

**Changes to legislation:** Higher Education and Research Act 2017, SCHEDULE 8 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 8

Section 90

#### HIGHER EDUCATION CORPORATIONS IN ENGLAND

##### *Education Reform Act 1988*

1 The Education Reform Act 1988 is amended as follows.

##### Commencement Information

**I1** Sch. 8 para. 1 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(n)

2 In section 122 (orders incorporating higher education institutions maintained by local authorities)—

- (a) in the heading, after “local authorities” insert “ in Wales ”, and
- (b) in subsection (1), after “local authority” insert “ in Wales ”.

##### Commencement Information

**I2** Sch. 8 para. 2 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

3 Before section 122A insert—

##### **Orders for further education corporations in England to become higher education corporations**

“122Z(A) The Secretary of State may by order provide for a further education corporation in England to become a higher education corporation.

- (2) The first members of the higher education corporation are to be appointed by the governing body of the further education corporation.
- (3) On such date as may be specified in the order—
  - (a) the corporation ceases to be a further education corporation and becomes a higher education corporation, and
  - (b) any member of the further education corporation who is not re-appointed by the governing body as a member of the higher education corporation ceases to hold office.”

##### Commencement Information

**I3** Sch. 8 para. 3 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

4 In section 122A (orders transferring further education corporations to higher education sector)—

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- (a) in the heading, after “further education corporations” insert “ in Wales ”, and
- (b) in subsection (1), after “further education corporation” insert “ in Wales ”.

**Commencement Information**

**I4** Sch. 8 para. 4 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 5 In section 123 (provisions supplementary to sections 121 and 122)—
- (a) in the heading, for “and 122” substitute “ to 122A ”,
  - (b) in subsection (1), after “by virtue of section” insert “ 122ZA or ”, and
  - (c) in subsections (3) and (4), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I5** Sch. 8 para. 5 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 6 Before section 124 insert—

**Principal powers of a higher education corporation in England**

- “123A(1) A higher education corporation in England has power—
- (a) to provide higher education;
  - (b) to provide further education;
  - (c) to provide secondary education suitable to the requirements of persons who have attained the age of 14 years;
  - (d) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education);
  - (e) to participate in the provision of secondary education at a school; and
  - (f) to carry out research and to publish the results of the research or any other material arising out of or connected with it in such manner as the corporation think fit.
- (2) A higher education corporation in England may not provide education of a kind specified in subsection (1)(c) or (d) unless they have consulted such local authorities as they consider appropriate.

**Supplementary powers of a higher education corporation in England**

- 123B(1) A higher education corporation in England has power to do anything which appears to the corporation to be necessary or expedient for the purpose of, or in connection with, the exercise of any of their principal powers.
- (2) The corporation's “principal powers” are the powers conferred by section 123A(1).”

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#### Commencement Information

**I6** Sch. 8 para. 6 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 7 In section 124 (powers of a higher education corporation)—
- (a) in the heading, after “higher education corporation” insert “ in Wales ”, and
  - (b) in subsections (1), (1A) and (2), after “higher education corporation” insert “ in Wales ”.

#### Commencement Information

**I7** Sch. 8 para. 7 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 8 Before section 124A insert—

#### **Instrument of government of higher education corporations in England**

- “124ZA) For each higher education corporation in England there is to be an instrument providing for the constitution of the corporation (to be known as the instrument of government).
- (2) A higher education corporation in England may vary, replace or revoke the instrument of government.
  - (3) The corporation must not make changes to the instrument of government that (but for section 125A) would result in the corporation ceasing to be a charity.

#### **Proceedings etc. of higher education corporations in England**

- 124ZB) The validity of any proceedings of a higher education corporation in England, or of a committee of such a corporation, is not affected by—
- (a) a vacancy among the members, or
  - (b) a defect in the appointment or nomination of a member.
- (2) The application of the seal of a higher education corporation in England must be authenticated by the signature of—
- (a) the chair of the corporation or some other person authorised for that purpose by the corporation, and
  - (b) any other member of the corporation.
- (3) A document purporting to be duly executed under the seal of a higher education corporation in England or signed on the corporation's behalf—
- (a) is to be received in evidence, and
  - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.
- (4) The members for the time being of a higher education corporation in England are to be known as the board of governors of the institution conducted by the corporation.”

