

**Changes to legislation:** Higher Education and Research Act 2017, SCHEDULE 11 is up to date with all changes known to be in force on or before 30 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

SCHEDULES

SCHEDULE 11

Section 122

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

*Public Records Act 1958*

- 1
- In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), omit—

(a) “Director of Fair Access to Higher Education.”, and

(b) “Higher Education Funding Council for England.

Commencement Information

I1 Sch. 11 para. 1 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

*Parliamentary Commissioner Act 1967*

- 2
- In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), omit—

(a) “The Director of Fair Access to Higher Education.”, and

(b) “Higher Education Funding Council for England.

Commencement Information

I2 Sch. 11 para. 2 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

*Superannuation Act 1972*

- 3
- In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), omit—

(a) “Employment by the Director of Fair Access to Higher Education.”, and

(b) “Higher Education Funding Council for England.”

Commencement Information

I3 Sch. 11 para. 3 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

*House of Commons Disqualification Act 1975*

- 4
- In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), omit—

(a) “Director of Fair Access to Higher Education.”, and

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- (b) “Any member of the Higher Education Funding Council for England in receipt of remuneration.

**Commencement Information**

**I4** Sch. 11 para. 4 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

*Education (No. 2) Act 1986*

- 5 (1) Section 43 of the Education (No. 2) Act 1986 (freedom of speech in universities etc) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) The establishments in England to which this section applies are—
- (a) any registered higher education provider;
- (b) any establishment of higher or further education which is maintained by a local authority;
- (c) any institution within the further education sector.”
- (3) In subsection (5), after “The establishments” insert “ in Wales ”.
- (4) In subsection (6), in the definition of “governing body”, for “in relation to any university” substitute “—
- (a) in relation to a registered higher education provider, has the meaning given by section 85(1) of the Higher Education and Research Act 2017;
- (b) in relation to a university in Wales.”.
- (5) In subsection (6), after the definition of “governing body” insert—
- ““registered higher education provider” has the meaning given by section 3(10) of the Higher Education and Research Act 2017;”.
- (6) After subsection (6) insert—
- “(6A) For the purposes of this section—
- (a) an establishment is taken to be in England if its activities are carried on, or principally carried on, in England;
- (b) an establishment is taken to be in Wales if its activities are carried on, or principally carried on, in Wales.”
- (7) In subsection (7)(a), after “subsection” insert “ (4A)(b) or ”.

**Commencement Information**

**I5** Sch. 11 para. 5 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(p)

*Education Reform Act 1988*

- 6 The Education Reform Act 1988 is amended as follows.

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**Commencement Information**

**I6** [Sch. 11 para. 6](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

- 7 In section 124B(2)(b) (accounts), for “the higher education funding council” substitute “ the Higher Education Funding Council for Wales ”.

**Commencement Information**

**I7** [Sch. 11 para. 7](#) in force at 1.8.2019 by [S.I. 2018/1226](#), [reg. 4\(p\)](#)

- 8 (1) Section 128 (dissolution of higher education corporations) is amended as follows.
- (2) In subsection (1)(b)(iii), for “a higher education funding council” substitute “ the Higher Education Funding Council for Wales ”.
- (3) In subsection (4)(b), for “the higher education funding council” substitute “ the Higher Education Funding Council for Wales ”.

**Commencement Information**

**I8** [Sch. 11 para. 8](#) in force at 1.8.2019 by [S.I. 2018/1226](#), [reg. 4\(p\)](#)

- 9 In section 129(1) (designation of institutions), for “a higher education funding council” substitute “ the Higher Education Funding Council for Wales ”.

**Commencement Information**

**I9** [Sch. 11 para. 9](#) in force at 1.8.2019 by [S.I. 2018/1226](#), [reg. 4\(p\)](#)

- 10 (1) Section 133 (payments in respect of persons employed in the provision of higher or further education) is amended as follows.
- (2) In the heading, omit “by Polytechnics and Colleges Funding Council”.
- (3) In subsection (1)—
- (a) for “A higher education funding council shall” substitute “ The Office for Students and the Higher Education Funding Council for Wales each ”, and
- (b) for “the council” substitute “ they ”.

