

**Changes to legislation:** Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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

## SCHEDULE 1

(introduced by section 1)

### COMMISSION FOR TERTIARY EDUCATION AND RESEARCH

#### Status

- 1 The Commission is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

#### Commencement Information

- I1** Sch. 1 para. 1 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I2** Sch. 1 para. 1 in force at 15.12.2022 by [S.I. 2022/1318](#), [art. 2\(c\)\(i\)](#)

#### Membership

- 2 (1) The members of the Commission are—
- (a) the person appointed by the Welsh Ministers to chair the Commission (“the chair”);
  - (b) the person appointed by the Welsh Ministers as the chair of the RIC under paragraph 12(1) who is to be the deputy chair of the Commission;
  - (c) at least 4 and no more than 14 other persons appointed by the Welsh Ministers under this paragraph (“ordinary members”);
  - (d) the person appointed under paragraph 10 as chief executive of the Commission (“the chief executive”).
- (2) In appointing the chair and ordinary members the Welsh Ministers must have regard to the desirability of the Commission’s members (between them) having experience of, and having shown capability in—
- (a) the provision of education or training;
  - (b) the carrying out or administration of research;
  - (c) industrial, commercial or financial matters or the practice of any profession;
  - (d) promoting the needs of learners in tertiary education.
  - (e) the provision of education or training through the medium of Welsh or the promotion of such education or training.

#### Commencement Information

- I3** Sch. 1 para. 2 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I4** Sch. 1 para. 2 in force at 15.12.2022 by [S.I. 2022/1318](#), [art. 2\(c\)\(i\)](#)

#### The chair and ordinary members

- 3 (1) The chair and ordinary members hold and vacate office in accordance with the terms and conditions of their appointment.
- (2) Those terms and conditions are to be determined by the Welsh Ministers, subject to the provisions of this Schedule.
- (3) A person is disqualified from being the chair or an ordinary member if the person is—

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- (a) a Member of the Senedd;
  - (b) a member of the House of Commons;
  - (c) a member of the governing body of a tertiary education provider in Wales that is an institution within the further education sector;
  - (d) a member of the governing body of a tertiary education provider in Wales that is an institution within the higher education sector.
- (4) A person who becomes disqualified ceases to hold office as the chair or as an ordinary member.
- (5) The chair and ordinary members are to be appointed for a term of up to 5 years.
- (6) A person who has held office as the chair or as an ordinary member may be reappointed.
- (7) The chair or an ordinary member may resign from office by giving notice to the Welsh Ministers and to the Commission.
- (8) The Commission may, with the Welsh Ministers’ approval, pay or make provision for the payment of remuneration, allowances and pension to, or in respect of, a person who is or has been the chair or an ordinary member.
- (9) The Welsh Ministers may by notice to the chair, the deputy chair or an ordinary member remove that person from office if they are satisfied that the person is unable or unfit to carry out the functions of office, or is otherwise failing to do so.
- (10) The Welsh Ministers may by notice to the chair, the deputy chair or an ordinary member suspend that person from office, if it appears to them that there may be grounds to exercise the power in sub-paragraph (9).
- (11) A suspension by notice under sub-paragraph (10) has effect—
- (a) for a period specified in the notice, or
  - (b) if no period is specified in the notice, until further notice by the Welsh Ministers to the person suspended.
- (12) A person removed from office as the deputy chair also ceases to hold office as the chair of the RIC.
- (13) A person suspended from office as the deputy chair is also suspended from office as the chair of the RIC.

#### **Commencement Information**

- I5** Sch. 1 para. 3 not in force at Royal Assent, see [s. 148\(2\)](#)
- I6** Sch. 1 para. 3 in force at 15.12.2022 by [S.I. 2022/1318](#), [art. 2\(c\)\(ii\)](#)

#### *Associate membership*

- 4 (1) The associate members of the Commission are—
- (a) at least two persons appointed by the Welsh Ministers in accordance with paragraph 5 to represent the wider tertiary education workforce (“associate workforce members”), where at least one is appointed to represent the academic tertiary education workforce and at least one is appointed to represent the non-academic tertiary education workforce;

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- (b) where one or more trade unions are recognised by the Commission, a person appointed in accordance with paragraph 6 to represent the staff of the Commission (“associate Commission staff member”);
- (c) at least one person appointed by the Welsh Ministers in accordance with paragraph 7 to represent learners in tertiary education (“associate learner member”).

(2) In this paragraph and paragraph 6, “recognised”, in relation to a trade union, has the meaning given by the Trade Union and Labour Relations (Consolidation) Act 1992.

#### Commencement Information

- I7** Sch. 1 para. 4 not in force at Royal Assent, see [s. 148\(2\)](#)
- I8** Sch. 1 para. 4(1)(a)(c) in force at 15.12.2022 by [S.I. 2022/1318](#), [art. 2\(c\)\(iii\)](#)

#### *Appointment of associate workforce members*

- 5 (1) The Welsh Ministers must publish—
- (a) a list of one or more trade unions for the purpose of appointing associate workforce members to represent the academic tertiary education workforce, and
  - (b) a list of one or more trade unions for the purpose of appointing associate workforce members to represent the non-academic tertiary education workforce.
- (2) Before publishing a list (including a replacement list) under sub-paragraph (1), the Welsh Ministers must consult—
- (a) the Commission, and
  - (b) such other persons as they consider appropriate.
- (3) Sub-paragraph (4) applies if no-one holds the position of associate workforce member to represent the academic tertiary education workforce.
- (4) The Welsh Ministers must invite each of the trade unions on the most recently published list under sub-paragraph (1)(a) to nominate an eligible candidate for appointment as an associate workforce member to represent the academic tertiary education workforce.
- (5) Sub-paragraph (6) applies if no-one holds the position of associate workforce member to represent the non-academic tertiary education workforce.
- (6) The Welsh Ministers must invite each of the trade unions on the most recently published list under sub-paragraph (1)(b) to nominate an eligible candidate for appointment as an associate workforce member to represent the non-academic tertiary education workforce.
- (7) The Welsh Ministers must specify the period within which a nomination under sub-paragraph (4) or (6) is to be made.
- (8) The Welsh Ministers must appoint at least one person, from among the eligible candidates nominated during the period specified under sub-paragraph (7), as an associate workforce member to represent the academic tertiary education workforce.

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- (9) The Welsh Ministers must appoint at least one person, from among the eligible candidates nominated during the period specified under sub-paragraph (7), as an associate workforce member to represent the non-academic tertiary education workforce.
- (10) A person is an eligible candidate for appointment as an associate workforce member to represent the academic tertiary education workforce only if the person is—
- (a) employed by a person who provides tertiary education in Wales, and
  - (b) a member of a trade union on the most recently published list under sub-paragraph (1)(a).
- (11) A person is an eligible candidate for appointment as an associate workforce member to represent the non-academic tertiary education workforce only if the person is—
- (a) employed by a person who provides tertiary education in Wales, and
  - (b) a member of a trade union on the most recently published list under sub-paragraph (1)(b).

#### Commencement Information

- I9** Sch. 1 para. 5 not in force at Royal Assent, see [s. 148\(2\)](#)
- I10** Sch. 1 para. 5(1)(2) in force at 15.12.2022 by S.I. 2022/1318, [art. 2\(c\)\(iv\)](#)
- I11** Sch. 1 para. 5(3)-(11) in force at 4.9.2023 by S.I. 2023/919, [art. 2\(v\)\(i\)](#)

PROSPECTIVE

#### *Appointment of associate Commission staff member*

- 6 (1) Sub-paragraph (2) applies where—
- (a) one or more trade unions are recognised by the Commission, and
  - (b) the position of associate Commission staff member is unoccupied.
- (2) The staff member appointment committee (see paragraph 11(5)) must invite each of the trade unions recognised by the Commission to nominate an eligible candidate for appointment as the associate Commission staff member.
- (3) The staff member appointment committee must specify the period within which a nomination is to be made.
- (4) The staff member appointment committee must appoint a person, from among the eligible candidates nominated during the period specified under sub-paragraph (3), as the associate Commission staff member.
- (5) A person is an eligible candidate for appointment as the associate Commission staff member only if the person is—
- (a) employed by the Commission, and
  - (b) a member of a trade union recognised by the Commission.

#### Commencement Information

- I12** Sch. 1 para. 6 not in force at Royal Assent, see [s. 148\(2\)](#)

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### *Appointment of associate learner member*

- 7
- (1) The Welsh Ministers must publish a list of one or more bodies (whether corporate or unincorporate) appearing to them to represent the interests of learners undertaking tertiary education in Wales for the purpose of appointing the associate learner member.
  - (2) Before publishing a list (including a replacement list) under sub-paragraph (1), the Welsh Ministers must consult—
    - (a) the Commission, and
    - (b) such other persons as they consider appropriate.
  - (3) Sub-paragraph (4) applies if no-one holds the position of associate learner member.
  - (4) The Welsh Ministers must invite each of the bodies on the list most recently published under sub-paragraph (1) to nominate an eligible candidate for appointment as the associate learner member.
  - (5) The Welsh Ministers must specify the period within which a nomination under sub-paragraph (4) is to be made.
  - (6) The Welsh Ministers must appoint a person, from among the eligible candidates nominated during the period specified under sub-paragraph (5), as the associate learner member.
  - (7) A person is an eligible candidate for appointment as an associate learner member only if—
    - (a) the person has been a learner undertaking tertiary education at any time during the period of 3 years ending on the day of the appointment, and
    - (b) the person holds an office or any form of membership of a body on the list most recently published under sub-paragraph (1).

#### **Commencement Information**

- I13** Sch. 1 para. 7 not in force at Royal Assent, see **s. 148(2)**  
**I14** Sch. 1 para. 7(1)(2) in force at 15.12.2022 by S.I. 2022/1318, **art. 2(c)(v)**  
**I15** Sch. 1 para. 7(3)-(7) in force at 4.9.2023 by S.I. 2023/919, **art. 2(v)(ii)**

### *Terms of associate membership etc.*

- 8
- (1) An associate member is not eligible to vote in any proceedings of the Commission.
  - (2) An associate workforce member and an associate learner member hold and vacate office in accordance with the terms and conditions of their appointment.
  - (3) Those terms and conditions are to be determined by the Welsh Ministers, subject to the provisions of this Schedule.
  - (4) An associate Commission staff member holds and vacates office in accordance with the terms and conditions of their appointment.
  - (5) Those terms and conditions are to be determined by the staff member appointment committee, subject to the provisions of this Schedule.

