provision of services which he thinks will encourage, enable or assist (directly or indirectly) effective participation by young persons in education or training.
- (2) In securing the provision of those services the Secretary of State may, in particular—
 - (a) make arrangements with local authorities and other persons for the provision of services;
 - (b) direct local education authorities to provide services, to secure the provision of services or to participate in the provision of services.
- (3) Arrangements and directions under subsection (2) may include provision—
 - (a) for grants, loans and other kinds of financial assistance to be provided by the Secretary of State (whether or not on conditions);
 - (b) requiring persons with whom arrangements are made or to whom directions are given to have regard to guidance issued by the Secretary of State.
- (4) In this section “young persons” means persons who have attained the age of 13 but not the age of 20.
- (5) A direction under this section may be revoked or varied by a later direction.

115 Consultation and coordination

- (1) Before providing or securing the provision of services of the kind mentioned in section 114(1) for residents of a particular place or area, the Secretary of State shall consult each of the following with responsibility for all or part of the place or area—
 - (a) a local authority,
 - (b) a Health Authority,
 - (c) a chief officer of police,
 - (d) a police authority,
 - (e) a probation committee,
 - (f) a youth offending team, and
 - (g) a Primary Care Trust.
- (2) The Secretary of State shall also consult—
 - (a) any voluntary body which provides services for young persons in the place or area concerned and which the Secretary of State thinks it appropriate to consult, and
 - (b) such other persons as he thinks appropriate.
- (3) Subsection (4) applies where the Secretary of State—
 - (a) provides or proposes to provide, or
 - (b) secures or proposes to secure the provision of,services of the kind mentioned in section 114(1) for the residents of a particular place or area.
- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—

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- (a) exercise their functions so as to support and assist the services provided, secured or proposed by the Secretary of State, and
 - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

116 Local education authorities

- (1) A local education authority—
- (a) may enter into arrangements under section 114(2)(a) for the provision of services of the kind mentioned in section 114(1),
 - (b) shall comply with a direction given to it under section 114(2)(b), and
 - (c) may provide, secure the provision of or participate in the provision of services of the kind mentioned in section 114(1) otherwise than in accordance with paragraph (a) or (b).
- (2) Action which a local education authority takes in pursuance of subsection (1) may relate to services for a person from another area.
- (3) For the purpose of subsection (1) a local education authority may—
- (a) incur expenditure;
 - (b) form companies;
 - (c) employ officers;
 - (d) enter into agreements for the supply of goods or services;
 - (e) do anything else which they consider necessary or expedient.
- (4) Nothing in or done under section 114 shall prejudice any power of a local education authority to provide services or incur expenditure.

117 Educational institutions: information and access

- (1) Where a person is involved in the provision of services in pursuance of section 114(1), an educational institution to which this section applies shall, for the purpose of the provision of those services—
- (a) provide him on request with the name and address of a pupil or student;
 - (b) provide him on request with the name and address of a parent of a pupil or student;
 - (c) provide him on request with information in the institution's possession about a pupil or student;
 - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
 - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.
- (2) Information shall not be provided under subsection (1)(c)—
- (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or

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- (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
 - (a) community, foundation and voluntary schools,
 - (b) community or foundation special schools (other than those established in hospitals),
 - (c) city technology colleges, city colleges for the technology of the arts and city academies,
 - (d) pupil referral units,
 - (e) institutions within the further education sector, and
 - (f) institutions in receipt of funding from the Learning and Skills Council for England.

118 Inspection

- (1) Her Majesty's Chief Inspector of Schools in England—
 - (a) shall advise the Secretary of State on request about matters relating to services provided in pursuance of section 114(1),
 - (b) may give the Secretary of State other advice about those matters,
 - (c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services, and
 - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) A request under subsection (1)(c)—
 - (a) may be general or in relation to specific matters,
 - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
 - (c) may relate to a specific area.
- (3) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (4) Subsections (5) to (7) apply to an inspection under subsection (1)(c) or (d) of services provided by a person or institution in pursuance of section 114(1).
- (5) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
 - (a) section 3(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (6) Section 42A of the 1996 Act (publication of reports) shall apply.
- (7) A person who wilfully obstructs a person in carrying out or participating in the inspection—
 - (a) shall be guilty of an offence, and
 - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

119 Information: supply by Secretary of State

- (1) The Secretary of State may supply information, including social security information, to any civil servant or other person for the purpose of the provision of services of the kind mentioned in section 114(1).
- (2) In this section “social security information” means personal information about a young person which is obtained by the Secretary of State in the course of the exercise of a function under—
 - (a) the Social Security Contributions and Benefits Act 1992, or
 - (b) the Social Security Administration Act 1992.
- (3) For the purposes of subsection (2) “personal information” means, in relation to a young person—
 - (a) his name, address and date of birth, and
 - (b) the name and address of a parent of his.
- (4) A person commits an offence if he discloses information supplied to him under subsection (1) unless the disclosure is made—
 - (a) for the purpose of the provision of services in pursuance of section 114(1),
 - (b) in accordance with an enactment or an order of a court,
 - (c) for the purpose of actual or contemplated proceedings before a court,
 - (d) with consent given by or on behalf of the person to whom the information relates, or
 - (e) in such a way as to prevent the identification of the person to whom it relates.
- (5) It is a defence for a person charged with an offence under this section to prove that he reasonably believed that his disclosure was lawful.
- (6) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

120 Information: supply by public bodies

- (1) For the purpose of the provision of services in pursuance of section 114(1), any of the persons or bodies mentioned in subsection (2) may supply information about a young person—
 - (a) to the Secretary of State;
 - (b) to any other person or body involved in the provision of those services.
- (2) Those persons and bodies are—
 - (a) a local authority,
 - (b) a Health Authority,
 - (c) the Learning and Skills Council for England,
 - (d) a chief officer of police,
 - (e) a probation committee,
 - (f) a youth offending team, and
 - (g) a Primary Care Trust.

