



Further and Higher Education Act 1992

1992 CHAPTER 13

PART I

FURTHER EDUCATION

CHAPTER II

INSTITUTIONS WITHIN THE FURTHER EDUCATION SECTOR

The further education corporations

15 Initial incorporation of existing institutions.

- (1) Before the appointed day the Secretary of State shall by order specify—
 - (a) each educational institution maintained by a [^{F1}local authority] which appears to him to fall within subsection (2) below, and
 - (b) each county school, controlled school or grant-maintained school which appears to him to fall within subsection (3) below.
- (2) An institution falls within this subsection if on 1st November 1990 its enrolment number calculated in accordance with paragraph 1(1) of Schedule 3 to this Act was not less than 15 per cent. of its total enrolment number calculated in accordance with paragraph 1(2) of that Schedule.
- (3) An institution falls within this subsection if on 17th January 1991 not less than 60 per cent. of the pupils at the institution were receiving full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.
- (4) On the appointed day a body corporate shall be established, for each institution so specified, for the purpose of conducting the institution as from the operative date.
- (5) The name given in the order under subsection (1) above as the name of the institution shall be the initial name of the body corporate.

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- (6) Where an educational institution, being an institution maintained by a [^{F1}local authority] or a grant-maintained school, has been established since 1st November 1990 or, as the case may be, 17th January 1991 by a merger of two or more institutions existing on that date, the institution shall be treated as falling within subsection (2) or, as the case may be, subsection (3) above if it would have done so if the merger had taken place before that date.
- (7) In this section “the appointed day” means the day appointed under section 94 of this Act for the commencement of subsection (4) above.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**

Commencement Information

- II** S. 15 wholly in force: s. 15(1)(2)(3)(5)(6)(7) in force at 6.5.1992; s. 15(4) in force at 30.9.1992, see s. 94(3) and [S.I. 1992/831](#), art. 2, [Schs. 1, 2](#)

16 Orders incorporating further institutions.

- (1) The Secretary of State may by order make provision for the establishment of a body corporate—
- (a) for the purpose of establishing and conducting an educational institution, or
 - (b) for the purpose of conducting an existing educational institution,
- but shall not make an order in respect of an existing institution without the consent of the governing body.
- [^{F2}(2) Subsection (1) above does not apply to an institution which is maintained by a [^{F1}local 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 [^{F1}local 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.]
- (4) The name given in the order under this section as the name of the institution shall be the initial name of the body corporate.
- (5) An order under this section shall provide for the institution to be conducted by the body corporate as from the operative date.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F2** S. 16(2)(3) substituted (1.10.2000 for E. and 1.4.2001 for W.) by [2000 c. 21](#), **s. 111(1)**; [S.I. 2000/2559](#), art. 2(1), **Sch. Pt. I**; [S.I. 2001/1274](#), art. 2, **Sch. Pt. I**

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Modifications etc. (not altering text)

C1 S. 16(1) modified (1.4.1993) by [S.I. 1993/563](#), [art. 2](#), [Sch. 1](#)

Commencement Information

I2 S. 16 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 2](#)

[^{F3}16A Publication of proposals

- (1) The appropriate authority may not make an order under section 16(1) or (3) unless the authority has published a draft of the proposed order, or of an order in substantially the same form, by such time and in such manner as may be prescribed.
- (2) A draft proposal or order in respect of an institution which is maintained by a local authority may not be published without the consent of the governing body and the local authority.
- (3) In this section “the appropriate authority” means—
 - (a) in relation to a proposal or order in respect of an institution in England, the Secretary of State;
 - (b) in relation to a proposal or order in respect of an institution in Wales, the Welsh Ministers.]

Textual Amendments

F3 S. 16A inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), [s. 82\(3\)](#), [Sch. 12 para. 2](#); [S.I. 2012/924](#), [art. 2](#)

17 “Further education corporation” and “operative date”.