**Commencement Information**

**I10** [Sch. 11 para. 10](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

- 11 In Schedule 7 (higher education corporations), in paragraph 18(2)(b), for “higher education funding council” substitute “ Higher Education Funding Council for Wales ”.

**Commencement Information**

**I11** [Sch. 11 para. 11](#) in force at 1.8.2019 by [S.I. 2018/1226](#), [reg. 4\(p\)](#)

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### *Further and Higher Education Act 1992*

12 The Further and Higher Education Act 1992 is amended as follows.

#### **Commencement Information**

**I12** [Sch. 11 para. 12](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

13 In section 61 (interpretation of Part 1), omit subsection (3)(b).

#### **Commencement Information**

**I13** [Sch. 11 para. 13](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

14 (1) Section 62 (establishment of the Higher Education Funding Councils) is amended as follows.

(2) In the heading, for “The Higher Education Funding Councils” substitute “The Higher Education Funding Council for Wales”.

(3) In subsection (1)—

- (a) omit paragraph (a), and
- (b) in paragraph (b), after “them” insert “ (referred to in this Act as “the HEFCW”) ”.

(4) Omit subsection (2).

(5) In subsection (4), for “a council” substitute “ the HEFCW ”.

(6) Omit subsections (5) and (6).

(7) In subsection (7)—

- (a) omit “institutions in England or”,
- (b) in paragraph (a), omit “England or, as the case may be,” and
- (c) in paragraph (b), omit “, in both cases,”.

(8) In subsection (7A), for “each council” substitute “ the HEFCW ”.

(9) In subsection (8), for “one of the councils” substitute “ the HEFCW or the Office for Students ”.

(10) In subsection (9), for “each of the councils” substitute “ the HEFCW ”.

#### **Commencement Information**

**I14** [Sch. 11 para. 14](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), [regs. 2-4](#))

15 (1) Section 65 (administration of funds by councils) is amended as follows.

(2) In the heading, for “councils” substitute “ the HEFCW ”.

(3) In subsection (1)—

- (a) for “Each council” substitute “ The HEFCW ”, and
- (b) for “the council” substitute “ the HEFCW ”.

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- (4) In subsection (2)(a), for “the council's” substitute “the HEFCW's”.
- (5) In subsection (3)—
  - (a) for “A council” substitute “ The HEFCW ”, and
  - (b) for “the council” substitute “ the HEFCW ”.
- (6) In subsection (3A)—
  - (a) for “a Council” substitute “ the HEFCW ”, and
  - (b) for “the Council” substitute “ the HEFCW ”.
- (7) In subsection (3B), for “the Council in question” substitute “ the HEFCW ”.
- (8) In subsection (4)—
  - (a) for “a council” substitute “ the HEFCW ”, and
  - (b) for “the council”, in each place, substitute “ the HEFCW ”.

**Commencement Information**

**I15** Sch. 11 para. 15 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

- 16 (1) Section 66 (administration of funds: supplementary) is amended as follows.
- (2) In subsection (1)—
    - (a) for “a council” substitute “ the HEFCW ”, and
    - (b) for “the council”, in each place, substitute “ the HEFCW ”.
  - (3) In subsections (2) and (3), for “a council” substitute “ the HEFCW ”.
  - (4) In subsection (4), for “the council” substitute “ the HEFCW ”.

**Commencement Information**

**I16** Sch. 11 para. 16 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

- 17 (1) Section 68 (grants to councils) is amended as follows.
- (2) In the heading, for “councils” substitute “ the HEFCW ”.
  - (3) In subsection (1), for “each of the councils” substitute “ the HEFCW ”.
  - (4) In subsection (2)—
    - (a) for “either of the councils” substitute “ the HEFCW ”, and
    - (b) for “the council”, in each place, substitute “ the HEFCW ”.

