

*Status: Point in time view as at 01/08/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2011, Cross Heading: Amendments to FHEA 1992. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 12

#### FURTHER EDUCATION INSTITUTIONS: AMENDMENTS

##### *Amendments to FHEA 1992*

1 FHEA 1992 is amended as follows.

#### **Commencement Information**

**II** Sch. 12 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

2 After section 16 insert—

#### **“16A Publication of proposals**

- (1) The appropriate authority may not make an order under section 16(1) or (3) unless the authority has published a draft of the proposed order, or of an order in substantially the same form, by such time and in such manner as may be prescribed.
- (2) A draft proposal or order in respect of an institution which is maintained by a local authority may not be published without the consent of the governing body and the local authority.
- (3) In this section “the appropriate authority” means—
  - (a) in relation to a proposal or order in respect of an institution in England, the Secretary of State;
  - (b) in relation to a proposal or order in respect of an institution in Wales, the Welsh Ministers.”

#### **Commencement Information**

**I2** Sch. 12 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 3
- (1) Section 19 (supplementary powers of further education corporations) is amended as follows.
  - (2) In subsection (4)(c), for “27” substitute “ 27C or 33P ”.
  - (3) In subsection (4A), after “exercised” insert “ by a further education corporation in Wales ”.
  - (4) In subsection (4AA), after “exercised” insert “ by a further education corporation in Wales ”.

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- (5) In subsection (4AB), for “appropriate authority consents” substitute “ Welsh Ministers consent ”.
- (6) Omit subsection (4AC).
- (7) In subsection (4B)—
- (a) after “exercised” insert “ by a further education corporation in Wales ”;
  - (b) omit “the Chief Executive of Skills Funding or”.
- (8) In subsection (4C), omit “the Chief Executive or” and “(as the case may be)”.
- (9) In subsection (5)—
- (a) after “exercised” insert “ by a further education corporation in Wales ”;
  - (b) for “appropriate body” substitute “ Welsh Ministers ”.

**Commencement Information**

**I3** Sch. 12 para. 3 in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

- 4 Section 19A (duty in relation to promotion of well-being of local area) is repealed.

**Commencement Information**

**I4** Sch. 12 para. 4 in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

- 5 In section 20 (constitution of further education corporation and conduct of further education institution), for subsection (2) substitute—
- “(2) Instruments of government and articles of government of further education corporations in England—
- (a) must comply with the requirements of Part 2 of Schedule 4, and
  - (b) subject to that, may make such other provision as may be necessary or desirable.
- (2A) Instruments of government and articles of government of further education corporations in Wales—
- (a) must comply with the requirements of Part 3 of Schedule 4, and
  - (b) subject to that, may make any provision authorised to be made by that Part of that Schedule and such other provision as may be necessary or desirable.”

**Commencement Information**

**I5** Sch. 12 para. 5 in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

- 6 For section 22 substitute—

**“22 Subsequent instruments and articles: England**

A further education corporation in England may modify or replace their instrument of government or articles of government.

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## **22ZA Subsequent instruments and articles: Wales**

- (1) Subject to subsections (2) and (3), the Welsh Ministers may—
  - (a) if a further education corporation in Wales submits a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in the terms of the draft or in such terms as they think fit, and
  - (b) if such a corporation submits draft modifications of an instrument made under paragraph (a), by order modify the instrument in the terms of the draft or in such terms as they think fit.
- (2) The Welsh Ministers must not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in the terms of the draft, unless they have consulted the corporation.
- (3) If the institution conducted by a further education corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding, the Welsh Ministers must consult the Chief Executive of Skills Funding before making an order under subsection (1).
- (4) The Welsh Ministers may by order modify, replace or revoke any instrument of government or articles of government of any further education corporation in Wales.
- (5) An order under subsection (4) may relate to all further education corporations in Wales, to any category of such corporations specified in the order or to any such corporation so specified.
- (6) Before making an order under subsection (4), the Welsh Ministers must consult—
  - (a) the further education corporation or (as the case may be) each further education corporation to which the order relates, and
  - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation or (as the case may be) any corporation to which the order relates mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.
- (7) A further education corporation in Wales may, with the consent of the Welsh Ministers—
  - (a) make new articles of government in place of their existing articles, or
  - (b) modify their existing articles.
- (8) The Welsh Ministers may by a direction under this section require further education corporations in Wales, any class of such corporations specified in the direction or any particular further education corporation so specified—
  - (a) to modify, replace or revoke their articles of government, or
  - (b) to secure that any rules or bye-laws made in pursuance of their articles of government are modified, replaced or revoked,in any manner so specified.

