



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 7

MISCELLANEOUS AND GENERAL

PROSPECTIVE

Higher education corporations

137 Instruments of government of higher education corporations in Wales

- (1) Section 124A of the [Education Reform Act 1988 \(c. 40\)](#) is amended as follows.
- (2) In subsection (9), for the words “3 to 5 and” substitute “2 to”.
- (3) After subsection (9) insert—
 - “(9A) Before making an order under subsection (9) the Welsh Ministers must consult—
 - (a) the Commission for Tertiary Education and Research, and
 - (b) any other persons they think appropriate.
 - (9B) An order made under subsection (9) may, where it is necessary in consequence of amendments made to Schedule 7A to this Act, repeal or amend the following provisions of this Act—
 - (a) subsection 122A(3);
 - (b) in subsection (4) of this section, the words “any provision authorised to be made by that Schedule and”;
 - (c) in section 124C—
 - (i) in subsection (1), the words beginning with “and, in determining” to the end;

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: Higher education corporations. (See end of Document for details)

(ii) subsection (2).”

Commencement Information

II S. 137 not in force at Royal Assent, see [s. 148](#)

138 Articles of government of higher education corporations in Wales

- (1) The [Education Reform Act 1988 \(c. 40\)](#) is amended as follows.
- (2) In section 125, after subsection (7) insert—
- “(8) The Welsh Ministers may by order amend or repeal any of subsections (2) to (4) of this section.
- (9) Before making an order under subsection (8) the Welsh Ministers must consult—
- (a) the Commission for Tertiary Education and Research, and
- (b) any other persons they think appropriate.”
- (3) In section 232—
- (a) in subsection (1), after the words “Secretary of State” insert “or the Welsh Ministers”;
- (b) after subsection (4) insert—
- “(4ZA) A statutory instrument containing any order or regulations made by the Welsh Ministers under this Act, other than an order under section 124A, 125, 214 or 216, shall be subject to annulment in pursuance of a resolution of Senedd Cymru.
- (4ZB) A statutory instrument containing an order made by the Welsh Ministers under section 124A or 125 of this Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.
- (4ZC) For the purposes of subsection (4ZA) above, any order or regulations made by the Welsh Ministers under this Act includes any order or regulations made under a power that is expressed as a power of the Secretary of State and has been transferred to the Welsh Ministers.”;
- (c) in subsection (5), for the word “thinks” substitute “or the Welsh Ministers think”.

Commencement Information

I2 S. 138 not in force at Royal Assent, see [s. 148](#)

139 Dissolution of higher education corporations in Wales

- (1) Section 128 of the [Education Reform Act 1988 \(c. 40\)](#) is amended as follows.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: Higher education corporations. (See end of Document for details)

- (2) In subsection (1), in sub-paragraph (b)(iii), for the words “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research (“the Commission”)”.
- (3) After subsection (1) insert—
- “(1A) An order under this section may be made only if—
- (a) the higher education corporation to be dissolved has requested that an order be made, or
 - (b) if there has been no such request, the higher education corporation consents to an order being made.
- (1B) But an order may be made as if consent had been given under subsection (1A)
- (b) if the Welsh Ministers consider that the higher education corporation—
 - (a) has unreasonably withheld its consent, or
 - (b) has unreasonably delayed in giving or withholding its consent.
- (1C) An order under subsection (1)(b)—
- (a) may, in relation to any property or rights of the corporation transferred under the order, make provision about the effect of such transfer on any right of pre-emption, right of return or other similar right that may apply in respect of such property or rights (including provision about the calculation and payment of any just compensation);
 - (b) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) of any enactment or any rule of law, which would otherwise prevent, penalise or restrict the transfer of the property rights or liabilities.”
- (4) In subsection (4), in paragraph (b), for the words “the Higher Education Funding Council for Wales” substitute “the Commission”.
- (5) For subsection (5), substitute—
- “(5) In this section—
- “charitable purposes” has the meaning given by section 11 of the [Charities Act 2011 \(c. 25\)](#);
 - “right of return means any right under a provision for the return or reversion of property in specified circumstances.”
- (6) After subsection (6), insert—
- “(7) The Welsh Ministers must publish a statement setting out the circumstances in which they propose to exercise the power under this section to make an order.
- (8) The Welsh Ministers—
- (a) must keep the statement under review;
 - (b) may revise it.
- (9) Before publishing the statement or a revised statement, the Welsh Ministers must consult such persons as they consider appropriate.
- (10) As soon as possible after publishing the statement or revised statement, the Welsh Ministers must lay a copy of it before Senedd Cymru.”

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: Higher education corporations. (See end of Document for details)

Commencement Information

I3 S. 139 not in force at Royal Assent, see [s. 148](#)

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, Cross Heading: Higher education corporations.