121 Supplementary

(1) In sections 114 to 120—

“local authority” has the meaning given by section 579(1) of the Education Act 1996 (interpretation),

“Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,

“parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,

“probation committee” means a committee established under section 3 of the Probation Service Act 1993,

“police authority” has the meaning given by section 101 of the Police Act 1996,

“young person” has the meaning given by section 114(4), and

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.

(2) The power under section 114 shall not be used to provide or secure the provision of services outside England.

122 Careers services

The following shall be inserted after section 10A of the Employment and Training Act 1973 (careers services)—

“10B Inspection

(1) Her Majesty’s Chief Inspector of Schools in England—

(a) shall advise the Secretary of State on request about matters relating to services provided in England in pursuance of section 8 or 9,

(b) may give the Secretary of State other advice about those matters,

(c) shall, when requested to do so by the Secretary of State, inspect and report on the provision of those services by any person or institution, and

(d) may undertake such other inspections of the provision of those services by persons or institutions as he thinks fit.

(2) A request under subsection (1)(c)—

(a) may be general or in relation to specific matters,

(b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and

(c) may relate to a specific area.

(3) An inspection under subsection (1)(c) or (d) may not relate to services provided for persons who have attained the age of 20.

(4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.

(5) Subsections (6) to (8) apply to an inspection under subsection (1)(c) or (d) of services provided in pursuance of arrangements under section 10(1) of this Act.

Status: This is the original version (as it was originally enacted).

- (6) A person carrying out or participating in the inspection shall have the same powers as an Inspector of Schools under the following provisions of the School Inspections Act 1996—
 - (a) section 3(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (7) Section 42A of the 1996 Act (publication of reports) shall apply.
- (8) A person who wilfully obstructs a person in carrying out or participating in the inspection—
 - (a) shall be guilty of an offence, and
 - (b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

Support for 11 to 25 year olds: Wales

123 Provision of services

- (1) The National Assembly for Wales may direct a local authority—
 - (a) to provide youth support services;
 - (b) to secure the provision of youth support services;
 - (c) to participate in the provision of youth support services.
- (2) In this section “youth support services” means services which in the opinion of the National Assembly will encourage, enable or assist young persons (directly or indirectly)—
 - (a) to participate effectively in education or training,
 - (b) to take advantage of opportunities for employment, or
 - (c) to participate effectively and responsibly in the life of their communities.
- (3) In this section “young persons” means persons who have attained the age of 11 but not the age of 26.
- (4) A direction under subsection (1)—
 - (a) may include provision for grants, loans and other kinds of financial assistance to be provided by the National Assembly (whether or not on conditions),
 - (b) may require local authorities to have regard to guidance issued by the National Assembly, and
 - (c) may require local authorities when making arrangements with other persons to require those persons to have regard to guidance issued by the National Assembly.
- (5) A direction under subsection (1)—
 - (a) may relate to a particular class of young person;
 - (b) may make different provision for different classes of young person;
 - (c) may be revoked or varied by a later direction.

124 Local authority: duty and powers

- (1) A local authority—

Status: This is the original version (as it was originally enacted).

- (a) shall comply with a direction given to it under section 123(1), and
 - (b) may provide, secure the provision of or participate in the provision of youth support services otherwise than in accordance with paragraph (a).
- (2) Action which a local authority takes in pursuance of subsection (1)—
- (a) may relate to a particular class of young persons;
 - (b) may relate to services for a person from another area.
- (3) In complying with a direction under section 123(1) a local authority shall have regard to the expediency of co-operation with voluntary organisations.
- (4) For the purpose of subsection (1) a local authority may—
- (a) incur expenditure;
 - (b) employ officers;
 - (c) enter into agreements for the supply of goods or services;
 - (d) do anything else (other than forming companies) which they consider necessary or expedient.
- (5) Nothing in or done under section 123 shall prejudice any power of a local authority to provide services or incur expenditure.

125 Consultation and coordination

- (1) Before complying with a direction under section 123(1) by providing, securing the provision of or participating in the provision of services for residents of a particular place or area, a local authority shall consult each of the following with responsibility for all or part of the area—
- (a) a Health Authority,
 - (b) a chief officer of police,
 - (c) a police authority,
 - (d) a probation committee, and
 - (e) a youth offending team.
- (2) The local authority shall also—
- (a) consult any voluntary body which provides services for young persons in the place or area concerned and which the local authority think it appropriate to consult,
 - (b) consult the National Council for Education and Training for Wales,
 - (c) consult any authority or person with whom arrangements have been made for the place or area concerned under section 10(1) or (3)(a), (b) or (c) of the Employment and Training Act 1973 (careers services),
 - (d) consult any relevant organisation established for the purpose of enabling voluntary bodies to co-operate and co-ordinate their activities,
 - (e) consult such other persons as the local authority think appropriate, and
 - (f) provide such opportunities as the local authority think appropriate for young persons in the place or area concerned to express their views.
- (3) Subsection (4) applies where a local authority—
- (a) provide or propose to provide youth support services for the residents of a particular place or area, or

Status: This is the original version (as it was originally enacted).

