
Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

SCHEDULES

SCHEDULE 1

Section 4

REVIEW OF EXCLUSIONS FROM SCHOOLS IN ENGLAND: CONSEQUENTIAL AMENDMENTS

Local Government Act 1972 (c. 70)

- 1 In section 177 of the Local Government Act 1972 (provisions supplementary to provisions on allowances), in subsection (1A)—
- (a) before paragraph (c) insert—
 - “(ba) regulations made by virtue of section 51A(8) of the Education Act 2002 (allowances for exclusion review panels: England);”;
 - (b) in paragraph (c), for the words from “the Education Act” to the end substitute “that Act (allowances for exclusion appeal panels: Wales); and”.

Commencement Information

- I1** Sch. 1 para. 1 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

Local Government Act 1974 (c. 7)

- 2 In section 25 of the Local Government Act 1974 (authorities subject to investigation), in subsection (5)(e)—
- (a) for “appeal” substitute “review”;
 - (b) for “section 52” substitute “section 51A”.

Commencement Information

- I2** Sch. 1 para. 2 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

- 3 In section 31A of that Act (consideration of adverse reports), in subsection (3)(c), for “exclusion appeal panel” substitute “exclusion review panel”.

Commencement Information

- I3** Sch. 1 para. 3 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

Tribunals and Inquiries Act 1992 (c. 53)

- 4 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of the Council), in paragraph 15 (education), after subparagraph (a), insert—

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“(aa) exclusion review panels constituted in accordance with regulations under section 51A of the Education Act 2002;”.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

EA 1996

5 EA 1996 is amended as follows.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

6 In section 444ZA (application of section 444 to alternative educational provision), in subsection (1D), in paragraph (a), for “section 52” substitute “ section 51A ”.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

7 In Schedule 35B (meaning of “eligible child” for purposes of school travel arrangements), in paragraph 8(2)(b), for “section 52” substitute “ section 51A ”.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

SSFA 1998

8 Section 87 of SSFA 1998 (no requirement to admit children permanently excluded from two or more schools) is amended as follows.

Commencement Information

I8 Sch. 1 para. 8 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

9 After subsection (3) insert—

“(3A) A child who has been permanently excluded from a school in England shall not be treated for the purposes of this section as having been so excluded if any of the following applies—

(a) the child was reinstated as a pupil at the school following a direction from the responsible body—

(i) in accordance with regulations under subsection (3)(b) of section 51A of the Education Act 2002;

(ii) following a recommendation from the review panel that the responsible body reconsiders the matter under subsection (4)(b) of that section;

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- (b) the child would have been reinstated as a pupil at the school following a direction from the responsible body as described in paragraph (a)(i) or (ii), if it had been practical for the responsible body to give such a direction;
- (c) the review panel has quashed a decision of the responsible body not to reinstate the child as a pupil at the school under subsection (4)(c) of section 51A of the Education Act 2002;
- (d) the child was so excluded at a time when the child had not attained compulsory school age.

(3B) In subsection (3A) “the responsible body” has the same meaning as in section 51A of the Education Act 2002.”

Commencement Information

I9 Sch. 1 para. 9 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

- 10 In subsection (4), in the opening words—
- (a) omit “However,”;
 - (b) after “a school” insert “ in Wales ”.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

- Equality Act 2010 (c. 15)*
- 11 Schedule 17 to the Equality Act 2010 (disabled pupils: enforcement) is amended as follows.

Commencement Information

I11 Sch. 1 para. 11 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

- 12 In the heading above paragraph 14, at the end insert “ : Wales ”.

Commencement Information

I12 Sch. 1 para. 12 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

- 13 In paragraph 14 (exclusions)—
- (a) in sub-paragraph (1), at the end insert “ that are made in relation to schools in Wales ”;
 - (b) for sub-paragraph (4), substitute—
 - “(4) Appeal arrangements are arrangements under section 52(3) of the Education Act 2002 enabling an appeal to be made against an exclusion decision.”;
 - (c) in sub-paragraph (5), omit paragraph (b).

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Commencement Information

I13 Sch. 1 para. 13 in force at 1.9.2012 by S.I. 2012/1087, art. 3 (with art. 4)

SCHEDULE 2

Section 11

ABOLITION OF THE GTCE: CONSEQUENTIAL AMENDMENTS

Amendments to THEA 1998

1 THEA 1998 is amended as follows.

Commencement Information

I14 Sch. 2 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

2 In the heading to Chapter 1, for “Councils” substitute “ Council for Wales ”.

Commencement Information

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

3 In the italic cross-heading above section 1, for “England” substitute “ Wales: aims and constitution ”.

Commencement Information

I16 Sch. 2 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

4 In the italic cross-heading above section 2, for “England” substitute “ Wales ”.

Commencement Information

I17 Sch. 2 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

5 In section 2, in the heading, for “General Teaching Council for England” substitute “ the Council ”.

Commencement Information

I18 Sch. 2 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

6 In the italic cross-heading above section 8, at the beginning insert “ Establishment of ”.

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Commencement Information

I19 Sch. 2 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 7 In section 8 (the General Teaching Council for Wales)—
- (a) in subsection (2), omit “as it has effect in relation to the Council,”;
 - (b) omit subsections (3) to (6);
 - (c) in the heading, at the beginning insert “ Establishment of ”.

Commencement Information

I20 Sch. 2 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 8 In section 9 (functions of the General Teaching Council for Wales: general)—
- (a) omit subsection (1);
 - (b) in subsection (2), for “the General Teaching Council for Wales” substitute “ the Council ”.

Commencement Information

I21 Sch. 2 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 9 In section 12 (deduction of fees from salaries, etc)—
- (a) in subsection (1)(b), omit “relevant”;
 - (b) in subsection (3), in paragraphs (b) and (c), omit “relevant”;
 - (c) in subsection (4), omit the definition of “relevant Council”.

Commencement Information

I22 Sch. 2 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 10 In section 14 (supply of information relating to teachers: general)—
- (a) for subsection (1) substitute—
 - “(1) The Secretary of State may supply the Council with such information relating to individual teachers as the Council may request for the purpose of carrying out any of the functions conferred on them by or under this Chapter or as the Secretary of State considers it to be necessary or desirable for them to have for the purposes of those functions.
 - (1A) The Welsh Ministers may supply the Council with such information relating to individual teachers as the Council may request for the purpose of carrying out any of the functions conferred on them by or under this Chapter or as the Welsh Ministers consider it to be necessary or desirable for them to have for the purposes of those functions.”
 - (b) in subsection (2), for “Each of those Councils” substitute “ The Council ”;
 - (c) in subsection (3), for “either” substitute “ the ”;
 - (d) omit subsection (4).

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Commencement Information

I23 Sch. 2 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 11 In section 15 (supply of information following dismissal, resignation, etc)—
- (a) omit subsection (2);
 - (b) in subsection (3)—
 - (i) omit the words from the beginning to “in Wales,”;
 - (ii) for “the General Teaching Council for Wales” substitute “ the Council ”.
 - (c) in subsection (5), in the definition of “relevant employer”, at the end of each of paragraphs (a), (b), (c) and (d) insert “ in Wales ”.

Commencement Information

I24 Sch. 2 para. 11 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 12 In section 15A (supply of information by contractor, agency, etc)—
- (a) in subsection (2), for “Subsections (3) and (4) apply” substitute “ Subsection (4) applies ”;
 - (b) omit subsections (3), (5) and (7);
 - (c) in subsection (4)—
 - (i) omit the words from the beginning to “in Wales,”;
 - (ii) for “the General Teaching Council for Wales” substitute “ the Council ”.

Commencement Information

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

- 13 In the italic cross-heading above section 19, at the end insert “ : teachers in Wales ”.

