

FURTHER EDUCATION AND TRAINING ACT 2007

EXPLANATORY NOTES

COMMENTARY

Part 1: the Learning and Skills Council for England Sections 6, 7, 8, 9, 10, 11, 12 and 13: functions of the LSC

Duty on the LSC in relation to diversity and choice

42. Section 2 of the 2000 Act imposes a duty on the LSC to secure the provision of facilities for education and training suitable to the requirements of 16 to 19 year olds and section 3 imposes a similar duty in relation to persons aged 19 or more. Section 6 of this Act provides that in performing those duties the LSC must act with a view to encouraging diversity in education and training and to increasing opportunities for individuals to exercise choice. This reflects commitments in the White Paper 'Further Education: Raising Skills, Improving Life Chances'.
43. The LSC will be expected to make whatever changes are necessary in order to effect an increase in the type and number of providers in the post-16 education and training market and in the opportunities available to individuals.

Consultation with learners and employers

44. [Section 7](#) inserts a new section into the 2000 Act. New section 14A requires the LSC to have regard to guidance from the Secretary of State about consulting with learners, with people likely to become learners, with employers and with other persons specified in such guidance on the funding and provision of learning. New section 14A does not define consultation nor does it specify how or when consultation is to be delivered. These issues will be included in the guidance. New section 14A specifies that guidance must provide for the views of a learner or a prospective learner to be considered in the light of his age and understanding.
45. The background to this section is a Government commitment in the March 2006 White Paper 'Further Education: Raising Skills, Improving Life Chances' to create a demand-led system of further education provision, whereby funding follows the choices of employers and learners.

Plans for academic years

46. [Section 8](#) amends section 15 of the 2000 Act so as to provide that the LSC must make and publish a plan for each academic year, rather than for each of its financial years. An academic year runs from 1 August to the following 31 July. This brings the LSC planning year in line with the planning and delivery arrangements of key partners such as further education colleges.

Power to form or be involved in certain bodies corporate

47. **Section 9** amends the LSC's current power to form or invest in companies, as set out in section 18 of the 2000 Act, to make it clear that the LSC can form any type of company, including companies limited by guarantee as well as companies limited by shares, with the consent of the Secretary of State.
48. Subsection (4) contains retrospective provision that ensures that companies limited by guarantee that have already been formed between 1 September 2000 and the date on which this section comes into force were formed lawfully.
49. **Section 18**, as amended by this section, provides that the LSC's power to form charitable incorporated organisations (a new form of body corporate created by the Charities Act 2006) is subject to the consent of the Secretary of State.

Directions

50. **Section 10** amends subsection (6) of section 25 of the 2000 Act (the Secretary of State's power to direct the LSC) so that the Secretary of State may exercise the power to direct the LSC in relation to the establishment and dissolution of further education corporations. (Section 10 is linked to sections 14 to 16 which transfer the powers to establish and dissolve further education corporations, and associated order-making powers, from the Secretary of State to the LSC.)
51. Section 25 of that Act enables the Secretary of State to give directions to the LSC where he is satisfied that it has either failed to discharge a duty, or has acted or is proposing to act unreasonably. An amendment to the 2000 Act is required because section 25(6), without the amendment made by this Act, would provide that directions may not concern the provision of financial resources. Because a direction to establish or dissolve a further education corporation might be considered to contravene such a prohibition, section 10 amends section 25(6) so that its scope is limited to powers and duties under that Act. The powers to establish or dissolve further education corporations are conferred by the Further and Higher Education Act 1992, so this means that the Secretary of State will be able to issue directions with regard to these matters where he is satisfied that the LSC had acted or was proposing to act unreasonably.

Provision of services

52. **Section 11** extends the powers of the LSC to design, develop and operate support services for persons and bodies exercising education and training functions, in relation to those functions. The LSC's current powers are in the 2000 Act. This provides that the LSC has powers and duties mainly in respect of post-16 education and training and in relation to England only. The powers are largely exclusive of higher education. This section enables the LSC to provide support in respect of higher education and learners under 16, throughout the United Kingdom.
53. The provisions enable the LSC to offer support services such as software management systems, management information systems, payroll administration, human resources functions, finance services and procurement services.
54. The LSC may provide these services to: publicly-funded education and training providers (including schools and universities); publicly-funded institutions that have functions relating to the provision of education and training; and persons or bodies specified by order (who may or may not be publicly funded).
55. The orders specifying additional persons or bodies may be made by the Secretary of State or, where a person or body has education and training functions only in Wales, Scotland or Northern Ireland, by the relevant devolved administration (*see subsection (8)*).

56. In Wales, Scotland and Northern Ireland, these services will be supplied only with the consent of the respective devolved administrations. Separate consent will be required from each administration for each type of service.
57. The LSC will need to obtain the consent of the Secretary of State before making arrangements to provide support services to a person or body operating in Wales, Scotland or Northern Ireland.
58. The LSC will not need the consent of the Secretary of State before making arrangements to provide support services as regards education and training provided in England, because this process will be regulated via accountability mechanisms that were already in place and by which the LSC was already reporting to the Department for Innovation, Universities and Skills at the time of Royal Assent.
59. An example of such a support service is the Managing Information Across Partners (MIAP) programme, under which the LSC will manage the sharing of learner and learning data between learning and skills organisations, including higher education institutions and schools. This data, which includes information on participation and achievement, is held by a diverse range of owners. The LSC will manage the MIAP system on behalf of participating partners.

Assistance with respect to employment and training

60. [Section 12](#) widens the powers of the LSC so as to allow it to take part in arrangements for assisting persons to select, train for, obtain and retain employment. Consent of the devolved administrations will be required for arrangements made by the Secretary of State in relation to Wales and Scotland and the consent of the Secretary of State will be required for arrangements made by those devolved administrations. The arrangements that may be made include arrangements for a loans scheme which would be available to learners undertaking either further or higher education. An example of this type of scheme is Career Development Loans (CDLs). The CDL programme operates across England, Wales and Scotland. It is delivered through high street banks, who offer loans on a commercial basis to learners undertaking vocational learning, including some higher education courses. The interest on loans is paid by Government funds during the period of learning.
61. [Section 13](#) enables the LSC to take part in similar arrangements, including provision for loans to be made available to individuals who are undertaking further or higher education, made by the Department for Employment and Learning in Northern Ireland. Consent of the Secretary of State is required for any such arrangements.