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- (6) The period of office specified in an associate member’s terms of appointment may not exceed 4 years.
- (7) A person who has held office as an associate member may be reappointed as an associate member (and sub-paragraph (6) applies in relation to the appointment).
- (8) An associate workforce member and an associate learner member may resign from office by giving notice to the Welsh Ministers and the chair.
- (9) An associate Commission staff member may resign from office by giving notice to the staff member appointment committee.
- (10) The Commission may, with the approval of the Welsh Ministers, pay an associate member expenses and allowances.

#### Commencement Information

- I16** Sch. 1 para. 8 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I17** Sch. 1 para. 8(1)-(3)(6)-(8)(10) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(iii\)](#)

#### *Removal of associate member from office*

- 9
- (1) The relevant decision maker may by notice to an associate member remove that person from office, if they are satisfied that the person is unable or unfit to carry out the functions of office, or is otherwise failing to do so.
  - (2) The relevant decision maker may by notice to an associate member suspend that person from office, if it appears to the relevant decision maker that there may be grounds to exercise the power in sub-paragraph (1).
  - (3) A suspension by notice under sub-paragraph (2) has effect—
    - (a) for a period specified in the notice, or
    - (b) if no period is specified in the notice, until further notice by the relevant decision maker to the person suspended.
  - (4) In this paragraph, the “relevant decision maker” is—
    - (a) the Welsh Ministers, where the associate member is an associate workforce member or an associate learner member;
    - (b) the staff member appointment committee, where the associate member is an associate Commission staff member.
  - (5) An associate member ceases to hold office if the member ceases to be an eligible candidate for appointment to the type of associate membership to which they were appointed (see paragraph 5(10) and (11), paragraph 6(5) and paragraph 7(7)).

#### Commencement Information

- I18** Sch. 1 para. 9 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I19** Sch. 1 para. 9(1)-(3)(4)(a) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(iv\)](#)  
**I20** Sch. 1 para. 9(5) in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(mm\)](#)

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### *Chief executive and other staff*

- 10 (1) The first person appointed as chief executive of the Commission is to be appointed by the Welsh Ministers—
- (a) on such terms and conditions (including conditions as to remuneration, allowances and pension) as the Welsh Ministers determine, and
  - (b) for a term of up to 4 years.
- (2) Subsequent appointments (or reappointments) of a person as chief executive are to be made by the Commission, with the approval of the Welsh Ministers.
- (3) A person may not be appointed as chief executive if the person is—
- (a) a Member of the Senedd;
  - (b) a member of the House of Commons;
  - (c) a member of the governing body of a tertiary education provider in Wales that is an institution within the further education sector;
  - (d) a member of the governing body of a tertiary education provider in Wales that is an institution within the higher education sector.
- (4) The chief executive is a member of the Commission’s staff.
- (5) The Commission may appoint other members of staff.
- (6) Except in relation to the first person appointed as chief executive under subparagraph (1), the following are to be determined by the Commission, with the approval of the Welsh Ministers—
- (a) the terms and conditions of its staff (including remuneration and allowances);
  - (b) the payment or provision for the payment of pension to or in respect of a member of its staff or a former member of its staff.
- (7) Service as a member of the Commission’s staff is not service in the civil service of the State.

#### **Commencement Information**

**I21** Sch. 1 para. 10 not in force at Royal Assent, see **s. 148(2)**

**I22** Sch. 1 para. 10(1)(3)(4)(7) in force at 15.12.2022 by S.I. 2022/1318, **art. 2(c)(vi)**

**I23** Sch. 1 para. 10(2)(5)(6) in force at 4.9.2023 by S.I. 2023/919, **art. 2(v)(v)**

### *Research and Innovation Committee, Quality Committee and other committees*

- 11 (1) The Commission is to have a committee known as the Research and Innovation Committee (“the RIC”) for the purpose of advising the Commission on matters relating to research and innovation.
- (2) For provision as to the chair of the RIC, see paragraph 12.
- (3) The Commission must establish a committee (“the Quality Committee”) for the purpose of advising the Commission on the quality of all tertiary education funded or otherwise secured by the Commission.
- (4) The Commission must appoint one of its ordinary members to chair meetings of the Quality Committee.

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- (5) The Commission must establish a committee composed of the chair and the ordinary members to be the staff member appointment committee.
- (6) The Commission may establish other committees.
- (7) The RIC, the Quality Committee or other committee established under sub-paragraph (6) may—
  - (a) establish sub-committees;
  - (b) dissolve sub-committees established by it.
- (8) The Commission may also dissolve sub-committees established under sub-paragraph (7).
- (9) The members of the RIC, the Quality Committee or other committee established under sub-paragraph (6) or a sub-committee established under sub-paragraph (7) may include persons who are not members of the Commission.
- (10) The Commission may pay remuneration and allowances to any person who—
  - (a) is a member of the RIC, the Quality Committee or other committee established under sub-paragraph (6) or a sub-committee established under sub-paragraph (7), but
  - (b) is not a member of the Commission or a member of its staff.

#### **Commencement Information**

- I24** Sch. 1 para. 11 not in force at Royal Assent, see [s. 148\(2\)](#)
- I25** Sch. 1 para. 11(1) in force at 15.12.2022 for specified purposes by [S.I. 2022/1318](#), [art. 2\(c\)\(vii\)](#)
- I26** Sch. 1 para. 11(1) in force at 4.9.2023 in so far as not already in force by [S.I. 2023/919](#), [art. 2\(v\)\(vi\)](#)
- I27** Sch. 1 para. 11(2) in force at 15.12.2022 by [S.I. 2022/1318](#), [art. 2\(c\)\(vii\)](#)
- I28** Sch. 1 para. 11(3)(4)(6)-(10) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(vi\)](#)

#### *Chair of the RIC*

- 12 (1) The Welsh Ministers must appoint a person to chair the RIC (“the chair of the RIC”).
- (2) The chair of the RIC holds and vacates office in accordance with the terms and conditions of the appointment.
- (3) Those terms and conditions are to be determined by the Welsh Ministers, subject to the provisions of this Schedule.
- (4) A person is disqualified from being the chair of the RIC if the person is—
  - (a) a Member of the Senedd;
  - (b) a member of the House of Commons;
  - (c) a member of the governing body of a tertiary education provider in Wales that is an institution within the further education sector;
  - (d) a member of the governing body of a tertiary education provider in Wales that is an institution within the higher education sector.
- (5) A person who becomes disqualified ceases to hold office as the chair of the RIC.
- (6) The chair of the RIC is to be appointed for a term of up to 5 years.
- (7) A person who has held office as the chair of the RIC may be reappointed.



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- (8) The chair of the RIC may resign from office at any time by giving notice to the Welsh Ministers and to the Commission.
- (9) The Commission may, with the Welsh Ministers' approval, pay or make provision for the payment of remuneration, allowances and pension to, or in respect of, a person who is or has been the chair of the RIC.
- (10) The Welsh Ministers may, by notice to the chair of the RIC, remove the chair from office if they are satisfied that the chair is unable or unfit to carry out the functions of office, or is otherwise failing to do so.
- (11) The Welsh Ministers may, by notice to the chair of the RIC, suspend the chair from office if it appears to them that there may be grounds to exercise the power in sub-paragraph (10).
- (12) A suspension by notice under sub-paragraph (11) has effect—
  - (a) for a period specified in the notice, or
  - (b) if no period is specified in the notice, until further notice by the Welsh Ministers to the chair.
- (13) A person who ceases to hold office as the chair of the RIC also ceases to hold office as the deputy chair of the Commission.
- (14) A person suspended from office as chair of the RIC is also suspended from office as the deputy chair of the Commission.

#### Commencement Information

**I29** Sch. 1 para. 12 not in force at Royal Assent, see [s. 148\(2\)](#)

**I30** Sch. 1 para. 12 in force at 15.12.2022 by S.I. 2022/1318, [art. 2\(c\)\(viii\)](#)

#### Joint committees

- 13 (1) The Commission may, in connection with the exercise of its functions, establish a committee jointly with any person.
- (2) In this Schedule a committee established under this paragraph is referred to as a “joint committee”.
- (3) The Commission may pay remuneration and allowances to any person who—
  - (a) is a member of a joint committee, but
  - (b) is not a member of the Commission or a member of its staff.

#### Commencement Information

**I31** Sch. 1 para. 13 not in force at Royal Assent, see [s. 148\(2\)](#)

**I32** Sch. 1 para. 13 in force at 4.9.2023 by S.I. 2023/919, [art. 2\(v\)\(vii\)](#)

#### Duty to ensure good value

- 14 The Commission must have regard to the need to ensure good value in relation to financial resources provided out of public funds.

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#### Commencement Information

- I33** Sch. 1 para. 14 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I34** Sch. 1 para. 14 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(viii\)](#)

#### *Accounts and audit*

- 15 (1) The Commission must—
- (a) keep proper accounts and proper records in relation to them, and
  - (b) prepare a statement of accounts in respect of each financial year in accordance with directions given by the Welsh Ministers.
- (2) The directions may make provision as to—
- (a) the information to be contained in the statement;
  - (b) the manner in which the information is to be presented;
  - (c) the methods and principles according to which the statement is to be prepared;
  - (d) additional information that is to accompany the statement.
- (3) No later than 31 August after the end of each financial year the Commission must submit its statement of accounts to—
- (a) the Auditor General for Wales, and
  - (b) the Welsh Ministers.
- (4) The Auditor General for Wales must examine, certify and report on the statement of accounts.
- (5) The Auditor General for Wales must, before the expiry of the 4-month period, lay before Senedd Cymru—
- (a) a copy of the certified statement and report, or
  - (b) if it is not reasonably practicable to do so, a statement to that effect, which must include reasons as to why this is the case.
- (6) Where a statement has been laid under sub-paragraph (5)(b), the Auditor General must lay a copy of the certified statement and report before Senedd Cymru as soon as reasonably practicable after the expiry of the 4-month period.
- (7) In sub-paragraphs (5) and (6), “the 4-month period” means the period of 4 months beginning with the day on which the statement of accounts is submitted to the Auditor General for Wales under sub-paragraph (3).

