

Status: Point in time view as at 01/01/2018.

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SCHEDULES

SCHEDULE 1 **E+W**

Section 1

THE OFFICE FOR STUDENTS

Status

- 1 (1) The OfS is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The OfS's property is not to be regarded—
 - (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Commencement Information

II Sch. 1 para. 1 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Membership

- 2 (1) The OfS is to consist of the following members appointed by the Secretary of State—
 - (a) a chair (“the chair”),
 - (b) the Chief Executive Officer,
 - (c) the Director for Fair Access and Participation, and
 - (d) at least seven and not more than twelve other members (“the ordinary members”).
- (2) The Secretary of State must, in appointing the chair and the ordinary members, have regard to the desirability of the OfS's members (between them) having experience of—
 - (a) representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers,
 - (b) providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider,
 - (c) employing graduates of higher education courses provided by higher education providers covering a range of academic and practical disciplines,
 - (d) promoting choice for consumers or other service users, and encouraging competition, in industry or another sector of society,
 - (e) creating, reviewing, implementing or managing a regulatory system in industry or another sector of society,
 - (f) managing or auditing the financial affairs of an organisation, and

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- (g) a broad range of the different types of English higher education providers.
- (3) But at least one of the ordinary members must have experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.
- (4) A person may not be appointed as a member of the OfS if the person is a civil servant.
- (5) In this Schedule, “civil servant” means a person employed in the civil service of the State.

Commencement Information

I2 Sch. 1 para. 2 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

The Director for Fair Access and Participation

- 3 (1) The Director for Fair Access and Participation (“the Director”) is responsible for—
 - (a) overseeing the performance of the OfS's access and participation functions,
 - (b) performing, in accordance with paragraph 11, any of those functions, or other functions, of the OfS which are delegated to the Director under that paragraph, and
 - (c) reporting to the other members of the OfS on the performance of the OfS's access and participation functions.
- (2) The Director may also report to the other members of the OfS on the measures taken by the OfS to comply with its duty under section 2(1)(e) (duty to have regard to the need to promote equality of opportunity etc) in performing a particular function of the OfS.
- (3) For the purposes of this Schedule, the OfS's “access and participation functions” are the functions conferred on it by or under—
 - (a) section 21 (refusal to renew an access and participation plan),
 - (b) sections 29 to 34 (access and participation plans),
 - (c) section 35 (advice on good practice),
 - (d) section 36 (duty to protect academic freedom in performing certain access and participation functions), and
 - (e) section 37 (power of the Secretary of State to require a report).

Commencement Information

I3 Sch. 1 para. 3 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Terms of appointment and tenure of members

- 4 (1) A person holds and vacates office as a member of the OfS in accordance with the terms of his or her appointment.
- (2) The terms and conditions of a person's appointment as a member of the OfS are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.

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- (3) The matters with which the terms and conditions of a member's appointment may deal include, in particular—
- (a) the period for which the member is to hold office;
 - (b) the member's eligibility for re-appointment;
 - (c) circumstances in which membership may be suspended.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

- 5
- (1) A person may resign from office as a member of the OfS by notifying the Secretary of State.
 - (2) The Secretary of State may remove a person from office as a member of the OfS on any of the following grounds—
 - (a) absence from the OfS's meetings for a continuous period of more than six months without the OfS's permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as the Secretary of State considers appropriate.
 - (3) If a person appointed as a member of the OfS becomes a civil servant, the person ceases to be a member.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Remuneration etc of members

- 6
- (1) The OfS must pay to members of the OfS such remuneration as the Secretary of State may determine.
 - (2) The OfS must pay, or make provision for paying, to or in respect of a person who is or has been a member of the OfS such sums as the Secretary of State may determine in respect of pension, allowances, expenses or gratuities.
 - (3) If, where a person ceases to be a member of the OfS, the Secretary of State determines that he or she should be compensated because of special circumstances, the OfS must pay him or her compensation of such amount as the Secretary of State may determine.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Staffing of the OfS

- 7
- (1) The OfS may—
 - (a) appoint employees, and
 - (b) make such other arrangements for the staffing of the OfS as it considers appropriate.

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- (2) The terms and conditions of appointment as employees are to be determined by the OfS with the approval of the Secretary of State.
- (3) The OfS must pay its employees such remuneration as the OfS may determine with the approval of the Secretary of State.
- (4) The OfS must pay, or make provision for paying, to or in respect of a person who is an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (5) The OfS may pay, or make provision for paying—
 - (a) to or in respect of a person who is or has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of pensions or gratuities, and
 - (b) to or in respect of a person who has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (6) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ Office for Students. ”
- (7) The OfS must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (6) in the sums payable out of money provided by Parliament under the 1972 Act.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Committees

- 8 (1) The OfS may establish committees, and any committee so established may establish sub-committees.
- (2) A committee or sub-committee so established is referred to in this Schedule as an “OfS committee”.
- (3) An OfS committee may consist of or include persons who are neither members, nor employees, of the OfS.
- (4) The OfS must pay such allowances as the Secretary of State may determine to any person who—
 - (a) is a member of an OfS committee, but
 - (b) is neither a member, nor an employee, of the OfS.
- (5) The OfS must keep under review—
 - (a) the structure of the OfS committees, and
 - (b) the scope of each committee's activities.

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Commencement Information

I8 Sch. 1 para. 8 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Procedure

- 9 (1) The OfS may determine—
- (a) its own procedure, and
 - (b) the procedure of any OfS committee;
- but that is subject to the rest of this paragraph.
- (2) The quorum for a meeting of the OfS is half the number of its members.
- (3) A representative of the Secretary of State is entitled—
- (a) to attend any meeting of the OfS or of any OfS committee, and
 - (b) to take part in any deliberations (but not in decisions) at such meetings.
- (4) The OfS must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any OfS committee as the Secretary of State or representative may require it to provide.

Commencement Information

I9 Sch. 1 para. 9 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

- 10 The validity of any proceedings of the OfS, or of any OfS committee, is not affected by a vacancy or a defective appointment.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Delegation of functions

- 11 (1) The OfS may delegate any of its functions to—
- (a) a member of the OfS,
 - (b) an employee of the OfS authorised for that purpose, or
 - (c) an OfS committee.
- (2) But a function which is one of the OfS's access and participation functions may only be delegated to the Director.
- (3) A function is delegated under this paragraph to the extent, and on the terms that, the OfS determines.

Commencement Information

I11 Sch. 1 para. 11 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

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Accounts and audit

- 12 (1) The OfS 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.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) its content and form;
 - (b) the methods and principles to be applied in preparing it;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The OfS must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.
- (6) In this Schedule “financial year” means—
- (a) the period beginning with the date on which the OfS is established and ending with the second 31 March following that date, and
 - (b) each successive period of 12 months.