- (1) In this Act “further education corporation” means a body corporate established under section 15 or 16 of this Act [^{F4}or which has become a further education corporation by virtue of section [^{F5}33D or] 47 of this Act.]
- (2) In this Part of this Act “operative date”, in relation to a further education corporation and the institution, means—
 - (a) in the case of a further education corporation established under section 15 of this Act, such date as the Secretary of State may by order appoint in relation to the corporations so established, and
 - (b) in the case of a further education corporation established under section 16 of this Act, such date as the Secretary of State may by order appoint in relation to that corporation.

Textual Amendments

F4 Words in s. 17(1) added (1.10.1998) by [1998 c. 30](#), [s. 44\(1\)](#), [Sch. 3 para.7](#) (with [s. 42\(8\)](#)); [S.I. 1998/2215](#), [art.2](#)

F5 Words in s. 17(1) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 8 para. 2](#); [S.I. 2010/303](#), [art. 3](#), [Sch. 2](#)

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Commencement Information

I3 S. 17 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, Sch. 1

18 Principal powers of a further education corporation.

- (1) A further education corporation may—
 - (a) provide further and higher education, and
 - [^{F6}(aa) provide secondary education [^{F7}suitable to the requirements of persons who have attained the age of fourteen years],
 - (ab) provide education which is secondary education by virtue of section 2(2B) of the ^{M1}Education Act 1996 (definition of secondary education),
 - (ac) participate in the provision of secondary education at a school,]
 - (b) supply goods or services in connection with their provision of education, [^{F8}and those powers are referred to in section 19 of this Act as the corporation’s principal powers].

[^{F9}(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 [^{F1}local authorities] as they consider appropriate.]

- (2) For the purposes of subsection (1) above, goods are supplied in connection with the provision of education by a further education corporation if they result from—
 - (a) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) ideas of a person employed by them, or of one of their students, arising out of their provision of education.
- (3) For the purposes of that subsection, services are supplied in connection with the provision of education by a further education corporation if—
 - (a) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
 - (b) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or
 - (c) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

- ^{F10}(4)
- ^{F10}(5)
- ^{F10}(6)

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 5(2)**
- F6** S. 18(1)(aa)-(ac) substituted for s. 18(1)(aa) (1.4.2001) by [2000 c. 21, s. 142\(1\)\(a\)](#); [S.I. 2001/654](#), art. 2, **Sch. Pt. II** (with transitional provisions in [art. 3](#)); [S.I. 2001/1274](#), art. 2, **Sch. Pt. I**

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- F7** Words in s. 18(1)(aa) substituted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), s. 215(1), [Sch. 21 para.11](#); S.I. 2002/2439, {art. 3}; S.I. 2002/3185, [art. 4](#)
- F8** Words after s. 18(1)(b) inserted (1.4.2001) by [2000 c. 21](#), ss. 149, [Sch. 9 para. 21\(a\)](#); S.I. 2001/654, [art. 2](#), [Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); S.I. 2001/1274, [art. 2](#), [Sch. Pt. I](#)
- F9** S. 18(1A) inserted (1.4.2001) by [2000 c. 21](#), s. 142(1)(b); S.I. 2001/654, [art. 2](#), [Sch. Pt. II](#) (with transitional provisions in [art. 3](#)); S.I. 2001/1274, [art. 2](#), [Sch. Pt. I](#)
- F10** S. 18(4)-(6) repealed (28.7.2000 for certain purposes, 1.1.2001 for W., 1.4.2001 and 1.9.2001 for E.) by [2000 c. 21](#), ss. 149, 153, [Sch. 9 para. 21\(b\)](#), [Sch. 11](#); S.I. 2000/3230, [art. 2](#), [Sch.](#); S.I. 2001/654, [art. 2](#), [Sch. Pts. II, III](#) (with transitional provisions in [art. 3](#))

Modifications etc. (not altering text)

- C2** S. 18(3)(c) modified (W.) (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), regs. 1(1), [3\(b\)](#)

Commencement Information

- I4** S. 18 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831](#), [art. 2](#), [Sch. 2](#)

Marginal Citations

- M1** [1996 c. 56](#).

