

Changes to legislation: Higher Education and Research Act 2017, SCHEDULE 4 is up to date with all changes known to be in force on or before 15 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 4

Section 27

ASSESSING HIGHER EDUCATION: DESIGNATED BODY

PART 1

DESIGNATION

Consultation prior to recommendation

- 1 (1) The OfS may consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions.
- (2) The Secretary of State may direct the OfS to consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions.
- (3) The OfS consults in accordance with this sub-paragraph if it consults—
- (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers,
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers,
 - (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.

Modifications etc. (not altering text)

C1 Sch. 4 para. 1 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

I1 Sch. 4 para. 1 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(i)

Recommendation

- 2 (1) This paragraph applies where the OfS has consulted in accordance with paragraph 1.
- (2) The OfS must consider whether there is a body that is suitable to perform the assessment functions.

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- (3) If the OfS considers that there is only one body that is suitable to perform the assessment functions, the OfS must recommend that body to be designated to perform those functions.
- (4) If the OfS considers that there is more than one body that is suitable to perform the assessment functions, the OfS must recommend the most appropriate body to be designated to perform those functions.
- (5) “The most appropriate body” means, out of those bodies, the body whose designation the OfS considers would be most appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.
- (6) If the OfS considers that there is no body that is suitable to perform the assessment functions, the OfS may not recommend a body to be designated to perform those functions.
- (7) The OfS must—
 - (a) notify the Secretary of State of its recommendation or that no recommendation is made, and
 - (b) publish that notification.

Commencement Information

I2 Sch. 4 para. 2 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(i)

Designation

- 3 (1) This paragraph applies where, in accordance with paragraph 2, the OfS recommends that a body (“the recommended body”) be designated to perform the assessment functions.
- (2) The Secretary of State may designate the recommended body only if the Secretary of State considers that—
 - (a) the body is suitable to perform the assessment functions, and
 - (b) designating the body would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.
- (3) If the Secretary of State decides to designate the recommended body, the Secretary of State must—
 - (a) notify the body of the designation before the date on which the designation takes effect (“the effective date”), and
 - (b) publish notice of the designation before that date.
- (4) The notice of the designation must state—
 - (a) the name of the body, and
 - (b) the effective date.
- (5) If the Secretary of State decides not to designate the recommended body, the Secretary of State must publish the reasons for not doing so.

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Commencement Information

I3 Sch. 4 para. 3 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(i)

Bodies suitable to perform assessment functions

- 4 (1) A body is suitable to perform the assessment functions if the body satisfies conditions A to D.
- (2) Condition A is that the body is capable of performing the assessment functions in an effective manner.
- (3) Condition B is that—
- (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers,
 - (b) the body commands the confidence of registered higher education providers, and
 - (c) the body exercises its functions independent of any particular higher education provider.
- (4) Condition C is that the body consents to being designated under this Schedule.
- (5) Condition D is that the body is a body corporate and is not—
- (a) a servant or agent of the Crown, or
 - (b) a body to which the Secretary of State appoints members.

Modifications etc. (not altering text)

C2 Sch. 4 para. 4 modified (temp.) (1.1.2018) by The Higher Education and Research Act 2017 (Transitory Provisions) Regulations 2017 (S.I. 2017/1145), regs. 1(2), 3

Commencement Information

I4 Sch. 4 para. 4 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(i)

Removal of designation

- 5 (1) The Secretary of State may by notice remove a designation under this Schedule.
- (2) The notice must—
- (a) include the reasons for the Secretary of State's decision, and
 - (b) specify the date on which the designation is removed.
- (3) The Secretary of State may only remove the designation if—
- (a) the Secretary of State is satisfied that removing the designation would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers,
 - (b) the Secretary of State is satisfied that the designated body is failing to perform in an effective manner its functions under section 46, or
 - (c) the designated body consents to the removal of the designation.