Commencement Information

I12 Sch. 1 para. 12 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Annual report

- 13 (1) The OfS must prepare a report on the performance of its functions during each financial year.
- (2) The report must include the statement of accounts in respect of that year.
- (3) The report must include a statement regarding how the OfS has cooperated with UKRI during that year.
- (4) If, at any time in the financial year to which the report relates, all of the OfS's access and participation functions were not delegated to the Director under paragraph 11, the report must include a statement specifying—
- (a) the period or periods in that year during which those functions were not delegated to the Director, and
 - (b) the reasons why they were not so delegated.
- (5) The report relating to a financial year must be prepared as soon as possible after the end of the financial year.
- (6) The OfS must send the report to the Secretary of State.

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(7) The Secretary of State must lay the report before Parliament.

Commencement Information

I13 Sch. 1 para. 13 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Seal and evidence

- 14 (1) The application of the OfS's seal must be authenticated by the signature of—
- (a) the chair or some other person authorised for that purpose by the OfS, and
 - (b) one other member of the OfS.
- (2) A document purporting to be duly executed under the OfS's seal or signed on its 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.

Commencement Information

I14 Sch. 1 para. 14 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Supplementary powers

- 15 (1) The OfS may do anything (except borrow money) which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) In particular, the OfS may—
- (a) acquire and dispose of land and other property,
 - (b) enter into contracts,
 - (c) invest sums, and
 - (d) accept gifts of money, land or other property.

Commencement Information

I15 Sch. 1 para. 15 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Public records

- 16 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert— “Office for Students.”

Commencement Information

I16 Sch. 1 para. 16 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

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Investigation by the Parliamentary Commissioner

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert— “ Office for Students. ”

Commencement Information

I17 Sch. 1 para. 17 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

House of Commons disqualification

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I18 Sch. 1 para. 18 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Northern Ireland Assembly disqualification

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I19 Sch. 1 para. 19 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Freedom of information

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I20 Sch. 1 para. 20 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Public sector equality duty

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Other educational bodies”, at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I21 Sch. 1 para. 21 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

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VALID FROM 01/04/2018

SCHEDULE 2 **E+W**

Section 10

THE FEE LIMIT

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VALID FROM 01/08/2019

SCHEDULE 3 **E+W**

Section 15

MONETARY PENALTIES: PROCEDURE, APPEALS AND RECOVERY ETC

Introduction

- 1 This Schedule applies in relation to the imposition by the OfS of a monetary penalty on a registered higher education provider under section 15.

Procedure

- 2 (1) Before imposing a monetary penalty on the provider under that section, the OfS must notify the provider of its intention to do so.
- (2) The notice must—
- (a) specify the proposed amount of the penalty,
 - (b) specify the OfS's reasons for proposing to impose the penalty,
 - (c) specify the period during which the provider may make representations about the proposal (“the specified period”), and
 - (d) specify the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The OfS must have regard to any representations made by the provider during the specified period in deciding whether to impose a monetary penalty on it.
- (5) Having decided whether or not to impose a monetary penalty, the OfS must notify the provider of its decision.
- (6) Where the decision is to impose a monetary penalty, the notice must specify—
- (a) the amount of the penalty, and
 - (b) the period within which the penalty must be paid or the periods within which different portions of the penalty must be paid.
- (7) The notice must also contain information as to—
- (a) the grounds for imposing the penalty,
 - (b) how payment may be made,

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- (c) rights of appeal,
- (d) the period within which an appeal may be made, and
- (e) the consequences of non-payment.

- (8) The requirement to pay the penalty is suspended at any time when—
- (a) an appeal under paragraph 3(1)(a) or (b), or a further appeal, could be brought in respect of the penalty, or
 - (b) such an appeal is pending.
- (9) But that does not prevent the requirement to pay taking effect if the provider notifies the OfS that it does not intend to appeal.

Appeals

- 3 (1) The governing body of a provider may appeal to the First-tier Tribunal against—
- (a) a decision under section 15 to impose a monetary penalty on the provider;
 - (b) a decision as to the amount of the penalty.
- (2) An appeal under this paragraph may be made on the grounds—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) On an appeal under this paragraph the Tribunal may—
- (a) withdraw the requirement to pay the penalty;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the OfS.

Interest and recovery

- 4 (1) This paragraph applies if all or part of a monetary penalty imposed on a provider under section 15 is unpaid by the time when it is required to be paid.
- (2) The unpaid amount of the penalty for the time being—
- (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
 - (b) does not also carry interest as a judgment debt under that section.
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the penalty.
- (4) The OfS may recover from the provider, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.

Retention of sums received

- 5 The OfS must pay the sums received by it by way of a penalty under section 15 or interest under paragraph 4 to the Secretary of State.

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SCHEDULE 4 **E+W**

Section 27

ASSESSING HIGHER EDUCATION: DESIGNATED BODY

PART 1 **E+W**

DESIGNATION

Consultation prior to recommendation

- 1 (1) The OfS may consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions.
- (2) The Secretary of State may direct the OfS to consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions.
- (3) The OfS consults in accordance with this sub-paragraph if it consults—
 - (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers,
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers,
 - (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.

Modifications etc. (not altering text)

C1 Sch. 4 para. 1 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

I22 Sch. 4 para. 1 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(i)

Recommendation

- 2 (1) This paragraph applies where the OfS has consulted in accordance with paragraph 1.
- (2) The OfS must consider whether there is a body that is suitable to perform the assessment functions.
- (3) If the OfS considers that there is only one body that is suitable to perform the assessment functions, the OfS must recommend that body to be designated to perform those functions.
- (4) If the OfS considers that there is more than one body that is suitable to perform the assessment functions, the OfS must recommend the most appropriate body to be designated to perform those functions.

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- (5) “The most appropriate body” means, out of those bodies, the body whose designation the OfS considers would be most appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.
- (6) If the OfS considers that there is no body that is suitable to perform the assessment functions, the OfS may not recommend a body to be designated to perform those functions.
- (7) The OfS must—
 - (a) notify the Secretary of State of its recommendation or that no recommendation is made, and
 - (b) publish that notification.

Commencement Information

I23 Sch. 4 para. 2 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(i)

Designation

- 3 (1) This paragraph applies where, in accordance with paragraph 2, the OfS recommends that a body (“the recommended body”) be designated to perform the assessment functions.
- (2) The Secretary of State may designate the recommended body only if the Secretary of State considers that—
 - (a) the body is suitable to perform the assessment functions, and
 - (b) designating the body would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.
- (3) If the Secretary of State decides to designate the recommended body, the Secretary of State 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.
- (4) The notice of the designation must state—
 - (a) the name of the body, and
 - (b) the effective date.
- (5) If the Secretary of State decides not to designate the recommended body, the Secretary of State must publish the reasons for not doing so.