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- (9) Before giving a direction under this section, the Welsh Ministers must consult the further education corporation or (as the case may be) each further education corporation to which the direction applies.”

**Commencement Information**

**I6** Sch. 12 para. 6 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

7 For section 27 substitute—

**“27 Proposals for dissolution of further education corporations: England**

- (1) This section applies if a further education corporation in England propose that the corporation should be dissolved.
- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.

**27A Dissolution of further education corporations: England**

- (1) This section and section 27B apply if, after complying with section 27, a further education corporation in England resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

**27B Dissolution of further education corporations: England: transfer of property, rights and liabilities**

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed.
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

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## **27C Dissolution of further education corporations: Wales**

- (1) Subject to the following provisions of this section, the Welsh Ministers may by order provide for—
  - (a) the dissolution of a further education corporation in Wales, and
  - (b) the transfer to any person mentioned in subsection (2) or (3) of property, rights and liabilities of the corporation.
- (2) Such property, rights and liabilities may, with the consent of the person or body concerned, be transferred to—
  - (a) any person appearing to the Welsh Ministers to be wholly or mainly engaged in the provision of educational facilities or services of any description, or
  - (b) any body corporate established for purposes which include the provision of such facilities or services.
- (3) Such property, rights and liabilities may be transferred to a higher education funding council.
- (4) 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, any property transferred must be transferred on trust to be used for charitable purposes which are exclusively charitable purposes.
- (5) An order under this section may apply section 26 with such modifications as the Welsh Ministers consider necessary or desirable.
- (6) Before making an order under this section in respect of a further education corporation, the Welsh Ministers must consult—
  - (a) the corporation, and
  - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.”

### **Commencement Information**

**I7** Sch. 12 para. 7 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

8 For section 29 substitute—

## **“29 Government and conduct of designated institutions**

- (1) This section applies to a designated institution, other than—
  - (a) an institution conducted by a company, or
  - (b) an institution conducted by an unincorporated association, if the order designating the institution provides for its exemption.
- (2) For each designated institution to which this section applies, there is to be—
  - (a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government), and
  - (b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government).

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- (3) In sections 29A to 29C—
- “instrument” means an instrument of government or articles of government;
- “regulatory instrument”, in relation to an institution, means—
- (a) an instrument of government or articles of government, or
  - (b) any other instrument relating to or regulating the institution.

**29A First post-designation instruments and articles of designated institutions: England and Wales**

- (1) The first post-designation instrument and articles of government of a designated institution to which section 29 applies must each comply with subsection (3) and (if the institution is in Wales) subsection (6).
- (2) The “first post-designation instrument and articles of government” of a designated institution are the first instrument of government and articles of government that the institution has after the designation takes effect.
- (3) The instrument must meet one of the following requirements—
  - (a) the instrument was in force when the designation took effect and is approved for the purposes of this section by the appropriate authority;
  - (b) the instrument—
    - (i) is made in pursuance of a power under a regulatory instrument or (where there is no such power) by the governing body of the institution, and
    - (ii) (in either case) is approved for the purposes of this section by the appropriate authority;
  - (c) the instrument is made by the appropriate authority by order.
- (4) An instrument made by the governing body under subsection (3)(b) or the appropriate authority under subsection (3)(c) may replace wholly or in part an existing regulatory instrument.
- (5) Before making an instrument under subsection (3)(c), the appropriate authority must, so far as it appears practicable to do so, consult—
  - (a) the governing body of the institution, and
  - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.
- (6) If the institution is in Wales, provision made by the instrument in relation to the appointment of members of the governing body must take into account the members who may be appointed by the Welsh Ministers under section 39 of the Learning and Skills Act 2000.
- (7) In this section “the appropriate authority”—
  - (a) in relation to an institution in England, means the Secretary of State;
  - (b) in relation to an institution in Wales, means the Welsh Ministers.