19 Supplementary powers of a further education corporation.

- (1) A further education corporation may do anything (including in particular the things referred to in subsections (2) to (4) below) which appears to the corporation to be necessary or expedient for the purpose of or in connection with the exercise of any of their principal powers.
- (2) A further education corporation may conduct an educational institution for the purpose of carrying on activities undertaken in the exercise of their powers to provide further or higher education and, in particular, may assume as from the operative date the conduct of the institution in respect of which the corporation is established.
- (3) A further education corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties^{F11} ...).
- (4) A further education corporation may—
 - (a) acquire and dispose of land and other property,
 - (b) enter into contracts, including in particular—
 - (i) contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers, and
 - (ii) contracts with respect to the carrying on by the corporation of any such activities,
 - [^{F12}(bb) form, participate in forming or invest in a company,
 - (bc) form, participate in forming or otherwise become a member of a charitable incorporated organisation [^{F13}(within the meaning of Part 11 of the Charities Act 2011)],]
 - (c) borrow such sums as the corporation think fit for the purposes of carrying on any activities they have power to carry on or meeting any liability transferred

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to them under sections [F14]27] to [F15]27C or 33P] of this Act and, in connection with such borrowing, may grant any mortgage, charge or other security in respect of any land or other property of the corporation,

- (d) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,
- (e) accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes, and
- (f) do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

F16(4A)

F17(4AA)

F18(4AB)

F19(4AC)

F20(4B)

F21(4C)

F22(5)

[F23(6) 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 within the further education sector for persons of his age.

(7) 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.]

[F24(8) A reference in this section to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.]

[F25(9) A further education corporation may provide advice or assistance to any other person where it appears to the corporation to be appropriate for them to do so for the purpose of or in connection with the provision of education by the other person.]

Textual Amendments

- F11** Words in s. 19(3) omitted (1.4.2001) by virtue of 2000 c. 21, s. 149, **Sch. 9 para. 22(2)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F12** S. 19(4)(bb)(bc) substituted for s. 19(4)(bb) (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(2), 32(1)** (with s. 21(7))
- F13** Words in s. 19(4)(bc) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 7 para. 57** (with s. 20(2), **Sch. 8**)
- F14** Word in s. 19(4)(c) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 4(5)(a)**

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- F15** Words in s. 19(4)(c) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(2)**; S.I. 2012/924, art. 2
- F16** S. 19(4A) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(a)**, 11(2); S.I. 2014/1706, art. 3(a)
- F17** S. 19(4AA) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(b)**, 11(2); S.I. 2014/1706, art. 3(a)
- F18** S. 19(4AB) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(c)**, 11(2); S.I. 2014/1706, art. 3(a)
- F19** S. 19(4AC) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 3(6)**; S.I. 2012/924, art. 2
- F20** S. 19(4B) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(d)**, 11(2); S.I. 2014/1706, art. 3(a)
- F21** S. 19(4C) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(e)**, 11(2); S.I. 2014/1706, art. 3(a)
- F22** S. 19(5) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 1(f)**, 11(2); S.I. 2014/1706, art. 3(a)
- F23** S. 19(6)(7) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 22(5)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F24** S. 19(8) inserted (23.10.2007) by Further Education and Training Act 2007 (c. 25), **ss. 21(6)**, 32(1)
- F25** S. 19(9) added (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 256(2)**, 269(4); S.I. 2010/303, art. 3, Sch. 2

Commencement Information

- I5** S. 19 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

^{F26}19A Duty in relation to promotion of well-being of local area

.....

Textual Amendments

- F26** S. 19A repealed (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 4**; S.I. 2012/924, art. 2

20 Constitution of corporation and conduct of the institution.

- (1) For every further education corporation established to conduct an educational institution there shall be—
 - (a) an instrument providing for the constitution of the corporation (to be known as the instrument of government), and
 - (b) an instrument in accordance with which the corporation, and the institution, are to be conducted (to be known as articles of government).