Commencement Information

I24 Sch. 4 para. 3 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(i)

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Bodies suitable to perform assessment functions

- 4 (1) A body is suitable to perform the assessment functions if the body satisfies conditions A to D.
- (2) Condition A is that the body is capable of performing the assessment functions in an effective manner.
- (3) Condition B is that—
- (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers,
 - (b) the body commands the confidence of registered higher education providers, and
 - (c) the body exercises its functions independent of any particular higher education provider.
- (4) Condition C is that the body consents to being designated under this Schedule.
- (5) Condition D is that the body is a body corporate and is not—
- (a) a servant or agent of the Crown, or
 - (b) a body to which the Secretary of State appoints members.

Modifications etc. (not altering text)

- C2** Sch. 4 para. 4 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

- I25** Sch. 4 para. 4 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(i)

Removal of designation

- 5 (1) The Secretary of State may by notice remove a designation under this Schedule.
- (2) The notice must—
- (a) include the reasons for the Secretary of State's decision, and
 - (b) specify the date on which the designation is removed.
- (3) The Secretary of State may only remove the designation if—
- (a) the Secretary of State is satisfied that removing the designation would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers,
 - (b) the Secretary of State is satisfied that the designated body is failing to perform in an effective manner its functions under section 46, or
 - (c) the designated body consents to the removal of the designation.
- (4) Before removing the designation the Secretary of State must consult—
- (a) the OfS,
 - (b) a number of registered higher education providers that, taken together, appear to the Secretary of State to comprise a broad range of the different types of such providers,

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- (c) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers,
 - (d) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of employers of graduates, and
 - (e) such other persons as the Secretary of State considers appropriate.
- (5) In determining whether a designation under this Schedule should be removed, the Secretary of State must have regard to any relevant information that the OfS has provided to the Secretary of State.
- (6) The Secretary of State must publish a notice under this paragraph.

Modifications etc. (not altering text)

C3 Sch. 4 para. 5 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

I26 Sch. 4 para. 5 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(i)

PART 2 **E+W**

OVERSIGHT BY THE OFS

VALID FROM 01/04/2018

Application

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

Oversight arrangements

- 7 The OfS must make arrangements for holding the designated body to account for the performance of the assessment functions.

Commencement Information

I27 Sch. 4 para. 7 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(p)(ii)

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

VALID FROM 01/04/2018

Annual report by the designated body

- 8
- (1) As soon as possible after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance 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.

VALID FROM 01/04/2018

Triennial report by the OfS

- 9
- (1) As soon as possible after the end of each triennial reporting period, the OfS must prepare and send to the Secretary of State a triennial report about—
 - (a) how the designated body has performed the assessment functions during the period,
 - (b) whether the designated body should continue to be designated under this Schedule,
 - (c) the appropriateness of any fees charged by the designated body under section 28, and
 - (d) any other matters that the OfS considers relevant.
 - (2) In preparing a triennial report, the OfS must have regard to any views provided to the OfS by a person listed in sub-paragraph (3) about—
 - (a) the matters listed in sub-paragraph (1)(a) to (c), and
 - (b) what other matters, if any, should be dealt with in the report.
 - (3) Those persons are—
 - (a) registered higher education providers,
 - (b) persons representing, or promoting the interests of, students on higher education courses provided in England by registered higher education providers,
 - (c) persons representing, or promoting the interests of, employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.
 - (4) “Triennial reporting period”, in relation to a designated body, means—
 - (a) the period of 3 years beginning with the effective date, and
 - (b) each successive period of 3 years.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

VALID FROM 01/04/2018

Power of the OfS to give directions

- 10 (1) The OfS may give the designated body general directions about the performance of any of the assessment functions.
- (2) In giving such directions, the OfS 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, and the standards applied to, higher education provided by a provider.
- (3) Such directions must relate to—
- (a) English higher education providers or registered higher education providers generally, or
 - (b) a description of such providers.
- (4) The designated body must comply with any directions given under this paragraph.

VALID FROM 01/04/2018

Duty of the OfS to inform the Secretary of State about significant concerns

- 11 The OfS must inform the Secretary of State if it has significant concerns about—
- (a) how the designated body is performing the assessment functions, or
 - (b) the continued suitability of the designated body to carry out those functions.

PART 3 E+W

INTERPRETATION

- 12 (1) In this Schedule—
- “the assessment functions” has the meaning given in section 27;
- “designated body” means a body for the time being designated under this Schedule;
- “the effective date”, in relation to a designated body, has the meaning given in paragraph 3;
- “graduate” means a graduate of a higher education course provided in England by a registered higher education provider.
- (2) References in this Schedule to a body that is suitable to perform the assessment functions are to be read in accordance with paragraph 4.

Commencement Information

I28 Sch. 4 para. 12 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(p)(iii)

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

VALID FROM 01/04/2018

SCHEDULE 5 **E+W**

Section 61

POWERS OF ENTRY AND SEARCH ETC

Power to issue search warrant

- 1 (1) A justice of the peace who is satisfied that the requirements in sub-paragraph (3) are met in relation to relevant higher education premises may issue a warrant under this paragraph (a “search warrant”) in respect of the premises.
- (2) “Relevant higher education premises” means premises in England which—
- (a) are occupied by a supported higher education provider or a linked institution in relation to such a provider, and
 - (b) are used for, or in connection with, the provision of higher education courses by such a provider,
- but does not include premises which are used wholly or mainly as a private dwelling.
- (3) The requirements of this sub-paragraph are met in relation to premises occupied by a supported higher education provider or a linked institution in relation to such a provider if—
- (a) there are reasonable grounds for suspecting that there is, or has been, a breach of a registration condition or funding condition of the provider,
 - (b) the suspected breach is sufficiently serious to justify entering the premises,
 - (c) entry to the premises is necessary to determine whether the suspected breach is taking place or has taken place, and
 - (d) either of the requirements in sub-paragraph (4) is met.
- (4) The requirements referred to in sub-paragraph (3)(d) are—
- (a) that entry to the premises has been, or it is likely to be, refused;
 - (b) that requesting entry may frustrate or seriously prejudice the purpose of entry.
- (5) References in this Schedule to a registration condition of a supported higher education provider are to an ongoing registration condition of the provider (see section 3(8)).
- (6) References in this Schedule to a funding condition of a supported higher education provider are to—
- (a) a term or condition subject to which a grant, loan or other payment under section 39 or 40 (financial support for providers) was paid to the provider, or
 - (b) a condition imposed on the provider by or under regulations made under section 22 of the Teaching and Higher Education Act 1998 (financial support for students) in connection with the designation of a course for the purposes of that section.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Application for search warrant by an authorised person

- 2
- (1) A search warrant may be issued only on the application of a person authorised in writing by the OfS or the Secretary of State to exercise the powers conferred by a search warrant (an “authorised person”).
 - (2) An application for a search warrant in respect of premises may be made without notice being given to—
 - (a) the supported higher education provider or linked institution occupying the premises, or
 - (b) any other persons who may be affected by it.
 - (3) An application for a search warrant in respect of premises must be supported by an information in writing.
 - (4) An authorised person applying for a search warrant must answer on oath any question that the justice of the peace hearing the application asks the person.