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### **29B Changes to instruments and articles: England**

- (1) This section applies to a designated institution in England which is an institution to which section 29 applies.
- (2) The governing body of the institution may modify or replace its instrument of government and articles of government.
- (3) The instrument of government and articles of government (as modified or replaced)—
  - (a) must comply with the requirements of Part 2 of Schedule 4, and
  - (b) subject to that, may make such other provision as may be necessary or desirable.

### **29C Changes to instruments and articles: Wales**

- (1) This section applies to a designated institution in Wales which is an institution to which section 29 applies.
- (2) Subject to subsection (3), the governing body of the institution may modify, replace or revoke its instrument of government and articles of government if —
  - (a) the instrument falls within section 29A(3)(a),
  - (b) the instrument was made by the governing body, or
  - (c) the instrument was made in pursuance of a power under a regulatory instrument, where there is no other power to modify it.
- (3) An instrument approved under section 29A(3)(a) or (b) by the Welsh Ministers may not be modified, replaced or revoked without the consent of the Welsh Ministers.
- (4) The Welsh Ministers may by order modify, replace or revoke the instrument of government or articles of government of the institution.
- (5) Before making an order under subsection (4), the Welsh Ministers must, so far as it appears practicable to do so, consult—
  - (a) the governing body of the institution, and
  - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.”

#### **Commencement Information**

**18** Sch. 12 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

9 In section 30 (special provision for certain institutions), in subsection (1) for “section 29” substitute “sections 29 to 29C”.

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**Commencement Information**

**I9** Sch. 12 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 10 In section 31 (designated institutions conducted by companies), omit subsection (2A)(a).

**Commencement Information**

**I10** Sch. 12 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 11 (1) Section 33C (establishment of new bodies corporate as sixth form college corporations) is amended as follows.
- (2) In subsection (2), for “the responsible local authority” substitute “ a person or body (“the proposer”) ”.
- (3) In subsection (3)(a), for “authority have” substitute “ proposer has ”.
- (4) In subsection (3)(c)—
- (a) for “authority have” substitute “ proposer has ”;
  - (b) for “them” substitute “ the proposer ”.

**Commencement Information**

**I11** Sch. 12 para. 11 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 12 In section 33E (principal powers of a sixth form college corporation), in subsection (2), after “subsection (1)” insert “ and (in the case of a sixth form college corporation to which section 33J applies) section 33J(1A) ”.

**Commencement Information**

**I12** Sch. 12 para. 12 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 13 In section 33F (supplementary powers of a sixth form college corporation)—
- (a) in subsection (6)(e)(ii), for “27” substitute “ 27C or 33P ”;
  - (b) omit subsection (7);
  - (c) in subsection (10), omit “or section 33G”.

**Commencement Information**

**I13** Sch. 12 para. 13 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 14 Section 33G (restrictions on exercise of supplementary powers of sixth form college corporations) is repealed.

**Commencement Information**

**I14** Sch. 12 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2



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15 Section 33H (duty in relation to promotion of well-being of local area) is repealed.

**Commencement Information**

**I15** Sch. 12 para. 15 in force at 1.4.2012 by S.I. 2012/924, art. 2

16 In section 33I(2) (instrument and articles of government of sixth form college corporations)—

(a) in paragraph (a), after “requirements of” insert “ Part 2 of”;

(b) for paragraph (b) substitute—

“(b) subject to that, may make such other provision as may be necessary or desirable.”

**Commencement Information**

**I16** Sch. 12 para. 16 in force at 1.4.2012 by S.I. 2012/924, art. 2

17 (1) Section 33J (special provision for certain institutions) is amended as follows.

