



Education Act 2005

2005 CHAPTER 18

PART 3 **E+W**

TRAINING THE SCHOOL WORKFORCE

The Training and Development Agency for Schools

^{F1}74 **The Training and Development Agency for Schools** **E+W**

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

^{F1}75 **Functions of Agency** **E+W**

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

^{F1}76 **Functions of Agency in relation to Wales** **E+W**

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 3. (See end of Document for details)

F177 Membership etc. of Agency E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

F178 Powers of Agency to provide financial support E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

F179 Forms of financial support under section 78 E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

F180 Provisions supplementary to sections 78 and 79 E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

F181 Grants to Agency by Secretary of State E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

F182 Grants to Agency by Assembly E+W

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 3. (See end of Document for details)

^{F1}83 Non-funding functions of Agency **E+W**

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

^{F1}84 Directions by Secretary of State and Assembly **E+W**

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Textual Amendments

F1 Ss. 74-84 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 14**, 82(3); S.I. 2012/924, art. 2

^{F2}Functions of Welsh Ministers with respect to the school workforce

Textual Amendments

F2 [S. 84A - S. 84B](#) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(5)**, 82(3); S.I. 2012/924, art. 2

84A General duty of Welsh Ministers with respect to teacher training **E+W**

In carrying out their duties under sections 10 and 11 of the Education Act 1996, the Welsh Ministers must in particular make such arrangements as they consider expedient for securing that sufficient facilities are available for the training of teachers to serve in—

- (a) schools maintained by local authorities in Wales,
- (b) institutions in Wales within the further education sector, and
- (c) institutions in Wales which are maintained by local authorities in Wales and provide higher education or further education (or both).

84B Power to promote careers in school workforce in Wales **E+W**

- (1) The Welsh Ministers may promote careers in the school workforce in Wales.
- (2) The Welsh Ministers may exercise the power conferred by subsection (1) jointly with the Secretary of State or any other person with functions relating to careers in the school workforce.
- (3) The Welsh Ministers may make arrangements for the power conferred by subsection (1) to be exercised on their behalf by any other person.
- (4) Arrangements under subsection (3) may (in particular) make provision for that power to be exercised—
 - (a) to the extent, and on the terms, specified in the arrangements;
 - (b) generally or in such circumstances as are specified in the arrangements;

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- (c) jointly with any person with whom it can be exercised jointly by the Welsh Ministers by virtue of subsection (2).
- (5) Arrangements under subsection (3) do not prevent the power conferred by subsection (1) from being exercised by the Welsh Ministers.]

Funding of teacher training by Higher Education Funding Council for Wales

85 Qualifying activities and eligible institutions in relation to HEFCW funding E

+W

- (1) The Higher Education Funding Council for Wales (in this Part referred to as “HEFCW”) are responsible for administering funds made available to them by the Assembly and others for the purpose of providing financial support for the carrying on by eligible institutions of qualifying activities.
- (2) The activities qualifying for funding by HEFCW under this Part (“qualifying activities”) are—
 - (a) the provision of teacher training,
 - (b) the provision of facilities, and the carrying on of other activities, by eligible institutions which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purposes of or in connection with activities within paragraph (a), and
 - (c) the provision by any person of services for the purposes of, or in connection with, such activities.
- (3) The institutions eligible for funding by HEFCW under this Part (“eligible institutions”) are—
 - (a) any institution in Wales within the higher or further education sector,
 - (b) the Open University,
 - (c) any school in Wales, and
 - (d) and other institution or body in Wales designated by order of the Assembly, and any partnership or association of eligible institutions, or body established by one or more such institutions, for the purpose of carrying on qualifying activities.
- (4) For the purposes of subsection (3), an institution or body is in Wales if its activities are carried on, or principally carried on, in Wales.
- (5) In sections 86 to 91—
 - (a) “qualifying activities” is to be read in accordance with subsection (2);
 - (b) “eligible institution” is to be read in accordance with subsection (3).