Commencement Information

I26 Sch. 2 para. 13 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 14 In section 19 (requirement to serve induction period)—
- (a) in subsection (1), after “schools” insert “ in Wales ”;
 - (b) in subsection (2)(i), for “either the Council or the General Teaching Council for Wales” substitute “ the Council ”;
 - (c) in subsection (3)—
 - (i) omit the words from the beginning to “established,”;
 - (ii) for “one or both of those Councils (as appropriate)” substitute “ the Council ”;
 - (d) in subsection (4)(b), omit “or the General Teaching Council for Wales”.

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Commencement Information

I27 Sch. 2 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 15 In section 42 (orders and regulations)—
- (a) omit subsection (3);
 - (b) in subsection (9)—
 - (i) omit the words from the beginning to “established,”;
 - (ii) omit “to which the regulations will relate”.

Commencement Information

I28 Sch. 2 para. 15 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 16 (1) Schedule 1 is amended as follows.
- (2) In the title, for “England” substitute “ Wales ”.
 - (3) In paragraph 2, omit sub-paragraph (3).
 - (4) In paragraph 4(1)—
 - (a) in paragraph (a), for “the Secretary of State” substitute “ they ”;
 - (b) for paragraph (b) substitute—
 - “(b) shall, as regards any member in whose case they may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of that member as they may determine.”
 - (5) For paragraph 4(2) substitute—
 - “(2) If a person ceases to be a member of the Council and it appears to the Council that there are special circumstances which make it right that the person should receive compensation, the Council may make to that person a payment of such amount as they may determine.”
 - (6) In paragraph 4(3), for “the Secretary of State” substitute “ they ”.
 - (7) In paragraph 4(4), for “the Secretary of State” substitute “ they ”.
 - (8) In paragraph 5, omit sub-paragraph (4).
 - (9) In paragraph 6—
 - (a) in sub-paragraph (1), omit “, with the consent of the Secretary of State,”;
 - (b) in sub-paragraph (3), for the words following paragraph (b) substitute “ the Council may make provision for that person to continue to participate in that scheme, on such terms and conditions as they may determine, as if the person's service as a member were service as an employee; and any such provision shall be without prejudice to paragraph 4. ”
 - (10) In paragraph 11, omit sub-paragraph (1).

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Commencement Information

I29 [Sch. 2 para. 16](#) in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

17 In Schedule 2 (disciplinary powers of Council), in paragraph 7 (supplementary provisions) for sub-paragraph (2) substitute—

“(2) Regulations may also make provision for securing that any prohibition order made by virtue of Schedule 11A to the Education Act 2002 in relation to a teacher in England has a corresponding effect in relation to Wales.”

Commencement Information

I30 [Sch. 2 para. 17](#) in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

Amendments to other Education Acts

18 In EA 1994, in section 18B (inspection of teacher training), in subsection (3) (advice from Chief Inspector), omit paragraph (c) (and the “or” preceding it).

Commencement Information

I31 [Sch. 2 para. 18](#) in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

- 19 (1) EA 2002 is amended as follows.
- (2) In section 132 (qualified teacher status), omit subsection (3) (consultation of GTCE).
- (3) In section 134 (requirement to be registered)—
- (a) in subsection (1)—
 - (i) after “school” insert “ in Wales ”;
 - (ii) after “General Teaching Council” insert “ for Wales ”;
 - (b) in subsection (2), after “person” insert “ in Wales ”;
 - (c) in subsection (3), after “qualified teacher” insert “ in Wales ”;
 - (d) in the heading, at the end insert “ : teachers in Wales ”.
- (4) In section 145 (specification of qualification or course), in subsection (1)(c), omit “the General Teaching Council for England,”.
- (5) In Schedule 12 (the General Teaching Councils for England and Wales), in Part 1 (amendments to the Teaching and Higher Education Act 1998), omit paragraph 7 (amendment to section 9(1)).

Commencement Information

I32 [Sch. 2 para. 19](#) in force at 1.4.2012 by [S.I. 2012/924, art. 2](#)

20 In ESA 2008—

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- (a) in section 130 (directions prohibiting participation in management: information), in subsection (5), omit “the General Teaching Council for England,”;
- (b) in Schedule 1 (minor and consequential amendments), in paragraph 23 (substitution of sections 167C and 167D of EA 2002), in the substituted section 167C, in subsection (5), omit “ the General Teaching Council for England,”.

Commencement Information

I33 Sch. 2 para. 20 in force at 1.4.2012 by S.I. 2012/924, art. 2

Other amendments

- 21 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2, omit “General Teaching Council for England.”

Commencement Information

I34 Sch. 2 para. 21 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 22 In Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which superannuation schemes may be made), omit “General Teaching Council for England.”

Commencement Information

I35 Sch. 2 para. 22 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 23 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) in Part 3, omit “Any member of the General Teaching Council for England in receipt of remuneration.”

Commencement Information

I36 Sch. 2 para. 23 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 24 In section 50 of the Employment Rights Act 1996 (right to time off for public duties), in subsection (9) (definition of “relevant education body”) omit paragraph (i) (but not the “or” following it).

Commencement Information

I37 Sch. 2 para. 24 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 25 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 6 omit “The General Teaching Council for England.”

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Commencement Information

I38 Sch. 2 para. 25 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 26 In section 343 of the Income Tax (Earnings and Pensions) Act 2003 (deductions allowed from earnings: professional membership fees), in the Table in subsection (2), in part 7 omit paragraph (a) (fee for registration by the GTCE).

Commencement Information

I39 Sch. 2 para. 26 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 27 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In section 41 (registers: duty to refer), in the table in subsection (7), in entry 1, for the entry in column 2 substitute “ The General Teaching Council for Wales ”.
- (3) In section 45 (supervisory authorities: duty to refer), in subsection (7), after paragraph (a) insert—
- “(aza) the Secretary of State in respect of the Secretary of State's functions under sections 141B to 141E of the Education Act 2002;
- (azb) the Secretary of State in respect of the Secretary of State's functions under Chapter 1 of Part 4 of the Education and Skills Act 2008;”.
- (4) In Schedule 3 (barred lists), in paragraph 16 (representations), in sub-paragraph (4)—
- (a) after “before” insert “ the Secretary of State in the exercise of the Secretary of State's functions under section 141B of the Education Act 2002, or in proceedings before ”;
- (b) omit paragraph (a).
- (5) In Schedule 8 (transitional provision), in paragraph 2 (existing restrictions relating to children)—
- (a) in sub-paragraph (3), omit paragraphs (a) and (c);
- (b) in sub-paragraph (4), for “(3)(c) and (d)” substitute “ (3)(d) ”;
- (c) in sub-paragraph (7), for “(3)(c) and (d)” substitute “ (3)(d) ”.

Commencement Information

I40 Sch. 2 para. 27 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 3

Section 12

ABOLITION OF THE GTCE: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—

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- (a) for a designated employee of the GTCE to become a member of staff of the Secretary of State (and accordingly to become employed in the civil service of the state);
 - (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the GTCE to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
 - (c) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the GTCE under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the GTCE in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.
- (2) A staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (3) A staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the GTCE to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

Commencement Information

I41 Sch. 3 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

Property transfer schemes

- 2
- (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the GTCE to the Secretary of State of designated property, rights or liabilities.
 - (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the GTCE in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Secretary of State;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
 - (3) The things that may be transferred by a property transfer scheme include—

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- (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.

Commencement Information

I42 Sch. 3 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the GTCE before the transfer takes effect.

Commencement Information

I43 Sch. 3 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

Supplementary provision etc.

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Commencement Information

I44 Sch. 3 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

Interpretation

- 5 In this Schedule—
 “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
 “the GTCE” means the General Teaching Council for England.

Commencement Information

I45 Sch. 3 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 4

Section 13

OFFENCE OF BREACH OF REPORTING RESTRICTIONS:
 APPLICATION TO PROVIDERS OF INFORMATION SOCIETY SERVICES

Commencement Information

I46 Sch. 4 in force at 1.10.2012 by S.I. 2012/2213, art. 3

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PROSPECTIVE

After Schedule 11A to EA 2002 (inserted by section 8), insert—

“SCHEDULE 11B

Section 141G

OFFENCE UNDER SECTION 141G: SUPPLEMENTARY PROVISIONS

Introduction

- 1 (1) This Schedule makes supplementary provision relating to an offence under section 141G (breach of reporting restrictions relating to alleged offences committed by teachers).
- (2) The purpose of this Schedule is to comply with Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“the E-Commerce Directive”).