(2) After subsection (1) insert—

“(1A) A sixth form college corporation to which this section applies may (accordingly) conduct the relevant sixth form college in a way that secures that the established character of the sixth form college is preserved and developed (and, in particular, in a way that is in accordance with any trust deed relating to the college).”

(3) In subsection (3)—

(a) for “reference in subsection (1)(a) to the established character of a sixth form college is” substitute “ references in subsections (1)(a) and (1A) to the established character of a sixth form college are ”;

(b) for “a reference” substitute “ references ”.

**Commencement Information**

**I17** Sch. 12 para. 17 in force at 1.4.2012 by S.I. 2012/924, art. 2

18 In section 33K (instrument and articles of new sixth form college corporation)—

(a) in subsection (1), for “YPLA” substitute “ Secretary of State by order ”;

(b) for subsection (2) substitute—

“(2) An order under subsection (1) may not be made unless—

(a) the Secretary of State has consulted the corporation, and

(b) in the case of a sixth form college corporation to which section 33J applies, the trustees of the relevant sixth form college have given their consent.”

**Commencement Information**

**I18** Sch. 12 para. 18 in force at 1.4.2012 by S.I. 2012/924, art. 2

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19 For section 33L substitute—

**“33L Changes to instruments and articles**

- (1) A sixth form college corporation may modify or replace their instrument of government or articles of government.
- (2) A sixth form college corporation to which section 33J applies may do the things mentioned in subsection (1) only with the consent of the trustees of the relevant sixth form college.”

**Commencement Information**

**I19** Sch. 12 para. 19 in force at 1.4.2012 by S.I. 2012/924, art. 2

20 For section 33N substitute—

**“33N Proposals for dissolution of sixth form college corporations**

- (1) This section applies if a sixth form college corporation propose that the corporation should be dissolved.
- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.

**33O Dissolution of sixth form college corporations**

- (1) This section and section 33P apply if, after complying with section 33N, a sixth form college corporation resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

**33P Dissolution of sixth form college corporations: transfer of property, rights and liabilities**

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed, subject to subsection (4).
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.

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- (4) In the case of a sixth form college corporation to which section 33J applies, any property held by the corporation on trust for the purposes of the relevant sixth form college must be transferred to the trustees of the relevant sixth form college.
- (5) Subsection (6) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (6) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (7) Subsection (6) does not apply to property transferred to the person or body by virtue of subsection (4).”

**Commencement Information**

**I20** Sch. 12 para. 20 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with art. 6)

- 21 In section 38 (payments in respect of loan liabilities), in subsection (2), for “YPLA” in both places substitute “ Secretary of State ”.

**Commencement Information**

**I21** Sch. 12 para. 21 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 22 Section 49A (guidance about consultation with students and employees), as it has effect in relation to England, is repealed.

**Commencement Information**

**I22** Sch. 12 para. 22 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 23 Section 51 (publication of proposals) is repealed.

**Commencement Information**

**I23** Sch. 12 para. 23 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with art. 7)

- 24 In section 53 (inspection of accounts), in subsection (2)—
- (a) after “section 15ZA” insert “ or 18A ”;
  - (b) omit “61 or”.

**Commencement Information**

**I24** Sch. 12 para. 24 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 25 (1) Section 56A (intervention by Chief Executive of Skills Funding) is amended as follows.

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- (2) In subsection (1), for the words from “Chief Executive of Skills Funding” to “Executive”)” substitute “ Secretary of State ”.
- (3) In subsection (3), for “Chief Executive” substitute “ Secretary of State ”.
- (4) Omit subsection (4).
- (5) In subsections (5) and (6), for “Chief Executive”, wherever occurring, substitute “ Secretary of State ”.
- (6) In subsection (7), after “include” insert “ — (a) ” and at the end insert—  
     “(b) a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.  
     (7A) A governing body to which a direction such as is mentioned in subsection (7) (b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.”
- (7) For subsection (9) substitute—  
     “(9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.”
- (8) Omit subsection (10).

**Commencement Information**

**I25** Sch. 12 para. 25 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 26 Section 56AA (appointment by Chief Executive of Skills Funding of members of governing body of further education institution) is repealed.