- (b) secure or propose to secure the provision of youth support services for the residents of a particular place or area.
- (4) Where this subsection applies, persons and bodies listed in subsection (1) with responsibility for all or part of that place or area shall—
 - (a) exercise their functions so as to support and assist the services provided, secured or proposed by the local authority, and
 - (b) coordinate the exercise of their functions, so far as seems reasonable, with persons providing those services.
- (5) Subsection (4) shall not require persons or bodies to take action which would significantly interfere with the efficient or effective exercise of their functions.

126 Educational institutions: information and access

- (1) Where a person is involved in the provision of services in pursuance of section 123(1) (a) or (b), an educational institution to which this section applies shall, for the purpose of the provision of those services—
 - (a) provide him on request with the name and address of a pupil or student;
 - (b) provide him on request with the name and address of a parent of a pupil or student;
 - (c) provide him on request with information in the institution's possession about a pupil or student;
 - (d) permit him to have access to a pupil or student on the institution's premises at reasonable times;
 - (e) make available to him, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual pupils or students or groups of pupils or students.
- (2) Information shall not be provided under subsection (1)(c)—
 - (a) in the case of a pupil or student who has not attained the age of 16, if a parent of his has instructed the institution not to provide information of that kind under this section, or
 - (b) in the case of a pupil or student who has attained the age of 16, if he has instructed the institution not to provide information of that kind under this section.
- (3) This section applies to the following institutions—
 - (a) community, foundation and voluntary schools,
 - (b) community or foundation special schools (other than those established in hospitals),
 - (c) city technology colleges and city colleges for the technology of the arts,
 - (d) pupil referral units,
 - (e) institutions within the further education sector, and
 - (f) institutions in receipt of funding from the National Council for Education and Training for Wales.

127 Inspection

- (1) Her Majesty's Chief Inspector of Education and Training in Wales—

Status: This is the original version (as it was originally enacted).

- (a) shall advise the National Assembly for Wales on request about matters relating to services provided in pursuance of section 123(1),
 - (b) may give the National Assembly other advice about those matters,
 - (c) shall, when requested to do so by the National Assembly, inspect and report on the provision of those services, and
 - (d) may undertake such other inspections of the provision of those services as he thinks fit.
- (2) The National Assembly shall consult the Chief Inspector before making a request under subsection (1)(a) or (c).
- (3) A request under subsection (1)(c)—
- (a) may be general or in relation to specific matters,
 - (b) may relate to a specific person or institution providing services, or to a specific class of person or institution, and
 - (c) may relate to a specific area.
- (4) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.

128 Conduct and effect of inspections

- (1) This section applies where a service is inspected pursuant to a request under section 127(1)(c) or in accordance with section 127(1)(d).
- (2) A person carrying out or participating in the inspection shall have the same powers as an Inspector under the following provisions of the School Inspections Act 1996—
- (a) section 6(3)(a) and (b) (right of access), and
 - (b) section 42 (computer records).
- (3) Section 42A of that Act (publication of reports) shall apply.
- (4) Where the Chief Inspector arranges for the publication of a report of an inspection, the person who provides the inspected service shall—
- (a) prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it,
 - (b) publish the statement within such period, and in such manner, as may be prescribed by regulations made by the National Assembly for Wales, and
 - (c) send copies of the statement to such persons as may be prescribed by regulations made by the National Assembly.
- (5) Where a local authority provides an inspected service, or secures or participates in the provision of an inspected service, the authority—
- (a) shall ensure that the action specified in any statement prepared under subsection (4)(a) is sufficient to remedy any weakness mentioned in the report, and
 - (b) shall take all reasonable steps to ensure that the action specified in the statement is taken within the period specified.
- (6) If the National Assembly consider that a local authority is failing to comply with its duties under subsection (5)—
- (a) the National Assembly may give directions to the local authority about the performance of those duties, and

- (b) the authority shall comply with the directions.

129 Supplementary

- (1) In sections 123 to 128—

“local authority” means a county council or a county borough council,

“Health Authority” has the meaning given by section 8 of the National Health Service Act 1977,

“parent”, in relation to a child, means a person who has parental responsibility for him within the meaning of section 3 of the Children Act 1989,

“probation committee” means a committee established under section 3 of the Probation Service Act 1993,

“police authority” has the meaning given by section 101 of the Police Act 1996,

“young person” has the meaning given by section 123(3),

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998, and

“youth support services” has the meaning given by section 123(2).

- (2) The power under section 123 shall not relate to services which are provided or to be provided outside Wales.

City colleges and academies

130 City academies

- (1) Section 482 of the Education Act 1996 (city technology colleges and city colleges for the technology of the arts) shall be amended as follows.

- (2) In subsection (2)(c)—

(a) omit “either”, and

(b) after “arts” insert “or on a subject area mentioned in subsection (2A)”.

- (3) After subsection (2) insert—

“(2A) The subject areas are—

(a) modern foreign languages;

(b) visual arts, performing arts or media arts (or any combination of them);

(c) sport;

(d) any subject specified by order by the Secretary of State.”

- (4) In subsection (3) after paragraph (b) insert “; or

(c) as a city academy, if the emphasis of its curriculum is on a subject area mentioned in subsection (2A).”

- (5) After subsection (3) insert—

“(3A) A school established on or after the relevant day and which would otherwise, by virtue of subsection (3), be known as a city technology college or a city

Status: This is the original version (as it was originally enacted).

college for the technology of the arts may instead, if the person carrying it on so chooses, be known as a city academy.

