

Education and Lifelong Learning Committee

Learning and Skills Act 2000: Progress Report

Purpose

1. To set out for the Education and Lifelong Learning Committee, the latest position for introducing the Assembly's subordinate legislation stemming from the Learning and Skills Act 2000.

Recommendation

2. The Committee is invited to note the latest arrangements for commencement procedures at annex 1.

Background

3. Following public consultation, the Education and Training Action Group for Wales published an Action Plan for post-16 learning in March 1999 and submitted this to the National Assembly for consideration. The Action Plan made recommendations for modernising the planning and delivery of high quality post-16 education and training in Wales. On 1 February 2000, the National Assembly endorsed the overall principles, objectives and outcomes set out in the Action Plan and remitted the Executive to put in hand the necessary work to implement the new arrangements by 1 April 2001.

4. The Learning and Skills Act 2000 which received Royal Assent on 28 July, provides the legislative framework for implementing the Assembly's proposals for post-16 education and training for Wales.

5. A paper put before the Post-16 Education and Training Committee on 13 September set out the initial arrangements ((Ref):ETR-17-00).

Compliance

6. The National Assembly has the power to make Commencement Orders under section 154 of the Learning and Skills Act 2000 (the Act). Paragraph 13 of Schedule 10 to the Act provides that the Assembly may confer powers on the National Council for Education and Training for Wales before it acquires its full functions. The proposals raise no issues of regularity or propriety. Both the Office of the Counsel General and the Assembly Compliance Office have been consulted, and are content with the compliance aspects of this paper.

Financial Implications

7. The subordinate legislation will have no additional financial implications for the National Assembly. The new National Council will be funded by the National Assembly from existing budgets until 31 March 2001. On 7 December the Assembly approved £362.9m, £373.3m and £383.3m in 2001-02, 2002-03 and 2003-04 respectively; expenditure during these financial years will be accommodated within these budgets. Financial Planning Division has been consulted about this paper and noted there are no additional financial implications for the Assembly.

ANNEX 1

LEARNING AND SKILLS ACT 2000: PROGRESS REPORT

ENACTMENT

Legal summary

The Learning and Skills Act 2000 (the Act) received Royal Assent on 28 July 2000. On enactment the following provisions were brought into effect : part II of schedule 10 and sections 150, 151, 152, 154, 155 and 156.

Lay summary

On Royal Assent on 28 July 2000, various matters came into effect automatically. These were transitional matters for the new National Council and general or technical details of the Act. The transitional matters included the Further Education Funding Council for Wales being required to do its best to discharge its remaining functions before the new Council comes into effect. General or technical items included details relating to when references to the Secretary of State should be taken to be references to the National Assembly in relation to Wales.

COMMENCEMENT ORDER NO 1

Legal summary

The Learning and Skills Act 2000 (Commencement No. 1) (Wales) Order 2000 brought the following provisions of the Act into force on 19 September 2000 : sections 30, 47, 49, 51 and 149 insofar as it relates to the provisions of Schedule 9 specified below; Schedule 4 ; and in Schedule 9, paragraphs 3 and 4 insofar as they relate to the National Council for Education and Training for Wales and paragraph 93.

Lay summary

Commencement Order No 1 formally established the National Council for Education and Training for Wales. The Order includes other matters relating to the membership, staffing,

proceedings and accounting requirements of the Council.

The Order therefore allows the Council to begin the preparatory work required to enable it to take on its full functions and also brings into force section 47, which gives the National Assembly power to issue directions to the Council, and section 49, which gives the Assembly power to make grants to the Council.

THE INTERIM FUNCTIONS ORDER

Legal Summary

The National Assembly for Wales made The National Council for Education and Training for Wales (Interim Functions) Order 2000 in exercise of powers conferred on it by paragraph 13 of Schedule 10 to the Act. Until sections 31, 32, 40(1), 40(6) and 41 of the Act come into force the new Council may do anything which appears to be necessary or expedient in preparation for the exercise of the functions conferred by any of those sections. In connection with those powers, it may also give financial assistance to persons proposing to provide information, advice or guidance about education or training or connected matters. If the Council provides financial assistance it may impose conditions.

Lay summary

The Interim Functions Order confers power on the new Council to do anything necessary or expedient in preparation for the functions listed in the Order. These comprise the Council's main duties in respect of education and training both for persons aged 16 to 19 years and for persons aged over 19 years, the Council's power to secure facilities for information, advice or guidance in connection with education or training, to carry out research and its duties with respect to persons with learning difficulties. The Council also has an associated power to give financial assistance. The Order came into force on 19 September 2000.