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- (4) Before removing the designation the Secretary of State must consult—
- (a) the OfS,
 - (b) a number of registered higher education providers that, taken together, appear to the Secretary of State to comprise a broad range of the different types of such providers,
 - (c) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers,
 - (d) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of employers of graduates, and
 - (e) such other persons as the Secretary of State considers appropriate.
- (5) In determining whether a designation under this Schedule should be removed, the Secretary of State must have regard to any relevant information that the OfS has provided to the Secretary of State.
- (6) The Secretary of State must publish a notice under this paragraph.

Modifications etc. (not altering text)

C3 Sch. 4 para. 5 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

I5 Sch. 4 para. 5 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(i)

PART 2

OVERSIGHT BY THE OFS

Application

- 6 This Part applies if there is a body designated under this Schedule to perform the assessment functions.

Commencement Information

I6 Sch. 4 para. 6 in force at 1.4.2018 by [S.I. 2018/241](#), reg. 2(q)

Oversight arrangements

- 7 The OfS must make arrangements for holding the designated body to account for the performance of the assessment functions.

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Commencement Information

I7 Sch. 4 para. 7 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(ii)

Annual report by the designated body

- 8 (1) As soon as possible after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance of the assessment functions during the period.
- (2) “Annual reporting period”, in relation to a designated body, means—
- the period of 12 months beginning with the effective date, and
 - each successive period of 12 months.

Commencement Information

I8 Sch. 4 para. 8 in force at 1.4.2018 by S.I. 2018/241, reg. 2(q)

Triennial report by the OfS

- 9 (1) As soon as possible after the end of each triennial reporting period, the OfS must prepare and send to the Secretary of State a triennial report about—
- how the designated body has performed the assessment functions during the period,
 - whether the designated body should continue to be designated under this Schedule,
 - the appropriateness of any fees charged by the designated body under section 28, and
 - any other matters that the OfS considers relevant.
- (2) In preparing a triennial report, the OfS must have regard to any views provided to the OfS by a person listed in sub-paragraph (3) about—
- the matters listed in sub-paragraph (1)(a) to (c), and
 - what other matters, if any, should be dealt with in the report.
- (3) Those persons are—
- registered higher education providers,
 - persons representing, or promoting the interests of, students on higher education courses provided in England by registered higher education providers,
 - persons representing, or promoting the interests of, employers of graduates, and
 - such other persons as the OfS considers appropriate.
- (4) “Triennial reporting period”, in relation to a designated body, means—
- the period of 3 years beginning with the effective date, and
 - each successive period of 3 years.

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Commencement Information

I9 Sch. 4 para. 9 in force at 1.4.2018 by S.I. 2018/241, reg. 2(q)

Power of the OfS to give directions

- 10 (1) The OfS may give the designated body general directions about the performance of any of the assessment functions.
- (2) In giving such directions, the OfS must have regard to the need to protect—
- (a) the expertise of the designated body, and
 - (b) the designated body's ability to make, or make arrangements for, an impartial assessment of the quality of, and the standards applied to, higher education provided by a provider.
- (3) Such directions must relate to—
- (a) English higher education providers or registered higher education providers generally, or
 - (b) a description of such providers.
- (4) The designated body must comply with any directions given under this paragraph.

Commencement Information

I10 Sch. 4 para. 10 in force at 1.4.2018 by S.I. 2018/241, reg. 2(q)

Duty of the OfS to inform the Secretary of State about significant concerns

- 11 The OfS must inform the Secretary of State if it has significant concerns about—
- (a) how the designated body is performing the assessment functions, or
 - (b) the continued suitability of the designated body to carry out those functions.

Commencement Information

I11 Sch. 4 para. 11 in force at 1.4.2018 by S.I. 2018/241, reg. 2(q)

PART 3

INTERPRETATION

- 12 (1) In this Schedule—
- “the assessment functions” has the meaning given in section 27;
 - “designated body” means a body for the time being designated under this Schedule;
 - “the effective date”, in relation to a designated body, has the meaning given in paragraph 3;
 - “graduate” means a graduate of a higher education course provided in England by a registered higher education provider.

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(2) References in this Schedule to a body that is suitable to perform the assessment functions are to be read in accordance with paragraph 4.

Commencement Information

I12 Sch. 4 para. 12 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(iii)

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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):

- 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\(6\)](#)