(3B) Before entering into an agreement under this section in relation to a school to be known as a city academy, the Secretary of State must consult the local education authorities referred to in subsection (3C) about the establishment of the school.

(3C) The authorities are—

- (a) the local education authority in whose area the school is to be situated, and
- (b) if the Secretary of State thinks a significant proportion of the pupils at the school is likely to be resident within the area of another local education authority, that authority.”

(6) After subsection (5) insert—

“(6) For the purposes of subsection (3A) the relevant day is the day on which section 130 of the Learning and Skills Act 2000 comes into force.”

(7) This section does not apply to schools in Wales.

131 City academies: land

(1) Schedule 8 contains provisions about land in relation to city academies.

(2) That Schedule does not apply to land in Wales.

132 City academies: financial provisions

In section 483 of the Education Act 1996 (city colleges: financial provisions) after subsection (3) there shall be inserted—

“(3A) If the school is a city academy, subsection (3) shall apply with such modifications (if any) as may be specified by the Secretary of State by order.”

133 City colleges and academies: special educational needs

After section 483 of the Education Act 1996 there shall be inserted—

“483A City colleges and academies: special educational needs

(1) This section applies in relation to any child falling within subsection (2) if the condition in subsection (3) is satisfied.

(2) A child falls within this subsection if—

- (a) he is a child for whom a statement is maintained under section 324, and
- (b) he attends (or proposes to attend) a school which is a city technology college, a city college for the technology of the arts or a city academy.

(3) The condition in this subsection is satisfied if—

- (a) the school is approved by the Secretary of State under section 347(1), or
- (b) the Secretary of State consents to the child being educated at the school.

Status: This is the original version (as it was originally enacted).

- (4) The Secretary of State may by regulations make provision for securing that arrangements are made—
 - (a) for making the special educational provision specified in the statement;
 - (b) for making any non-educational provision specified in the statement.
- (5) Regulations under subsection (4) may require or authorise a local education authority—
 - (a) to make payments to the school in respect of the child, or
 - (b) to provide any other assistance to the school in respect of the child.
- (6) No condition or requirement imposed by virtue of section 482(4)(a) is to prevent a local education authority making payments or providing assistance by virtue of subsection (5).
- (7) This section does not apply to schools in Wales.”

Pensions

134 Pensions

- (1) Section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons falling within subsection (2).
- (2) This subsection applies to a person if—
 - (a) he has rights and obligations as a pensioner or deferred pensioner under a salary related occupational pension scheme, and
 - (b) the rights and obligations arose by virtue of his or another person’s employment with any of the employers specified in subsection (3).
- (3) The employers are—
 - (a) a person with whom the Secretary of State or the National Assembly for Wales has made arrangements under section 2 of the Employment and Training Act 1973 and who is specified in an order made by the Secretary of State or is of a description so specified;
 - (b) a company which is a subsidiary of a person falling within paragraph (a) and which is specified in an order made by the Secretary of State or is of a description so specified.
- (4) A scheme under section 1 of the Superannuation Act 1972 (a new scheme) may not be made in relation to the persons falling within subsection (2) unless—
 - (a) the trustees of the occupational scheme consent in writing to the new scheme being made,
 - (b) the rights of the persons under the new scheme are no less generous than their rights as they existed under the occupational scheme, and
 - (c) the obligations of the persons under the new scheme are no more onerous than their obligations as they existed under the occupational scheme.

135 Pensions: interpretation

- (1) This section has effect for the purposes of section 134.

Status: This is the original version (as it was originally enacted).

- (2) Rights in relation to a person include—
 - (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him;
 - (b) a right of allocation in respect of the present or future payment of a pension.
- (3) A deferred pensioner is a person who has rights under the occupational scheme but is neither a pensioner under it nor a person to whom rights are accruing under it by virtue of his employment.
- (4) “Salary related occupational pension scheme” has the meaning given by section 93(1A) of the Pension Schemes Act 1993.

136 Pensions: delegation

- (1) A function exercisable by virtue of section 1 of the Superannuation Act 1972 in consequence of section 134 or of paragraph 6(1) of Schedule 1 may be exercised by (or by employees of) such person as may be authorised in that behalf by the person whose function it is.
- (2) An authorisation given by virtue of subsection (1) may authorise the exercise of a function—
 - (a) either wholly or to such extent as may be specified in the authorisation;
 - (b) either generally or in such cases as may be so specified;
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (3) An authorisation given by virtue of subsection (1) is to be treated for all purposes as if it were given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (contracting out of functions of Ministers and office-holders).
- (4) An authorisation given by virtue of subsection (1) may be revoked at any time by the person who gave it.

Other miscellaneous provisions

137 Recreation and social and physical training

- (1) Section 508 of the Education Act 1996 (local education authorities: recreation and social and physical training) shall be amended as follows.
- (2) In subsection (1) for “secondary and further education” substitute “and secondary education”.
- (3) After subsection (1) insert—
 - “(1A) A local education authority may provide facilities for recreation and social and physical training as part of the facilities for further education provided (whether or not by them) for their area.”
- (4) In subsection (2) for “For that purpose” substitute “For the purpose of subsection (1) or (1A)”.