COMMENCEMENT ORDER NO 2

Legal Summary

The Learning and Skills Act 2000 (Commencement No 2) (Wales) Order 2000 will bring into force other provisions in the Act on 1 January 2001. Provisions coming into force will be sections 42, 43, 44, 46, 48, 73, 87, 93, 95, 139, 141, 145 and 149 insofar as it relates to the provisions of Schedule 9 specified below; 153 insofar as it relates to the provisions of Schedule 11 specified below, and Schedule 5. In Schedule 9, paragraphs 21(b), 34, 36, 44(3) and (4), 45, 64, 70, 81, 86, 92. Also included are consequential repeals in certain sections of the Further and Higher Education Act 1992, the Education Act 1996, the Teaching and Higher Education Act 1998, the School Standards and Framework Act 1998 and the Government of Wales Act 1998.

The draft Commencement Order No 2 was approved in plenary session on 5 December.

Lay Summary

Sections 42, 43 and 44 of the Act impose duties on the National Council for Education and Training for Wales. Section 42 requires the Council to have due regard to the promotion of equality of opportunity in the exercise of its functions.

Sections 43 and 44 require the Council to make a plan for each of its financial years and to formulate a strategy in relation to its functions.

Sections 46 and 48 give the Council supplementary powers necessary to enable it to carry out its functions and to establish committees.

Section 73 renames Her Majesty's Chief Inspector of Schools in Wales and Her Majesty's Inspectors of Schools in Wales. Section 87 requires the Chief Inspector to prepare an annual plan and submit it to the National Assembly for approval.

Sections 93 and 95 empower the National Assembly to make schemes for the transfer to the Council of property, rights and liabilities (including employment rights) associated with the acquisition by the Council of its functions.

Section 139 allows induction periods for teachers to be served in further education institutions in some circumstances.

Section 141 empowers the National Assembly, in certain circumstances, to direct companies with whom it has contracted in respect of the provision of training not to take certain actions. It also empowers the National Assembly to make regulations prescribing the types of actions which may be included in such directions.

Section 145 deals with the civil liability of governors of certain further education institutions.

Schedules 9 and 11 respectively contain consequential amendments and repeals.

COMMENCEMENT ORDER NO 3

Commencement Order No 3 is currently in preparation and will include the bulk of the remaining provisions, excepting those relating to revision of inadequate sixth forms and National Council funding of sixth forms which are expected to come into force on 1 April 2002.

The Order will bring into force the main duties, powers and requirements of the National Council for Education and Training for Wales (and consequential repeal of the existing duty on LEAs to provide further education), extend the remit of Her Majesty's Chief Inspector of

Education and Training and make provision for the dissolution of the Further Education Funding Council for Wales.

Where learners are under the age of 19 years, it will provide that where a course leads to an external qualification, relevant institutions can only offer programmes of study relating to, and public funding can only be used for, approved qualifications. For those aged over 19, it will place a requirement on the new Council to ensure that public funding is only used to make payments for fees and charges in respect of external qualifications which are approved. It will give the Assembly power to extend the functions of the Qualifications, Curriculum and Assessment Authority for Wales (ACCAC) in relation to external qualifications and allow an institution providing only sixth-form education to be maintained as a school.

It will enable the Assembly to direct local authorities in Wales regarding youth support services for 13 to 25 year olds and enable certain public bodies to provide information to those providing youth support services.

It will impose a duty on the Assembly to make provision for the transition from school to post-16 learning of young people with special educational needs.

It will enable the FE institutions to provide secondary education, provide for the incorporation of the governing bodies of certain institutions, require LEAs and others to have regard to the Assembly's guidance relating to sex education, and effect other consequential amendments.

Most of the provisions will come into force on 1 April 2001.

FURTHER SUBORDINATE LEGISLATION

Further subordinate legislation consequential on the Act in the forms of orders and regulations is currently being considered.

It is anticipated there will be a statutory instrument covering all the regulations relating to the inspection of post-16 further education and training which will probably come into force on 1 April 2001.

Regulations are also being introduced to enable people resident in Wales to have the discount type Individual Learning Account (ILA). The regulations are scheduled to proceed to plenary as part of a composite motion on 12 December and will come into force on 1 January 2001.

FHE2 December 2000