Domestic service providers: extension of liability

- 2 (1) This paragraph applies where a service provider is established in England and Wales (a “domestic service provider”).
- (2) Section 141G applies to a domestic service provider who—
 - (a) publishes information in breach of section 141F(3) in an EEA state other than the United Kingdom, and
 - (b) does so in the course of providing information society services, as it applies to a person who publishes such information in England and Wales.
- (3) In such a case—
 - (a) proceedings for the offence may be taken at any place in England and Wales, and
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.

Non-UK service providers: restriction on proceedings

- 3 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).
- (2) Proceedings for an offence under section 141G must not be brought against a non-UK service provider in respect of anything done in the course of the provision of information society services.

Exceptions for mere conduits

- 4 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in—
 - (a) the provision of access to a communication network, or

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(b) the transmission in a communication network of information provided by a recipient of the service,
 if the following condition is satisfied.

- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
 - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

- 5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not guilty of an offence under section 141G in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
 - (b) the following conditions are satisfied.
- (3) The first condition is that the service provider does not modify the information.
- (4) The second condition is that the service provider complies with any conditions attached to having access to the information.
- (5) The third condition is that if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information,
- the service provider expeditiously removes the information or disables access to it.

Exception for hosting

- 6 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.
- (2) The condition is that—

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- (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
 - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (3) “Offending material” means material the publication of which constitutes an offence under section 141G.
- (4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 7 (1) In this Schedule—
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
- “service provider” means a person providing an information society service.
- (2) For the purpose of construing references in this Schedule to a service provider who is established in England and Wales or in an EEA state other than the United Kingdom—
- (a) a service provider is established in England and Wales, or in an EEA state other than the United Kingdom, if the service provider—
 - (i) effectively pursues an economic activity using a fixed establishment in England and Wales, or in that EEA state, for an indefinite period, and
 - (ii) is a national of an EEA state or a company or firm mentioned in Article 48 of the EEC Treaty;
 - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
 - (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.”

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SCHEDULE 5

Section 16

ABOLITION OF THE TDA: CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In paragraph 3 of Schedule 1 to the Public Records Act 1958, in Part 2 of the Table (definition of public records: other establishments and organisations) omit “Training and Development Agency for Schools.” and “Teacher Training Agency.”

Commencement Information

I47 Sch. 5 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit “Training and Development Agency for Schools.”

Commencement Information

I48 Sch. 5 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

Superannuation Act 1972 (c. 11)

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act) omit “Training and Development Agency for Schools.”

Commencement Information

I49 Sch. 5 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) omit the entry relating to members of the Training and Development Agency for Schools in receipt of remuneration.

Commencement Information

I50 Sch. 5 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

Education (Fees and Awards) Act 1983 (c. 40)

- 5 In section 1(3) of the Education (Fees and Awards) Act 1983 (institutions in respect of which regulations may provide for differential fees), in paragraph (e), for “support under section 78 of that Act from the Training and Development Agency for Schools” substitute “assistance—

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- (i) from the Secretary of State or the Welsh Ministers under section 14 of the Education Act 2002, or
- (ii) from a person who is receiving financial assistance under that section;”.

Commencement Information

I51 Sch. 5 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 1994

- 6 Part 1 of EA 1994 (teacher training) is amended as follows.

Commencement Information

I52 Sch. 5 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 7 Section 11A (general duty of Secretary of State and Welsh Ministers with respect to teacher training) is repealed.

Commencement Information

I53 Sch. 5 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 8 In section 18B (inspection of teacher training), in subsections (3) and (8), for “Training and Development Agency for Schools” substitute “ Secretary of State ”.

Commencement Information

I54 Sch. 5 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 9 In section 18C (inspection of teacher training in Wales), in subsection (12)(b), omit “or the Training and Development Agency for Schools”.

Commencement Information

I55 Sch. 5 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 1996

- 10 EA 1996 is amended as follows.

Commencement Information

I56 Sch. 5 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 11 In section 398 (no requirement of attendance at Sunday school etc), in subsection (2), for “75(5) and 96(1)” substitute “ 96(1) and 100 ”.

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Commencement Information

I57 Sch. 5 para. 11 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 12 In section 450 (prohibition of charges for admission), in subsection (3), for “75(5) and 96(1)” substitute “ 96(1) and 100 ”.

Commencement Information

I58 Sch. 5 para. 12 in force at 1.4.2012 by S.I. 2012/924, art. 2

Audit Commission Act 1998 (c. 18)

^{F1}13

Textual Amendments

F1 Sch. 5 para. 13 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); S.I. 2015/841, [art. 3\(a\)](#) (with arts. 5-8, Sch.) (as amended (27.6.2016) by S.I. 2016/675, [art. 2](#))

THEA 1998

- 14 (1) Section 26 of THEA 1998 (imposition of conditions as to fees at further or higher education institutions) is amended as follows.
- (2) In subsection (3)—
- (a) omit “81(1), 82(1) or”;
 - (b) omit paragraph (c) and the “or” preceding it;
 - (c) omit “78 or”.
- (3) In subsection (11)—
- (a) omit “or the Training and Development Agency for Schools”;
 - (b) in paragraph (b), omit “or that Agency”.

Commencement Information

I59 Sch. 5 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

Government of Wales Act 1998 (c. 38)

- 15 (1) Section 145B of the Government of Wales Act 1998 (studies at request of educational bodies) is amended as follows.
- (2) In the Table in subsection (1), omit the entry for a training provider receiving financial support under section 78 of the Education Act 2005.
- (3) Omit subsection (1A).
- (4) In subsection (2), for “Subsections (1) and (1A) do” substitute “ Subsection (1) does ”.

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(5) In subsection (3), omit “or (1A)”.

Commencement Information

I60 Sch. 5 para. 15 in force at 1.4.2012 by S.I. 2012/924, art. 2

Freedom of Information Act 2000 (c. 36)

16 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The Teacher Training Agency.” and “The Training and Development Agency for Schools.”

Commencement Information

I61 Sch. 5 para. 16 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 2002

17 In section 145 of EA 2002 (specification of qualification or course)—
(a) in subsection (1)(c), omit “the Training and Development Agency for Schools,”;
(b) in subsection (3), omit “the Training and Development Agency for Schools or”.

Commencement Information

I62 Sch. 5 para. 17 in force at 1.4.2012 by S.I. 2012/924, art. 2

HEA 2004

F²18

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F²19

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F²20

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Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F21

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F22

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F23

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F24

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F25

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), **Sch. 11 para. 33(b)**; S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F26

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Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F227

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F228

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

F229

Textual Amendments

F2 Sch. 5 paras. 18-29 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 33(b); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

EA 2005

30 EA 2005 is amended as follows.

Commencement Information

I63 Sch. 5 para. 30 in force at 1.4.2012 by S.I. 2012/924, art. 2

31 Section 99 (introduction of Schedule 15) is repealed.

Commencement Information

I64 Sch. 5 para. 31 in force at 1.4.2012 by S.I. 2012/924, art. 2

32 In Schedule 14 (amendments relating to training of school workforce), omit paragraphs 1 to 4, 8, 19(4)(b), 21(3) to (5), 22, 24, 25, 28(5), 29(b) and 32 to 34.