**Commencement Information**

**I17** Sch. 11 para. 17 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2-4)

- 18 (1) Section 69 (supplementary functions) is amended as follows.

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- (2) In subsection (1), for “Each council” substitute “ The HEFCW ”.
- (3) Omit subsections (1A) and (1B).
- (4) In subsection (2), for “Each council” substitute “ The HEFCW ”.
- (5) In subsection (3), for “A council” substitute “ The HEFCW ”.
- (6) In subsection (4)—
  - (a) in paragraph (a), for “an institution” substitute “ an institution in Wales ”, and
  - (b) for “the council” substitute “ the HEFCW ”.
- (7) In subsections (5) and (6), for “a council” substitute “ the HEFCW ”.

**Commencement Information**

**I18** [Sch. 11 para. 18](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 5)

- 19 Omit section 70 (England: assessment of quality of education provided by institutions).

**Commencement Information**

**I19** [Sch. 11 para. 19](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 6)

- 20 (1) Section 79 (duty to give information to funding councils) is amended as follows.
  - (2) In the heading, for “the funding councils” substitute “ the HEFCW ”.
  - (3) For “a council” substitute “ the HEFCW ”.

**Commencement Information**

**I20** [Sch. 11 para. 20](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 7)

- 21 Omit section 79A (Higher Education Funding Council for England's power to request information from institutions that are exempt charities).

**Commencement Information**

**I21** [Sch. 11 para. 21](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 8)

- 22 (1) Section 81 (directions) is amended as follows.
  - (2) In subsection (1), for “each council” substitute “ the HEFCW ”.
  - (3) In subsection (2), for “a council” substitute “ the HEFCW ”.
  - (4) In subsection (3), for “the council”, in each place, substitute “ the HEFCW ”.

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#### Commencement Information

**I22** Sch. 11 para. 22 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 9)

- 23 (1) Section 82 (joint exercise of functions) is amended as follows.
- (2) Omit subsections (1) to (1B).
- (3) In subsection (2), for “Great Britain” substitute “ Wales and Scotland ”.
- (4) In subsection (2A), after “Scottish” insert “ Further and ”.
- (5) In subsection (3)(a)—
- (a) for “a higher education funding council” substitute “ the HEFCW ”,
  - (b) for “the National Assembly of Wales” substitute “ the Welsh Ministers ”,
  - (c) for “it is discharging its” substitute “ they are discharging their ”, and
  - (d) after “Scottish” insert “ Further and ”.

#### Commencement Information

**I23** Sch. 11 para. 23 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 10)

- 24 In section 83 (efficiency studies), in subsection (1B), for “A higher education funding council” substitute “ The HEFCW ”.

#### Commencement Information

**I24** Sch. 11 para. 24 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 11)

- 25 In section 91(4) (interpretation of Education Acts), for the words from “a council established under section 62” to the end substitute “the Higher Education Funding Council for Wales.

#### Commencement Information

**I25** Sch. 11 para. 25 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 12)

- 26 (1) Section 92 (index) is amended as follows.
- (2) Omit the entry for “council (in Part 2), or higher education funding council”.
- (3) After the entry for “governing body” insert—

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“the HEFCW	section 62(1)”
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- (4) For “institution in England or in Wales (in relation to higher education funding councils)” substitute “ institution in Wales (in relation to the HEFCW) ”.

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#### Commencement Information

**I26** Sch. 11 para. 26 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

#### *Education Act 1994*

- 27 (1) Section 18 of the Education Act 1994 (power to reimburse certain payments to persons formerly employed in teacher training) is amended as follows.
- (2) In subsection (1), for “A higher education funding council” substitute “ The Office for Students or the Higher Education Funding Council for Wales ”.
- (3) In subsection (4)—
- (a) for “a higher education funding council” substitute “ the Office for Students or (as the case may be) the Higher Education Funding Council for Wales ”, and
  - (b) for “the council” substitute “ they ”.