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**Commencement Information**

**I8** Sch. 8 para. 8 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 9 In section 124A (constitution and conduct of higher education corporations)—
- (a) in the heading, for “corporations” substitute “ higher education corporations in Wales ”, and
  - (b) in subsections (1), (2), (3)(a) (in each place), (4), (6), (7) and (8), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I9** Sch. 8 para. 9 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 10 In section 124B(2)(b) (accounts), at the beginning insert “ in the case of a higher education corporation in Wales, ”.

**Commencement Information**

**I10** Sch. 8 para. 10 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 11 In section 124C (initial and transitional arrangements)—
- (a) in the heading, at the end insert “ : Wales ”,
  - (b) in subsection (1), after “a corporation” insert “ in Wales ”, and
  - (c) in subsection (3), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I11** Sch. 8 para. 11 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 12 Before section 125 insert—

**Articles of government: higher education corporations in England**

- “124E) An institution conducted by a higher education corporation in England is to be conducted in accordance with articles of government made by the corporation.
- (2) The articles of government may make provision with respect to the powers of the corporation under section 123B.
  - (3) A higher education corporation in England may vary, replace or revoke the articles of government.
  - (4) The corporation must not make changes to the articles of government that (but for section 125A) would result in the corporation ceasing to be a charity.”

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#### Commencement Information

**I12** Sch. 8 para. 12 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 13 In section 125 (articles of government)—
- (a) in the heading, at the end insert “ : higher education corporations in Wales ”,
  - (b) in subsection (1), after “higher education corporation” insert “ in Wales ”, and
  - (c) in subsection (6)—
    - (i) after “higher education corporations” insert “ in Wales ”, and
    - (ii) after “higher education corporation” insert “ in Wales ”.

#### Commencement Information

**I13** Sch. 8 para. 13 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 14 In section 125A (charitable status of a higher education corporation)—
- (a) for “an English higher education corporation” substitute “ a higher education corporation in England ”, and
  - (b) for “Welsh higher education corporation” substitute “ higher education corporation in Wales ”.

#### Commencement Information

**I14** Sch. 8 para. 14 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 15 In section 127(1) (transfer of staff to higher education corporations), after “higher education corporation” insert “ established under section 121 or 122 ”.

#### Commencement Information

**I15** Sch. 8 para. 15 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 16 Before section 128 insert—

#### Dissolution of higher education corporations in England

- “127A) If requested to do so by notice given by a higher education corporation in England, the Secretary of State may make an order providing for—
- (a) the dissolution of the corporation, and
  - (b) the transfer of property, rights and liabilities of the corporation to—
    - (i) a person appearing to the Secretary of State to be wholly or mainly engaged in the provision of educational facilities or services of any description;
    - (ii) a body corporate established for purposes which include the provision of such facilities or services;
    - (iii) the Office for Students.

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- (2) An order under this section must not provide for transferring the property, rights or liabilities of a higher education corporation in England to a person or body without the consent of the person or body.
- (3) Subsection (4) applies where the recipient of a transfer under an order under this section is not a charity established for charitable purposes which are exclusively educational purposes.
- (4) Any property transferred must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (5) Before making an order under this section the Secretary of State must consult the Office for Students.
- (6) In this section “charitable purposes” has the meaning given by section 11 of the Charities Act 2011.
- (7) An order under this section may apply section 127 with such modifications as the Secretary of State may consider necessary or desirable.”

**Commencement Information**

**I16** Sch. 8 para. 16 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 17 In section 128 (dissolution of higher education corporations)—
- (a) in the heading, after “higher education corporations” insert “ in Wales ”, and
  - (b) in subsections (1)(a), (2) and (4), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I17** Sch. 8 para. 17 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 18 In section 129(5)(e) (designation of institutions), before “128” insert “ 127A or ”.

**Commencement Information**

**I18** Sch. 8 para. 18 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 19 In section 157(2)(a) (variation of trust deeds etc: institutions conducted by higher education corporations), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I19** Sch. 8 para. 19 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 20 In section 161(1) (interpretation of Part 2)—
- (a) after paragraph (b) insert—
    - “(ba) “further education corporation in England” means a further education corporation established to conduct an

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- institution whose activities are carried on, or principally carried on, in England;
- (bb) “further education corporation in Wales” means a further education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales;”, and
- (b) after paragraph (d) insert—
- “(e) “higher education corporation in England” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in England;
- (f) “higher education corporation in Wales” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.”