**Commencement Information**

**I26** Sch. 12 para. 26 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 27 Section 56B (intervention policy: England) is repealed.

**Commencement Information**

**I27** Sch. 12 para. 27 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 28 Section 56C (directions) is repealed.

**Commencement Information**

**I28** Sch. 12 para. 28 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 29 Section 56D (notification by local authority or YPLA of possible grounds for intervention) is repealed.

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**I29** Sch. 12 para. 29 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 30 (1) Section 56E (intervention by local authority) is amended as follows.
- (2) In subsection (1), for “responsible local authority are” substitute “ Secretary of State is ”.
- (3) In subsection (3), for “authority” substitute “ Secretary of State ”.
- (4) For subsection (4) substitute—
- “(4) Subsections (4A) and (4B) apply to a sixth form college which is specified, or falls within a class specified, in an order under section 33J(2).
- (4A) Before doing one or more of the things listed in subsection (6), the Secretary of State must consult—
- (a) the trustees of the sixth form college, and
- (b) each person or body with power under the college's instrument of government to appoint or nominate one or more of its foundation governors.
- (4B) After carrying out a consultation under subsection (4A), the Secretary of State must give the persons and bodies consulted a notice stating—
- (a) what the Secretary of State has decided to do;
- (b) the reasons for the decision.”
- (5) In subsection (5)—
- (a) for “authority do one or more of those things, the authority” substitute “ Secretary of State does one or more of the things listed in subsection (6), the Secretary of State ”;
- (b) in paragraph (a), for “authority are” substitute “ Secretary of State is ”;
- (c) in paragraph (b), for “authority have” substitute “ Secretary of State has ”.
- (6) In subsection (6)—
- (a) for “The authority” substitute “ The Secretary of State ”;
- (b) in paragraph (c), for “authority think” substitute “ Secretary of State thinks ”.
- (7) In subsection (7), after “include” insert “ — (a) ” and at the end insert—
- “(b) a direction requiring a governing body to make a resolution under section 33O(1) for the body to be dissolved on a date specified in the direction.
- (7A) A governing body to which a direction such as is mentioned in subsection (7) (b) is given is to be taken for the purposes of section 33O(1) to have complied with section 33N before making the resolution required by the direction.”
- (8) For subsection (9) substitute—
- “(9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.”
- (9) Omit subsection (10).

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(10) In the heading, for “local authorities” substitute “ Secretary of State ”.

**Commencement Information**

**I30** Sch. 12 para. 30 in force at 1.4.2012 by S.I. 2012/924, art. 2

31 Section 56F (appointment by local authorities of members of sixth form college governing body) is repealed.

**Commencement Information**

**I31** Sch. 12 para. 31 in force at 1.4.2012 by S.I. 2012/924, art. 2

32 Section 56G (intervention policy: sixth form colleges) is repealed.

**Commencement Information**

**I32** Sch. 12 para. 32 in force at 1.4.2012 by S.I. 2012/924, art. 2

33 Section 56H (intervention by YPLA) is repealed.

**Commencement Information**

**I33** Sch. 12 para. 33 in force at 1.4.2012 by S.I. 2012/924, art. 2

34 Section 56I (appointment by YPLA of members of sixth form college governing body) is repealed.

**Commencement Information**

**I34** Sch. 12 para. 34 in force at 1.4.2012 by S.I. 2012/924, art. 2

35 Section 56J (notification by Chief Executive of Skills Funding of possible grounds for intervention) is repealed.

**Commencement Information**

**I35** Sch. 12 para. 35 in force at 1.4.2012 by S.I. 2012/924, art. 2

36 (1) Section 82 (joint exercise of functions) is amended as follows.

(2) For subsection (1) substitute—

“(1) A relevant authority may exercise any of its functions jointly with—

(a) another relevant authority, or

(b) the Secretary of State, to the extent that the Secretary of State is discharging functions under section 14 of the Education Act 2002,

where the condition in subsection (1B) is met.