#### Commencement Information

- I35** Sch. 1 para. 15 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I36** Sch. 1 para. 15(1)(a) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(ix\)](#)

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PROSPECTIVE

*Annual reports*

- 16 (1) As soon as reasonably practicable after the end of each financial year the Commission must prepare a report (“the annual report”) that—
- (a) gives details of how the Commission has exercised its functions during the year;
  - (b) explains the progress the Commission has made during the year towards implementing its strategic plan approved under section 15 and the extent to which what it has done during the year has addressed the Welsh Ministers’ strategic priorities set out in the statement published under section 13;
  - (c) gives details of the following matters for the Welsh education reporting period, and explains how they compare with the details of those matters for the 12 months preceding that period—
    - (i) the extent to which tertiary education in Wales was provided through the medium of Welsh, and
    - (ii) the extent to which Welsh was taught to persons over compulsory school age in Wales;
  - (d) gives an assessment of the quality of tertiary education the Commission is required to monitor by section 51;
  - (e) includes the information required by section 80(3) (information about financial sustainability);
  - (f) includes the information required by section 107(3) (monitoring of funding for research and innovation);
  - (g) includes the information required by section 126(9) (effectiveness of learner protection plans);
  - (h) includes the information required by section 129(8) (effectiveness of Learner Engagement Code);
  - (i) gives details of how a body designated under Schedule 3 has exercised its functions during the academic year.
- (2) In sub-paragraph (1)(c), “Welsh education reporting period” means the most recent period of 12 months ending on 31 August in respect of which information about the matters set out in sub-paragraph (1)(c)(i) and (ii) is available to the Commission.
- (3) The annual report may include any other information the Commission considers appropriate.
- (4) As soon as possible after the report is prepared the Commission must send a copy to the Welsh Ministers.
- (5) As soon as possible after receiving the annual report the Welsh Ministers must lay a copy of it before Senedd Cymru.

**Commencement Information**

**I37** Sch. 1 para. 16 not in force at Royal Assent, see [s. 148\(2\)](#)

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PROSPECTIVE

*Meaning of “financial year” and “academic year”*

- 17 (1) In paragraphs 15 and 16 “financial year” means—
- (a) the period beginning on the day on which section 1 comes into force and ending on the following 31 March;
  - (b) subsequently, each successive period of 12 months.
- (2) In paragraph 16 “academic year” means the period of 12 months ending on 31 August in the financial year.

**Commencement Information**

**I38** Sch. 1 para. 17 not in force at Royal Assent, see [s. 148\(2\)](#)

*Delegation by the Commission*

- 18 (1) The Commission may delegate any of its functions to—
- (a) a member of the Commission or a member of its staff;
  - (b) the RIC, the Quality Committee or other committee established by the Commission under paragraph 11(6), or a sub-committee established under paragraph 11(7);
  - (c) a joint committee.
- (2) A function is delegated under this paragraph to the extent and on the terms that the Commission determines.
- (3) The delegation of a function does not affect—
- (a) the Commission’s ability to exercise the function;
  - (b) the Commission’s responsibility for the exercise of the function.

**Commencement Information**

**I39** Sch. 1 para. 18 not in force at Royal Assent, see [s. 148\(2\)](#)

**I40** [Sch. 1 para. 18](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(x\)](#)

*Delegation by committees*

- 19 (1) The RIC, the Quality Committee or other committee established under paragraph 11(6) may delegate any of its functions to a sub-committee established by it.
- (2) A function is delegated under this paragraph to the extent and on the terms that the committee delegating the function determines.

**Commencement Information**

**I41** Sch. 1 para. 19 not in force at Royal Assent, see [s. 148\(2\)](#)

**I42** [Sch. 1 para. 19](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(xi\)](#)

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### Proceedings

- 20 (1) The Commission may determine its own procedure (including quorum) and that of its committees and sub-committees.
- (2) The validity of proceedings of the Commission, of its committees or sub-committees, or of a joint committee, is not affected by—
- (a) a vacancy or suspension;
  - (b) a defective appointment.
- (3) A person suspended from office under this Schedule may not take part in proceedings of the Commission, of its committees or sub-committees, or of a joint committee during the period in which the suspension has effect.

#### Commencement Information

**I43** Sch. 1 para. 20 not in force at Royal Assent, see [s. 148\(2\)](#)

**I44** Sch. 1 para. 20 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(xii\)](#)

### Register of interests

- 21 (1) The Commission must establish and maintain a register of its members' interests.
- (2) The Commission must publish entries recorded in the register of members' interests.

#### Commencement Information

**I45** Sch. 1 para. 21 not in force at Royal Assent, see [s. 148\(2\)](#)

**I46** Sch. 1 para. 21 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(xiii\)](#)

### Supplementary powers

- 22 (1) The Commission may do anything that it considers—
- (a) appropriate for the purposes of, or in connection with, its functions, or
  - (b) incidental or conducive to the exercise of those functions.
- (2) The Commission may (among other things)—
- (a) acquire or dispose of land or other property;
  - (b) enter into contracts;
  - (c) invest sums;
  - (d) accept gifts of money, land or other property.
- (3) But the Commission may not borrow money without the approval of the Welsh Ministers.

#### Commencement Information

**I47** Sch. 1 para. 22 not in force at Royal Assent, see [s. 148\(2\)](#)

**I48** Sch. 1 para. 22 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(v\)\(xiv\)](#)

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## SCHEDULE 2

(introduced by section 24)

### TRANSFERS OF PROPERTY AND STAFF TO THE COMMISSION

#### *Power to make transfer schemes*

- 1 (1) The Welsh Ministers may make one or more schemes providing for—
- (a) staff of the Higher Education Funding Council for Wales or the Welsh Government to become members of staff of the Commission;
  - (b) the transfer of property, rights and liabilities of the Higher Education Funding Council for Wales or the Welsh Ministers to the Commission.
- (2) The things that may be transferred under a scheme under this Schedule (a “transfer scheme”) include—
- (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities.
- (3) A transfer scheme may make consequential, supplementary, incidental, transitional or transitory provision, for example so as to—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
  - (b) make provision about the continuing effect of things done in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done in respect of anything transferred;
  - (d) make provision for the shared ownership or use of property;
  - (e) make provision for references to the Higher Education Funding Council for Wales, the Welsh Government or the Welsh Ministers in an instrument or other document in respect of anything transferred to be treated as references to the Commission;
  - (f) make provision which is the same as or similar to a provision made by the TUPE regulations in a case where those regulations do not apply in relation to the transfer.

#### **Commencement Information**

**I49** Sch. 2 para. 1 not in force at Royal Assent, see [s. 148\(2\)](#)

**I50** Sch. 2 para. 1 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

#### *Modification of transfer schemes*

- 2 (1) The Welsh Ministers may modify a transfer scheme.
- (2) But if a transfer under the scheme has taken effect, any modification that relates to the transfer may be made only with the agreement of the person (or persons) affected by the modification.
- (3) A modification takes effect from the date when the original scheme came into effect or such later date as the Welsh Ministers may specify.

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#### Commencement Information

- I51** Sch. 2 para. 2 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I52** Sch. 2 para. 2 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

#### *Duty to lay transfer schemes before Senedd Cymru*

- 3 The Welsh Ministers must lay a copy of a transfer scheme made under this Schedule before Senedd Cymru.

#### Commencement Information

- I53** Sch. 2 para. 3 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I54** Sch. 2 para. 3 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

#### *Interpretation*

- 4 (1) For the purposes of this Schedule—
- (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
  - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- (2) In this Schedule—
- “civil service” (“*gwasanaeth sifil*”) means the civil service of the State;
  - “TUPE regulations” (“*rheoliadau TUPE*”) means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#));
  - references to rights and liabilities include rights and liabilities relating to a contract of employment;
  - references to the transfer of property include the grant of a lease.

#### Commencement Information

- I55** Sch. 2 para. 4 not in force at Royal Assent, see [s. 148\(2\)](#)  
**I56** Sch. 2 para. 4 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

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PROSPECTIVE

## SCHEDULE 3

(introduced by section 56)

### ASSESSING HIGHER EDUCATION: DESIGNATED BODY

#### PART 1

#### DESIGNATION

##### *Designation*

- 1 (1) The Commission may designate a body to exercise its assessment functions.
- (2) The Commission may designate a body under sub-paragraph (1) only if it considers that—
  - (a) the body is suitable to exercise the assessment functions, and
  - (b) designating the body would be appropriate for securing the effective assessment of the quality of higher education provided by tertiary education providers in Wales.
- (3) Before designating a body, the Commission must—
  - (a) obtain the consent of the Welsh Ministers, and
  - (b) consult—
    - (i) each registered provider providing higher education, and
    - (ii) such other persons as it considers appropriate.
- (4) If the Commission decides to designate a body under sub-paragraph (1) it 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.
- (5) The notice of the designation must state—
  - (a) the name of the body, and
  - (b) the effective date.
- (6) If the Welsh Ministers do not give their consent under sub-paragraph (3)(a), they must publish the reasons for not doing so.

##### **Commencement Information**

**I57** Sch. 3 para. 1 not in force at Royal Assent, see [s. 148\(2\)](#)

##### *Bodies suitable to exercise assessment functions*

- 2 (1) A body is suitable to exercise the assessment functions if the body satisfies the conditions in sub-paragraph (2).



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- (2) The conditions are—
- (a) that the body is capable of exercising the assessment functions in an effective manner,
  - (b) the persons who determine the strategic priorities of the body represent a broad range of registered providers providing higher education,
  - (c) the body commands the confidence of registered providers providing higher education,
  - (d) the body exercises its functions independent of any particular higher education provider, and
  - (e) the body consents to being designated under this Schedule.

**Commencement Information**

**I58** Sch. 3 para. 2 not in force at Royal Assent, see [s. 148\(2\)](#)

*Removal of designation*

- 3 (1) The Commission may by notice remove a designation under this Schedule.
- (2) The notice must—
- (a) include the reasons for the Commission’s decision, and
  - (b) specify the date on which the designation is removed.
- (3) The Commission may remove a designation only if—
- (a) the Commission is satisfied that removing the designation would be appropriate for securing the effective assessment of the quality of higher education provided by tertiary education providers in Wales, or
  - (b) the designated body consents to the removal of the designation.
- (4) Unless sub-paragraph (3)(b) applies, the Commission must, before removing the designation—
- (a) obtain the consent of the Welsh Ministers, and
  - (b) consult—
    - (i) each registered provider providing higher education, and
    - (ii) such other persons as it considers appropriate.
- (5) The Commission must publish a notice under this paragraph.
- (6) If the Welsh Ministers do not give their consent under sub-paragraph (4)(a), they must publish the reasons for not doing so.

**Commencement Information**

**I59** Sch. 3 para. 3 not in force at Royal Assent, see [s. 148\(2\)](#)

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## PART 2

### OVERSIGHT BY THE COMMISSION

#### *Application*

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

#### **Commencement Information**

**I60** Sch. 3 para. 4 not in force at Royal Assent, see [s. 148\(2\)](#)

#### *Power to provide funding*

- 5 The Commission may provide funding to the designated body for exercising the assessment functions.