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Commencement Information

I65 Sch. 5 para. 32 in force at 1.4.2012 by S.I. 2012/924, art. 2

33 Schedule 15 (transitional and transitory provisions relating to Part 3) is repealed.

Commencement Information

I66 Sch. 5 para. 33 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 6

Section 17

ABOLITION OF THE TDA: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—
- (a) for a designated employee of the TDA to become a member of staff of the Secretary of State (and accordingly to become employed in the civil service of the state);
 - (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the TDA to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
 - (c) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the TDA under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the TDA in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.
- (2) A staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (3) A staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the TDA to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

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Commencement Information

I67 Sch. 6 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the TDA to the Secretary of State of designated property, rights or liabilities.
- (2) A property transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the TDA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Secretary of State;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property 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.

Commencement Information

I68 Sch. 6 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the TDA before the transfer takes effect.

Commencement Information

I69 Sch. 6 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

Supplementary provision etc.

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Commencement Information

I70 Sch. 6 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

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Interpretation

- 5 In this Schedule—
- “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
- “the TDA” means the Training and Development Agency for Schools.

Commencement Information

I71 Sch. 6 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 7

Section 21

THE CHIEF REGULATOR OF QUALIFICATIONS AND EXAMINATIONS

Amendments to Schedule 9 to ASCLA 2009

- 1 Schedule 9 to ASCLA 2009 (the Office of Qualifications and Examinations Regulation) is amended as follows.

Commencement Information

I72 Sch. 7 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 2 (1) Paragraph 2 (membership) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) before paragraph (a), insert—
- “(za) a member appointed by Her Majesty by Order in Council as the chief executive of Ofqual.”;
- (b) in paragraph (a), for “Her Majesty by Order in Council to chair Ofqual,” substitute “the Secretary of State to chair Ofqual (“the chair”), and”;
- (c) omit paragraph (c) and the “and” immediately before it.
- (3) In sub-paragraph (2), for “to chair” substitute “as the chief executive of”;
- (4) In sub-paragraphs (3) to (6), for “Chief Regulator”, wherever occurring, substitute “chair”.

Commencement Information

I73 Sch. 7 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 3 (1) Paragraph 3 (the Chief Regulator) is amended as follows.
- (2) In sub-paragraph (6), for “Chief Regulator” substitute “the chief executive of Ofqual (whether before or after the relevant commencement date)”.
- (3) After sub-paragraph (6) insert—

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“(7) The relevant commencement date” means the date on which Schedule 7 to the Education Act 2011 comes fully into force.”

Commencement Information

I74 Sch. 7 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

4 After paragraph 3 insert—

“The chair

- 3A (1) The chair holds and vacates office in accordance with the terms of the appointment.
- (2) Those terms are to be determined by the Secretary of State, subject to the following provisions of this Schedule.
- (3) The chair must not be appointed for a term of more than 5 years.
- (4) The chair may resign from office at any time by giving written notice to the Secretary of State.
- (5) The Secretary of State may remove the chair from office on either of the following grounds—
- (a) inability or unfitness to carry out the duties of the office;
 - (b) absence from Ofqual's meetings for a continuous period of more than 6 months without Ofqual's permission.
- (6) The previous appointment of a person to chair Ofqual (whether before or after the relevant commencement date) does not affect the person's eligibility for re-appointment.
- (7) “The relevant commencement date” means the date on which Schedule 7 to the Education Act 2011 comes fully into force.”

Commencement Information

I75 Sch. 7 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

5 In paragraph 4 (the deputy and other ordinary members: tenure), in sub-paragraphs (7) to (11), for “Chief Regulator”, wherever occurring, substitute “ chair ”.

Commencement Information

I76 Sch. 7 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

6 In the heading before paragraph 5, for “*Chief Regulator and ordinary members*” substitute “ *members* ”.

Commencement Information

I77 Sch. 7 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

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- 7 (1) Paragraph 5 (remuneration of members of Ofqual) is amended as follows.
- (2) In sub-paragraph (1), for “Chief Regulator and any of the ordinary members” substitute “ members of Ofqual ”.
- (3) In sub-paragraph (2), for “current or former Chief Regulator or” substitute “ person who is or has been the chair or an ”.
- (4) In sub-paragraph (3), for “Chief Regulator or an ordinary member” substitute “ a member of Ofqual ”.
- (5) In sub-paragraph (4), for “this paragraph” substitute “ sub-paragraph (1), (2) or (3) ”.
- (6) After sub-paragraph (4) insert—
- “(5) Service as the Chief Regulator is one of the kinds of service to which a scheme under section 1 of the Superannuation Act 1972 (superannuation schemes as respects civil servants etc) can apply.
- (6) Ofqual 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 (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.”

Commencement Information

I78 Sch. 7 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 8 For the heading before paragraph 6 substitute “ *Staff* ”.

Commencement Information

I79 Sch. 7 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 9 (1) Paragraph 6 (staff of Ofqual) is amended as follows.
- (2) Omit sub-paragraphs (1) to (3).
- (3) In sub-paragraphs (4) and (5)(a), omit “other”.

Commencement Information

I80 Sch. 7 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

Consequential amendments

- 10 In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act), under the heading “Offices” at the appropriate place insert “ The Chief Regulator of Qualifications and Examinations. ”

Commencement Information

I81 Sch. 7 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

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- 11 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), after “The Chief Regulator of Qualifications and Examinations” insert “, the chair of the Office of Qualifications and Examinations Regulation”.

Commencement Information

I82 Sch. 7 para. 11 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 12 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), after “The Chief Regulator of Qualifications and Examinations” insert “, the chair of the Office of Qualifications and Examinations Regulation”.

Commencement Information

I83 Sch. 7 para. 12 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 8

Section 26

ABOLITION OF THE QCDA: CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In paragraph 3 of Schedule 1 to the Public Records Act 1958, in Part 2 of the Table (definition of public records: other establishments and organisations) omit “Qualifications and Curriculum Development Agency.”

Commencement Information

I84 Sch. 8 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit “Qualifications and Curriculum Development Agency.”

Commencement Information

I85 Sch. 8 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

Superannuation Act 1972 (c. 11)

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act) omit “The Qualifications and Curriculum Development Agency.”

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Commencement Information

I86 [Sch. 8 para. 3](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) omit the entry relating to members of the Qualifications and Curriculum Development Agency in receipt of remuneration.

Commencement Information

I87 [Sch. 8 para. 4](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

EA 1996

- 5 EA 1996 is amended as follows.

Commencement Information

I88 [Sch. 8 para. 5](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

- 6 In section 391 (functions of religious education advisory councils) for subsection (10) substitute—
- “(10) A council for an area in Wales must send a copy of each report published by them under subsection (6) to the Welsh Ministers.”

Commencement Information

I89 [Sch. 8 para. 6](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

- 7 In section 408(1)(a) (provision of information relevant for particular purposes) for “Parts 7 and 8” substitute “ Part 7 ”.

Commencement Information

I90 [Sch. 8 para. 7](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

EA 1997

- 8 Section 35 of EA 1997 (transfer of staff to QCDA) is repealed.

Commencement Information

I91 [Sch. 8 para. 8](#) in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

LSA 2000

- 9 In section 98 of LSA 2000 (approved qualifications: England), in subsections (7) and (8), omit “the Qualifications and Curriculum Development Agency or”.

Commencement Information

I92 Sch. 8 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

Freedom of Information Act 2000 (c. 36)

- 10 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The Qualifications and Curriculum Development Agency.”

Commencement Information

I93 Sch. 8 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 2002

- 11 EA 2002 is amended as follows.

Commencement Information

I94 Sch. 8 para. 11 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2

I95 Sch. 8 para. 11 in force at 1.4.2012 in so far as not already in force by S.I. 2012/924, art. 2

- 12 In section 85(9) (curriculum requirements for the fourth key stage: duty to have regard to guidance) for “Qualifications and Curriculum Development Agency” substitute “Secretary of State”.

Commencement Information

I96 Sch. 8 para. 12 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 13 In section 87(7) (establishment of the National Curriculum for England by order: persons on whom assessment arrangements order may confer or impose functions) omit paragraph (c) (but not the “and” immediately after it).