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(1A) The Secretary of State may exercise functions under section 14 of the Education Act 2002 jointly with a relevant authority where the condition in subsection (1B) is met.

(1B) The condition is that it appears to the persons who are to exercise functions jointly that to do so—

- (a) will be more efficient, or
- (b) will enable them more effectively to discharge any of their functions.”

(3) In subsection (2), for the words from the beginning to “provision” substitute “ A relevant authority must, if directed to do so by the Secretary of State, make provision jointly with another relevant authority or with the Secretary of State ”.

(4) In subsection (3)(a) omit “the YPLA,”.

**Commencement Information**

**I36** Sch. 12 para. 36 in force at 1.4.2012 by S.I. 2012/924, art. 2

37 In section 83 (efficiency studies), in the table in subsection (1B), for “YPLA” substitute “ Secretary of State ”.

**Commencement Information**

**I37** Sch. 12 para. 37 in force at 1.4.2012 by S.I. 2012/924, art. 2

38 In section 88 (stamp duty)—  
(a) for “27” substitute “ 27B, 27C ”;  
(b) for “33N” substitute “ 33P ”.

**Commencement Information**

**I38** Sch. 12 para. 38 in force at 1.4.2012 by S.I. 2012/924, art. 2

39 In section 88A (stamp duty land tax)—  
(a) for “27” substitute “ 27B, 27C ”;  
(b) for “33N” substitute “ 33P ”.

**Commencement Information**

**I39** Sch. 12 para. 39 in force at 1.4.2012 by S.I. 2012/924, art. 2

40 (1) Section 89 (orders, regulations and directions) is amended as follows.

(2) In subsection (2)—

- (a) for “22, 29(6) and (8)” substitute “ 22ZA(1) and (4), 29A(3)(c), 29C(4) ”;
- (b) after “33A(5)(b)” insert “ 33J(2), 33K(1), ”;
- (c) omit “or section 33L”.

(3) In subsection (3), after “subsection (3A)” insert “ or (3B) ”.

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(4) After subsection (3A) insert—

“(3B) An order falls within this subsection if—

- (a) it is an order revoking (wholly or in part) an order under section 15 or 16 and is made by virtue of section 27A(4), or
- (b) it is an order revoking (wholly or in part) an order under section 33A, 33B or 33C and is made by virtue of section 33O(4).”

**Commencement Information**

**I40** Sch. 12 para. 40 in force at 1.4.2012 by S.I. 2012/924, art. 2

41 (1) Section 90 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) after the definition of “further education” insert—

““further education corporation in England” means a further education corporation established to conduct an institution in England;

“further education corporation in Wales” means a further education corporation established to conduct an institution in Wales;”;

(b) omit the definitions of “the responsible local authority” and “the YPLA”.

(3) Omit subsection (2ZA).

**Commencement Information**

**I41** Sch. 12 para. 41 in force at 1.4.2012 by S.I. 2012/924, art. 2

42 In section 92 (index)—

(a) after the entry for “further education corporation” insert—

“further education corporation in section 90(1)  
England

further education corporation in Wales section 90(1)”

(b) omit the entries for “responsible local authority” and “the YPLA”.

**Commencement Information**

**I42** Sch. 12 para. 42 in force at 1.4.2012 by S.I. 2012/924, art. 2

43 For Schedule 4 substitute—



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*Changes to legislation: There are currently no known outstanding effects for the Education Act 2011, Cross Heading: Amendments to FHEA 1992. (See end of Document for details)*

## “SCHEDULE 4

### INSTRUMENTS AND ARTICLES OF GOVERNMENT

#### PART 1

##### GENERAL

- 1 In this Schedule—
- “instrument” means an instrument of government or articles of government;
- “the institution” means—
- (a) in the case of a further education corporation, the institution which the corporation are established to conduct;
  - (b) in the case of the governing body of a designated institution, the institution;
  - (c) in the case of a sixth form college corporation, the relevant sixth form college.

