



# Further and Higher Education (Governance and Information) (Wales) Act 2014

2014 anaw 1

*Further education institutions: governance*

## **1 Borrowing and investing by further education corporations**

In section 19 of the Further and Higher Education Act 1992 (supplementary powers of a further education corporation), omit—

- (a) subsection (4A) (power in subsection (4)(bb) to form, participate in forming or invest in company not to be exercised by further education corporation in Wales for conducting, or investing in company conducting, educational institution),
- (b) subsection (4AA) (power in subsection (4)(bc) to form, participate in forming or otherwise becoming member of charitable incorporated organisation not to be exercised by further education corporation in Wales for conducting, or becoming member of charitable incorporated organisation conducting, educational institution),
- (c) subsection (4AB) (power of Welsh Ministers to consent to exercise of power not complying with restriction in subsection (4A) or (4AA)),
- (d) subsection (4B) (powers in subsection (4)(bb) and (bc) not to be exercised by further education corporation in Wales for provision of education funded by Welsh Ministers under Learning and Skills Act 2000),
- (e) subsection (4C) (subsection (4B) not to apply if Welsh Ministers consent to exercise of powers), and
- (f) subsection (5) (power in subsection (4)(c) to borrow not to be exercised by further education corporation in Wales without consent of Welsh Ministers).

## **2 Instrument and articles of government of further education corporations**

(1) In section 20 of the Further and Higher Education Act 1992 (constitution of corporation and conduct of the institution), for subsections (2) and (2A) substitute—

“(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.”

(2) Schedule 1 (which substitutes Schedule 4 to the Further and Higher Education Act 1992) has effect.

(3) For sections 22 and 22ZA of the Further and Higher Education Act 1992 substitute—

### **“22 Subsequent instruments and articles**

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

## **3 Dissolution of further education corporations**

For sections 27 to 27C of the Further and Higher Education Act 1992 substitute—

### **“27 Proposals for dissolution of further education corporations**

(1) This section applies if a further education corporation propose that the corporation should be dissolved.

(2) The corporation must publish—

- (a) details of the proposal, and
- (b) such other information as may be prescribed by regulations made by the appropriate authority.

(3) The publication is to be in accordance with regulations made by the appropriate authority.

(4) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations made by the appropriate authority.

(5) In this section, “the appropriate authority” means—

- (a) in relation to a further education corporation in England, the Secretary of State, and
- (b) in relation to a further education corporation in Wales, the Welsh Ministers.

### **27A Dissolution of further education corporations**

(1) This section and section 27B apply if, after complying with section 27, a further education corporation resolve that the corporation should be dissolved on a specified date.

- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the appropriate authority of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.
- (5) In this section, “the appropriate authority” has the meaning given in section 27.

#### **27B Dissolution of further education corporations: transfer of property, rights and liabilities**

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed by regulations made by the appropriate authority.
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (6) In this section, “the appropriate authority” has the meaning given in section 27.”

#### **4 Designated institutions: instrument and articles of government**

- (1) In section 29A of the Further and Higher Education Act 1992 (first post-designation instruments and articles), omit—
  - (a) in subsection (1) the words “and (if the institution is in Wales) subsection (6)”,
  - (b) subsection (6), and
  - (c) in the heading “: England and Wales”.
- (2) For sections 29B and 29C of that Act substitute—

##### **“29B Changes to instruments and articles**

- (1) This section applies to a designated institution to which section 29 applies.
- (2) The governing body of the institution may modify or replace its instrument of government and articles of government.
- (3) If the institution is in Wales and is an institution to which section 30 applies, the governing body may do any of the things mentioned in subsection (2) only with the consent of the trustees of the institution.
- (4) The instrument of government and articles of government (as modified or replaced)—

- (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.”

(3) In section 31 of that Act (designated institutions conducted by companies), omit subsection (2A) (articles relating to appointment of members to take into account members who may be appointed by Welsh Ministers).

## **5 Intervention by Welsh Ministers in respect of institutions within further education sector**

(1) Section 57 of the Further and Higher Education Act 1992 (intervention: Wales) is amended as follows.