Search warrant

- 3
- (1) A search warrant must—
 - (a) specify the name of the authorised person who applied for it,
 - (b) specify the date on which it is issued,
 - (c) state that it is issued under this Schedule,
 - (d) specify the premises to be searched,
 - (e) specify the supported higher education provider or linked institution occupying the premises, and
 - (f) identify, so far as is possible, the suspected breach of a registration condition or funding condition of the provider.
 - (2) A search warrant may permit or require a constable to accompany an authorised person who is executing it.
 - (3) A search warrant authorises an authorised person to enter each set of premises specified in the warrant on one occasion only unless it specifies that it authorises multiple entries.
 - (4) If a search warrant specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited or limited to a specified maximum.
 - (5) Two copies must be made of a search warrant that specifies only one set of premises and does not authorise multiple entries.
 - (6) As many copies as are reasonably required may be made of any other kind of search warrant.
 - (7) The copies made under sub-paragraphs (5) and (6) must be clearly certified as copies.

Powers conferred by search warrant

- 4
- (1) A search warrant authorises an authorised person—
 - (a) to enter the premises specified in the warrant at a reasonable hour,

Status: Point in time view as at 01/01/2018.

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- (b) to search the premises to the extent that is reasonably required for the purpose of determining whether there is, or has been, a breach of a registration condition or funding condition of the relevant supported higher education provider,
- (c) for that purpose, to inspect items found on the premises,
- (d) for that purpose, to copy documents found on the premises, and
- (e) to seize and retain items found on the premises which the authorised person reasonably believes are evidence of a breach of a registration condition or a funding condition of the relevant supported higher education provider.

(2) A search warrant may be executed by any authorised person.

(3) A constable accompanying an authorised person under paragraph 3(2) may, if necessary, use reasonable force to enable the exercise of the powers conferred by the warrant.

(4) An authorised person entering premises under a search warrant may—

- (a) be accompanied by such other persons as the authorised person considers necessary, and
- (b) take onto the premises such equipment as the authorised person considers necessary.

Entering and searching premises

5 (1) Where the occupier of the premises to be entered and searched is present at the time when an authorised person seeks to execute a search warrant, the authorised person must—

- (a) identify himself or herself to the occupier,
- (b) produce to the occupier documentary evidence that he or she is an authorised person,
- (c) produce the search warrant to the occupier, and
- (d) supply the occupier with a certified copy of it.

(2) Where the occupier of the premises is not present at the time when an authorised person seeks to execute a search warrant—

- (a) if another person who appears to the authorised person to be in charge of the premises is present, sub-paragraph (1) has effect as if references to the occupier were references to the other person;
- (b) if there is no such person present, the authorised person must leave a certified copy of the warrant in a prominent place on the premises.

(3) An authorised person who enters premises under a search warrant must take reasonable steps to ensure that, when the authorised person leaves the premises, they are as secure as they were before the authorised person entered them.

(4) Entry and search under a search warrant may not take place after the end of the period of one month beginning with the date on which it is issued.

Inspecting, copying, seizing and retaining items

6 (1) The powers conferred by a search warrant to inspect, copy, seize and retain items found on premises include—

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

- (a) power to require a person on the premises who is holding or accountable for items that are on the premises to produce them,
 - (b) power to require a person on the premises to provide an explanation of an item or state where an item may be found,
 - (c) in relation to documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away, and
 - (d) power to require a person on the premises to provide such other assistance as the authorised person may reasonably require.
- (2) Those powers also include—
- (a) power to check the operation of a computer or electronic storage device, and
 - (b) power to require a person within sub-paragraph (3) to provide the authorised person with such reasonable assistance as the authorised person may require for that purpose.
- (3) A person is within this sub-paragraph if the person is—
- (a) a person by whom or on whose behalf the computer or device is or has been used, or
 - (b) a person having charge of, or otherwise concerned with the operation of, the computer or device.
- (4) The power conferred by a search warrant to inspect, copy, seize and retain items does not include power to inspect, copy, seize or retain excluded items.
- (5) “Excluded items” means items that are—
- (a) items subject to legal privilege (as defined in section 10 of the Police and Criminal Evidence Act 1984);
 - (b) excluded material (as defined in section 11 of that Act);
 - (c) special procedure material (as defined in section 14 of that Act).
- (6) If an item is seized from premises in the exercise of powers conferred by a search warrant, the authorised person executing the warrant—
- (a) must make reasonable efforts to give a notice to a person who appears to be the occupier of the premises or otherwise to be in charge of the premises (an “affected person”), and
 - (b) if it is not reasonably practicable to do so, must leave a copy of the notice in a prominent place on the premises.
- (7) A notice under sub-paragraph (6) must—
- (a) state what has been seized and the reason for its seizure, and
 - (b) specify which registration condition or funding condition the authorised person believes has been breached.
- (8) An authorised person exercising powers under a search warrant must—
- (a) make a record of items seized from premises in the exercise of the powers, and
 - (b) if a person who appears to the authorised person to be an affected person in relation to the premises asks for a copy of that record, provide a copy of that record to that person within a reasonable time.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

- (9) An item which is seized in the exercise of powers under a search warrant may be retained as long as is necessary in all the circumstances, including for use as evidence on a prosecution for an offence.
- (10) An item may not be retained for use as evidence on a prosecution for an offence if a photograph or a copy would be sufficient for that purpose.
- (11) Nothing in this paragraph confers power to search a person.