- [^{F27}(2) Instruments of government and articles of government of further education corporations—
 - (a) must comply with the requirements of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.]

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- (3) The validity of any proceedings of a further education corporation, or of any committee of the corporation, shall not be affected by a vacancy amongst the members or by any defect in the appointment or nomination of a member.
- (4) Every document purporting to be an instrument made or issued by or on behalf of a further education corporation and to be duly executed under the seal of the corporation, or to be signed or executed by a person authorised by the corporation to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Textual Amendments

F27 S. 20(2) substituted for s. 20(2)(2A) (1.9.2014) by [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\), ss. 2\(1\), 11\(2\); S.I. 2014/1706, art. 3\(b\)](#)

Commencement Information

I6 S. 20 wholly in force at 30.9.1992 see s. 94(3) and [S.I. 1992/831, art. 2, Sch. 2](#)

21 Initial instruments and articles.

- (1) As from the date on which a further education corporation is established, the instrument of government and articles of government—
- ^{F28}(a)
- ^{F29}. . . shall be such as is prescribed by regulations.
- (2) Such ^{F30}. . . regulations—
- (a) may provide for all or any of the persons who, on the date on which a corporation is established to conduct the ^{F31}. . . existing institution, are the members of the governing body of the institution to be the initial members of the corporation, and
- (b) may make such other provision in relation to ^{F32}. . . existing institutions as appears to the Secretary of State necessary or desirable to secure continuity in their government.
- (3) In the case of a further education corporation established to conduct an institution which, on the date the corporation was established, was [^{F33}a maintained school, the governing body incorporated under [^{F34}section 19 of the Education Act 2002]] shall, on the operative date, be dissolved.

Textual Amendments

F28 S. 21(1)(a) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para. 35\(a\)\(i\), Sch.31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#).

F29 Words, including subsection "(b)", in s. 21(1) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para. 35\(a\)\(ii\), Sch. 31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#).

F30 Words in s. 21(2) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para. 35\(b\)\(i\), Sch.31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#).

F31 Words in s. 21(2)(a) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para. 35\(b\)\(ii\), Sch.31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#).

F32 Words in s. 21(2)(b) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\), Sch. 30 para. 35\(b\)\(iii\), Sch.31](#) (with ss. [138\(9\), 144\(6\)](#)); [S.I. 1999/2323, art. 2\(1\), Sch.1](#).

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F33 Words in s. 21(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 35(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**.

F34 Words in s. 21(3) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 12** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

Commencement Information

I7 S. 21 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[^{F35}**22** **Subsequent instruments and articles**

A further education corporation may modify or replace their instrument of government or articles of government.]

Textual Amendments

F35 S. 22 substituted for ss. 22, 22ZA (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), **ss. 2(3)**, 11(2); S.I. 2014/1706, art. 3(b)

Commencement Information

I8 S. 22 wholly in force at 30.9.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 2**

[^{F36}**22A** **Charitable status of a further education corporation**

A further education corporation shall be a charity (and, in accordance with Schedule 3 to the Charities Act 2011, is an exempt charity for the purposes of that Act).]

Textual Amendments

F36 S. 22A substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, Sch. 7 para. 58 (with s. 20(2), Sch. 8) (with S.I. 2011/1396, **Sch. para. 43(b)**)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16(6) inserted by [2007 c. 25 s. 14\(4\)](#)
- s. 17(2)(aa) inserted by [2007 c. 25 s. 14\(5\)\(b\)](#)
- s. 27(3A)(3B) inserted by [2007 c. 25 s. 15\(4\)](#)
- s. 27(9) inserted by [2007 c. 25 s. 15\(7\)](#)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by [2007 c. 25 s. 16\(2\)](#)
- s. 76(8)(9) inserted by [2017 c. 29 s. 52\(4\)](#)
- s. 85D inserted by [2009 c. 22 s. 247](#)
- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)