



# Higher Education (Wales) Act 2015

2015 anaw 1

## PART 7

### SUPPLEMENTARY PROVISION ABOUT FUNCTIONS OF HEFCW

#### *Exercise of functions by HEFCW*

#### **47 Compatibility with charity law and governing documents of institutions**

- (1) Nothing in this Act confers power on HEFCW to require the governing body of an institution to do anything that is incompatible with—
- (a) any legal obligation or legal restriction that applies to the governing body by virtue of the institution being a charity, or
  - (b) the governing documents of the institution.
- (2) For the purposes of subsection (1)(b), the governing documents of an institution are—
- (a) in the case of an institution established by Royal charter—
    - (i) the institution's charter, and
    - (ii) any instrument relating to the conduct of the institution the making or amendment of which requires the approval of the Privy Council;
  - (b) in the case of an institution conducted by a higher education corporation, the corporation's instrument of government and the institution's articles of government;
  - (c) in the case of an institution conducted by a further education corporation, the corporation's instrument of government and articles of government;
  - (d) in the case of an institution designated under section 129 of the Education Reform Act 1988 or section 28 of the Further and Higher Education Act 1992, the institution's instrument of government and articles of government;
  - (e) in the case of an institution not falling within paragraphs (a) to (d) that is conducted by a company, the company's memorandum and articles of association.

**48 Duty to take into account importance of protecting academic freedom**

In exercising functions by virtue of this Act, HEFCW must take into account the importance of protecting academic freedom including, in particular, the freedom of institutions—

- (a) to determine the contents of particular courses and the manner in which they are taught, supervised or assessed,
- (b) to determine the criteria for the admission of students and to apply those criteria in particular cases, and
- (c) to determine the criteria for the selection and appointment of academic staff and to apply those criteria in particular cases.

**49 Duty to take Welsh Ministers' guidance into account**

In exercising functions by virtue of this Act, HEFCW must take into account any guidance issued by the Welsh Ministers.