Offence

- 7 (1) A person commits an offence if, without reasonable excuse, the person—
- (a) intentionally obstructs the exercise of a power conferred by a search warrant, or
 - (b) fails to comply with a requirement reasonably imposed in the exercise of a power conferred by a search warrant.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Self-incrimination

- 8 (1) An explanation or information provided by a person in response to a requirement under paragraph 6(1)(b) or (d) or (2)(b) may be used in evidence against the person, subject to sub-paragraphs (2) to (4).
- (2) In criminal proceedings against the person—
- (a) no evidence relating to the explanation or information may be adduced by or on behalf of the prosecution, and
 - (b) no question relating to it may be asked by or on behalf of the prosecution.
- (3) Sub-paragraph (2) does not apply if the proceedings are for—
- (a) an offence under paragraph 7 of this Schedule, or
 - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath).
- (4) Sub-paragraph (2) does not apply if, in the proceedings—
- (a) evidence relating to the explanation or information is adduced by or on behalf of the person who provided it, or
 - (b) a question relating to it is asked by or on behalf of that person.

Interpretation

- 9 (1) In this Schedule—
- “authorised person” has the meaning given in paragraph 2;
 - “document” means anything in which information of any description is recorded;
 - “item” includes—
 - (a) a document;
 - (b) a computer or electronic storage device;
 - “linked institution”, in relation to a supported higher education provider, has the meaning given in section 61(3);

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

“relevant supported higher education provider” means—

- (a) in the case of premises occupied by a supported higher education provider, that provider, and
- (b) in the case of premises occupied by a linked institution in relation to a supported higher education provider, that provider;

“supported higher education provider” has the meaning given in section 61(2).

- (2) For the purposes of this Schedule, references to items found on premises include—
- (a) documents stored on computers or electronic storage devices on the premises, and
 - (b) documents stored elsewhere which can be accessed by computers on the premises.

SCHEDULE 6 E+W

Section 66

ENGLISH HIGHER EDUCATION INFORMATION: DESIGNATED BODY

PART 1 E+W

DESIGNATION

Consultation prior to recommendation

- 1 (1) The OfS may consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to be designated under this Schedule.
- (2) The Secretary of State may direct the OfS to consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to be designated under this Schedule.
- (3) The OfS consults in accordance with this sub-paragraph if it consults—
- (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers,
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided by registered higher education providers,
 - (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.

Modifications etc. (not altering text)

- C4** Sch. 6 para. 1 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), **3**

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Commencement Information

I29 Sch. 6 para. 1 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(q)(i)

Recommendation

- 2
- (1) This paragraph applies where the OfS has consulted in accordance with paragraph 1.
 - (2) The OfS must consider whether there is a body that is suitable to be designated under this Schedule.
 - (3) If the OfS considers that there is only one body that is suitable to be designated under this Schedule, the OfS must recommend the designation of that body under this Schedule.
 - (4) If the OfS considers that there is more than one body that is suitable to be designated under this Schedule, the OfS must recommend the designation under this Schedule of whichever one of those bodies it considers appropriate.
 - (5) If the OfS considers that there is no body that is suitable to be designated under this Schedule, the OfS may not recommend the designation of a body under this Schedule.
 - (6) The OfS must—
 - (a) notify the Secretary of State of its recommendation or that no recommendation is made, and
 - (b) publish that notification.

Commencement Information

I30 Sch. 6 para. 2 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(q)(i)

Designation

- 3
- (1) This paragraph applies where, in accordance with paragraph 2 the OfS recommends the designation of a body (“the recommended body”) under this Schedule.
 - (2) The Secretary of State may designate the recommended body for the purposes of sections 64 and 65 only if the Secretary of State considers that the body is suitable to be designated under this Schedule.
 - (3) If the Secretary of State decides to designate the recommended body, the Secretary of State 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.
 - (4) The notice of the designation must state—
 - (a) the name of the body, and
 - (b) the effective date.
 - (5) If the Secretary of State decides not to designate the recommended body, the Secretary of State must publish the reasons for not doing so.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Commencement Information

I31 Sch. 6 para. 3 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(q)(i)

Bodies suitable to be designated under this Schedule

- 4 (1) A body is suitable to be designated under this Schedule if the body satisfies conditions A to D.
- (2) Condition A is that the body is capable of performing the duties of the relevant body under sections 64(1) and 65(1) in an effective manner.
- (3) Condition B is that—
- (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers,
 - (b) the body commands the confidence of registered higher education providers, and
 - (c) the body exercises its functions independent of any particular higher education provider.
- (4) Condition C is that the body consents to being designated under this Schedule.
- (5) Condition D is that the body is a body corporate and is not—
- (a) a servant or agent of the Crown, or
 - (b) a body to which the Secretary of State appoints members.

Modifications etc. (not altering text)

C5 Sch. 6 para. 4 modified (temp.) (1.1.2018) by The Higher Education and Research Act 2017 (Transitory Provisions) Regulations 2017 (S.I. 2017/1145), regs. 1(2), 3

Commencement Information

I32 Sch. 6 para. 4 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(q)(i)

Removal of designation

- 5 (1) The Secretary of State may by notice remove a designation under this Schedule.
- (2) The notice must—
- (a) include reasons for the Secretary of State's decision, and
 - (b) specify the date on which the designation is removed.
- (3) The Secretary of State may only remove the designation if—
- (a) the Secretary of State is satisfied that removing the designation would be appropriate, or
 - (b) the designated body consents to the removal of the designation.
- (4) Before removing the designation the Secretary of State must consult—
- (a) the OfS,

Status: Point in time view as at 01/01/2018.

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- (b) a number of registered higher education providers that, taken together, appear to the Secretary of State to comprise a broad range of the different types of such providers,
 - (c) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of students on higher education courses provided by registered higher education providers,
 - (d) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of employers of graduates, and
 - (e) such other persons as the Secretary of State considers appropriate.
- (5) In determining whether a designation under this Schedule should be removed, the Secretary of State must have regard to any relevant information that the OfS has provided to the Secretary of State.
- (6) The Secretary of State must publish a notice under this paragraph.

Modifications etc. (not altering text)

- C6** Sch. 6 para. 5 modified (temp.) (1.1.2018) by [The Higher Education and Research Act 2017 \(Transitory Provisions\) Regulations 2017 \(S.I. 2017/1145\)](#), regs. 1(2), 3

Commencement Information

- I33** Sch. 6 para. 5 in force at 1.1.2018 by [S.I. 2017/1146](#), reg. 2(q)(i)

VALID FROM 01/01/2019

PART 2 **E+W**

OVERSIGHT BY THE OFS

Application

- 6 This Part applies if there is a body designated under this Schedule.

Oversight arrangements

- 7 The OfS must make arrangements for holding the designated body to account for the performance of its duties under sections 64(1) and 65(1).

