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SCHEDULES

SCHEDULE 9

AMENDMENTS

Further and Higher Education Act 1992 (c. 13)

- 20 In the Further and Higher Education Act 1992, omit sections 1 to 9 (the Further Education Funding Councils for England and Wales).
- 21 In section 18 of that Act (further education corporation: powers)—
- (a) after subsection (1)(b) insert “and those powers are referred to in section 19 of this Act as the corporation’s principal powers”;
 - (b) subsections (4) to (6) shall cease to have effect.
- 22 (1) Section 19 of that Act (supplementary powers of a further education corporation) is amended as follows.
- (2) In subsection (3) omit “within the meaning of section 4(6) of this Act”.
 - (3) In subsection (4) after paragraph (b) insert—
 - “(bb) subscribe for or otherwise acquire shares in or securities of a company,”.
 - (4) After subsection (4) insert—
 - “(4A) The power conferred by subsection (4)(bb) above may not be exercised for the purpose of conducting an educational institution.
 - (4B) The power conferred by subsection (4)(bb) above may not be exercised for the purpose of the provision of education if the provision is secured (wholly or partly) by financial resources provided by the Learning and Skills Council for England or the National Council for Education and Training for Wales.
 - (4C) But subsection (4B) above shall not apply to the extent that the Council concerned consents to the exercise of the power conferred by subsection (4) (bb) above in a way which does not comply with the restriction in subsection (4B).”
 - (5) After subsection (5) insert—
 - “(6) A person has a learning difficulty if—
 - (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
 - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions within the further education sector for persons of his age.
 - (7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different

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- from a language (or form of language) which has at any time been spoken in his home.”
- 23 (1) Section 22 of that Act (subsequent instruments and articles) is amended as follows.
- (2) In subsection (2) for “any instrument” substitute “, replace or revoke any instrument of government or articles”.
- (3) In subsection (5)—
- (a) in paragraph (a) after “modify” insert “, replace or revoke”;
- (b) in paragraph (b) after “modified” insert “, replaced or revoked”.
- 24 (1) Section 29 of that Act (government and conduct of designated institutions) is amended as follows.
- (2) In subsection (2) for “subsection (3)” substitute “subsections (3) and (7A)”.
- (3) After subsection (7) insert—
- “(7A) Provision made by the instrument in relation to the appointment of members of the governing body shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
- (b) the National Council for Education and Training for Wales under section 39 of that Act.”
- (4) In subsection (8) after “modify” insert “, replace or revoke” and after “modified” insert “, replaced or revoked”.
- 25 In section 31 of that Act (designated institutions conducted by companies) after subsection (2) insert—
- “(2A) Provision made by the articles of association of the company in relation to the appointment of members of the governing body shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
- (b) the National Council for Education and Training for Wales under section 39 of that Act.”
- 26 In section 41(10) of that Act (control of contracts) after “This section does not apply” insert—
- “(a) in relation to a relevant institution which does not provide full-time education suitable to the requirements of pupils of compulsory school age, or
- (b)”.
- 27 (1) Section 44 of that Act (collective worship) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies to any institution within the further education sector which is principally concerned with the provision of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of nineteen years.

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- (2) An institution is of voluntary origin for the purposes of this section if—
- (a) immediately before it joined the further education sector it was a voluntary school (within the meaning of the Education Act 1996),
 - (b) immediately before it joined the further education sector it was a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) having a foundation established otherwise than under that Act,
 - (c) it is designated for the purposes of this paragraph by order of the Secretary of State, or
 - (d) it is formed by or for the purpose of merging two institutions both of which were within paragraphs (a) to (c).

(2A) The governing body of an institution to which this section applies shall ensure that at an appropriate time on at least one day in each week during which the institution is open an act of collective worship is held at the institution which persons receiving education at the institution may attend.”

- (3) In subsection (3)(b) for “became a further education institution” substitute “joined the further education sector”.
- (4) In subsection (4) for “other further education institutions” substitute “other institutions to which this section applies”.
- (5) In subsection (5) for “a further education institution” substitute “an institution to which this section applies”.
- (6) Omit subsection (6).
- (7) At the end of the section insert—

“(7) In the application of this section to an institution which is of voluntary origin by virtue of subsection (2)(d), subsection (3)(b) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in subsection (2)(d).”

28 (1) Section 45 of that Act (religious education) shall be amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) This section applies to any institution to which section 44 of this Act applies.

(2) An institution is of voluntary origin for the purposes of this section if it is of voluntary origin for the purposes of section 44 of this Act.

(2A) The governing body of an institution to which this section applies shall ensure that religious education is provided at the institution for all persons attending the institution who wish to receive it.”

- (3) In subsection (3) for “a further education institution” substitute “an institution to which this section applies”.
- (4) In subsection (5)—
- (a) for “each further education institution” substitute “institution to which this section applies”,
 - (b) in paragraph (a)(ii) for “became a further education institution” substitute “joined the further education sector”, and

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(c) in paragraph (b) for “further education institutions” substitute “other institutions to which this section applies”.

(5) Omit subsection (6).

