

SCHEDULE 1

(introduced by section 2)

INSTRUMENTS AND ARTICLES OF GOVERNMENT

In the Further and Higher Education Act 1992, for Schedule 4 substitute—

“SCHEDULE 4

INSTRUMENTS AND ARTICLES OF GOVERNMENT

- 1 This Schedule applies in relation to—
 - (a) a further education corporation,
 - (b) the governing body of a designated institution, and
 - (c) a sixth form college corporation.
- 2 In this Schedule—
 - “the body” means—
 - (a) in the case of a further education corporation or a sixth form college corporation, the corporation, and
 - (b) in the case of the governing body of a designated institution, the governing body;
 - “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;
 - “instrument” means an instrument of government or articles of government.
- 3 (1) 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, if the institution is in England, or the appointment or election of members, if the institution is in Wales.

(2) In the case of an institution in Wales the provision made by an instrument must include provision—

 - (a) for the members of the body to include—
 - (i) the chief executive,
 - (ii) at least two other members of staff at the institution,
 - (iii) at least two students at the institution, and
 - (iv) one or more representatives of local employers or businesses,
 - (b) for at least one of the members who are members of staff to be a member of the teaching staff, and at least one to be a member of the non-teaching staff,

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- elected at an election open to all members of staff from those nominated by any member of staff, and
- (c) for the members who are students to be elected at an election open to all the students at the institution from those nominated by any student or (if the body so determines) to be elected at an election open to all the members of an association which represents students at the institution, and is recognised by the body, from those nominated by any member of the association.
- 4 (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.
- 5 (1) An instrument must make provision for there to be—
- (a) a chief executive of the institution, and
- (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.
- 6 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 5(3)(a) or (b).
- 7 In the case of an institution in Wales, an instrument must require the body to consult persons in the locality of the institution receiving education or training, employers in that locality and bodies representing persons living in that locality as to the education provided at the institution and the planning of its curriculum.
- 8 An instrument must permit the body to change their name with the approval of—
- (a) in the case of an institution in England, the Secretary of State;
- (b) in the case of an institution in Wales, the Welsh Ministers.
- 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,

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- (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.”

SCHEDULE 2

(introduced by section 8)

MINOR AND CONSEQUENTIAL AMENDMENTS

Further and Higher Education Act 1992

- 1 In the Further and Higher Education Act 1992—
- (a) in section 30 (special provision for certain institutions), in subsection (1), for “29C” substitute “29B”;
 - (b) in section 33I(2)(a) (instrument and articles of government of sixth form college corporations), omit “Part 2 of”;
 - (c) in section 61 (interpretation of Part 1), in subsection (1), in the definition of “regulations” after “Secretary of State” insert “or the Welsh Ministers”;
 - (d) in section 89 (orders, regulations and directions)—
 - (i) in subsection (1), omit “of the Secretary of State”;
 - (ii) in subsection (2) omit “22ZA(1) and (4),” and “29C(4),”;
 - (iii) in subsection (3), for the words from “a resolution” to the end substitute “—
 - (a) in the case of an order or regulations made by the Secretary of State, a resolution of either House of Parliament;
 - (b) in the case of an order or regulations made by the Welsh Ministers, a resolution of the National Assembly for Wales.”

Learning and Skills Act 2000

- 2 In the Learning and Skills Act 2000, omit—
- (a) section 39 (power of Welsh Ministers to appoint governors of institution falling within further education sector and mainly serving population of Wales), and
 - (b) in Schedule 9, paragraphs 22(4) and 25 (which amend sections 19 and 31 of the Further and Higher Education Act 1992).

National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005

- 3 In the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005, in Schedule 1, omit

paragraphs 14 to 16, 18 and 59 (which amend sections 19, 22, 27 and 31 of the Further and Higher Education Act 1992 and section 39 of the Learning and Skills Act 2000).

Further Education and Training Act 2007

- 4 In the Further Education and Training Act 2007, omit—
- (a) section 18(5) (which inserts section 57A into the Further and Higher Education 1992),
 - (b) section 21(3) to (5) (which amend section 19 of that Act), and
 - (c) section 22 (which, if in force, would insert section 49A into the Further and Higher Education 1992 so as to require governing body of further education sector institution in Wales to have regard to guidance of Welsh Ministers about consultation).

Apprenticeships, Skills, Children and Learning Act 2009

- 5 In the Apprenticeships, Skills, Children and Learning Act 2009, in Schedule 6, omit paragraphs 3(1), (3) and (4) and 5(b) (which amend sections 19(4A) and (4B) and 31(2A) of the Further and Higher Education 1992).

Learning and Skills (Wales) Measure 2009

- 6 In the Learning and Skills (Wales) Measure 2009, in the Schedule, in paragraph 3 (which amends section 39 of the Learning and Skills Act 2000), omit “39(1)”.

Education Act 2011

- 7 In the Education Act 2011, in Schedule 12, omit paragraphs 3(3) to (5) and (7)(a) and (9), 5, 6, 7, 16(a), 43 and 45 (which amend sections 19 and 20, insert sections 22 and 22ZA, and substitute section 27 of and Schedule 4 to the Further and Higher Education Act 1992 and amend section 22 of the Further Education and Training Act 2007).