86 Grants, loans and other payments by HEFCW E+W

- (1) HEFCW may—
 - (a) make grants, loans or other payments in respect of expenditure incurred or to be incurred by the governing body of an eligible institution for the purposes of activities qualifying for funding by HEFCW under this Part by virtue of section 85(2)(a) or (b), and

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- (b) make grants, loans or other payments in respect of expenditure incurred or to be incurred for the purposes of the provision of services as mentioned in section 85(2)(c),
subject in each case to such terms and conditions as HEFCW think fit.
- (2) The terms and conditions on which HEFCW may make any grants, loans or other payments under this section may in particular—
- (a) enable HEFCW to require the repayment, in whole or in part, of sums paid by HEFCW if any of the terms and conditions subject to which the sums were paid is not complied with, and
- (b) require the payment of interest in respect of any period during which a sum due to HEFCW in accordance with any of the terms and conditions remains unpaid.
- (3) The power of HEFCW to impose conditions on the making of any grants, loans or other payments under this section to an eligible institution includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the carrying out by that institution of qualifying activities.
- (4) Where—
- (a) a condition is imposed under subsection (3) in connection with any grant, loan or other payment to an eligible institution, and
- (b) the grant, loan or other payment is to any extent made in respect of persons undertaking training which is provided in whole or in part by another training provider,
- then, for the purposes of the condition, fees payable by such persons to the other training provider are to be regarded as fees charged by the eligible institution.
- (5) The terms and conditions must not relate to the application of any sums derived otherwise than from HEFCW, but this subsection does not affect the power to impose conditions by virtue of subsection (3).
- (6) In exercising their functions under this section HEFCW must have regard—
- (a) generally, to any forecast of demand for newly-qualified teachers that is notified to them by the Assembly, and
- (b) in relation to any particular institution, to any assessment of the quality of the teacher training provided by that institution—
- (i) made by the Chief Inspector for Wales, or
- (ii) to which HEFCW think it appropriate to have regard or to which the Assembly directs them to have regard.

87 Provisions supplementary to section 86 **E+W**

- (1) In exercising their functions in relation to the provision of financial support for qualifying activities, HEFCW must have regard to the desirability of not discouraging any institution for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.
- (2) Before exercising their discretion under section 86(1)(a) or (b) with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, HEFCW must consult such of the following bodies as appear to them to be appropriate to consult in the circumstances—

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- (a) such bodies representing the interests of eligible institutions as appear to HEFCW to be concerned, and
 - (b) the governing body of any particular eligible institution which appears to HEFCW to be concerned.
- (3) In exercising their functions in relation to the provision of financial support for qualifying activities HEFCW must have regard (so far as they think it relevant to do so in the light of any other relevant considerations) to the desirability of maintaining—
- (a) what appears to them to be an appropriate balance in the support given to them as between institutions which are of a denominational character and other institutions, and
 - (b) any distinctive characteristics of any eligible institution for whose activities financial support is provided under this Part.
- (4) In exercising their functions HEFCW must take such steps as appear to them appropriate to secure that the governing body of any institution which provides a course of initial teacher training funded by HEFCW makes available such information relating to the course, in such manner and to such persons, as HEFCW may require.
- (5) Subsection (1) does not affect the power by virtue of section 86(3) to impose conditions prohibiting or restricting the charging of fees.

88 Grants to HEFCW E+W

- (1) The Assembly may make grants to HEFCW of such amounts and subject to such conditions as the Assembly may determine.
- (2) The terms and conditions subject to which grants are made by the Assembly to HEFCW under this section—
- (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of any amount or description so specified is provided by HEFCW in respect of activities carried on by the institution, but
 - (b) may not otherwise relate to the provision of financial support by HEFCW in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (4) Such terms and conditions may in particular—
- (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, and
 - (b) require the payment of interest in respect of any period during which a sum due to the Assembly in accordance with any of the terms and conditions remains unpaid.
- (5) Section 68 of the Further and Higher Education Act 1992 (c. 13) does not apply in relation to grants made to HEFCW under this section.

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 3. (See end of Document for details)

89 Power of HEFCW to carry out or commission research **E+W**

HEFCW may carry out or commission such research as they consider appropriate with a view to improving—

- (a) the training of teachers, or
- (b) the standards of teaching.

90 Supplementary and ancillary functions of HEFCW **E+W**

- (1) The Assembly may by order confer or impose on HEFCW such functions supplementary to their functions under this Part as the Assembly thinks fit.
- (2) For the purposes of subsection (1) a function is a supplementary function in relation to HEFCW if—
 - (a) it is exercisable for the purposes of the exercise by the Assembly of functions of the Assembly under any enactment, and
 - (b) it relates to, or to the activities of, an eligible institution.
- (3) Before making an order under subsection (1) the Assembly must carry out such consultation as appears to it to be appropriate.
- (4) HEFCW may carry out such activities ancillary to their functions under this Part as the Assembly may direct.