Commencement Information

I97 Sch. 8 para. 13 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 14 (1) Section 90 (development work and experiments) is amended as follows.
- (2) In subsection (3)—
- (a) after paragraph (a) insert “ or ”;
- (b) omit paragraph (c) (and the “or” immediately before it).
- (3) In subsection (4) omit the words after “by the governing body”.

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- (4) In subsection (5), for paragraph (b) substitute—
 - “(b) a person designated for the purposes of this subsection by the Secretary of State.”
- (5) In subsection (5A) for “the reviewing body” substitute “ a person designated for the purposes of this subsection by the Secretary of State ”.
- (6) Omit subsection (5B).
- (7) In subsection (5C) for “subsection (5B)” substitute “ subsection (5)(b) or (5A) ”.

Commencement Information

I98 Sch. 8 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

15 For section 96 substitute—

“96 Procedure for making certain orders and regulations

- (1) This section applies where the Secretary of State proposes to make—
 - (a) an order under section 82(4), 84(6) or 87(3)(a) or (b), or
 - (b) regulations under section 91.
- (2) The Secretary of State must give notice of the proposal to such of the following as appear to the Secretary of State to be concerned with the proposal—
 - (a) associations of local authorities,
 - (b) bodies representing the interests of school governing bodies, and
 - (c) organisations representing school teachers.
- (3) The Secretary of State must also give notice of the proposal to any other persons with whom consultation appears to the Secretary of State to be desirable.
- (4) The Secretary of State must give the bodies and other persons mentioned in subsections (2) and (3) a reasonable opportunity of submitting evidence and representations as to the issues arising from the proposal.
- (5) After considering any evidence and representations submitted in pursuance of subsection (4), the Secretary of State must publish, in such manner as, in the Secretary of State's opinion, is likely to bring them to the notice of persons with a special interest in education—
 - (a) a draft of the proposed order or regulations and any associated document, and
 - (b) a summary of the views expressed during the consultation.
- (6) The Secretary of State must allow a period of at least one month beginning with the publication of the draft of the proposed order or regulations for the submission of any further evidence and representations as to the issues arising.
- (7) When the period allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.”

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Commencement Information

I99 Sch. 8 para. 15 in force at 15.1.2012 by S.I. 2012/84, art. 2

Childcare Act 2006 (c. 21)

16 The Childcare Act 2006 is amended as follows.

Commencement Information

I100 Sch. 8 para. 16 in force at 1.4.2012 by S.I. 2012/924, art. 2

17 In section 42(2) (persons on whom order specifying assessment arrangements may confer or impose functions) omit paragraph (d) (but not the “and” immediately after it).

Commencement Information

I101 Sch. 8 para. 17 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 18 (1) Section 46 (power to enable exemptions from learning and development requirements to be conferred) is amended as follows.
- (2) In subsection (1B) for “the reviewing body” substitute “ a person designated by the Secretary of State for the purposes of this subsection ”.
- (3) Omit subsection (1C).
- (4) In subsection (1D) for “subsection (1C)” substitute “ subsection (1B) ”.

Commencement Information

I102 Sch. 8 para. 18 in force at 1.4.2012 by S.I. 2012/924, art. 2

EIA 2006

19 EIA 2006 is amended as follows.

Commencement Information

I103 Sch. 8 para. 19 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 20 In section 74(1) (curriculum requirements for the fourth key stage)—
- (a) in the new section 85 to be inserted into EA 2002, in subsection (6) for “Qualifications and Curriculum Authority” substitute “ Secretary of State ”;
- (b) in the new section 85A to be inserted into that Act, in subsection (5) omit “or the Qualifications and Curriculum Authority”.

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Commencement Information

I104 Sch. 8 para. 20 in force at 1.4.2012 by S.I. 2012/924, art. 2

Safeguarding Vulnerable Groups Act 2006 (c. 47)

- 21 In section 21(10) of the Safeguarding Vulnerable Groups Act 2006 (controlled activity relating to children) omit paragraph (d).

Commencement Information

I105 Sch. 8 para. 21 in force at 1.4.2012 by S.I. 2012/924, art. 2

ASCLA 2009

- 22 ASCLA 2009 is amended as follows.

Commencement Information

I106 Sch. 8 para. 22 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2

I107 Sch. 8 para. 22 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 23 In section 129(4) (persons who provide information to which Ofqual required to have regard) omit paragraph (a).

Commencement Information

I108 Sch. 8 para. 23 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 24 Section 173 and Schedule 10 (QCDA staff and property transfer schemes) are repealed.

Commencement Information

I109 Sch. 8 para. 24 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 25 In paragraph 8 of Schedule 5 (learning aims for persons aged 19 or over: persons who provide advice or information to which Secretary of State may have regard) omit paragraph (b) (but not the “or” immediately after it).

Commencement Information

I110 Sch. 8 para. 25 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 26 In consequence of the amendments made by the other provisions of this Schedule, in Schedule 12 (Ofqual and the QCDA: minor and consequential amendments), omit the following provisions: paragraphs 1, 2(3), 3, 4, 5(2), 7, 10, 20, 30, 33, 34, 36(2), 37 and 43.

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Commencement Information

- I111** Sch. 8 para. 26 in force at 15.1.2012 for specified purposes by S.I. 2012/84, art. 2
I112 Sch. 8 para. 26 in force at 1.4.2012 in so far as not already in force by S.I. 2012/924, art. 2

SCHEDULE 9

Section 27

ABOLITION OF THE QCDA: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—
- (a) for a designated employee of the QCDA to become a member of staff of Ofqual or the Secretary of State (“the Crown employer”) (and accordingly to become employed in the civil service of the state);
 - (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the QCDA to have effect as if they were the conditions of service as a member of the Crown employer's staff;
 - (c) for the transfer to the Crown employer of the rights, powers, duties and liabilities of the QCDA under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the QCDA in respect of such a contract or the employee to be treated as having been done by or in relation to the Crown employer.
- (2) A staff transfer scheme may provide for a period before the employee became a member of the Crown employer's staff to count as a period during which the employee was a member of the Crown employer's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (3) A staff transfer scheme may provide for the employee not to become a member of the Crown employer's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the QCDA to become a member of the Crown employer's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

Commencement Information

- I113** Sch. 9 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with arts. 4, 5)

Changes to legislation: *Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes*

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the QCDA of designated property, rights or liabilities of the QCDA to Ofqual or the Secretary of State.
- (2) A property transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the QCDA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property 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.

Commencement Information

I114 Sch. 9 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with arts. 4, 5)

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the QCDA before the transfer takes effect.

Commencement Information

I115 Sch. 9 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with arts. 4, 5)

Supplementary provision etc.

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Commencement Information

I116 Sch. 9 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with arts. 4, 5)

Interpretation

- 5 In this Schedule—
- “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;

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“Ofqual” means the Office of Qualifications and Examinations Regulation;

“the QCDA” means the Qualifications and Curriculum Development Agency.

Commencement Information

I117 Sch. 9 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2 (with arts. 4, 5)

SCHEDULE 10

Section 34

SCHOOL ADMISSIONS: CONSEQUENTIAL AMENDMENTS

Amendments consequential on the amendments to section 85A (admission forums)

- 1 (1) Part 3 of SSFA 1998 (school admissions) is amended as follows.
 - (2) Section 85B (functions of admission forums in relation to Academies) is repealed.
 - (3) In section 88F (sections 88C to 88E: supplementary), in subsection (3), omit paragraph (f) (but not the “and” following it).
 - (4) In section 88Q (reports under section 88P: provision of information), in subsection (2), omit paragraph (b).

Commencement Information

I118 Sch. 10 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 2 In EA 2002, section 66 (insertion of section 85B of SSFA 1998: admissions forums in relation to Academies) is repealed.

Commencement Information

I119 Sch. 10 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 3 In EIA 2006, in section 41 (role of admissions forums), omit subsections (1) to (6) (amendments to section 85A of SSFA 1998).