#### PART 2

##### ENGLAND

- 2 This Part applies in relation to—
- (a) a further education corporation in England;
  - (b) the governing body of a designated institution in England;
  - (c) a sixth form college corporation.
- 3 In this Part “the body” means—
- (a) in the case of a further education corporation or a sixth form college corporation, the corporation;
  - (b) in the case of a governing body, the governing body.
- 4 An instrument must provide for—
- (a) the number of members of the body,
  - (b) the eligibility of persons for membership,
  - (c) the members to include—
    - (i) staff and students at the institution, and
    - (ii) in the case of a sixth form college corporation, parents of students at the institution aged under 19, and
  - (d) the appointment of members.
- 5 (1) An instrument must make provision about the procedures of the body and the institution.
- (2) In particular, an instrument must specify how the body may resolve for its dissolution and the transfer of its property, rights and liabilities.
- 6 (1) An instrument must make provision for there to be—
- (a) a chief executive of the institution, and

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- (b) a clerk to the body.
- (2) An instrument must make provision about the respective responsibilities of the body, the chief executive and the clerk.
- (3) The responsibilities of the body must include—
  - (a) in the case of a sixth form college corporation to which section 33J applies, the preservation and development of the educational character and mission of the institution and the oversight of its activities;
  - (b) in the case of any other sixth form college corporation, a further education corporation or a governing body, the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;
  - (c) in any case, the effective and efficient use of resources, the solvency of the institution and the body and the safeguarding of their assets.
- 7 An instrument must require the body to publish arrangements for obtaining the views of staff and students on the matters for which the body are responsible under paragraph 6(3)(a) or (b).
- 8 An instrument must permit the body to change their name with the approval of the Secretary of State.
- 9 An instrument must specify how the body may modify or replace the instrument of government and articles of government.
- 10 An instrument must prohibit the body from making changes to the instrument of government or articles of government that would result in the body ceasing to be a charity.
- 11 An instrument must provide for—
  - (a) a copy of the instrument to be given free of charge to every member of the body,
  - (b) a copy of the instrument to be given free of charge, or at a charge not exceeding the cost of copying, to anyone else who requests it, and
  - (c) a copy of it to be available for inspection at the institution on request, during normal office hours, to every member of staff of, and student at, the institution.
- 12 An instrument must provide for the authentication of the application of the seal of the body.

### PART 3

#### WALES

- 13 This Part applies in relation to further education corporations in Wales.
- 14 Provision made by an instrument in relation to the appointment of members of the corporation must take into account the members who may be appointed by the Welsh Ministers under section 39 of the Learning and Skills Act 2000.
- 15 (1) An instrument must provide for—
  - (a) the number of members of the corporation,

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- (b) the eligibility of persons for membership, and
  - (c) the appointment of members.
- (2) An instrument may provide for the nomination of any person for membership by another, including by a body nominated by the Welsh Ministers.
- 16 An instrument must provide for one or more officers to be chosen from among the members.
- 17 An instrument may—
  - (a) provide for the corporation to establish committees, and
  - (b) permit such committees to include persons who are not members of the corporation.
- 18 An instrument may provide for the delegation of functions of the corporation to—
  - (a) officers or committees, or
  - (b) the principal of the institution.
- 19 An instrument may provide for the corporation to pay allowances to its members.
- 20 An instrument must provide for the authentication of the seal of the corporation.
- 21 An instrument must require the corporation to—
  - (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare in respect of each financial year of the corporation a statement of accounts.
- 22 An instrument must—
  - (a) provide for the appointment of a principal of the institution, and
  - (b) determine which functions exercisable in relation to the institution are to be exercised by the corporation, its officers or committees and which by the principal of the institution.
- 23 An instrument must make provision about the procedures of the corporation and the institution.
- 24 An instrument must provide—
  - (a) for the appointment, promotion, suspension and dismissal of staff, and
  - (b) for the admission, suspension and expulsion of students.
- 25 An instrument may make provision authorising the corporation to make rules or bye-laws for the government and conduct of the institution, including in particular rules or bye-laws about the conduct of students, staff or both.”

**Commencement Information**

**I43** Sch. 12 para. 43 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the Education Act 2011, Cross Heading: Amendments to FHEA 1992.