138 Wales: provision of information by public bodies

- (1) For the purpose of the provision in Wales of services mentioned in subsection (2), any of the persons or bodies mentioned in subsection (3) may supply information about a young person—
 - (a) to a local authority;
 - (b) to any other person or body involved in the provision of the services.
- (2) The services are—
 - (a) services provided in pursuance of section 123 of this Act,
 - (b) services provided in pursuance of any of sections 2, 8, 9 and 10 of the Employment and Training Act 1973 (training and careers services), and
 - (c) services wholly or partly funded in pursuance of section 12 of the Industrial Development Act 1982 (careers in industry).
- (3) The persons and bodies are—
 - (a) a local authority,
 - (b) a Health Authority,
 - (c) the National Council for Education and Training for Wales,
 - (d) a chief officer of police,
 - (e) a probation committee, and
 - (f) a youth offending team.

139 Induction periods for teachers

- (1) Section 19 of the Teaching and Higher Education Act 1998 (requirement to serve induction period) shall be amended as follows.
- (2) In subsection (1) after paragraph (b) insert—

“or

 - (c) in such circumstances as may be prescribed, a further education institution (or a further education institution of a prescribed description).”
- (3) In subsection (2)—
 - (a) in paragraph (f) omit “employed as a teacher at a school”, and
 - (b) in paragraph (k) after “schools” insert “or to further education institutions”.
- (4) In subsection (6), for “subsection (2)” substitute “subsections (2) and (6A)”.
- (5) After subsection (6) insert—

“(6A) Regulations under subsection (1)(c) may, in particular—

 - (a) provide that an induction period may not be begun without approval of the appropriate body for the serving of that induction period;
 - (b) provide for approval to be general or specific;
 - (c) make provision (including transitional provision) about the withdrawal of approval;
 - (d) impose conditions or limitations on the appropriate body’s power to give or withhold approval.”
- (6) In subsection (10) after paragraph (c) insert—

Status: This is the original version (as it was originally enacted).

“(d) “a further education institution” means an institution within the further education sector.”

(7) After subsection (10) insert—

“(11) In the application of this section to a further education institution—

- (a) a reference to a school term shall be taken as a reference to a term of the institution;
- (b) a reference to the head teacher of a school shall be taken as a reference to the principal of the institution.

(12) Sections 496 and 497 of the Education Act 1996 shall have effect as if—

- (a) the duties and powers referred to in those sections included duties imposed and powers conferred by virtue of this section, and
- (b) in relation to those duties and powers, the bodies to which those sections apply included the governing body of a relevant school, the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992) of a further education institution and an appropriate body for the purposes of subsection (2).”

140 Assessments relating to learning difficulties

(1) Subsection (2) applies if—

- (a) a local education authority maintains a statement of special educational needs for a person under section 324 of the Education Act 1996, and
- (b) the Secretary of State believes that the person will leave school at the end of his last year of compulsory schooling to receive post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).

(2) The Secretary of State must arrange for an assessment of the person to be conducted at some time during the person’s last year of compulsory schooling.

(3) The Secretary of State may at any time arrange for an assessment to be conducted of a person—

- (a) who is in his last year of compulsory schooling or who is over compulsory school age but has not attained the age of 25,
- (b) who appears to the Secretary of State to have a learning difficulty (within the meaning of section 13), and
- (c) who is receiving, or in the Secretary of State’s opinion is likely to receive, post-16 education or training (within the meaning of Part I of this Act) or higher education (within the meaning of the Education Reform Act 1988).

(4) For the purposes of this section an assessment of a person is an assessment resulting in a written report of—

- (a) his educational and training needs, and
- (b) the provision required to meet them.

(5) A local education authority must send a copy of a statement maintained by it under section 324 of the Education Act 1996 to the Secretary of State on his request.

- (6) In its application to Wales this section shall have effect with the following modifications (in addition to those specified in section 150)—
- (a) the reference to Part I of this Act shall be construed as a reference to Part II, and
 - (b) the reference to section 13 shall be construed as a reference to section 41.

141 Training programmes: cessation of funding

- (1) This section applies to a company if—
- (a) it has entered into an arrangement with the Secretary of State with a view to receiving payments under section 2(2)(d) of the Employment and Training Act 1973 (arrangements in respect of training) in connection with the provision of facilities,
 - (b) before the passing of this Act the company has received notice from the Secretary of State that he intends to terminate the arrangement mentioned in paragraph (a),
 - (c) the company’s memorandum and articles of association are in a form approved by the Secretary of State generally or specifically for purposes connected with arrangements of the kind described in paragraph (a), and
 - (d) the company’s memorandum of association requires all income and profits to be applied towards the promotion of the company’s objects and not to be distributed to members.
- (2) Unless the Secretary of State consents in writing, a company to which this section applies may not after the passing of this Act—
- (a) take action of a prescribed kind, or
 - (b) cause or permit a person to take action of a prescribed kind.
- (3) In subsection (2) “prescribed” means prescribed by order of the Secretary of State; and the action which may be prescribed under that subsection includes, in particular—
- (a) making a disposal or payment of a prescribed kind or in prescribed circumstances,
 - (b) incurring expenditure of a prescribed kind or in prescribed circumstances, and
 - (c) entering into a transaction of a prescribed kind or in prescribed circumstances.
- (4) A company to which this section applies shall comply with a written direction from the Secretary of State given after the passing of this Act which requires it to transfer an asset to—
- (a) a specified body, or
 - (b) the Secretary of State.
- (5) Before giving a direction to a company under subsection (4) the Secretary of State shall consult the company.
- (6) Where a company to which this section applies takes, causes or permits action in contravention of subsection (2) the High Court may on the application of the Secretary of State make any order which seems to it appropriate.
- (7) An order under subsection (6) may, in particular—
- (a) provide for a contract or other agreement to be of no effect;
 - (b) vary the terms of a contract or other agreement;

Status: This is the original version (as it was originally enacted).