Commencement Information

I120 Sch. 10 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3

Amendments consequential on the repeal of section 88J of SSFA 1998 (school adjudicators)

- 4 (1) Part 3 of SSFA 1998 (school admissions) is amended as follows.
 - (2) In section 88K (sections 88H to 88J: supplementary)—
 - (a) in subsection (1)—

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- (i) at the end of paragraph (a), insert “ or ”;
- (ii) omit paragraph (c) (and the “or” preceding it);
- (b) for subsection (3), substitute—
 - “(3) Where the adjudicator makes a decision mentioned in subsection (1), the adjudicator must publish a report containing—
 - (a) the adjudicator's decision on the objection or (as the case may be) on whether the admission arrangements conform with the requirements relating to admission arrangements, and
 - (b) the reasons for that decision.”;
 - (c) in subsection (4)(a)(ii), for “to 88J” substitute “ , 88I ”;
 - (d) in subsection (5), for “sections 88I and 88J” substitute “ section 88I ”;
 - (e) in the heading, for “to 88J” substitute “ and 88I ”.
- (3) Section 88L (restriction on alteration of admission arrangements following adjudicator's decision) is repealed.

Commencement Information

I121 Sch. 10 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3

SCHEDULE 11

Section 37

ESTABLISHMENT OF NEW SCHOOLS

Amendments to Part 2 of EIA 2006

- 1 Part 2 of EIA 2006 (establishment, discontinuance and alteration of schools) is amended as follows.

Commencement Information

I122 Sch. 11 para. 1 in force at 1.2.2012 for specified purposes by S.I. 2012/84, art. 3 (with art. 4)

I123 Sch. 11 para. 1 in force at 1.9.2012 for specified purposes by S.I. 2012/2213, art. 2

- 2 Before section 7 insert—

Requirement to seek proposals for establishment of new Academies

“6A (1) If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy.

- (2) The local authority must specify a date by which any proposals sought under subsection (1) must be submitted to them.
- (3) After the specified date, the local authority must notify the Secretary of State—

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- (a) of the steps they have taken to seek proposals for the establishment of an Academy, and
 - (b) of any proposals submitted to them as a result before the specified date, or of the fact that no such proposals have been submitted to them before that date.
- (4) A notification under subsection (3) must—
- (a) identify a possible site for the Academy, and
 - (b) specify such matters as may be prescribed.”

Commencement Information

I124 Sch. 11 para. 2 in force at 1.2.2012 for specified purposes by S.I. 2012/84, art. 3 (with art. 4)

I125 Sch. 11 para. 2 in force at 1.9.2012 for specified purposes by S.I. 2012/2213, art. 2

- 3 In section 7 (invitation for proposals for establishment of new schools)—
- (a) in subsection (1), after “may” insert “ with the consent of the Secretary of State ”;
 - (b) in subsection (5), omit paragraph (b) and the “and” immediately before it;
 - (c) omit subsection (5A);
 - (d) in subsection (6), insert “ and ” at the end of paragraph (a) and omit paragraph (c) and the “and” immediately before it.

Commencement Information

I126 Sch. 11 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 4 After section 7 insert—

“7A Withdrawal of notices under section 7

- (1) This section applies where a local authority have published a notice under section 7.
- (2) At any time before the date specified in the notice—
 - (a) the local authority may withdraw it, with the consent of the Secretary of State, or
 - (b) the Secretary of State may direct the local authority to withdraw it.”

Commencement Information

I127 Sch. 11 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 5 Section 8 (proposals under section 7 relating to community or community special schools) is repealed.

Commencement Information

I128 Sch. 11 para. 5 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

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- 6 (1) Section 10 (publication of proposals with consent of Secretary of State) is amended as follows.
- (2) In subsection (1), for the words from “(otherwise” to the end substitute “a new community, community special, foundation or foundation special school, which—
- (a) is not to be one providing education suitable only to the requirements of persons above compulsory school age, and
 - (b) is to replace one or more maintained schools, except where section 11(A2) applies or in a case within section 11(A3).”
- (3) In subsection (2)—
- (a) after “voluntary” insert “ controlled ”;
 - (b) in paragraph (b), for “(2)(b) or (c)” substitute “ (2) ”.

Commencement Information

I129 Sch. 11 para. 6 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

- 7 (1) Section 11 (publication of proposals to establish maintained schools: special cases) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Subsection (A2) applies where a local authority in England publish a notice under section 7 (notice inviting proposals for establishment of new schools), and—
- (a) no proposals are made pursuant to the notice, or
 - (b) proposals are made pursuant to the notice but none of the proposals are approved under Schedule 2 or result in Academy arrangements being entered into.
- (A2) The local authority may publish under this section proposals of their own to establish a new community, community special, foundation or foundation special school, which is not to be one providing education suitable only to the requirements of persons above compulsory school age.
- (A3) Where a local authority in England propose to establish a new community, community special, foundation or foundation special school, which—
- (a) is to be a primary school, and
 - (b) is to replace a maintained infant school and a maintained junior school,
- the authority must publish their proposals under this section.”
- (3) After subsection (1) insert—
- “(1A) Where any persons (“proposers”) propose to establish a new voluntary aided school in England, they may publish their proposals under this section.”
- (4) In subsection (2)—
- (a) after “voluntary” insert “ controlled ”;
 - (b) before paragraph (b) insert—
 - “(aa) is to replace one or more foundation or voluntary schools which have a religious character,”.

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(5) After subsection (2) insert—

“(2A) For the purposes of subsection (2)(aa), a new foundation or voluntary controlled school replaces a foundation or voluntary school which has a religious character if it is proposed that the new school—

- (a) should have the same religious character,
- (b) should have a different religious character, or
- (c) should not have a religious character.”

(6) In subsection (3), after “voluntary” insert “ controlled ”.

(7) In subsection (7), after “subsection” insert “ (1A) or ”.

(8) For subsection (9) substitute—

“(9) In this section—

“maintained infant school” means a maintained school that provides primary education suitable to the requirements of children of compulsory school age who have not attained the age of 8;

“maintained junior school” means a maintained school that provides primary education suitable to the requirements of junior pupils who have attained the age of 7;

“non-maintained special school” means a school which is approved under section 342 of EA 1996.”

Commencement Information

I130 Sch. 11 para. 7 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

8 In section 11A(1) (restriction on power of governing body to make proposals), for “11(2)” substitute “ 11(1A) or (2) ”.

Commencement Information

I131 Sch. 11 para. 8 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

9 In section 12 (establishment of school as a federated school), in subsection (1), after “new” insert “ maintained ”.

Commencement Information

I132 Sch. 11 para. 9 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

10 (1) Schedule 2 (consideration, approval and implementation of proposals for establishment or discontinuance of schools in England) is amended as follows.

(2) After paragraph 3 insert—

“ “Academy proposals” and “non-Academy proposals”

3A In this Schedule—

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- (a) “Academy proposals” means proposals under section 7 for the establishment of an Academy, and
 - (b) “non-Academy proposals” means proposals under section 7 for the establishment of a school falling within subsection (2)(a) of that section.”
- (3) In paragraph 4(a) (references to persons by whom proposals under section 7 are made), omit “or in the case of proposals published by the relevant authority under subsection (5)(b) of that section, by the relevant authority.”
- (4) In paragraph 5(b) (requirement to forward objections and comments made in relation to proposals)—
- (a) for “referred to” substitute “ to be considered by the Secretary of State or ”;
 - (b) after “forward to” insert “ the Secretary of State or (as the case may be) ”.
- (5) In the heading to Part 2, omit “by Local Authority or Adjudicator”.
- (6) For the heading before paragraph 6 substitute “ *Consideration of proposals* ”.
- (7) Before paragraph 6 insert—
- “5A (1) Academy proposals do not require consideration under paragraph 8 (see paragraph 7A instead).
- (2) If proposals under section 7 consist wholly of non-Academy proposals, the proposals require consideration under paragraph 8.
- (3) If proposals under section 7 include both Academy proposals and non-Academy proposals, the non-Academy proposals do not require consideration under paragraph 8 unless and until paragraph 7A(5) or (6) applies.”
- (8) In paragraph 6 (proposals under section 7, 10 or 11 requiring consideration under paragraph 8), omit “7,”.
- (9) After paragraph 7 insert—
- “7A (1) This paragraph applies where proposals under section 7 consist of or include Academy proposals.
- (2) The Secretary of State must decide whether to enter into Academy arrangements as a result of any of the Academy proposals.
- (3) The Secretary of State must notify the relevant authority of a decision under sub-paragraph (2).
- (4) Sub-paragraphs (5) and (6) apply where the proposals under section 7 include non-Academy proposals.
- (5) If the Secretary of State decides not to enter into Academy arrangements as a result of any of the Academy proposals, the non-Academy proposals require consideration under paragraph 8.
- (6) In any other case, the Secretary of State may direct that all or any of the non-Academy proposals require consideration under paragraph 8.”
- (10) Omit the heading before paragraph 8.