#### **Commencement Information**

**I61** Sch. 3 para. 5 not in force at Royal Assent, see [s. 148\(2\)](#)

#### *Oversight arrangements*

- 6 The Commission must make arrangements for holding the designated body to account for the exercise of the assessment functions.

#### **Commencement Information**

**I62** Sch. 3 para. 6 not in force at Royal Assent, see [s. 148\(2\)](#)

#### *Annual report by the designated body*

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

#### **Commencement Information**

**I63** Sch. 3 para. 7 not in force at Royal Assent, see [s. 148\(2\)](#)

#### *Power of the Commission to give directions*

- 8 (1) The Commission may give the designated body general directions about the exercise of the assessment functions.

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- (2) In giving such directions, the Commission 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 higher education provided by a tertiary education provider.
- (3) The directions must relate—
  - (a) to tertiary education providers in Wales providing higher education or registered providers providing higher education generally, or
  - (b) a description of such providers.
- (4) The designated body must comply with any directions given under this paragraph.

**Commencement Information**

**I64** Sch. 3 para. 8 not in force at Royal Assent, see [s. 148\(2\)](#)

*Duty of the Commission to inform the Welsh Ministers about significant concerns*

- 9 The Commission must inform the Welsh Ministers if it has significant concerns about—
- (a) how the designated body is exercising the assessment functions, or
  - (b) the continued suitability of the designated body to exercise those functions.

**Commencement Information**

**I65** Sch. 3 para. 9 not in force at Royal Assent, see [s. 148\(2\)](#)

**PART 3**

**POWER TO CHARGE FEES**

- 10 (1) The designated body may charge a fee, or fees, to any tertiary education provider in relation to which the body exercises the assessment functions.
- (2) Any fees charged by the designated body under sub-paragraph (1) must be charged in accordance with a scheme prepared and published by the designated body that sets out—
- (a) the fees which the body charges under sub-paragraph (1), and
  - (b) the basis on which such fees are calculated.
- (3) The amount of a fee payable by any tertiary education provider under sub-paragraph (1) may be calculated by reference to costs incurred, or to be incurred, by the body in the exercise of any of its functions under this Act which—
- (a) are unconnected with the provider;
  - (b) are exercised, or are to be exercised, over a period specified in the scheme.
- (4) But the total fees payable under the scheme in any period must not exceed the cost to the designated body of exercising its functions under this Act during the same period.

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- (5) For the purposes of sub-paragraph (4), the cost to the designated body of exercising its functions under this Act is the amount of the costs incurred, or to be incurred, by the designated body in the exercise of any of its functions under this Act in any given period less any funding received by the body under paragraph 5 of this Schedule in the same period.
- (6) The designated body may revise the scheme.
- (7) The scheme (and any revised scheme) is to be treated as having effect only if approved by the Commission.

#### Commencement Information

**I66** Sch. 3 para. 10 not in force at Royal Assent, see [s. 148\(2\)](#)

## PART 4

### INTERPRETATION

- 11 (1) In this Schedule—
- “the assessment functions” (“*y swyddogaethau asesu*”) has the meaning given in section 56(2);
- “designated body” (“*corff dynodedig*”) means a body for the time being designated under this Schedule;
- “the effective date” (“*y dyddiad effeithiol*”), in relation to a designated body, has the meaning given in paragraph 1;
- (2) References in this Schedule to a body that is suitable to exercise the assessment functions are to be read in accordance with paragraph 2.

#### Commencement Information

**I67** Sch. 3 para. 11 not in force at Royal Assent, see [s. 148\(2\)](#)

## SCHEDULE 4

(introduced by section 147)

### MINOR AND CONSEQUENTIAL AMENDMENTS

PROSPECTIVE

#### *Employment and Training Act 1973 (c. 50)*

- 1 (1) The Employment and Training Act 1973 is amended as follows.
- (2) In section 8 (careers services), in subsection (4), for paragraph (a) substitute—
- “(a) as respects Wales as references to a tertiary education provider registered under section 25 of the Tertiary Education and Research

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(Wales) Act 2022 to provide higher education, other than a provider which is also an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992) or a school (within the meaning given by section 4 of the Education Act 1996), and”.

#### Commencement Information

**I68** Sch. 4 para. 1 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education (Fees and Awards) Act 1983 (c. 40)*

- 2 (1) The Education (Fees and Awards) Act 1983 is amended as follows.
- (2) In section 1 (fees at universities, further education institutions etc.), in subsection (3) —
- (a) omit paragraph (ee);
  - (b) in paragraph (g), for “National Assembly for Wales” substitute “Welsh Ministers or the Commission for Tertiary Education and Research”.

#### Commencement Information

**I69** Sch. 4 para. 2 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education (No. 2) Act 1986 (c. 61)*

- 3 (1) The Education (No. 2) Act 1986 is amended as follows.
- (2) In section 43 (freedom of speech in universities, etc.)—
- (a) in subsection (5), for paragraph (aa) substitute—
    - “(aa) a tertiary education provider registered under section 25 of the Tertiary Education and Research (Wales) Act 2022 to provide higher education, other than an institution within paragraph (a) or (ba) or a school;”;
  - (b) in subsection (6), for paragraph (b) substitute—
    - “(b) in relation to an institution in Wales within the higher education sector or the further education sector has the meaning given by section 90(1) of the [Further and Higher Education Act 1992 \(c. 13\)](#), but subject to any provision made by virtue of section 90(2) of that Act;”.

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#### Commencement Information

**170** Sch. 4 para. 3 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Employment Act 1988 (c. 19)*

- 4 (1) The Employment Act 1988 is amended as follows.
- (2) In section 26 (status of trainees etc.), in subsection (1A), for “under section 34(1) (c) of the Learning and Skills Act 2000” substitute “or the Commission for Tertiary Education and Research under section 97(1)(d) or (e) of the Tertiary Education and Research (Wales) Act 2022”.

#### Commencement Information

**171** Sch. 4 para. 4 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Reform Act 1988 (c. 40)*

- 5 (1) The Education Reform Act 1988 is amended as follows.
- (2) In section 120 (powers of local authorities with respect to higher education), after subsection (4) insert—
- “(4A) In exercising its powers under subsection (3) a local authority must have regard to the Commission for Tertiary Education and Research’s strategic plan approved under section 15 of the Tertiary Education and Research (Wales) Act 2022.”
- (3) In section 124B (accounts), in subsection (2)(b), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.
- (4) In section 129 (designation of institutions)—
- (a) in subsection (1)—
- (i) for “the Secretary of State” substitute “the Welsh Ministers”;
- (ii) for “as an institution eligible to receive support from funds administered by the Higher Education Funding Council for Wales” substitute “for the purposes of this section”;
- (iii) in paragraph (a) for “him” substitute “them”;
- (iv) in paragraphs (a) and (b) after “institution” insert “in Wales”;
- (b) in subsection (5)(d), for “the Secretary of State” substitute “the Welsh Ministers”.

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- (5) In section 133 (payments in respect of persons employed in the provision of higher or further education), in subsection (1)—
  - (a) for “and the Higher Education Funding Council for Wales each have” substitute “has”;
  - (b) for “they think” substitute “it thinks”;
  - (c) in paragraph (a) for “their” substitute “its”.
- (6) In section 198 (transfers), in subsection (5), for “the higher education funding council” substitute “the Commission for Tertiary Education and Research”.
- (7) In Schedule 7 (higher education corporations in Wales established before the appointed day), in paragraph 18(2)(b), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.

#### Commencement Information

**I72** Sch. 4 para. 5 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Further and Higher Education Act 1992 (c. 13)*

- 6 (1) The Further and Higher Education Act 1992 is amended as follows.
  - (2) In section 49B (destination information)—
    - (a) in subsection (2) for “The Welsh Ministers” substitute “The Commission for Tertiary Education and Research”;
    - (b) in subsection (4) for “the Welsh Ministers” in the first place where it occurs substitute “the Commission for Tertiary Education and Research”.
  - (3) Omit—
    - (a) section 57 (intervention: Wales);
    - (b) section 62 (establishment of the Higher Education Funding Council for Wales);
    - (c) section 65 (administration of funds by the HEFCW);
    - (d) section 66 (administration of funds: supplementary);
    - (e) section 68 (grants to the HEFCW);
    - (f) section 69 (supplementary functions);
    - (g) section 79 (duty to give information to HEFCW);
    - (h) section 81 (directions).
  - (4) In section 83 (efficiency studies), in the table in subsection (1B) omit the entries for “the Welsh Ministers” and “the HEFCW”.
  - (5) In section 91 (interpretation)—
    - (a) omit subsection (4);
    - (b) in subsection (5)—
      - (i) for paragraphs (a) and (aa) substitute—

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- “(a) tertiary education providers registered in a category specified in regulations made for the purposes of section 88 or 105 of the Tertiary Education and Research (Wales) Act 2022, other than providers that are also institutions within the further education sector or schools,”;
  - (ii) in paragraph (b) after “in Wales” insert “, other than ones falling within paragraph (a),”;
  - (iii) in paragraph (c) after “Act)” insert “, other than institutions falling within paragraph (a),”;
  - (c) omit subsection (5A).
- (6) In section 92 (index), omit the entries for “the HEFCW” and “institution in Wales (in relation to the HEFCW)”.
- (7) Omit Schedule 1 (the Further and Higher Education Funding Councils).

#### Commencement Information

**I73** Sch. 4 para. 6 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Act 1994 (c. 30)*

- 7 (1) The Education Act 1994 is amended as follows.
- (2) In section 18 (power to reimburse certain payments to persons formerly employed in teacher training)—
- (a) in subsection (1)—
    - (i) omit “or the Higher Education Funding Council for Wales”;
    - (ii) for “they think” substitute “it thinks”;
  - (b) in subsection (4)—
    - (i) omit “(or (as the case may be) the Higher Education Funding Council for Wales”;
    - (ii) for “they” substitute “it” and for “their” substitute “its”.
- (3) In section 18C (inspection of teacher training in Wales)—
- (a) in subsection (3) for paragraph (b) substitute—
    - “(b) the Commission for Tertiary Education and Research, or”;
  - (b) in subsection (12) omit paragraph (b).
- (4) In section 21 (establishments to which Part 2 on students’ unions applies)—
- (a) in subsection (1)—
    - (i) in paragraph (a) for “section 65 of the Further and Higher Education Act 1992” substitute “section 88 of the Tertiary Education and Research (Wales) Act 2022”;
    - (ii) in paragraph (b) for “that Act” substitute “the Further and Higher Education Act 1992”;



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- (iii) in paragraph (c) omit “as eligible to receive support from funds administered by a higher education funding council”;
- (iv) after paragraph (d) insert—
  - “(da) any institution in Wales designated under section 28 of the Further and Higher Education Act 1992;”.
- (b) in subsection (2A) for “has the meaning given by section 62(7) of the Further and Higher Education Act 1992” substitute “means an institution whose activities are wholly or mainly carried out in Wales”.

