



Education Reform Act 1988

1988 CHAPTER 40

PART II

HIGHER AND FURTHER EDUCATION

CHAPTER II

REORGANISATION OF PROVISION AND FUNDING OF HIGHER EDUCATION

The higher education corporations

128 Dissolution of higher education corporations [^{F1}in Wales].

(1) Subject to the following provisions of this section, the Secretary of State may by order provide for—

- (a) the dissolution of any higher education corporation [^{F2}in Wales]; and
- (b) the transfer of property, rights and liabilities of the corporation to—
 - (i) any person appearing to the Secretary of State to be wholly or mainly engaged in the provision of educational facilities or services of any description;
 - ^{F3}(ia)
 - ^{F4}(ib)
 - (ii) any body corporate established for purposes which include the provision of such facilities or services;
 - ^{F5}^{F6}(iii) the Higher Education Funding Council for Wales]
 - (iv) ...]
 - ^{F7}(v) ^{F8} ... the [^{F9}National Assembly for Wales].]

(2) An order under sub-paragraph (i) or (ii) of subsection (1)(b) above shall not provide for transferring the property, rights or liabilities of a higher education corporation [^{F10}in Wales] to any person or body without the consent of that person or body; and where

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the recipient of a transfer under any order under subsection (1)(b) is not an educational charity any property transferred must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

- (3) For the purposes of subsection (2) above, a charity is an educational charity if the charitable purposes for which it is established are exclusively educational purposes.
- (4) Before making an order under this section in respect of a higher education corporation ^[F11]in Wales] the Secretary of State shall consult—
- (a) the corporation; and
 - ^[F12](b) ^[F13]the Higher Education Funding Council for Wales]].
- (5) In this section ^[F14]“charitable purposes” has the meaning given by section 11 of the Charities Act 2011].
- ^[F15](6) An order under this section may apply section 127 of this Act with such modifications as the Secretary of State may consider necessary or desirable.]

Textual Amendments

- F1** Words in s. 128 heading inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 8 para. 17\(a\)](#); S.I. 2018/1226, reg. 4(o)
- F2** Words in s. 128(1)(a) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 8 para. 17\(b\)](#); S.I. 2018/1226, reg. 4(o)
- F3** S. 128(1)(b)(iia) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(g), [Sch. 14 para. 35](#)
- F4** S. 128(1)(b)(iib) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 16 para. 8](#); S.I. 2012/924, art. 2
- F5** Words in s. 128(1)(b)(iii) substituted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 8\(2\)](#); S.I. 2018/1226, reg. 4(p)
- F6** S. 128(1)(b)(iii) substituted for s. 128(1)(b)(iii)(iv) (6. 5. 1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), [Sch. 8 Pt. I para. 34\(a\)\(i\)](#); S.I. 1992/831, art. 2, [Sch. 1](#).
- F7** S. 128(1)(b)(v) substituted (28.7.2000 insofar as consequential on ss. 130, 131, [Sch. 8](#) of the amending Act and otherwise 1.4.2001) by [2000 c. 21](#), ss. 149, [Sch. 9 para. 16](#) (with s. 150); S.I. 2001/654, art. 2(2), [Sch. Pt. II](#); S.I. 2001/1274, art. 2(1), [Sch. Pt. I](#)
- F8** Words in s. 128(1)(b)(v) repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), [Sch. 1 para. 16\(b\)](#), [Sch. 2 Pt. 1](#) (with art. 2(3))
- F9** Words in s. 128(1)(b)(v) substituted (1.4.2006) by [National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), [Sch. 1 para. 12](#) (with art. 7)
- F10** Words in s. 128(2) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 8 para. 17\(b\)](#); S.I. 2018/1226, reg. 4(o)
- F11** Words in s. 128(4) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 8 para. 17\(b\)](#); S.I. 2018/1226, reg. 4(o)
- F12** S. 128(4)(b) substituted (6. 5. 1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), [Sch. 8 Pt. I para. 34\(b\)](#); S.I. 1992/831, art. 2, [Sch. 1](#).
- F13** Words in s. 128(4)(b) substituted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 8\(3\)](#); S.I. 2018/1226, reg. 4(p)
- F14** Words in s. 128(5) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 51](#) (with s. 20(2), [Sch. 8](#)); words in s. 128(5) substituted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by [The Charities \(Pre-consolidation Amendments\) Order 2011 \(S.I. 2011/1396\)](#), art. 1, [Sch. para. 44\(a\)](#)

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F15 S. 128(6) added (6. 5. 1992) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\), Sch. 8 Pt. I para. 34\(c\)](#); [S.I. 1992/831, art. 2, Sch. 1](#).

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Changes and effects yet to be applied to :

- s. 128(1)(b)(iii) words substituted by [2022 asc 1 s. 139\(2\)](#)
- s. 128(4)(b) words substituted by [2022 asc 1 s. 139\(4\)](#)
- s. 128(5) substituted by [2022 asc 1 s. 139\(5\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 120(4A) inserted by [2022 asc 1 Sch. 4 para. 5\(2\)](#)
- s. 124A(9A)(9B) inserted by [2022 asc 1 s. 137\(3\)](#)
- s. 125(8)(9) inserted by [2022 asc 1 s. 138\(2\)](#)
- s. 128(1)(b)(iib) omitted by [2011 c. 21 Sch. 16 para. 8](#)
- s. 128(1)(b)(iia) omitted by [2015 c. 20 Sch. 14 para. 35](#)
- s. 128(1A)-(1C) inserted by [2022 asc 1 s. 139\(3\)](#)
- s. 128(7)-(10) inserted by [2022 asc 1 s. 139\(6\)](#)
- s. 232(4ZA)-(4ZC) inserted by [2022 asc 1 s. 138\(3\)\(b\)](#)