- (c) require money to be paid to the Secretary of State by or on behalf of the company to which this section applies;
 - (d) require money to be paid to the Secretary of State by or on behalf of any other specified person;
 - (e) require the Secretary of State to pay to a specified person compensation of an amount specified in the order or determined in accordance with the order.
- (8) Section 150 shall not apply to this section; but in the application of this section to a company which operates in Wales—
- (a) a reference to the Secretary of State in subsection (1)(a) and (b) shall be construed as a reference to the Secretary of State or the National Assembly for Wales,
 - (b) the functions conferred or imposed on the Secretary of State by subsections (2) to (6) shall be exercisable by the National Assembly, and
 - (c) a reference in subsections (2) to (7) to the Secretary of State shall be taken as a reference to the National Assembly.

142 Further and higher education corporations: secondary education

- (1) Section 18 of the Further and Higher Education Act 1992 (further education corporation: principal powers) shall be amended as follows—
- (a) for subsection (1)(aa) substitute—
 - “(aa) provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,
 - (ab) provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),
 - (ac) participate in the provision of secondary education at a school,” and
 - (b) after subsection (1) insert—
 - “(1A) A further education corporation may not provide education of a kind specified in subsection (1)(aa), (ab) or (ac) above unless they have consulted such local education authorities as they consider appropriate.”
- (2) Section 124 of the Education Reform Act 1988 (higher education corporation: powers) shall be amended as follows—
- (a) after subsection (1)(b) insert—
 - “(ba) to provide secondary education to persons who would, if they were pupils at a school, be in the fourth key stage,
 - (bb) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education),
 - (bc) to participate in the provision of secondary education at a school,” and
 - (b) after subsection (1) insert—
 - “(1A) A higher education corporation may not provide education of a kind specified in subsection (1)(ba) or (bb) above unless they

have consulted such local education authorities as they consider appropriate.”

143 Further education sector: designated institutions

- (1) Section 28 of the Further and Higher Education Act 1992 (designation for funding by Further Education Funding Councils) shall be amended as follows—
- (a) in subsection (1) for “as eligible to receive support from funds administered by the councils” substitute “for the purposes of this section”,
 - (b) subsection (2)(b) shall cease to have effect, and
 - (c) after subsection (2)(c) add—
 - “or
 - (d) an institution established for the purpose of being principally concerned with the provision of one or both of the kinds of education specified in subsection (1) above.”
- (2) The following shall be substituted for section 30 of the Further and Higher Education Act 1992 (special provision for voluntary aided sixth form colleges)—

“30 Special provision for certain institutions

- (1) Notwithstanding anything in section 29 of this Act, the instrument of government of a designated institution to which this section applies must provide—
- (a) for the governing body of the institution to include persons appointed for the purpose of securing so far as practicable that the established character of the institution at the time of its designation is preserved and developed and, in particular, that the institution is conducted in accordance with any trust deed relating to it, and
 - (b) for the majority of members of the governing body to be such governors.
- (2) This section applies to—
- (a) an institution which, when designated, was a voluntary aided school, and
 - (b) an institution specified, or falling within a class specified, by the Secretary of State by order.
- (3) The Secretary of State may specify an institution or a class of institutions only if the institution or each member of the class is principally concerned with the provision of the education specified in section 28(1)(a) above.
- (4) The reference in subsection (1)(a) above to the established character of an institution is, in relation to an institution established shortly before or at the same time as being designated, a reference to the character which the institution is intended to have on its establishment.”
- (3) Section 32(2A) of the Further and Higher Education Act 1992 (transfer of property on designation) shall cease to have effect.

Status: This is the original version (as it was originally enacted).

- (4) The Secretary of State may make an order providing for the constitution as a body corporate of the governing body of an institution in England which is designated under section 28 of the Further and Higher Education Act 1992.
- (5) The National Assembly for Wales may make an order providing for the constitution as a body corporate of the governing body of an institution in Wales which is designated under section 28 of the Further and Higher Education Act 1992.
- (6) An order under subsection (4) or (5) may—
 - (a) make provision similar to any provision of section 18 or 19 of the Further and Higher Education Act 1992 (further education corporation: powers);
 - (b) make provision for the continuity of the body corporate, including provision for the continuation of anything done under section 29 of the Further and Higher Education Act 1992 (government and conduct of designated institutions);
 - (c) make provision expressed to have effect subject to the institution's instrument or articles of government;
 - (d) make provision which confers exempt charitable status (for the purposes of the Charities Act 1993) and which relates to the governing body or to an institution administered by or established for the purposes of that body;
 - (e) make provision about the discontinuance of the institution;
 - (f) make provision about the dissolution of the body corporate (including provision about the treatment of property, rights and liabilities).
- (7) Before making an order in relation to an institution under subsection (4) or (5) the Secretary of State or the National Assembly shall consult—
 - (a) the governing body of the institution, and
 - (b) the trustees of any trust relating to the institution.