#### Commencement Information

**I74** Sch. 4 para. 7 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Act 1996 (c. 56)*

- 8 (1) The Education Act 1996 is amended as follows.
- (2) In section 13 (general responsibility for education), in subsection (2) for paragraphs (aa) and (b) substitute—
    - “(ba) the Commission for Tertiary Education and Research, or”.
  - (3) In section 15A (local authority powers in respect of education and training for 16 to 18 year olds), after subsection (3) insert—
    - “(3A) In exercising its functions under this section a local authority in Wales must also have regard to the Commission for Tertiary Education and Research’s strategic plan approved under section 15 of the Tertiary Education and Research (Wales) Act 2022.”
  - (4) In section 15B (local authority powers in respect of education for persons over 19), after subsection (3)(b) insert—
    - “(c) a local authority in Wales must also have regard to the Commission for Tertiary Education and Research’s strategic plan approved under section 15 of the Tertiary Education and Research (Wales) Act 2022.”
  - (5) Omit section 484 (education standard grants).
  - (6) In section 489 (conditions as to payment of grants)—
    - (a) in subsection (1) for “under any of sections 484 to 488” substitute “section 485”;
    - (b) omit subsection (2);
    - (c) in the heading for “sections 484 to 488” substitute “section 485”.
  - (7) In section 508 (local authority functions in respect of facilities for recreation and social and physical training), after subsection (3) insert—
    - “(4) In exercising its functions under this section a local authority must have regard to the Commission for Tertiary Education and Research’s strategic

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plan approved under section 15 of the Tertiary Education and Research (Wales) Act 2022.”

- (8) In section 530 (compulsory purchase of land), in subsection (3) in paragraph (b) omit “(including that paragraph as applied by section 76(3) of that Act)”.
- (9) In section 580 (index), omit the entry for “grants for education support and training”.
- (10) In Schedule 36A (education functions of local authorities), in the table in paragraph 2 in the entry for the Learning and Skills Act 2000—
  - (a) in the entry for section 33J, for “Welsh Ministers” substitute “the Commission for Tertiary Education and Research”;
  - (b) omit the entry for section 83;
  - (c) omit the entry for section 84;
  - (d) omit the entry for Schedules 7 and 7A.

#### Commencement Information

**I75** Sch. 4 para. 8 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Act 1997 (c. 44)*

- 9 (1) The Education Act 1997 is amended as follows.
- (2) In Part 6, in the heading to Chapter 1, after “AUTHORITIES”, insert “IN WALES”.
  - (3) In section 38 (inspection of local authorities)—
    - (a) in subsection (1)—
      - (i) in paragraph (b), for “the Secretary of State” substitute “the Welsh Ministers or the Commission for Tertiary Education and Research (“the Commission)”
      - (ii) after “authority”, insert “in Wales”;
    - (b) after subsection (2A) insert—
 

“(2B) Where the Commission has made a request under subsection (1) (b), the review mentioned in subsection (2A) is to be of the way that the local authority is performing the functions mentioned in subsection (2A)(a) and (b) in so far as those functions relate to further education and training within the meaning of section 144(2) to (5) of the Tertiary Education and Research (Wales) Act 2022.”;
    - (c) in subsection (3), for “the Secretary of State” substitute “the Welsh Ministers or the Commission”;
    - (d) in subsection (4), for “the Secretary of State” substitute “the Welsh Ministers or the Commission”;
    - (e) in subsection (6), after “authority”, insert “in Wales”;
    - (f) in the heading, after “authorities”, insert “in Wales”.
  - (4) In section 39 (report of inspection of local authority and action plan), in subsection (1)

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- (a) omit the “and” at the end of paragraph (a);
- (b) for paragraph (b) substitute—
  - “(b) the Welsh Ministers, and
  - (c) where the matters reviewed relate to further education and training within the meaning of section 144(2) to (5) of the Tertiary Education and Research (Wales) Act 2022, the Commission for Tertiary Education and Research.”

**Commencement Information**

I76 Sch. 4 para. 9 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Teaching and Higher Education Act 1998 (c. 30)*

- 10 Omit section 27 of the Teaching and Higher Education Act 1998 (expenditure eligible for funding).

**Commencement Information**

I77 Sch. 4 para. 10 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*School Standards and Framework Act 1998 (c. 31)*

- 11 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 49 (maintained schools to have delegated budgets), in subsection (6), in paragraph (b) omit “section 75(2)(b) of,”.
- (3) In Part 1 of Schedule 22 (disposals of land: foundation and voluntary schools in Wales)—
- (a) in paragraph 1, in sub-paragraph (1)(aa) omit “, under that paragraph as applied by section 76(1) of that Act”;
  - (b) in paragraph 2, in sub-paragraph (1)(aa) omit “, under either of those paragraphs as applied by section 76(1) or (3) of that Act”;
  - (c) in paragraph 2A, in sub-paragraph (1)(aa) omit “, under that paragraph as applied by section 76(1) of that Act”;
  - (d) in paragraph 3, in sub-paragraph (1)(aa) omit “, under those paragraphs as applied by section 76(1) or (3) of that Act”.
- (4) In Schedule 30 (minor and consequential amendments), omit paragraphs 125 and 126.

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### Commencement Information

**I78** Sch. 4 para. 11 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

### *Government of Wales Act 1998 (c.38)*

- 12 (1) The Government of Wales Act 1998 is amended as follows.
- (2) In section 145B (studies in relation to educational bodies)—
- (a) in subsection (1), in the Table—
    - (i) in the entry for the governing body of an institution in Wales within the higher education sector, in the second column, for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”;
    - (ii) omit the entry for a governing body receiving financial support under section 86 of the Education Act 2005;
    - (iii) in the entry for a governing body of an institution in Wales within the further education sector, in the second column, for “or the Assembly” substitute “, the Commission or the Welsh Ministers”;
  - (b) in subsection (4), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research” and for “the council” substitute “the Commission”.
- (3) In Part 3 of Schedule 4 (bodies subject to reform), omit paragraph 16.
- (4) In Part 1 of Schedule 17 (bodies subject generally to audit etc. provisions)—
- (a) in paragraph 1 omit “or III”;
  - (b) after paragraph 11 insert—
 

“11A The Commission for Tertiary Education and Research.”

### Commencement Information

**I79** Sch. 4 para. 12 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

### *Care Standards Act 2000 (c. 14)*

- 13 (1) The Care Standards Act 2000 is amended as follows.
- (2) In Schedule 2A (persons subject to review by the Children’s Commissioner for Wales)—
- (a) for paragraph 7, substitute—
 

“7 Any tertiary education provider (other than one within paragraph 5, 6, 8 or 9) that is registered in a category specified

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in regulations made for the purposes of section 88 or 105 of the Tertiary Education and Research (Wales) Act 2022.”

(b) after paragraph 8 insert—

“8A The Commission for Tertiary Education and Research.”

(3) In Schedule 2B (persons whose arrangements are subject to review by the Children’s Commissioner for Wales), after paragraph 10 insert—

“11 The Commission for Tertiary Education and Research.”

#### Commencement Information

**180** Sch. 4 para. 13 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Learning and Skills Act 2000 (c. 21)*

- 14 (1) The Learning and Skills Act 2000 is amended as follows.
- (2) Omit sections 31 to 33 (main duties in relation to post 16 education and training).
- (3) In section 33A (formation of local curricula for students aged 16 to 18)—
- (a) in subsection (1) for “The Welsh Ministers” substitute “The Commission”;
  - (b) in subsection (2)(b) for “the Welsh Ministers” substitute “the Commission”.
- (4) In section 33B (local curricula: Welsh language) for “The Welsh Ministers” substitute “The Commission” and for “their” substitute “its”.
- (5) In section 33C (areas with more than one local curriculum)—
- (a) in subsection (1) for “the Welsh Ministers form” substitute “the Commission forms”;
  - (b) in subsection (2) for “the Welsh Ministers” substitute “the Commission”.
- (6) In section 33D (determination of a pupil’s relevant school or institution), after subsection (3) insert—
- “(3A) The Welsh Ministers must consult the Commission before making regulations under subsection (3).”
- (7) In section 33E (pupils’ choice of local curriculum courses)—
- (a) after subsection (3) insert—
- “(3A) The Welsh Ministers must consult the Commission before making regulations under subsection (3).”;
- (b) in subsection (4) for “the Welsh Ministers have” in each place substitute “the Commission has”.
- (8) In section 33G (head teacher’s or principal’s decision as to entitlement), after subsection (5) insert—

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- “(6) The Welsh Ministers must consult the Commission before making regulations under subsection (3), giving guidance under subsection (4) or making an order under subsection (5).”
- (9) In section 33I (head teacher’s or principal’s decision to remove entitlement), after subsection (5) insert—
- “(6) The Welsh Ministers must consult the Commission before making regulations under subsection (3), giving guidance under subsection (4) or making an order under subsection (5).”
- (10) In section 33J (planning the local curriculum)—
- (a) in subsection (1) for “the Welsh Ministers” substitute “the Commission”;
  - (b) in subsection (2) for “the Welsh Ministers decide” substitute “the Commission decides”;
  - (c) omit subsections (3) and (4).
- (11) In section 33K (delivery of local curriculum entitlements: joint working), in subsection (6) for “the Welsh Ministers have” in each place substitute “the Commission has”.
- (12) In section 33L (joint working: guidance and directions), after subsection (2) insert—
- “(2A) The Welsh Ministers must consult the Commission before giving guidance under subsection (1).”
- (13) In section 33M (power to amend learning domains), the existing text becomes subsection (1) and after that subsection insert—
- “(2) The Welsh Ministers must consult the Commission before making an order under subsection (1).”
- (14) In section 33N (the local curriculum: interpretation), in subsection (1)—
- (a) for “33L” substitute “33M”;
  - (b) after the definition of “academic year” insert—
 

““the Commission” means the Commission for Tertiary Education and Research;”.
- (15) In section 33O (local curriculum: directions), omit “, 33J(3)”.
- (16) In section 33P (application of local curriculum provisions to students who are registered pupils of special schools or who have additional learning needs)—
- (a) in subsection (1) after “Regulations” insert “made by the Welsh Ministers”;
  - (b) after subsection (3) insert—
 

“(4) The Welsh Ministers must consult the Commission for Tertiary Education and Research before making regulations under subsection (1).”
- (17) In section 33Q (application of local curriculum provisions to institutions within the higher education sector)—
- (a) in subsection (1) after “Regulations” insert “made by the Welsh Ministers”;
  - (b) after subsection (3) insert—

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“(4) The Welsh Ministers must consult the Commission for Tertiary Education and Research before making regulations under subsection (1).”