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- (11) In paragraph 9 (consideration of proposals that are related to other proposals), for sub-paragraph (2) substitute—
- “(2) Where proposals within sub-paragraph (2A) appear to the relevant authority to be related to other proposals within that sub-paragraph that have not yet been determined, the authority must consider the proposals together.
- (2A) The proposals within this sub-paragraph are—
- (a) proposals under section 7 that require consideration by the authority under paragraph 8;
- (b) proposals under section 10, 11 or 15.”
- (12) In paragraph 10(1) (duty to refer to adjudicator certain proposals made by or involving relevant authority), for paragraph (a) substitute—
- “(a) all the proposals published under section 7 in response to a notice under that section and which—
- (i) would otherwise require consideration by the authority under paragraph 8, and
- (ii) consist of or include proposals which relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2);”.
- (13) In paragraph 12 (duty to refer proposals to adjudicator in pursuance of direction of Secretary of State)—
- (a) in sub-paragraph (1)(a)—
- (i) after “section 7” insert “ and which require consideration under paragraph 8 ”;
- (ii) after “determined by the authority” insert “ under that paragraph ”;
- (b) in sub-paragraph (1)(b), after “that section” insert “ and which require consideration under paragraph 8, ”;
- (c) omit sub-paragraphs (2) and (3).
- (14) In paragraph 13 (duty to refer proposals to adjudicator where determination delayed), in paragraph (a), after “section 7” insert “ and which require consideration under paragraph 8 ”.
- (15) Omit paragraph 18 and the heading before it (consultation in respect of proposals to establish Academy).
- (16) In paragraph 19(4) (determination whether or not to implement proposals under section 15 not requiring consideration under paragraph 8)—
- (a) after paragraph (a) insert—
- “(aa) proposals published under section 7 that require consideration under paragraph 8 and are not yet determined;”;
- (b) in paragraph (b), omit “7”.
- (17) Omit paragraph 27 (proposals relating to Academy: implementation).

Commencement Information

I133 Sch. 11 para. 10 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

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Other amendments

11 In Schedule 2 to AA 2010 (Academies: amendments), omit paragraph 22.

Commencement Information

I134 Sch. 11 para. 11 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 4)

SCHEDULE 12

Section 49

FURTHER EDUCATION INSTITUTIONS: AMENDMENTS

Amendments to FHEA 1992

1 FHEA 1992 is amended as follows.

Commencement Information

I135 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

I136 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) [^{F3}In subsection (4A), after “exercised” insert “ by a further education corporation in Wales ”.]

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

- (4) [^{F3}In subsection (4AA), after “exercised” insert “ by a further education corporation in Wales ”.]
- (5) [^{F3}In subsection (4AB), for “appropriate authority consents” substitute “ Welsh Ministers consent ”.]
- (6) Omit subsection (4AC).
- (7) In subsection (4B)—
 - (a) [^{F4}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) [^{F5}In subsection (5)—
 - (a) after “exercised” insert “ by a further education corporation in Wales ”;
 - (b) for “appropriate body” substitute “ Welsh Ministers ”.]

Textual Amendments

- F3** Sch. 12 para. 3(3)-(5) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 7**; S.I. 2014/1706, art. 3(h)
- F4** Sch. 12 para. 3(7)(a) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 7**; S.I. 2014/1706, art. 3(h)
- F5** Sch. 12 para. 3(9) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 7**; S.I. 2014/1706, art. 3(h)

Commencement Information

- I137** 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

- I138** Sch. 12 para. 4 in force at 1.4.2012 by S.I. 2012/924, **art. 2**

- 5 [^{F6}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.”]

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

Textual Amendments

F6 Sch. 12 para. 5 omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), [Sch. 2 para. 7](#); S.I. 2014/1706, art. 3(h)

Commencement Information

I139 Sch. 12 para. 5 in force at 1.4.2012 by The Education Act 2011 (Commencement No. 3 and Transitional and Savings Provisions) Order 2012 (S.I. 2012/924), art. 2

6 ^{F7}For section 22 substitute—

“Subsequent instruments and articles: England

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

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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

- (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.
- (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.”]

Textual Amendments

F7 Sch. 12 para. 6 omitted (1.9.2014) by virtue of [Further and Higher Education \(Governance and Information\) \(Wales\) Act 2014 \(anaw 1\)](#), s. 11(2), [Sch. 2 para. 7](#); S.I. 2014/1706, art. 3(h)

Commencement Information

I140 Sch. 12 para. 6 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

7 [F8For section 27 substitute—

“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.

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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

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.

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.”]

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

Textual Amendments

F8 Sch. 12 para. 7 omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 7**; S.I. 2014/1706, art. 3(h)

Commencement Information

I141 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).
- (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;

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- (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
 - (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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

- (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

I142 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 ”.

Commencement Information

I143 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

I144 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

I145 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) ”.

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Commencement Information

I146 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

I147 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

I148 Sch. 12 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

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

Commencement Information

I149 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) [F9 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.”

Textual Amendments

F9 Sch. 12 para. 16(a) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), Sch. 2 para. 7; S.I. 2014/1706, art. 3(h)

Commencement Information

I150 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).”

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- (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

I151 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

I152 Sch. 12 para. 18 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 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

I153 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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

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.
- (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

I154 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

I155 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.

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Commencement Information

I156 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

I157 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

I158 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.
(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

I159 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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

Commencement Information

I160 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

I161 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

I162 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.

Commencement Information

I163 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 ”;

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

Commencement Information

I164 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

I165 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

I166 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

I167 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.

Changes to legislation: Education Act 2011 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes

Commencement Information

I168 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

I169 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.
- (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

I170 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

I171 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 ”.

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Commencement Information

I172 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

I173 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) ”.
- (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

I174 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

I175 Sch. 12 para. 41 in force at 1.4.2012 by S.I. 2012/924, art. 2

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- 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

I176 Sch. 12 para. 42 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 43 ^[F10]For Schedule 4 substitute—

“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,

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- (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
 - (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.

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- 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,
 - (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.

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- 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.”]

Textual Amendments

F10 Sch. 12 para. 43 omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), Sch. 2 para. 7; S.I. 2014/1706, art. 3(h)

Commencement Information

I177 Sch. 12 para. 43 in force at 1.4.2012 by S.I. 2012/924, art. 2

Other amendments

- 44 (1) LSA 2000 is amended as follows.
- (2) In section 110 (secondary education), in subsection (5), for “51(3A)” substitute “16A(2)”.
 - (3) In section 143 (further education sector: designated institutions), in subsection (6) (b), for “section 29” substitute “any of sections 29 to 29C”.

Commencement Information

I178 Sch. 12 para. 44 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 45 [F11]In section 22 of the Further Education and Training Act 2007 (consultation of further education institutions), in the new section 49A to be inserted into FHEA 1992 in relation to Wales—
- (a) in subsection (1)—
 - (i) after “further education sector” insert “ in Wales ”;
 - (ii) for “appropriate authority” substitute “ Welsh Ministers ”;
 - (b) omit subsection (3).]