Annual report by the designated body

- 8 (1) As soon as possible after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance of its duties under sections 64(1) and 65(1) 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.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Triennial report by the OfS

- 9 (1) As soon as possible after the end of each triennial reporting period, the OfS must prepare and send to the Secretary of State a triennial report about—
- (a) how the designated body has performed its duties under sections 64(1) and 65(1) during the period,
 - (b) whether the designated body should continue to be designated under this Schedule,
 - (c) the appropriateness of any fees charged by the designated body under section 67, and
 - (d) any other matters that the OfS considers relevant.
- (2) In preparing a triennial report, the OfS must have regard to any views provided to the OfS by a person listed in sub-paragraph (3) about—
- (a) the matters listed in sub-paragraph (1)(a) to (c), and
 - (b) what other matters, if any, should be dealt with in the report.
- (3) Those persons are—
- (a) registered higher education providers,
 - (b) persons representing, or promoting the interests of, students on higher education courses provided by registered higher education providers,
 - (c) persons representing, or promoting the interests of, employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.
- (4) “Triennial reporting period”, in relation to a designated body, means—
- (a) the period of 3 years beginning with the effective date, and
 - (b) each successive period of 3 years.

Duty of the OfS to inform the Secretary of State about significant concerns

- 10 The OfS must inform the Secretary of State if it has significant concerns about—
- (a) how the designated body is performing its duties under section 64(1) or 65(1), or
 - (b) the continued suitability of the designated body to be designated under this Schedule.

PART 3 E+W

INTERPRETATION

- 11 (1) In this Schedule—
- “designated body” means a body for the time being designated under this Schedule;
- “the effective date”, in relation to a designated body, has the meaning given in paragraph 3;
- “graduate” has the same meaning as in section 65.
- (2) References in this Schedule to a body that is suitable to be designated under this Schedule are to be read in accordance with paragraph 4.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Commencement Information

I34 Sch. 6 para. 11 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(q)(ii)

VALID FROM 01/08/2019

SCHEDULE 7 **E+W**

Section 73

COSTS RECOVERY: PROCEDURE, APPEALS AND RECOVERY ETC

Introduction

- 1 This Schedule applies in relation to the imposition by the OfS of a requirement to pay costs on the governing body of a provider under section 73.

Procedure

- 2 (1) The notice which the OfS gives the governing body under section 73(1) must specify—
- (a) the amount required to be paid, and
 - (b) the period within which payment is required to be made (which must not be less than 28 days).
- (2) The notice must also contain information as to—
- (a) how payment may be made,
 - (b) rights of appeal,
 - (c) the period within which an appeal may be made, and
 - (d) the consequences of non-payment.
- (3) The governing body may require the OfS to provide a detailed breakdown of the amount specified in the notice.
- (4) The requirement to pay the costs is suspended at any time when—
- (a) an appeal under paragraph 3(1)(a) or (b), or a further appeal, could be brought in respect of the requirement to pay the costs, or
 - (b) such an appeal is pending.
- (5) But that does not prevent the requirement to pay the costs taking effect if the governing body notifies the OfS that it does not intend to appeal.

Appeals

- 3 (1) The governing body of a provider may appeal to the First-tier Tribunal against—
- (a) a decision under section 73 to require it to pay costs;
 - (b) a decision as to the amount of those costs.
- (2) An appeal under this paragraph may be made on the grounds—
- (a) that the decision was based on an error of fact;

Status: Point in time view as at 01/01/2018.

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- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable.

(3) On an appeal under this paragraph the Tribunal may—

- (a) withdraw the requirement to pay the costs;
- (b) confirm that requirement;
- (c) vary that requirement;
- (d) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to the OfS.

Interest and recovery

- 4 (1) This paragraph applies if all or part of an amount of costs that a governing body is required to pay under section 73 is unpaid by the time when it is required to be paid.
- (2) The unpaid amount of the costs for the time being—
- (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
 - (b) does not also carry interest as a judgment debt under that section.
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the costs.
- (4) The OfS may recover from the governing body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.

Retention of sums received

- 5 (1) The OfS must pay the sums received by it by way of a requirement to pay costs under section 73 to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
- (2) The OfS must pay the sums received by it by way of interest under paragraph 4 to the Secretary of State.

VALID FROM 01/08/2019

SCHEDULE 8 **E+W**

Section 90

HIGHER EDUCATION CORPORATIONS IN ENGLAND

Education Reform Act 1988

- 1 The Education Reform Act 1988 is amended as follows.
- 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 ”.

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3	<p>Before section 122A insert—</p> <p>Orders for further education corporations in England to become higher education corporations</p> <p>“122ZA) The Secretary of State may by order provide for a further education corporation in England to become a higher education corporation.</p> <p>(2) The first members of the higher education corporation are to be appointed by the governing body of the further education corporation.</p> <p>(3) On such date as may be specified in the order—</p> <p>(a) the corporation ceases to be a further education corporation and becomes a higher education corporation, and</p> <p>(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.”</p>
4	<p>In section 122A (orders transferring further education corporations to higher education sector)—</p> <p>(a) in the heading, after “further education corporations” insert “ in Wales ”, and</p> <p>(b) in subsection (1), after “further education corporation” insert “ in Wales ”.</p>
5	<p>In section 123 (provisions supplementary to sections 121 and 122)—</p> <p>(a) in the heading, for “and 122” substitute “ to 122A ”,</p> <p>(b) in subsection (1), after “by virtue of section” insert “ 122ZA or ”, and</p> <p>(c) in subsections (3) and (4), after “higher education corporation” insert “ in Wales ”.</p>
6	<p>Before section 124 insert—</p> <p>Principal powers of a higher education corporation in England</p> <p>“123A) A higher education corporation in England has power—</p> <p>(a) to provide higher education;</p> <p>(b) to provide further education;</p> <p>(c) to provide secondary education suitable to the requirements of persons who have attained the age of 14 years;</p> <p>(d) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education);</p> <p>(e) to participate in the provision of secondary education at a school; and</p> <p>(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.</p> <p>(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.</p>

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Supplementary powers of a higher education corporation in England

123B) 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)."

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 ".

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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- 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 ”.
- 10 In section 124B(2)(b) (accounts), at the beginning insert “ in the case of a higher education corporation in Wales, ”.
- 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 ”.
- 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.”
- 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 ”.
- 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 ”.
- 15 In section 127(1) (transfer of staff to higher education corporations), after “higher education corporation” insert “ established under section 121 or 122 ”.
- 16 Before section 128 insert—

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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.

(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.”

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 ”.

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

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

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 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

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	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.”
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 ”.
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 ”.
	<i>Further and Higher Education Act 1992</i>
23	The Further and Higher Education Act 1992 is amended as follows.
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 ”.
	(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.”
25	In section 90(1) (interpretation of Act), in the definition of “higher education corporation”, after “by virtue of section” insert “ 122ZA or ”.
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 ”.