- (18) Omit sections 34 to 38 (main powers).
- (19) In section 40 (research and information), omit subsections (5) and (6).
- (20) Omit section 41 (persons with additional learning needs).
- (21) In section 73 (inspectors of education and training in Wales), omit subsections (1) and (2).
- (22) In section 74 (defined terms), in subsection (2) for “the person mentioned in section 73(1)” substitute “Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru”.
- (23) Omit sections 75 to 80 and 83 to 88 (inspections in Wales).
- (24) In section 125 (consultation in connection with provision of youth support services), in subsection (2), after paragraph (a) insert—
  - “(aa) consult the Commission for Tertiary Education and Research,”.
- (25) In section 126 (educational institutions: information and access), in subsection (3) in paragraph (f) for “National Assembly for Wales in the discharge of its functions under Part 2” substitute “Commission for Tertiary Education and Research under section 97 or 104 of the Tertiary Education and Research (Wales) Act 2022”.
- (26) In section 138 (Wales: provision of information by public bodies), in subsection (3) after paragraph (c) insert—
  - “(ca) the Commission for Tertiary Education and Research;”.
- (27) In section 144 (designated institutions: disposal of land, etc.)—
  - (a) in subsection (4A), in paragraph (b) for “the Welsh Ministers” substitute “the Commission for Tertiary Education and Research”;
  - (b) in subsection (9), in paragraph (b) for “the National Assembly for Wales” substitute “the Commission for Tertiary Education and Research”.

#### Commencement Information

**181** Sch. 4 para. 14 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Act 2002 (c. 32)*

- 15 (1) The Education Act 2002 is amended as follows.
- (2) In section 18 (repeal of specific grant-making powers), omit subsection (2).
  - (3) In section 28A (power of governing body to provide higher education), in subsection (3) for “The National Assembly for Wales” substitute “The Commission for Tertiary Education and Research”.

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- (4) In section 140 (further education: general)—
- (a) in subsection (3), in the definition of “higher education institution”, for “section 65 of the [Further and Higher Education Act 1992 \(c. 13\)](#) (administration of funds by higher education funding councils)” substitute “section 88 of the Tertiary Education and Research (Wales) Act 2022”;
  - (b) omit subsections (4) and (5).
- (5) In section 145 (specification of qualification or course), in subsections (1)(c) and (3) for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.
- (6) In section 178 (training and education provided in the workplace for 14 to 16 year olds), omit subsections (1) and (4).
- (7) In Schedule 21 (minor and consequential amendments), omit paragraphs 49 and 125.

**Commencement Information**

**I82** Sch. 4 para. 15 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Higher Education Act 2004 (c. 8)*

- 16 (1) The Higher Education Act 2004 is amended as follows.
- (2) In section 11 (qualifying institutions), in subsection (1) (as renumbered by section 128(2)(a)), in paragraph (a) for “section 65 of the 1992 Act” substitute “Part 3 of the Tertiary Education and Research (Wales) Act 2022”.
  - (3) In section 20A (institutions that cease to be qualifying institutions), in subsection (4) for “section 11” substitute “subsection (1) of section 11, or a qualifying institution specified in regulations made under subsection (2) of that section,”.

**Commencement Information**

**I83** Sch. 4 para. 16 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Children Act 2004 (c. 31)*

- 17 (1) The Children Act 2004 is amended as follows.
- (2) In section 25 (co-operation to improve well-being: Wales), in subsection (4) for paragraph (f) substitute—
    - “(f) the Commission for Tertiary Education and Research;”.
  - (3) In section 29 (information databases), in subsection (7) for paragraph (b) substitute—



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“(b) the Commission for Tertiary Education and Research;”.

#### Commencement Information

**184** Sch. 4 para. 17 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Education Act 2005 (c. 18)*

- 18 (1) The Education Act 2005 is amended as follows.
- (2) In section 20 (functions on Chief Inspector), in subsection (7) for “which is brought within the remit of the Chief Inspector by Part 4 of the [Learning and Skills Act 2000 \(c. 21\)](#)” substitute “to which the functions of the Chief Inspector under Part 2 of the Tertiary Education and Research (Wales) Act 2022 apply”.
  - (3) In section 24 (power of Chief Inspector to arrange for inspections), in subsection (6) for “brought within the remit of the Chief Inspector by Part 4 of the [Learning and Skills Act 2000 \(c. 21\)](#)” substitute “to which the functions of the Chief Inspector under Part 2 of the Tertiary Education and Research (Wales) Act 2022 apply”.
  - (4) In section 28 (duty to arrange regular inspections of certain schools), in paragraph (a) of subsection (7) for “which is brought within the remit of the Chief Inspector by Part 4 of the [Learning and Skills Act 2000 \(c. 21\)](#)” substitute “to which the functions of the Chief Inspector under Part 2 of the Tertiary Education and Research (Wales) Act 2022 apply”.
  - (5) In section 44C (report after area inspection on schools with sixth forms requiring significant improvement), in subsection (1) for “section 83 of the Learning and Skills Act 2000” substitute “section 63 of the Tertiary Education and Research (Wales) Act 2022”.
  - (6) In section 44D (copies of report and action plan), in subsection (3)—
    - (a) for “paragraph” substitute “section”;
    - (b) in paragraph (a), for “38(2)” substitute “38(3)”.
  - (7) In section 44E (report on sixth form schools causing concern after area inspection), in subsection (1) for “section 83 of the Learning and Skills Act 2000” substitute “section 63 of the Tertiary Education and Research (Wales) Act 2022”.
  - (8) Omit sections 85 to 91 (Higher Education Funding Council for Wales’ functions in relation to teacher training).
  - (9) In section 92 (joint exercise of functions)—
    - (a) in subsection (1) omit “, HEFCW”;
    - (b) in subsection (2) omit “or the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000”;
    - (c) omit subsection (4).
  - (10) In section 93 (efficiency studies)—
    - (a) in subsection (1) omit “and HEFCW”;

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- (b) in subsection (2) omit “or HEFCW”;
  - (c) in subsection (3) omit paragraph (b) and the “or” preceding it.
- (11) In section 94 (provision of information)—
- (a) omit subsections (1) and (2);
  - (b) in subsection (3) omit paragraph (b);
  - (c) in subsection (4), in paragraph (a) omit “, a grant, loan or other payment under section 86, or”.
- (12) Omit section 97 (institutions of a denominational character).
- (13) In section 100 (interpretation of Part 3)—
- (a) in subsection (1) omit the definitions of “the Chief Inspector for Wales”, “denominational character”, “governing body” and “HEFCW”;
  - (b) omit subsection (2).
- (14) In Schedule 9 (amendments relating to school inspection), omit paragraphs 24 and 25.
- (15) In Schedule 18 (further amendments), omit paragraph 13.

#### Commencement Information

**185** Sch. 4 para. 18 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Commissioner for Older People (Wales) Act 2006 (c. 30)*

- 19 (1) The Commissioner for Older People (Wales) Act 2006 is amended as follows.
- (2) In Schedule 2 (persons whose functions are subject to review under section 3), under the sub-heading “Education and training”—
- (a) for “The Higher Education Funding Council for Wales” substitute “The Commission for Tertiary Education and Research”;
  - (b) for “an institution in Wales falling within section 91(5)(a) of the [Further and Higher Education Act 1992 \(c. 13\)](#)” substitute “a tertiary education provider (other than one mentioned elsewhere in this Schedule) that is registered in a category specified in regulations made for the purposes of section 88 or 105 of the Tertiary Education and Research (Wales) Act 2022”.
- (3) In Schedule 3 (persons whose arrangements are subject to review under section 5), under the sub-heading “Education and training”, for “an institution in Wales falling within section 91(5)(a) of the [Further and Higher Education Act 1992 \(c. 13\)](#)” substitute “a tertiary education provider (other than one mentioned elsewhere in this Schedule) that is registered in a category specified in regulations made for the purposes of section 88 or 105 of the Tertiary Education and Research (Wales) Act 2022”.

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#### Commencement Information

**I86** Sch. 4 para. 19 not in force at Royal Assent, see [s. 148\(2\)](#)

#### *Government of Wales Act 2006 (c. 32)*

- 20 (1) The Government of Wales Act 2006 is amended as follows.
- (2) In section 148 (meaning of Welsh public records), in subsection (2)—
- (a) after paragraph (a), insert—  
“(aa) the Commission for Tertiary Education and Research,”;
  - (b) omit paragraph (h).
- (3) In Schedule 11 (transitional provisions), in paragraph 35, in sub-paragraph (4), in Table 2—
- (a) omit the entries relating to sections 77(4) and 83(7) of the Learning and Skills Act 2000;
  - (b) in the entry relating to section 128(4)(b) of the Learning and Skills Act 2000 for “that Act” substitute “the [Learning and Skills Act 2000 \(c. 21\)](#)”;
  - (c) omit the entries relating to sections 85(3)(d), 90(1), 91(1), 92(4) and 100(2) of the Education Act 2005.

#### Commencement Information

**I87** Sch. 4 para. 20 not in force at Royal Assent, see [s. 148\(2\)](#)

**I88** Sch. 4 para. 20(1) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(x\)\(i\)](#)

**I89** Sch. 4 para. 20(2)(a) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(x\)\(ii\)](#)

PROSPECTIVE

#### *Safeguarding Vulnerable Groups Act 2006 (c. 47)*

- 21 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In Schedule 4 (regulated activities relating to children), in paragraph 1, after sub-paragraph (9B)(i) insert—
- “(ia) an inspection under section 57, 58, 59, 60 or 63 of the Tertiary Education and Research (Wales) Act 2022 (inspection of further education and training, etc. by Her Majesty’s Chief Inspector of Education and Training in Wales);”.
- (3) In Schedule 7, in paragraph 1, in the table, in entry 18, for “section 34(1) of the [Learning and Skills Act 2000 \(c. 21\)](#)” substitute “section 88(1) or (2), 89(3), 92(1), 97(1) or (7), 103(1) or (2), 104(1)(a) or 136(1) of the Tertiary Education and Research (Wales) Act 2022”.