91 Directions by Assembly **E+W**

- (1) In exercising their functions under this Part HEFCW must comply with any directions under this section.
- (2) The Assembly may give general directions to HEFCW about the exercise of their functions.
- (3) If it appears to the Assembly that the financial affairs of an eligible institution have been or are being mismanaged the Assembly may, after consulting HEFCW and the institution, give such directions to HEFCW about the provision of financial support in respect of the activities carried on by the institution as the Assembly considers necessary or expedient by reason of the mismanagement.
- (4) Directions under this section are to be contained in an order made by the Assembly.

Common provisions

92 Joint exercise of functions **E+W**

- (1) ^{F3}The Secretary of State, HEFCW] and any other relevant funding body may exercise any of their functions jointly.
- (2) In subsection (1) “other relevant funding body” means ^{F4}... the ^{F5}Office for Students^{F6} ... ^{F7}... or the ^{F8}the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000].

^{F9}(2A) The reference in subsection (1) to the functions of the Secretary of State is to the functions of the Secretary of State relating to training for members of the school workforce.]

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^{F10}(3)

- (4) The Assembly may by order authorise HEFCW to exercise their functions under this Part jointly with a body specified in the order, and the specified body to exercise its functions jointly with HEFCW.

^{F11}(5)

Textual Amendments

- F3** Words in s. 92(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(6)(a)**, 82(3); S.I. 2012/924, art. 2
- F4** Words in s. 92(2) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 15(6)(b)**, 82(3); S.I. 2012/924, art. 2
- F5** Words in s. 92(2) substituted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 31(2)(a)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 17, 18)
- F6** Words in s. 92(2) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 27**; S.I. 2012/924, art. 2
- F7** Words in s. 92(2) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(g), **Sch. 14 para. 48**
- F8** Words in s. 92(2) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 98**, (with transitional provisions in art. 7)
- F9** S. 92(2A) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(6)(c)**, 82(3); S.I. 2012/924, art. 2
- F10** S. 92(3) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 15(6)(d)**, 82(3); S.I. 2012/924, art. 2
- F11** S. 92(5) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 31(2)(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 17, 18)

93 Efficiency studies **E+W**

- (1) [^{F12}The Secretary of State and HEFCW] may arrange for the promotion or the carrying out by any person of studies designed to improve economy, efficiency and effectiveness in the management or operations of a qualifying person.
- (2) A person promoting or carrying out such studies at the request of [^{F13}the Secretary of State or HEFCW] may require the qualifying person concerned—
- to provide him, or a person authorised by him, with such information, and
 - to make available to him, or a person authorised by him, for inspection their accounts and such other documents,
- as he may reasonably require for that purpose.
- (3) In this section “qualifying person” means—
- a training provider receiving financial [^{F14}assistance under section 14 of the Education Act 2002 from the Secretary of State], or
 - the governing body of an eligible institution, as defined by section 85(3), receiving financial support under this Part from HEFCW.

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Textual Amendments

- F12** Words in s. 93(1) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 15\(7\)\(a\)](#), 82(3); S.I. 2012/924, art. 2
- F13** Words in s. 93(2) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 15\(7\)\(b\)](#), 82(3); S.I. 2012/924, art. 2
- F14** Words in s. 93(3)(a) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 15\(7\)\(c\)](#), 82(3); S.I. 2012/924, art. 2

[^{F15}94 **Provision of information** **E+W**]

- (1) HEFCW may give the Secretary of State information for the purposes of the exercise of the Secretary of State's functions relating to training for members of the school workforce.
- (2) The Secretary of State may give HEFCW information for the purposes of the exercise of their functions under any enactment.
- (3) The persons and bodies mentioned in subsection (4) must—
 - (a) give the Secretary of State such information as the Secretary of State may require for the purpose of the exercise of the Secretary of State's functions relating to training for members of the school workforce;
 - (b) give HEFCW such information as they may require for the purpose of the exercise of their functions under any enactment.
- (4) The persons and bodies referred to in subsection (3) are—
 - (a) a person receiving, or who has received or applied for, a grant, loan or other payment under section 86, or financial assistance from the Secretary of State under section 14 of the Education Act 2002;
 - (b) a local authority.]