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VALID FROM 30/03/2018

SCHEDULE 9 **U.K.**

Section 91

UNITED KINGDOM RESEARCH AND INNOVATION

Status

- 1 (1) UKRI is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) UKRI's property is not to be regarded—
- (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Membership of UKRI

- 2 (1) UKRI is to consist of the following members appointed by the Secretary of State—
- (a) a chair (“the chair”),
 - (b) the Chief Executive Officer (“the CEO”),
 - (c) the Chief Finance Officer (“the CFO”), and
 - (d) at least nine and not more than twelve other members.
- (2) In this Schedule, references to the “members of UKRI” are to the members mentioned in sub-paragraph (1).
- (3) The chair may not also be the CEO or the CFO.
- (4) Before appointing the members mentioned in sub-paragraph (1)(b) to (d), the Secretary of State must consult the chair.
- (5) The Secretary of State must, in appointing the members of UKRI, have regard to the desirability of the members (between them) having experience of—
- (a) research into science, technology, humanities and new ideas,
 - (b) the development and exploitation of science, technology, new ideas and advancements in humanities, and
 - (c) industrial, commercial and financial matters, the charitable sector and the practice of any profession.
- (6) The Secretary of State must, in appointing the members of UKRI, have regard to the desirability of the members including at least one person with relevant experience in relation to at least one of Wales, Scotland and Northern Ireland.
- (7) “Relevant experience” means experience of one or more of the following—
- (a) research into science, technology, humanities or new ideas;
 - (b) the development or exploitation of science, technology, new ideas or advancements in humanities;
 - (c) industrial, commercial or financial matters, the charitable sector or the practice of any profession.

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Membership of the Councils

- 3 (1) Each Council is to consist of—
- (a) an executive chair appointed by the Secretary of State (the “executive chair”), and
 - (b) at least five and not more than twelve other members (the “ordinary Council members”).
- (2) In this Schedule, a reference to the “Council members” is to the executive chair and the ordinary Council members of each Council.
- (3) The Secretary of State may appoint one of the ordinary Council members of each Council after consulting the chair of UKRI.
- (4) The other ordinary Council members are to be appointed by UKRI after consulting the executive chair.
- (5) A majority of the ordinary Council members of a Council must be persons who are neither members, nor employees, of UKRI.

Terms of appointment and tenure

- 4 A person holds and vacates office as a member of UKRI or as a Council member in accordance with the terms of his or her appointment.
- 5 (1) This paragraph applies to a person (a “Ministerial appointee”) appointed as—
- (a) a member of UKRI,
 - (b) an executive chair, or
 - (c) an ordinary Council member where the appointment was made by the Secretary of State.
- (2) The terms and conditions of a Ministerial appointee's appointment are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.
- (3) A Ministerial appointee may resign from office as a member of UKRI, executive chair or an ordinary Council member by notifying the Secretary of State.
- (4) The Secretary of State may remove a Ministerial appointee from office on any of the following grounds—
- (a) absence from UKRI's or the Council's meetings, as the case may be, for a continuous period of more than six months without UKRI's or the Council's permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as the Secretary of State considers appropriate.
- 6 (1) This paragraph applies to a person (an “UKRI appointee”) appointed as an ordinary Council member where the appointment was made by UKRI.
- (2) The terms and conditions of an UKRI appointee's appointment are to be determined by UKRI; but that is subject to the following provisions of this Schedule.
- (3) An UKRI appointee may resign from office as an ordinary Council member by notifying UKRI.

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- (4) UKRI may remove an UKRI appointee from office on any of the following grounds—
- (a) absence from the Council's meetings for a continuous period of more than six months without the Council's permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as UKRI considers appropriate.

Remuneration etc

- 7 (1) UKRI must pay to members of UKRI and Council members such remuneration as the Secretary of State may determine.
- (2) UKRI must pay, or make provision for paying, to or in respect of a person who is or has been a member of UKRI or a Council member, such sums as the Secretary of State may determine in respect of pension, allowances, expenses or gratuities.
- (3) If, where a person ceases to be a member of UKRI or a Council member, the Secretary of State determines that he or she should be compensated because of special circumstances, UKRI must pay him or her compensation of such amount as the Secretary of State may determine.

Staffing of UKRI

- 8 (1) UKRI may—
- (a) appoint employees, and
 - (b) make such other arrangements for the staffing of UKRI as it considers appropriate.
- (2) The terms and conditions of appointment as employees are to be determined by UKRI with the approval of the Secretary of State.
- (3) UKRI must pay its employees such remuneration as UKRI may determine with the approval of the Secretary of State.
- (4) UKRI must pay, or make provision for paying, to or in respect of a person who is an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (5) UKRI may pay, or make provision for paying—
- (a) to or in respect of a person who is or has been an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of pensions or gratuities, and
 - (b) to or in respect of a person who has been an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (6) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “United Kingdom Research and Innovation. ”
- (7) UKRI must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase

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attributable to sub-paragraph (6) in the sums payable out of money provided by Parliament under the 1972 Act.

Executive Committee

- 9 (1) UKRI must establish a committee called “the Executive Committee”.
- (2) The Executive Committee is to consist of—
- (a) the CEO, who is to be its chair,
 - (b) the CFO,
 - (c) the executive chair of each of the Councils, and
 - (d) such other members as the CEO may appoint.
- (3) Those appointed under sub-paragraph (2)(d)—
- (a) must be employees of UKRI, and
 - (b) if they cease to be such employees, may not continue as members appointed under that provision.
- (4) The Executive Committee may establish sub-committees, and a sub-committee so established is referred to in this Schedule as an “Executive sub-committee”.
- (5) An Executive sub-committee may include persons who are not members of UKRI, Council members or employees of UKRI.
- (6) UKRI must pay such allowances as the Secretary of State may determine to any person who—
- (a) is a member of an Executive sub-committee, but
 - (b) is not a member of UKRI, a Council member or an employee of UKRI.

Other committees and sub-committees

- 10 (1) UKRI may establish committees (in addition to the Councils and the Executive Committee).
- (2) A committee established under sub-paragraph (1) may establish sub-committees.
- (3) A committee or sub-committee established under sub-paragraph (1) or (2) is referred to in this Schedule as a “general committee”.
- (4) A Council may establish sub-committees and a sub-committee so established is referred to in this Schedule as a “Council sub-committee”.
- (5) A general committee and a Council sub-committee may include persons who are not members of UKRI, Council members or employees of UKRI.
- (6) UKRI must pay such allowances as the Secretary of State may determine to any person who—
- (a) is a member of a general committee or a Council sub-committee, but
 - (b) is not a member of UKRI, a Council member or an employee of UKRI.
- (7) UKRI must keep under review—
- (a) the structure of the general committees, and
 - (b) the scope of each such committee's activities.
- (8) Each Council must keep under review—

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- (a) the structure of its Council sub-committees, and
- (b) the scope of each such sub-committee's activities.