#### Commencement Information

**I90** Sch. 4 para. 21 not in force at Royal Assent, see [s. 148\(2\)](#)

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## PROSPECTIVE

*Education and Skills Act 2008 (c. 25)*

- 22 (1) The Education and Skills Act 2008 is amended as follows.
- (2) In section 66 (interpretation), in subsection (1), in the definition of “apprenticeship agreement”—
- (a) omit the words “an apprenticeship agreement within the meaning given in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009 or”;
  - (b) for “that Act” substitute “the Apprenticeships, Skills, Children and Learning Act 2009”.
- (3) In section 91 (information: supplementary), in subsection (3) after paragraph (b) insert—
- “(c) the Commission for Tertiary Education and Research.”

**Commencement Information**

**191** Sch. 4 para. 22 not in force at Royal Assent, see [s. 148\(2\)](#)

## PROSPECTIVE

*Learner Travel (Wales) Measure 2008 (nawm 2)*

- 23 (1) The Learner Travel (Wales) Measure 2008 is amended as follows.
- (2) In section 1 (main terms used in the Measure), in subsection (4)(g) for “the Welsh Ministers under section 34(1) of the [Learning and Skills Act 2000 \(c. 21\)](#)” substitute “the Commission for Tertiary Education and Research or the Welsh Ministers under section 97 of the Tertiary Education and Research (Wales) Act 2022”.
- (3) In section 7 (travel arrangements for learners in post-16 education or training)—
- (a) in subsection (1)(b)(ii) after “funded by” insert “the Commission for Tertiary Education and Research or”;
  - (b) in subsection (3)(a) before sub-paragraph (i) insert—
 

“(ai) the Commission for Tertiary Education and Research;”.

**Commencement Information**

**192** Sch. 4 para. 23 not in force at Royal Assent, see [s. 148\(2\)](#)

**Changes to legislation:** Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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

PROSPECTIVE

*Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)*

- 24 (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- (2) Omit—
- (a) section 2 (meaning of completing Welsh apprenticeship);
  - (b) sections 7 to 12 (apprenticeship certificates and frameworks);
  - (c) sections 18 to 22 (apprenticeship frameworks);
  - (d) sections 28 to 36 (apprenticeship standards and agreements);
  - (e) sections 38 and 39 (apprenticeship sectors and interpretation).
- (3) In section 262 (orders and regulations), in subsection (9), omit “under Chapter 1 of Part 1 (other than an order under section 10) or”.

**Commencement Information**

**I93** Sch. 4 para. 24 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Learning and Skills (Wales) Measure 2009 (nawm 1)*

- 25 (1) The Learning and Skills (Wales) Measure 2009 is amended as follows.
- (2) Omit section 21 (education and training for persons aged 16 to 18).
- (3) In section 43 (the learning pathway document), after subsection (6) insert—
- “(7) The Welsh Ministers must consult the Commission for Tertiary Education and Research before giving guidance under subsection (6).”
- (4) In the Schedule (minor and consequential amendments), omit paragraphs 1 to 9.

**Commencement Information**

**I94** Sch. 4 para. 25 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Equality Act 2010 (c. 15)*

- 26 (1) The Equality Act 2010 is amended as follows.
- (2) In Schedule 26 (amendments), omit paragraph 23.

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**Commencement Information**

**I95** Sch. 4 para. 26 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Children and Families (Wales) Measure 2010 (nawm 1)*

27 In section 6 of the Children and Families (Wales) Measure 2010 (meaning of Welsh authority), in subsection (1)(g), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.

**Commencement Information**

**I96** Sch. 4 para. 27 not in force at Royal Assent, see [s. 148\(2\)](#)

*Welsh Language (Wales) Measure 2011 (nawm 1)*

28 In Schedule 6 to the Welsh Language (Wales) Measure 2011 (persons liable to be required to comply with standards: public bodies etc), in the table under the heading “General”—

(a) insert at the appropriate place—

TABLE 1

"The Commission for Tertiary Education and Research (“Y Comisiwn Addysg Drydyddol ac Ymchwil”)	Service delivery standards
	Policy making standards
	Operational Standards
	Record keeping standards"

(b) omit the entry relating to the Higher Education Funding Council for Wales.

**Commencement Information**

**I97** Sch. 4 para. 28 not in force at Royal Assent, see [s. 148\(2\)](#)

**I98** Sch. 4 para. 28(a) in force at 4.9.2023 by S.I. 2023/919, [art. 2\(x\)\(iii\)](#)

PROSPECTIVE

*School Standards and Organisation (Wales) Act 2013 (anaw 1)*

29 (1) The School Standards and Organisation (Wales) Act 2013 is amended as follows.

**Changes to legislation:** Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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

- (2) In section 1 (overview)—
- (a) after subsection (9) insert—
- “(9A) Chapter 3A provides for powers for the Commission for Tertiary Education and Research to restructure sixth form education.”;
- (b) omit subsection (11).
- (3) In section 38 (school organisation code)—
- (a) in subsection (2), after paragraph (c) insert—
- “(ca) the Commission for Tertiary Education and Research;”;
- (b) in subsection (5), at the end of paragraph (c) omit “or” and after that paragraph insert—
- “(ca) the Commission for Tertiary Education and Research, or”.
- (4) In section 39 (making and approval of school organisation code), in subsection (1), at the end of paragraph (c) omit “and” and after that paragraph insert—
- “(ca) the Commission for Tertiary Education and Research, and”.
- (5) In section 50 (approval by Welsh Ministers), in subsection (1) after “education” insert “and an objection has been made to the proposals in accordance with section 49(2) and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period”.
- (6) In section 61 (local inquiry into proposals)—
- (a) in subsection (4) for “70 and 73” substitute “63F, 63G and 70”;
- (b) in subsection (6) in paragraph (d) for “68 or 71” substitute “63C or 68”;
- (c) in subsection (8) for “the direction under section 57(2)” substitute “a direction under section 57(2) or 63A(1)”;
- (d) in subsection (9)—
- (i) in paragraph (a) for “70 or 73” substitute “63F or 70”;
- (ii) in paragraph (b) after “53” insert “or 63G”.
- (7) After section 63 insert—

## “CHAPTER 3A

### PROPOSALS FOR RESTRUCTURING SIXTH FORM PROVISION

#### **63A Directions by the Commission to make sixth form proposals**

- (1) The Commission may, in accordance with the Code—
- (a) direct a local authority to exercise its powers to make proposals to—
- (i) establish or discontinue a school providing education suitable only to the requirements of persons over compulsory school age, or
- (ii) make an alteration described in Schedule 2 to a school, the effect of which would be that provision of education suitable to the requirements of persons over compulsory school age at the school increases or decreases.

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- (b) direct the governing body of a foundation or voluntary school to exercise its powers to make an alteration described in Schedule 2 to a school, the effect of which would be that provision of education suitable to the requirements of persons over compulsory school age at the school increases or decreases.
- (2) A direction under subsection (1) must—
  - (a) require the proposals to be published no later than the date specified in the direction, and
  - (b) require the proposals, in giving effect to the direction, to apply any principles specified in it.

### **63B Further provision about proposals made after a direction under section 63A(1)**

- (1) Proposals made in accordance with a direction under section 63A(1) may not be withdrawn without the consent of the Commission.
- (2) The Commission may give consent for the purposes of subsection (1) subject to conditions.
- (3) A local authority must reimburse expenditure reasonably incurred by a governing body of a school maintained by it in making proposals in accordance with a direction under section 63A(1).
- (4) Despite anything in Part 1 of Schedule 3 (responsibility for implementation of statutory proposals), a local authority must meet the cost of implementing proposals made by a governing body of a school maintained by it in accordance with a direction under section 63A(1) which have been approved or determined to be implemented.

### **63C Making of proposals by the Commission**

- (1) This section applies where—
  - (a) the Commission has made a direction under section 63A(1), and
  - (b) either—
    - (i) proposals have been published in accordance with the direction, or
    - (ii) the time allowed under the direction for the publication of the proposals has expired.
- (2) The Commission may make any proposals that could have been made in accordance with the direction.
- (3) But the Commission must obtain the consent of the Welsh Ministers before making a proposal to make an alteration described in paragraph 6 of Schedule 2 (opening or closing a school's sixth form) to a voluntary or foundation school.
- (4) Where the Commission makes proposals under this section, any proposals that have been made by a local authority or governing body and published in accordance with the direction are to be treated as having been withdrawn.



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### **63D Publication of Commission’s proposals and consultation**

- (1) The Commission must publish proposals made under section 63C in accordance with the Code.
- (2) Before publishing proposals made under section 63C, the Commission must consult on its proposals in accordance with the Code.
- (3) The requirement to consult does not apply to proposals to discontinue a school which is a small school within the meaning given by section 56.
- (4) Before the end of 7 days beginning with the day on which they were published, the Commission must send copies of the published proposals to—
  - (a) the Welsh Ministers,
  - (b) the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate, and
  - (c) the governing body (if any) of the school to which the proposals relate.
- (5) The Commission must publish a report on the consultation it has carried out in accordance with the Code.

### **63E Objections to the Commission’s proposals**

- (1) Any person may object to proposals published under section 63D.
- (2) Objections must be sent in writing to the Commission before the end of 28 days beginning with the day on which the proposals were published (“the objection period”).
- (3) The Commission must publish a summary of all objections made in accordance with subsection (2) (and not withdrawn) and its response to those objections before the end of 28 days beginning with the end of the objection period.

### **63F Approval by Welsh Ministers**

- (1) Proposals published by the Commission under section 63D require approval under this section if an objection has been made in accordance with section 63E(2) and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.
- (2) Where proposals require approval under this section, the Commission must send a copy of the documents listed in subsection (3) to the Welsh Ministers before the end of 35 days beginning with the end of the objection period.
- (3) The documents are—
  - (a) the report published under section 63D(5),
  - (b) the published proposals,
  - (c) any objections made in accordance with section 63E(2) (and not withdrawn), and
  - (d) where objections have been so made (and not withdrawn), the response published under section 63E(3).

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- (4) Where proposals require approval under this section, the Welsh Ministers may—
  - (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with modifications—
    - (i) after obtaining the consent of the Commission to the modifications, and
    - (ii) after consulting the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate and the governing body (if any) of the school to which the proposals relate.
- (5) An approval may be expressed to take effect only if an event specified in the approval occurs by a date so specified.
- (6) The Welsh Ministers may, at the request of the Commission, specify a later date by which the event referred to in subsection (5) is to occur.
- (7) Subsection (1) does not prevent proposals from being withdrawn by notice in writing given by the Commission to the Welsh Ministers at any time before they are approved under this section.
- (8) No approval is required under this section for proposals to discontinue a school which is a small school within the meaning given by section 56.