(2) In subsection (5A)—

- (a) after “include” insert “—  
(a)”;
  - (b) insert at the end “, and  
(b) a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.”

(3) After that subsection insert—

“(5B) A governing body to which a direction such as is mentioned in subsection (5A) (b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.”

(4) Omit section 57A of the Further and Higher Education Act 1992 (intervention policy: Wales).

## **6 Abolition of duties of further education institutions to comply with directions**

(1) In section 33J of the Learning and Skills Act 2000 (planning the local curriculum), for subsection (3) substitute—

“(3) The persons mentioned in paragraphs (a) to (c) of subsection (1) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under that subsection.

(4) The persons mentioned in paragraphs (a) and (b) of subsection (1) must comply with any direction given by the Welsh Ministers as to the exercise of their functions under that subsection.”

(2) In section 33L(3) of that Act (joint working: guidance and directions), for “The persons mentioned in subsection (1)” substitute “A local authority and a governing body of a maintained school”.

(3) In section 116I of the Education Act 2002 (planning the local curriculum), for subsection (3) substitute—

“(3) The persons mentioned in paragraphs (a) and (b) of subsection (1) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under that subsection.

(4) The persons mentioned in paragraph (a) of subsection (1) must comply with any direction given by the Welsh Ministers as to the exercise of their functions under that subsection.”

(4) In section 116K(3) of that Act (joint working: guidance and directions), for “The persons mentioned in subsection (1)” substitute “A local authority and a governing body of a maintained secondary school”.

## **7 Abolition of power to regulate higher education courses in further education sector**

In the Education Act 2002, omit section 139 (power to make regulations prohibiting provision of higher education courses by institutions within further education sector without approval of Welsh Ministers and determining numbers of persons who may take such courses at such institutions).

## **8 Minor and consequential amendments**

Schedule 2 (which makes minor and consequential amendments) has effect.

### *Student support: supply of information*

## **9 Supply of information in connection with student loans and grants**

In section 24 of the Teaching and Higher Education Act 1998 (supply of information in connection with student loans)—

(a) in subsection (2)—

(i) in paragraph (a), after “State” insert “, the Welsh Ministers”;

(ii) in paragraph (b), after “State” insert “, the Welsh Ministers”;

(iii) in paragraph (c), after “State” insert “, the Welsh Ministers”;

(b) after subsection (2) insert—

“(2A) Information to which this section applies may also be supplied to—

(a) the Welsh Ministers,

(b) any person or body acting on behalf of the Welsh Ministers under section 23(4), or

(c) any authority or governing body by whom any function of the Welsh Ministers is for the time being exercisable to any extent by virtue of section 23(1),

for the purpose of enabling or assisting the recipient to exercise any function in connection with regulations under section 22 so far as having effect in relation to grants under that section.”;

(c) in subsection (3)—

(i) in the opening words, after “(2)” insert “or (2A)”;

(ii) in paragraph (b), for “of the student loans scheme.” substitute “of—  
(i) the student loans scheme, or

(ii) regulations under section 22 so far as having effect in relation to grants made in pursuance

of the Welsh Ministers' functions under that section.”;

- (d) in subsection (4), after “(2)” insert “, (2A)”;
- (e) in subsection (10), after “student” insert “grants or”;
- (f) in the heading, for “loans” substitute “support”.

### *General*

## **10 Review of operation of Act**

The Welsh Ministers must, not later than 31 July 2016, review the operation of this Act with a view in particular to assessing its impact on—

- (a) the funding of education provided at further education institutions in Wales for students who are above compulsory school age but have not attained the age of 19,
- (b) Welsh language provision at such institutions, and
- (c) additional learning needs provision at such institutions.

## **11 Commencement**

- (1) Section 9, this section and section 12 come into force on the day on which this Act receives Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Welsh Ministers may appoint by order made by statutory instrument.
- (3) An order under this section may—
  - (a) appoint different days for different purposes;
  - (b) contain transitional, transitory or saving provision in connection with the coming into force of this Act.

## **12 Short title**

The short title of this Act is the Further and Higher Education (Governance and Information) (Wales) Act 2014.