**Commencement Information**

**I20** Sch. 8 para. 20 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 21 In Schedule 7 (the higher education corporations)—
- (a) for the heading substitute “ Higher education corporations in Wales established before the appointed day ”, and
- (b) in paragraph 1(1), (2) and (3)(a), after “higher education corporation” insert “ in Wales ”.

**Commencement Information**

**I21** Sch. 8 para. 21 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 22 In Schedule 7A (instruments of government made by Privy Council), for the heading substitute “ Higher education corporations in Wales established on or after the appointed day: instruments of government made by Privy Council ”.

**Commencement Information**

**I22** Sch. 8 para. 22 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

*Further and Higher Education Act 1992*

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

**Commencement Information**

**I23** Sch. 8 para. 23 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

- 24 (1) Section 78 (financial years of higher education corporations) is amended as follows.
- (2) In the heading, at the end insert “ : Wales ”.
- (3) In subsection (1), after “higher education corporations” insert “ in Wales ”.

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(4) After subsection (2) insert—

“(3) In this section “higher education corporation in Wales” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.”

**Commencement Information**

**I24** Sch. 8 para. 24 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

25 In section 90(1) (interpretation of Act), in the definition of “higher education corporation”, after “by virtue of section” insert “ 122ZA or ”.

**Commencement Information**

**I25** Sch. 8 para. 25 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)

26 In section 91 (interpretation of Education Acts), in subsection (6)(b), for “by virtue of section 122A” substitute “ by virtue of section 122ZA or 122A ”.

**Commencement Information**

**I26** Sch. 8 para. 26 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(o)



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

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

- Pt. A1 inserted by [2023 c. 16 s. 1](#)
- s. A4 and cross-heading inserted by [2023 c. 16 s. 2](#)
- s. A5A6 and cross-heading inserted by [2023 c. 16 s. 3](#)
- s. A7 and cross-heading inserted by [2023 c. 16 s. 4](#)
- s. 2(1)(aa)(ab) inserted by [2023 c. 16 s. 5\(1\)](#)
- s. 2(7A) inserted by [2023 c. 16 Sch. para. 2\(3\)](#)
- s. 8A inserted by [2023 c. 16 s. 6](#)
- s. 9(3A) inserted by [2022 c. 21 s. 16\(2\)](#)
- s. 10(3A) inserted by [2023 c. 40 s. 2\(2\)\(a\)](#)
- s. 10(6A) inserted by [2023 c. 40 s. 2\(2\)\(b\)](#)
- s. 10(7A) inserted by [2023 c. 40 s. 2\(2\)\(c\)](#)
- s. 10(7B)(7C) inserted by [2023 c. 40 s. 1\(2\)\(b\)](#)
- s. 11(1A)(1B) inserted by [2023 c. 40 s. 2\(3\)\(b\)](#)
- s. 11(2)(2A) substituted for s. 11(2) by [2023 c. 40 s. 2\(3\)\(c\)](#)
- s. 31(1)(1A) substituted for s. 31(1) by [2023 c. 40 s. 2\(4\)\(a\)](#)
- s. 31(2A)(2B) inserted by [2023 c. 40 s. 2\(4\)\(c\)](#)
- s. 31(4) inserted by [2023 c. 40 s. 4\(4\)\(e\)](#)
- s. 67B(3A) inserted by [2023 c. 16 Sch. para. 5\(3\)](#)
- s. 67C(3) inserted by [2023 c. 16 Sch. para. 6](#)
- s. 69A and cross-heading inserted by [2023 c. 16 s. 5\(2\)](#)
- s. 69C inserted by [2023 c. 16 s. 8\(1\)](#)
- s. 73(1A) inserted by [2023 c. 16 Sch. para. 7\(3\)](#)
- s. 73(4A) inserted by [2023 c. 16 Sch. para. 7\(6\)](#)
- s. 85(1A) inserted by [2022 c. 21 s. 16\(4\)\(b\)](#)
- s. 119(2)(ha)(hb) inserted by [2023 c. 40 s. 2\(6\)](#)
- Sch. 2 para. 5(4) inserted by [2023 c. 40 s. 2\(7\)](#)
- Sch. 2 para. 1-1I substituted for Sch. 2 para. 1 by [2023 c. 40 s. 1\(4\)](#)
- Sch. 6A inserted by [2023 c. 16 s. 8\(2\)](#)
- Sch. 7 para. 4(5) inserted by [2023 c. 16 Sch. para. 13\(6\)](#)