### **63G Determination**

- (1) Where proposals published under section 63D do not require approval under section 63F, the Commission must determine whether the proposals should be implemented.
- (2) If a determination under subsection (1) is not made before the end of 16 weeks beginning with the end of the objection period, the Commission is to be taken to have withdrawn the proposals.
- (3) Before the end of 7 days beginning with the day of its determination under subsection (1), the Commission must notify the following of the determination—
  - (a) the Welsh Ministers;
  - (b) the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate;
  - (c) the governing body (if any) of the school to which the proposals relate.

### **63H Implementation of proposals**

- (1) Proposals approved by the Welsh Ministers under section 63F or determined to be implemented by the Commission under section 63G have effect as if they had been approved by the Welsh Ministers under section 50 after having been made—
  - (a) by the local authority under its powers to make proposals to establish, alter or discontinue schools, or

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(b) in the case of proposals to alter a foundation or voluntary school, by the governing body under its powers to make proposals to alter its school.

(2) Despite anything in Part 1 of Schedule 3 (responsibility for implementation of statutory proposals), the local authority that maintains the school in question must meet the cost of implementing proposals approved under section 63F or determined to be implemented under section 63G which have effect as mentioned in subsection (1)(b).

### 63I Interpretation of Chapter 3A

In this Chapter—

“the Code” (“*y Cod*”) means the code on school organisation issued under section 38(1);

“the Commission” (“*y Comisiwn*”) means the Commission for Tertiary Education and Research.”

- (8) Omit sections 71 to 76 (proposals for restructuring sixth form education).
- (9) In section 80 (notice by governing body to discontinue foundation or voluntary school), in subsection (3) for “the Welsh Ministers” substitute “the Commission for Tertiary Education and Research”.
- (10) In section 82 (transitional exemption orders for purposes of Equality Act 2010), in subsection (2) for “, 68 or 71” substitute “or 68”.
- (11) In section 98 (general interpretation and index of defined expressions), in subsection (3)—
- (a) insert in the appropriate place—  
““the Commission” (“*y Comisiwn*) in Chapter 3A of Part 3 means the Commission for Tertiary Education and Research;”;
  - (b) in the definition of “the Code” for “Chapter 2” substitute “Chapters 2 and 3A”;
  - (c) in the definition of “objection period” after “Part 3” insert “and in section 63E(2) for the purposes of Chapter 3A of Part 3”.
- (12) In Schedule 2 (regulated alterations)—
- (a) in paragraph 10 (alterations to premises), in sub-paragraph (3)(c)(i), after “59,” insert “63D,”;
  - (b) in paragraph 19 (increase in pupils: special schools), in sub-paragraph (2)(c)(i), after “59,” insert “63D,”.
- (13) In Schedule 5 (minor and consequential amendments), omit paragraphs 2(3) and 20(3).

#### Commencement Information

199 Sch. 4 para. 29 not in force at Royal Assent, see s. 148(2)

*Changes to legislation: Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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*

PROSPECTIVE

*Social Services and Well-being (Wales) Act 2014 (anaw 4)*

- 30 (1) The Social Services and Well-being (Wales) Act 2014 is amended as follows.
- (2) In section 162 (arrangements to promote co-operation: adults with needs for care and support and carers), in subsection (4)—
- (a) in paragraph (g), for “Part 2 of the Learning and Skills Act 2000” substitute “section 92, 97 or 103(1) of the Tertiary Education and Research (Wales) Act 2022”;
  - (b) after paragraph (g) insert—
    - “(ga) the Commission for Tertiary Education and Research to the extent that it is discharging functions under section 93, 94, 95, 97 or 103(1) of the Tertiary Education and Research (Wales) Act 2022;”.

**Commencement Information**

**I100** Sch. 4 para. 30 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Higher Education (Wales) Act 2015 (anaw 1)*

- 31 The Higher Education (Wales) Act 2015 is repealed.

**Commencement Information**

**I101** Sch. 4 para. 31 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Well-being of Future Generations (Wales) Act 2015 (anaw 2)*

- 32 (1) The Well-being of Future Generations (Wales) Act 2015 is amended as follows.
- (2) In section 6 (meaning of public body), in subsection (1)(h), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.
- (3) In section 32 (other partners), in subsection (1) for paragraph (e) substitute—
- “(e) the Commission for Tertiary Education and Research;”.

**Changes to legislation:** Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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

**Commencement Information**

**I102** Sch. 4 para. 32 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (anaw 3)*

33 (1) The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 is amended as follows.

(2) In section 10 (guidance to further and higher education institutions)—

- (a) in subsection (1) for “The Welsh Ministers” substitute “The Commission for Tertiary Education and Research (“the Commission”)”;
- (b) in subsection (2) for “The Higher Education Funding Council for Wales (“HEFCW”)” substitute “The Commission”;
- (c) in subsection (3) for “the Welsh Ministers and HEFCW” substitute “the Commission”;
- (d) in subsection (5) for “the Welsh Ministers and HEFCW” substitute “the Commission” and for “they consider” substitute “it considers”;
- (e) omit subsection (8).

**Commencement Information**

**I103** Sch. 4 para. 33 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Qualifications Wales Act 2015 (anaw 5)*

34 (1) The Qualifications Wales Act 2015 is amended as follows.

(2) In section 34 (restriction on funding and provision of certain courses), in subsection (12) in the definition of “authorised body” after paragraph (b) insert—  
“(c) the Commission for Tertiary Education and Research;”.

**Commencement Information**

**I104** Sch. 4 para. 34 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Deregulation Act 2015 (c. 20)*

35 (1) The Deregulation Act 2015 is amended as follows.

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(2) In section 3 (apprenticeships), omit subsection (4).

(3) In Schedule 1 (apprenticeships)—

- (a) in Part 2, omit paragraphs 9(a) and 15;
- (b) omit Part 3.

**Commencement Information**

**I105** Sch. 4 para. 35 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Environment (Wales) Act 2016 (anaw 3)*

36 In section 10 of the Environment (Wales) Act 2016 (meaning of public body), in subsection (1)(f), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.

**Commencement Information**

**I106** Sch. 4 para. 36 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Public Health (Wales) Act 2017 (anaw 2)*

37 In section 110 of the Public Health (Wales) Act 2017 (meaning of public body), in subsection (1)(h), for “the Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.

**Commencement Information**

**I107** Sch. 4 para. 37 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

*Higher Education and Research Act 2017 (c. 29)*

38 (1) The Higher Education and Research Act 2017 is amended as follows.

(2) In Schedule 11 (minor and consequential amendments relating to Part 1), omit paragraphs 7, 8, 11, 14, 15, 16, 17, 18, 20, 22, 24, 25, 26(3) and (4).

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#### Commencement Information

**I108** Sch. 4 para. 38 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2)*

- 39 (1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 is amended as follows.
- (2) In section 4 (additional learning needs code), in subsection (3), after paragraph (c) insert—
- “(ca) the Commission for Tertiary Education and Research;  
(cb) the Welsh Ministers;”.
- (3) In section 5 (procedure for making the additional learning needs code), in subsection (1), after paragraph (d) insert—
- “(da) the Commission for Tertiary Education and Research;”.
- (4) In section 50 (Welsh Ministers’ duties to secure post-16 education and training), omit subsections (2) to (4).
- (5) In section 65 (duties to provide information and other help), in subsection (4) after paragraph (d) insert—
- “(da) the Commission for Tertiary Education and Research;  
(db) the Welsh Ministers;”.

#### Commencement Information

**I109** Sch. 4 para. 39 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

#### *The Welsh Language Standards (No. 6) Regulations 2017 (S.I. 2017/90)*

- 40 (1) The Welsh Language Standards (No. 6) Regulations 2017 are amended as follows.
- (2) In regulation 3(4) for “The Higher Education Funding Council for Wales” substitute “the Commission for Tertiary Education and Research”.

#### Commencement Information

**I110** Sch. 4 para. 40 not in force at Royal Assent, see [s. 148\(2\)](#)

**Changes to legislation:** Tertiary Education and Research (Wales) Act 2022 is up to date with all changes known to be in force on or before 29 February 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

PROSPECTIVE

*Public Services Ombudsman (Wales) Act 2019 (anaw 3)*

- 41 In Schedule 3 to the Public Services Ombudsman (Wales) Act 2019 (listed authorities), under the sub-heading “Education and training” for “The Higher Education Funding Council for Wales” substitute “The Commission for Tertiary Education and Research”.

**Commencement Information**

**I111** Sch. 4 para. 41 not in force at Royal Assent, see [s. 148\(2\)](#)



**Changes to legislation:**

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[View outstanding changes](#)

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

- s. 2 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 3 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 4 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 5 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 7 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 8 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 9(1) coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 9(6) coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 10 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 11 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 12 coming into force by [S.I. 2023/919 art. 4\(a\)](#)
- s. 15 coming into force by [S.I. 2023/919 art. 6\(1\)](#)
- s. 16 coming into force by [S.I. 2023/919 art. 4\(b\)](#)
- s. 85(2)(c)(3)-(5) coming into force by [S.I. 2023/919 art. 4\(c\)](#)
- s. 94 coming into force by [S.I. 2023/919 art. 5](#)
- Sch. 1 para. 4(1)(b)(2) coming into force by [S.I. 2023/919 art. 4\(d\)\(i\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 1 para. 6 coming into force by [S.I. 2023/919 art. 4\(d\)\(ii\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 1 para. 8(4)(5)(9) coming into force by [S.I. 2023/919 art. 4\(d\)\(iii\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 1 para. 9(4)(b) coming into force by [S.I. 2023/919 art. 4\(d\)\(iv\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 1 para. 9(5) coming into force by [S.I. 2023/919 art. 4\(d\)\(iv\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 1 para. 11(5) coming into force by [S.I. 2023/919 art. 4\(d\)\(v\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 4 para. 28(b) coming into force by [S.I. 2023/919 art. 4\(e\)\(i\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)
- Sch. 4 para. 40 coming into force by [S.I. 2023/919 art. 4\(e\)\(ii\)](#) (This coming into force effect not applied to [legislation.gov.uk](#). Art. 4(d)(e) omitted (15.3.2024) by [W.S.I. 2024/217](#), arts. 1(2), 3.)