144 Designated institutions: disposal of land, &c

- (1) This section applies to land which after the coming into force of this section is transferred to trustees under section 32(3)(b) of the Further and Higher Education Act 1992 (transfer of property on designation of institution).
- (2) This section also applies to land which—
 - (a) is held by trustees for the purposes of an institution which became a designated institution after the coming into force of this section, and
 - (b) was acquired or enhanced in value wholly or partly by means of money paid under section 65 of the Education Act 1996 (grants) or paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants).
- (3) If trustees dispose of land to which this section applies they shall notify the appropriate council.
- (4) If trustees dispose of land to which this section applies they shall pay to the appropriate council so much of the proceeds of disposal as may be determined to be just—
 - (a) by agreement between the trustees and the council, or
 - (b) in default of agreement, by the Secretary of State.
- (5) In making a determination under subsection (4) regard shall be had, in particular, to—
 - (a) the value of the land at the date of the determination, and

- (b) any enhancement of the land's value which is attributable to expenditure by the trustees or the governing body of the designated institution.
- (6) More than one determination may be made under subsection (4) in relation to a particular disposal where it is just to do so, in particular where the disposal involves the creation of a lease.
- (7) If trustees permit land to which this section applies to be used for purposes not connected with the designated institution—
 - (a) they shall be treated for the purposes of this section as having disposed of the land, and
 - (b) subsection (4) shall have effect as if the reference to the proceeds of disposal were a reference to the value of the land.
- (8) Where a designated institution has ceased to exist—
 - (a) this section applies to land which satisfied subsection (1) or (2) immediately before the institution ceased to exist, and
 - (b) in subsection (7) the reference to purposes not connected with the designated institution shall be treated as a reference to purposes not connected with an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992).
- (9) In this section “the appropriate council” means—
 - (a) the Learning and Skills Council for England, in respect of land in England, and
 - (b) the National Council for Education and Training for Wales, in respect of land in Wales.

145 Further education colleges: governors' liability

- (1) Subsection (2) applies where a member of a body listed in subsection (3) is found liable in civil legal proceedings in respect of something which he did or omitted to do in the course of carrying out his duties as a member of the body.
- (2) If—
 - (a) the member of the body applies to a court for an order under this subsection, and
 - (b) the court considers that the action or omission which gives rise to the member's liability was honest and reasonable,the court may make an order extinguishing, reducing or varying the liability.
- (3) The bodies referred to in subsection (1) are—
 - (a) a further education corporation established by virtue of section 15, 16 or 47 of the Further and Higher Education Act 1992, and
 - (b) a body corporate established by virtue of section 143(4) or (5) of this Act.
- (4) Where a member of a body listed in subsection (3) applies to a court for an order under this subsection, the court may make any order which—
 - (a) relates to liability in civil legal proceedings which may come to be incurred by the member in respect of a specified course of action, and
 - (b) is of a kind which the court could have made if the liability had already been incurred.

- (5) In subsections (2)(a) and (4) “a court” means the High Court or a county court; but this subsection is subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation of business between High Court and county courts).

146 Financial support for students

- (1) The Teaching and Higher Education Act 1998 shall be amended as follows.
- (2) In section 22 (new arrangements for giving financial support to students)—
- (a) in subsection (1) for “attending” substitute “undertaking”, and
 - (b) in subsections (2)(h) and (7) omit “attendance on”.
- (3) In section 23 (transfer or delegation of functions relating to student support) in subsection (1)(b)—
- (a) for “at” substitute “with”, and
 - (b) for “attending” substitute “undertaking”.
- (4) In section 26 (imposition of conditions as to fees at further or higher education institutions) in subsections (4), (5) and (10)(b) for “attending” (in each place) substitute “undertaking”.
- (5) In section 28(1) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.

147 Financial support for students: Northern Ireland

- (1) The Education (Student Support) (Northern Ireland) Order 1998 shall be amended as follows.
- (2) In Article 2(2) (interpretation) in the definition of “fees” for “attendance on” (in each place) substitute “undertaking”.
- (3) In Article 3 (new arrangements for giving financial support to students)—
- (a) in paragraph (1) for “attending” substitute “undertaking”;
 - (b) in paragraphs (2)(h) and (7) omit “attendance on”.
- (4) In Article 4 (transfer or delegation of functions relating to student support) in paragraph (1)(b)—
- (a) for “at” substitute “with”, and
 - (b) for “attending” substitute “undertaking”.
- (5) In Article 7 (imposition of conditions as to fees at further or higher education institutions) in paragraphs (1), (2), (3) and (8)(b) for “attending” (in each place) substitute “undertaking”.

148 Sex education

- (1) The Education Act 1996 shall be amended as follows.
- (2) In section 351 (general duties in respect of the curriculum) after subsection (5) insert—
- “(6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority must have regard to the guidance issued by the Secretary of State under section 403(1A).”

Status: This is the original version (as it was originally enacted).

- (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.”
- (3) In section 403 (sex education: manner of provision) in subsection (1) omit “local education authority.”.
- (4) After subsection (1) of that section insert—
- “(1A) The Secretary of State must issue guidance designed to secure that when sex education is given to registered pupils at maintained schools—
- (a) they learn the nature of marriage and its importance for family life and the bringing up of children, and
- (b) they are protected from teaching and materials which are inappropriate having regard to the age and the religious and cultural background of the pupils concerned.
- (1B) In discharging their functions under subsection (1) governing bodies and head teachers must have regard to the Secretary of State’s guidance.
- (1C) Guidance under subsection (1A) must include guidance about any material which may be produced by NHS bodies for use for the purposes of sex education in schools.
- (1D) The Secretary of State may at any time revise his guidance under subsection (1A).”
- (5) In subsection (2) of that section—
- (a) for “subsection (1)” substitute “this section”, and
- (b) at the end insert “and “NHS body” has the same meaning as in section 22 of the National Health Service Act 1977.”
- (6) In section 404 (sex education: statements of policy) after subsection (1) insert—
- “(1A) A statement under subsection (1) must include a statement of the effect of section 405.”

