

SCHEDULES

SCHEDULE 12

FURTHER EDUCATION INSTITUTIONS: AMENDMENTS

Amendments to FHEA 1992

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).
- (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—

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- (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.

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

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- (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.”