#### Commencement Information

**I27** Sch. 11 para. 27 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

#### *Education Act 1996*

- 28 In section 13 of the Education Act 1996 (local authorities' general responsibility for education), for subsection (2)(b) substitute—
- “(b) the Higher Education Funding Council for Wales, or
  - (c) the Office for Students.”

#### Commencement Information

**I28** Sch. 11 para. 28 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

#### *Freedom of Information Act 2000*

- 29 (1) Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies) is amended as follows.
- (2) In Part 4 (educational institutions), in paragraph 53(1)—
- (a) after paragraph (a) insert—
    - “(aa) a registered higher education provider of a description prescribed by regulations made by the Secretary of State for the purposes of section 39(1) of the Higher Education and Research Act 2017,”,
  - (b) in paragraph (c), after “institution” insert “ in Wales ”, and
  - (c) in paragraph (e), after “institution of” insert “ a registered higher education provider which falls within paragraph (aa) or ”.
- (3) In Part 4, in paragraph 53(2)—
- (a) after paragraph (a) insert—



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- “(aa) “registered higher education provider” has the meaning given by section 3(10) of the Higher Education and Research Act 2017,” and
  - (b) in paragraph (c), after “paragraph (c),” insert “ the reference to an institution in Wales is to be construed in accordance with section 62(7) of that Act, and ”.
- (4) In Part 6 (other public bodies), omit—
- (a) “The Director of Fair Access to Higher Education.”, and
  - (b) “The Higher Education Funding Council for England.

#### Commencement Information

**I29** Sch. 11 para. 29(1)(4) in force at 1.4.2018 by S.I. 2018/241, reg. 2(s)

**I30** Sch. 11 para. 29(2)(3) in force at 1.8.2019 by S.I. 2018/1226, reg. 4(p)

#### Higher Education Act 2004

- 30 (1) The Higher Education Act 2004 is amended as follows.
- (2) Omit sections 22 to 41 and Schedule 5 (student fees and fair access).
- (3) In section 47 (orders and regulations)—
- (a) in subsection (3), omit paragraphs (a) and (c), and
  - (b) omit subsection (4).
- (4) In section 48 (general interpretation), omit the definition of “the 2005 Act”.
- (5) In Schedule 6 (consequential amendments)—
- (a) omit paragraph 1 (amendment to the Public Records Act 1958),
  - (b) in paragraph 4 (amendment to the House of Commons Disqualification Act 1975), omit “ “Director of Fair Access to Higher Education.””, and
  - (c) in paragraph 10 (amendment to the Freedom of Information Act 2000), omit “ “The Director of Fair Access to Higher Education.””

#### Commencement Information

**I31** Sch. 11 para. 30 in force at 1.4.2018 by S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

#### Education Act 2005

- 31 (1) The Education Act 2005 is amended as follows.
- (2) In section 92 (joint exercise of functions)—
- (a) in subsection (2), for “Higher Education Funding Council for England” substitute “ Office for Students ”, and
  - (b) omit subsection (5).
- (3) In Schedule 14, omit paragraphs 26 to 35 (which amend provisions of Part 3 of the Higher Education Act 2004 which are repealed by this Schedule).

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**Commencement Information**

**I32** [Sch. 11 para. 31](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 17, 18)

*Equality Act 2010*

- 32 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to public sector equality duty), omit “The Higher Education Funding Council for England.

**Commencement Information**

**I33** [Sch. 11 para. 32](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

*Education Act 2011*

- 33 In the Education Act 2011, omit the following (which amend provisions of Part 3 of the Higher Education Act 2004 which are repealed by this Schedule)—
- (a) section 77;
  - (b) paragraphs 18 to 29 of Schedule 5;
  - (c) paragraph 22 of Schedule 16.