Textual Amendments

- F15** [S. 94](#) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), ss. 15\(8\)](#), 82(3); S.I. 2012/924, art. 2

Provision of training in schools

95 **Power of maintained schools to provide training for the school workforce** **E+W**

- (1) The governing body of a maintained school may—
 - (a) provide courses of initial or further training for school teachers,
 - (b) provide courses of training for other members of the school workforce, or
 - (c) join in partnership with other training providers, or (alone or jointly with other training providers) establish a body, for the purpose of providing training falling within paragraph (a) or (b).
- (2) It is immaterial for the purposes of subsection (1) whether or not the training constitutes higher education.

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- (3) In relation to an exercise of the powers conferred by subsection (1), the governing body has all the same supplementary and incidental powers as it has in relation to the conduct of the school.
- (4) Any exercise by the governing body of a maintained school of the powers conferred by this section is not to be treated, for the purposes of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (financing of maintained schools) as being undertaken for the purposes of the school.
- (5) Section 80 of the School Standards and Framework Act 1998 (exercise of power to provide further education) does not apply in relation to any course of training that is provided under this section.
- (6) Nothing in this section is to be read as affecting the power of the governing body of a school, as an ordinary incident of the conduct of the school—
 - (a) to provide training for members of the school workforce who work at the school, or
 - (b) to participate in the provision of training for members of the school workforce as part of a course provided by another training provider.

Supplementary

96 Interpretation of references to training E+W

- (1) References in this Part to training, in relation to teachers or other members of the school workforce (including references to the provision of training “for” teachers or other members of the school workforce), include—
 - (a) any training or education with the object of fitting persons to be teachers or other members of the school workforce, or to be better teachers or other members of the school workforce, and
 - (b) any assessment related to the award of any qualification or status as a teacher or other member of the school workforce.
- (2) References elsewhere in the Education Acts to training, in relation to teachers, include any training or education with a view to fitting persons to be teachers, or better teachers.

97 Institutions of a denominational character E+W

For the purposes of this Part an institution is of a denominational character if—

- (a) at least one quarter of the members of the governing body of the institution, or in the case of a school at least one-fifth, are persons appointed to represent the interests of a religion or religious denomination, or
- (b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned is to be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or
- (c) any of the property held for the purposes of the institution is held on trust for or in connection with—
 - (i) the provision of education, or
 - (ii) the conduct of an educational institution,

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in accordance with the tenets of a religion or religious denomination.

98 Further amendments relating to Part 3 **E+W**

Schedule 14 contains amendments related to the preceding provisions of this Part.

^{F1699} Transitional and transitory provisions relating to Part 3 **E+W**

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Textual Amendments

F16 S. 99 repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 5 para. 31; S.I. 2012/924, art. 2

Commencement Information

II S. 99 partly in force; s. 99 in force for certain purposes at Royal Assent, see s. 125(1)(b)

100 Interpretation of Part 3 **E+W**

(1) In this Part—

^{F17}
...

“the Chief Inspector for England” means [^{F18}Her Majesty's Chief Inspector of Education, Children's Services and Skills];

“the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales;

“denominational character”, in relation to an institution, is to be read in accordance with section 97;

^{F17}
...

“governing body”, in relation to an institution conducted by a company, is to be read in accordance with an order under subsection (2);

“HEFCW” means the Higher Education Funding Council for Wales;

“maintained school” means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school;

“the school workforce” and “member of the school workforce” are to be read in accordance with [^{F19}subsection (1A)];

“training”, in relation to members of the school workforce, is to be read in accordance with section 96(1);

“training provider” [^{F20}means a person who provides training for members of the school workforce].

[^{F21}(1A) For the purposes of this Part, the school workforce consists of the following members—

- (a) persons who work in schools, and
- (b) other persons who are teachers or who carry out work that consists of or includes teaching.]

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- (2) The Assembly may by order provide for references in sections 85 to 91 to the governing body of an institution, in relation to an institution which is conducted by a company, to be read as references to the governing body provided for in the instrument of government, or to the company, or to both.
- (3) Other expressions, if used in this Part and the Education Act 1996 (c. 56), have the same meaning in this Part as in that Act.

Textual Amendments

- F17** Words in s. 100 omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 15(9)(a)**, 82(3); S.I. 2012/924, art. 2
- F18** Words in s. 100(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, **Sch. 14 para. 106**; S.I. 2007/935, **art. 5(w)(gg)**
- F19** Words in s. 100 substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(9)(b)**, 82(3); S.I. 2012/924, art. 2
- F20** Words in s. 100 substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(9)(c)**, 82(3); S.I. 2012/924, art. 2
- F21** S. 100(1A) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 15(9)(d)**, 82(3); S.I. 2012/924, art. 2

Changes to legislation:

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