Procedure

- 11 (1) UKRI, a Council and the Executive Committee may each determine their own procedure and the procedure of any relevant committee.
- (2) “Relevant committee” means—
- (a) in the case of UKRI, a general committee,
 - (b) in the case of a Council, a Council sub-committee established by it, and
 - (c) in the case of the Executive Committee, an Executive sub-committee.
- (3) But sub-paragraph (1) is subject to the rest of this paragraph.
- (4) The quorum for a meeting of UKRI or a Council is half the number of its members.
- (5) The Secretary of State, or a representative of the Secretary of State, is entitled—
- (a) to attend any meeting of UKRI or of any Council, Council sub-committee or general committee, and
 - (b) to take part in any deliberations (but not in decisions) at such meetings.
- (6) UKRI must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any general committee as the Secretary of State or the representative may require it to provide.
- (7) A Council must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any Council sub-committee as the Secretary of State or the representative may require it to provide.
- 12 The validity of any proceedings of UKRI, or of any Council, Council sub-committee or general committee, or of the Executive Committee or any Executive sub-committee, is not affected by a vacancy or a defective appointment.

Delegation of functions by UKRI

- 13 (1) UKRI may delegate any of its functions to—
- (a) a member of UKRI,
 - (b) an employee authorised for that purpose,
 - (c) a Council or a Council sub-committee, or
 - (d) a general committee.
- (2) A function is delegated under this paragraph to the extent, and on the terms that, UKRI determines.

Accounts and audit

- 14 (1) UKRI 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.

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- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
 - (a) its content and form;
 - (b) the methods and principles to be applied in preparing it;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) UKRI must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.
- (6) In this Schedule “financial year” means—
 - (a) the period beginning with the date on which UKRI is established and ending with the second 31 March following that date, and
 - (b) each successive period of 12 months.

Annual report

- 15
- (1) UKRI must prepare a report on the exercise of its functions during each financial year.
 - (2) The report must include the statement of accounts in respect of that year.
 - (3) The report must include a statement regarding how UKRI has cooperated with the OfS during that year.
 - (4) The report relating to a financial year must be prepared as soon as possible after the end of the financial year.
 - (5) UKRI must send the report to the Secretary of State.
 - (6) The Secretary of State must lay the report before Parliament.

Seal and evidence

- 16
- (1) The application of UKRI's seal must be authenticated by the signature of—
 - (a) a member of UKRI, or
 - (b) another person authorised for that purpose by UKRI.
 - (2) A document purporting to be duly executed under UKRI's seal or signed on its 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.
 - (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland.

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Supplementary powers

- 17 (1) UKRI may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) In particular, UKRI may—
- (a) acquire and dispose of land and other property,
 - (b) enter into contracts, and
 - (c) accept gifts of money, land or other property.
- (3) But UKRI may do any of the following only in accordance with terms and conditions specified from time to time by the Secretary of State—
- (a) borrow money;
 - (b) enter into joint ventures;
 - (c) form, participate in forming, or invest in, a company, partnership or other similar form of organisation;
 - (d) invest sums.

Public records

- 18 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert— “ United Kingdom Research and Innovation. ”

Investigation by the Parliamentary Commissioner

- 19 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert— “ United Kingdom Research and Innovation. ”

House of Commons disqualification

- 20 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert — “ United Kingdom Research and Innovation (“UKRI”), any Council or other committee of UKRI and any sub-committee of such a Council or committee (see section 92 of, and paragraphs 9 and 10 of Schedule 9 to, the Higher Education and Research Act 2017). ”

Northern Ireland Assembly disqualification

- 21 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ United Kingdom Research and Innovation (“UKRI”), any Council or other committee of UKRI and any sub-committee of such a Council or committee (see section 92 of, and paragraphs 9 and 10 of Schedule 9 to, the Higher Education and Research Act 2017). ”

Freedom of information

- 22 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place insert— “ United Kingdom Research and Innovation. ”

Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

Public sector equality duty

- 23 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Industry, business, finance etc”, at the end insert— “ United Kingdom Research and Innovation. ”

SCHEDULE 10 **U.K.**

Section 115

TRANSFER SCHEMES

Transfer schemes

- 1 (1) The Secretary of State may make one or more property transfer schemes or staff transfer schemes in connection with—
- (a) the establishment of the OfS or UKRI by this Act, or
 - (b) any of the following ceasing to exist by virtue of this Act—
 - (i) the Higher Education Funding Council for England,
 - (ii) the office of Director of Fair Access to Higher Education, or
 - (iii) a research council listed in section 109(1).
- (2) In this Schedule, a “permitted transferor” means the Secretary of State or a body or office listed in sub-paragraph (1)(b).
- (3) A “property transfer scheme” is a scheme for the transfer from a permitted transferor of any property, rights or liabilities, other than rights or liabilities under or in connection with a contract of employment, to a permitted transferee.
- (4) A “staff transfer scheme” is a scheme for the transfer from a permitted transferor of any rights or liabilities under or in connection with a contract of employment to a permitted transferee.
- (5) In this Schedule, a “permitted transferee” means—
- (a) the OfS,
 - (b) UKRI,
 - (c) the Secretary of State, or
 - (d) such other person as may be specified by the Secretary of State in the scheme.

Supplementary

- 2 (1) The things that may be transferred under a property transfer scheme or a staff 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.
- (2) A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—

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- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the permitted transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, or on behalf of, or in relation to, the permitted transferor in respect of anything transferred;
 - (d) make provision for references to the permitted transferor in an instrument or other document in respect of anything transferred to be treated as references to the permitted transferee.
- (3) A property transfer scheme may make provision for the shared ownership or use of property.
- (4) A staff transfer scheme may make provision which is the same as or similar to the TUPE regulations.
- (5) A property transfer scheme or a staff transfer scheme may provide—
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.

Interpretation

- 3 (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—
- (a) “civil service” means civil service of the State;
 - (b) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);
 - (c) references to the transfer of property include references to the grant of a lease.

VALID FROM 01/04/2018

SCHEDULE 11 **U.K.**

Section 122

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

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Status: Point in time view as at 01/01/2018.

Changes to legislation: Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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)

VALID FROM 01/04/2018

SCHEDULE 12 **U.K.**

Section 122

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 3

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Status:

Point in time view as at 01/01/2018.

Changes to legislation:

Higher Education and Research Act 2017 is up to date with all changes known to be in force on or before 24 June 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.