(6) At the end of the section insert—

“(7) In the application of this section to an institution which is an institution of voluntary origin by virtue of section 44(2)(d), subsection (5)(a)(ii) shall be taken as referring to the religious traditions and practices of the two institutions mentioned in section 44(2)(d).”

29 In section 52 of that Act (duty to provide for named individuals) in subsection (1) omit “full-time”.

30 In section 52A of that Act (pupils receiving secondary education) for “pupils in the fourth key stage” substitute “persons who would, if they were pupils at a school, be in the fourth key stage”.

31 In section 54 of that Act (duty to give information) in subsection (1)(b) for “or city college for the technology of the arts” substitute “, city college for the technology of the arts or city academy”.

32 In section 55 of that Act (inspections etc of local authority institutions other than schools), subsections (1) to (3) and paragraphs (a) and (b) of subsection (7) shall cease to have effect.

33 Section 56 of that Act (directions) shall cease to have effect.

34 In that Act for section 57 substitute—

“57 Intervention

(1) This section applies if one or more of the conditions listed in subsection (2) is satisfied regarding an institution within the further education sector; and it is immaterial whether or not a complaint is made by any person.

(2) These are the conditions—

- (a) the Secretary of State is satisfied that the institution’s affairs have been or are being mismanaged by its governing body;
- (b) he is satisfied that the institution’s governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
- (c) he is satisfied that the institution’s governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
- (d) a report regarding the institution and made by a person listed in subsection (3) indicates that the institution has serious weaknesses, or is failing or likely to fail to give an acceptable standard of education.

(3) These are the persons—

- (a) Her Majesty’s Chief Inspector of Schools in England;
- (b) Her Majesty’s Chief Inspector of Education and Training in Wales;
- (c) the Adult Learning Inspectorate;

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- (d) the Chief Inspector of Adult Learning.
 - (4) If this section applies the Secretary of State may by order—
 - (a) declare which of the conditions is (or are) satisfied, and
 - (b) do one or more of the things listed in subsection (5).
 - (5) He may—
 - (a) remove all or any of the members of the institution’s governing body;
 - (b) appoint new members of that body if there are vacancies (however arising);
 - (c) give to that body such directions as he thinks expedient as to the exercise of their powers and performance of their duties.
 - (6) Directions may be given to a body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body’s opinion.
 - (7) A governing body must comply with any directions given to them under this section.
 - (8) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.
 - (9) Section 507 of the Education Act 1996 (power to direct local inquiries) applies for the purposes of the Secretary of State’s functions under this section as it applies for the purposes of his functions under that Act.”
- 35 In section 60 of that Act (saving as to persons detained by order of a court) for “further education funding council” substitute “learning and skills council”.
- 36 Section 60A of that Act (partnership arrangements: Wales) shall cease to have effect.
- 37 In that Act, after section 61 insert—

“61A References to councils

- (1) In this Part of this Act any reference to a council is to a learning and skills council.
 - (2) In this Part of this Act a reference to the appropriate council, in relation to any educational institution, is to be construed as follows—
 - (a) if the institution mainly serves the population of England, the reference is to the Learning and Skills Council for England;
 - (b) if the institution mainly serves the population of Wales, the reference is to the National Council for Education and Training for Wales;
 - (c) if the institution receives financial support from the other council, the reference is to that council also.”
- 38 In section 82 of that Act (joint exercise of functions) in subsection (3)(a) for “further education funding council” substitute “learning and skills council”.
- 39 In section 83 of that Act (efficiency studies) in subsection (1) for “further education funding council” substitute “learning and skills council”.

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- 40 In section 89(2) of that Act (orders and regulations)—
- (a) after “29(6) and (8),” insert “30(2)(b),”, and
 - (b) after “38,” insert “44(2)(c),”.
- 41 In section 90 of that Act (interpretation) after subsection (2) insert—
- “(2A) For the purposes of this Act the learning and skills councils are the Learning and Skills Council for England and the National Council for Education and Training for Wales.
- (2B) If in construing this Act or any other Act a dispute arises as to whether any functions are exercisable by one of the learning and skills councils, the dispute shall be determined by the Secretary of State after consulting the National Assembly for Wales.”
- 42 In section 91 of that Act (interpretation of Education Acts) omit subsection (2) (references to a further education funding council).
- 43 In section 92 of that Act (index) in the table for the entry beginning “council (in Part I)” substitute—
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| “council (in Part I), or learning and skills council | sections 61A(1) and 90(2A)”. |
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- 44 (1) Schedule 4 to that Act (instruments and articles of government for further education corporations) is amended as follows.
- (2) After paragraph 1 insert—
- “1A Provision made by an instrument under this Schedule in relation to the appointment of members shall take into account the members who may be appointed by—
- (a) the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000, or
 - (b) the National Council for Education and Training for Wales under section 39 of that Act.”
- (3) In paragraph 5, at the end insert “or to the principal of the institution”.
- (4) That Act shall be taken to have been enacted with the amendment made by subparagraph (3).
- 45 Schedule 5A to that Act (partnership arrangements: Wales) shall cease to have effect.