**Commencement Information**

**I34** [Sch. 11 para. 33](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 19)

*Charities Act 2011*

- 34 In Part 2 of Schedule 7 to the Charities Act 2011, omit paragraph 97 (which amends section 40 of the Higher Education Act 2004 which is repealed by this Schedule).

**Commencement Information**

**I35** [Sch. 11 para. 34](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

*Counter-Terrorism and Security Act 2015*

- 35 In section 32(5)(b) of the Counter-Terrorism and Security Act 2015 (monitoring of performance: further and higher education bodies) for “Higher Education Funding Council for England” substitute “ Office for Students ”.

**Commencement Information**

**I36** [Sch. 11 para. 35](#) in force at 1.4.2018 by [S.I. 2018/241](#), [reg. 2\(s\)](#)

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#### Changes and effects yet to be applied to :

- Sch. 11 para. 7 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 8 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 11 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 14 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 15 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 16 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 17 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 18 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 20 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 22 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 24 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 25 omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 26(3) omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)
- Sch. 11 para. 26(4) omitted by [2022 asc 1 Sch. 4 para. 38\(2\)](#)

#### 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):

- Pt. A1 inserted by [2023 c. 16 s. 1](#)
- s. A4 and cross-heading inserted by [2023 c. 16 s. 2](#)
- s. A5A6 and cross-heading inserted by [2023 c. 16 s. 3](#)
- s. A7 and cross-heading inserted by [2023 c. 16 s. 4](#)
- s. 2(1)(aa)(ab) inserted by [2023 c. 16 s. 5\(1\)](#)
- s. 2(7A) inserted by [2023 c. 16 Sch. para. 2\(3\)](#)
- s. 8A inserted by [2023 c. 16 s. 6](#)
- s. 9(3A) inserted by [2022 c. 21 s. 16\(2\)](#)
- s. 10(3A) inserted by [2023 c. 40 s. 2\(2\)\(a\)](#)
- s. 10(6A) inserted by [2023 c. 40 s. 2\(2\)\(b\)](#)
- s. 10(7A) inserted by [2023 c. 40 s. 2\(2\)\(c\)](#)
- s. 10(7B)(7C) inserted by [2023 c. 40 s. 1\(2\)\(b\)](#)
- s. 11(1A)(1B) inserted by [2023 c. 40 s. 2\(3\)\(b\)](#)
- s. 11(2)(2A) substituted for s. 11(2) by [2023 c. 40 s. 2\(3\)\(c\)](#)
- s. 31(1)(1A) substituted for s. 31(1) by [2023 c. 40 s. 2\(4\)\(a\)](#)
- s. 31(2A)(2B) inserted by [2023 c. 40 s. 2\(4\)\(c\)](#)
- s. 31(4) inserted by [2023 c. 40 s. 4\(4\)\(e\)](#)
- s. 67B(3A) inserted by [2023 c. 16 Sch. para. 5\(3\)](#)
- s. 67C(3) inserted by [2023 c. 16 Sch. para. 6](#)
- s. 69A and cross-heading inserted by [2023 c. 16 s. 5\(2\)](#)
- s. 69C inserted by [2023 c. 16 s. 8\(1\)](#)
- s. 73(1A) inserted by [2023 c. 16 Sch. para. 7\(3\)](#)
- s. 73(4A) inserted by [2023 c. 16 Sch. para. 7\(6\)](#)
- s. 85(1A) inserted by [2022 c. 21 s. 16\(4\)\(b\)](#)
- s. 119(2)(ha)(hb) inserted by [2023 c. 40 s. 2\(6\)](#)
- Sch. 2 para. 5(4) inserted by [2023 c. 40 s. 2\(7\)](#)
- Sch. 2 para. 1-1I substituted for Sch. 2 para. 1 by [2023 c. 40 s. 1\(4\)](#)
- Sch. 6A inserted by [2023 c. 16 s. 8\(2\)](#)

– Sch. 7 para. 4(5) inserted by [2023 c. 16 Sch. para. 13\(6\)](#)