149 Amendments

Schedule 9 contains miscellaneous and consequential amendments.

General

150 Wales

- (1) Where this Part of this Act confers a function on the Secretary of State (whether by amendment of another Act or otherwise)—
- (a) the function shall be exercisable in relation to Wales by the National Assembly for Wales, and
- (b) for that purpose any reference to the Secretary of State shall be taken as a reference to the National Assembly.
- (2) Where—

Status: This is the original version (as it was originally enacted).

- (a) this Part confers a function on the Secretary of State by amendment of an Act, and
- (b) any functions of that Act have before the passing of this Act been transferred to the National Assembly by Order in Council under section 22 of the Government of Wales Act 1998 (transfer of functions),

the Order shall be treated for the purposes of any varying or revoking Order as having transferred to the National Assembly the function mentioned in paragraph (a).

- (3) Subsection (1)(a) has effect subject to any Order in Council made by virtue of subsection (2).
- (4) This section shall not apply in relation to—
 - (a) section 90, 92, 104, 134 or 154 of this Act,
 - (b) the amendment of section 1(3) of the Education (Fees and Awards) Act 1983 (fees at institutions) made by Schedule 9 to this Act,
 - (c) the amendment of section 26 of the Employment Act 1988 (status of trainees etc) made by Schedule 9 to this Act, or
 - (d) the amendment of section 19 of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) made by Schedule 9 to this Act.

151 Transitional provisions

- (1) Parts I and II of Schedule 10 contain transitional provisions relating to—
 - (a) the dissolution of the Further Education Funding Councils, and
 - (b) the establishment of the Learning and Skills Council for England and the National Council for Education and Training for Wales.
- (2) Part III of Schedule 10 contains transitional provision relating to the establishment of the Adult Learning Inspectorate.
- (3) Part IV of Schedule 10 contains transitional provision relating to the Education (Student Loans) Act 1990.
- (4) Nothing in that Schedule prejudices the generality of section 152(6).

152 Orders and regulations

- (1) Any power to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if the instrument contains—
 - (a) an order made by the Secretary of State under any provision of this Act other than section 143(4) or 154(1) or (3), or
 - (b) regulations made by the Secretary of State under any provision of this Act.
- (3) A statutory instrument is subject to annulment in pursuance of a resolution of the Scottish Parliament if the instrument contains regulations made by the Scottish Ministers under section 104.
- (4) The power of the Department of Higher and Further Education, Training and Employment in Northern Ireland to make regulations under section 106 or 109 shall be

exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.

- (5) An order or regulations under this Act may make different provision for different purposes.
- (6) An order or regulations under this Act may contain such incidental, supplementary, saving or transitional provisions as the person making the order or regulations thinks fit.

153 Repeals

Schedule 11 contains repeals.

154 Commencement

- (1) The following provisions of this Act shall come into force in accordance with provision made by the Secretary of State by order—
 - (a) Parts I and III,
 - (b) sections 89, 90, 92, 94, 98, 100(1), 101, 104 to 109, 114 to 122, 132 to 136, 146 and 147,
 - (c) in Schedule 9, paragraphs 11, 14, 35, 37 to 39, 41 to 43, 47 to 50, 52(3), 83, 87 and 88,
 - (d) Part IV of Schedule 10, and
 - (e) in Schedule 11, the repeals in section 91 of the Further and Higher Education Act 1992 and section 142 of the School Standards and Framework Act 1998 and the repeals consequential upon any provision mentioned in paragraph (c).
- (2) The following provisions of this Act shall come into force in accordance with provision made by the National Assembly for Wales by order—
 - (a) Parts II and IV, and
 - (b) sections 91, 93, 99, 100(2), 102, 123 to 129 and 138.
- (3) If and in so far as a provision of this Part relates to England, the Secretary of State may (subject to subsection (5)) make provision by order about its commencement.
- (4) If and in so far as a provision of this Part relates to Wales, the National Assembly for Wales may (subject to subsection (5)) make provision by order about its commencement.
- (5) Subsections (3) and (4) do not apply to—
 - (a) a provision mentioned in subsection (1) or (2),
 - (b) any of sections 130, 131, 150, 151, 152, 155 and 156,
 - (c) Schedule 8,
 - (d) any provision of Schedule 9 or 11 which is consequential upon section 130 or 131 or Schedule 8,
 - (e) Parts I to III of Schedule 10, or
 - (f) this section.
- (6) The Secretary of State may by order make provision—

Status: This is the original version (as it was originally enacted).

- (a) in consequence of a provision of this Act being brought into force at different times in relation to England and in relation to Wales, or
 - (b) in consequence of one provision of this Act being brought into force before another.
- (7) The National Assembly for Wales may by order make provision in relation to Wales in consequence of either of the matters mentioned in subsection (6)(a) and (b).
- (8) An order under subsection (6) or (7) may, in particular, disapply or modify the application of provision made by or under this or any other Act.

155 Extent

- (1) Sections 104, 152, 154, 156 and this section extend to England and Wales, Scotland and Northern Ireland.
- (2) Section 107 extends to England and Wales and Northern Ireland.
- (3) Sections 106, 109 and 147 extend to Northern Ireland only.
- (4) Any amendment or repeal in this Act has the same extent as the provision amended or repealed.
- (5) Subject to the above, this Act extends to England and Wales only.

156 Citation

This Act may be cited as the Learning and Skills Act 2000.