Textual Amendments

F11 Sch. 12 para. 45 omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), Sch. 2 para. 7; S.I. 2014/1706, art. 3(h)

Commencement Information

I179 Sch. 12 para. 45 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 46 (1) ASCLA 2009 is amended as follows.
- (2) In section 256 (further education corporations in England: co-operation and promotion of well-being), omit subsection (3).

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(3) In Schedule 6 (dissolution of the Learning and Skills Council for England: minor and consequential amendments), omit paragraphs 3(2), 4(a), 5(a), 7(2), (3), (4)(b), (5)(a), (6) and (7), 8 to 11 and 12(a).

(4) In Schedule 8 (sixth form college sector), omit paragraphs 7 and 11(3).

Commencement Information

I180 Sch. 12 para. 46 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 13

Section 54

16 TO 19 ACADEMIES AND ALTERNATIVE PROVISION
 ACADEMIES: CONSEQUENTIAL AMENDMENTS

AA 2010

1 AA 2010 is amended as follows.

Commencement Information

I181 Sch. 13 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

2 In section 4(3) (Academy orders: when maintained school is “converted into” Academy) for “a school” substitute “an educational institution”.

Commencement Information

I182 Sch. 13 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

3 (1) Section 6 (effect of Academy order) is amended as follows.

(2) In subsection (2), for “a school” substitute “an educational institution”.

(3) In subsection (3) —

- (a) after “selective school” insert “and is to be converted into an Academy school”;
- (b) for “section 1(6)(c)” substitute “section 1A(1)(c)”;
- (c) for “a school” substitute “an educational institution”.

(4) In subsection (5)—

- (a) at the beginning insert “If the Academy is an Academy school,”;
- (b) for “the Academy” substitute “it”.

(5) In subsection (7), after “the school” insert “(a)” and at the end insert “, and “(b) is to be converted into an Academy school.”

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Commencement Information

I183 Sch. 13 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 4 In section 10A (charges at boarding Academies) (inserted by section 61), in subsection (1)(a), for “an Academy” substitute “ an Academy school or an alternative provision Academy ”.

Commencement Information

I184 Sch. 13 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 5 (1) Schedule 1 (Academies: land) (substituted by Schedule 14) is amended as follows.
- (2) In paragraph 10 (power of Secretary of State to make direction where Academy order made)—
- (a) in sub-paragraph (1)(b), for “Academy” substitute “ Academy school ”;
 - (b) in sub-paragraph (3)(c), for “Academy” substitute “ Academy school ”.
- (3) In paragraph 13 (transfer of land and other property on dissolution of governing body), in sub-paragraph (3)(b), for “Academy” substitute “ Academy school ”.

Commencement Information

I185 Sch. 13 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

Other Acts

- 6 (1) The Children Act 1989 is amended as follows.
- (2) In section 62 (voluntary organisations providing accommodation: duties of local authorities), in subsection (10), after “1992,” insert “ a 16 to 19 Academy ”.
- (3) In section 80 (inspection of children's homes etc by persons authorised by Secretary of State)—
- (a) in subsection (5), after paragraph (dc) insert—
“(dd) proprietor of a 16 to 19 Academy;”;
 - (b) in subsection (13), in the definition of “college”, after “1992” insert “ or a 16 to 19 Academy ”;
 - (c) in subsection (13), at the end insert—
““proprietor” has the same meaning as in the Education Act 1996.”
- (4) In section 87 (welfare of children in boarding schools and colleges)—
- (a) in subsection (10), in the definition of “college”, after “1992 Act” insert “ or a 16 to 19 Academy ”;
 - (b) in subsection (11), after paragraph (c) insert—
“(d) in relation to a 16 to 19 Academy, the proprietor of the Academy.”

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Commencement Information

I186 Sch. 13 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 7 In Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges), after paragraph 10 insert—
 “10A A 16 to 19 Academy.”

Commencement Information

I187 Sch. 13 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 8 (1) FHEA 1992 is amended as follows.
- (2) In section 85A (nuisance or disturbance on educational premises)—
- (a) in subsection (2), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) any 16 to 19 Academy.”;
 - (b) in subsection (4), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) in relation to premises of a 16 to 19 Academy, the proprietor.”;
 - (c) in subsection (6), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) in relation to an offence committed on premises of a 16 to 19 Academy, a person whom the proprietor has authorised to bring such proceedings.”
- (3) In section 85AA (power of members of staff to search students for prohibited items: England)—
- (a) in subsection (1), after “England” insert “, or a 16 to 19 Academy, ”;
 - (b) in subsection (6), in the definition of “member of staff”, after “further education sector” insert “ or a 16 to 19 Academy ”.
- (4) In section 85AB (power of search under section 85AA: supplementary), in subsection (3), after “England” insert “, or a principal of a 16 to 19 Academy, ”.
- (5) In section 85C (power of members of staff to use force)—
- (a) in subsection (1), after “further education sector” insert “ or is a 16 to 19 Academy ”;
 - (b) in subsection (5), after “further education sector” insert “ or a 16 to 19 Academy ”.

Commencement Information

I188 Sch. 13 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 9 (1) EA 1996 is amended as follows.
- (2) In section 4 (schools: general)—

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- (a) in subsection (1), for “subsection (1A)” substitute “ subsections (1A) to (1C) ”;
 - (b) after subsection (1A) insert—
 - “(1B) A 16 to 19 Academy is not a school.
 - (1C) An alternative provision Academy is a school.”
- (3) In section 11 (Secretary of State's duty in the case of primary, secondary and further education)—
- (a) in subsection (1)(a), omit the “or” after sub-paragraph (i) and after sub-paragraph (ii) insert “or
 - (iii) in 16 to 19 Academies,”;
 - (b) in subsection (1)(b), for “or institutions within the further education sector” substitute “ , institutions within the further education sector or 16 to 19 Academies ”;
 - (c) in subsection (2), for “and institutions within the further education sector” substitute “ , institutions within the further education sector and 16 to 19 Academies ”.
- (4) In section 329A (review or assessment of educational needs at request of responsible body), in subsection (12), after paragraph (d) insert—
 - “(da) an alternative provision Academy that is not an independent school,”.
- (5) In section 332B (special educational provision: resolution of disputes), in subsection (8)(c), for “or an Academy” substitute “ , an Academy school or an alternative provision Academy ”.
- (6) In section 337 (special schools), in paragraph (b), for “Academy” substitute “ Academy school ”.
- (7) In section 444 (offence: failure to secure regular attendance at school of registered pupil), in subsection (7A)(a), for sub-paragraph (iii) substitute—
 - “(iii) an Academy school,
 - (iiia) an alternative provision Academy,”.
- (8) In section 444ZA (application of section 444 to alternative education provision), in subsection (8)—
- (a) in paragraph (a), for sub-paragraph (iii) substitute—
 - “(iii) an Academy school,
 - (iiia) an alternative provision Academy,”;
 - (b) in paragraph (b), after “(iii),” insert “ (iiia), ”.
- (9) In section 444B (penalty notices: supplemental), in subsection (4), in the definition of “relevant school”, for paragraph (c) substitute—
 - “(c) an Academy school,
 - (ca) an alternative provision Academy,”.
- (10) In section 508A (local authorities in England: duty to promote sustainable modes of travel)—
- (a) in subsection (5)(b), after “further education sector” insert “ , or 16 to 19 Academies, ”;

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- (b) in subsection (6)(b), after “further education sector” insert “, or 16 to 19 Academies,”.
- (11) In section 508C (local authorities in England: travel arrangements etc for children other than eligible children), in subsection (6)(b), after “further education sector” insert “, or 16 to 19 Academy,”.
- (12) In section 508G (local authorities in England: transport policy statements for young adults subject to learning difficulty assessment), in subsection (1), after paragraph (b) insert—
“(ba) proprietors of 16 to 19 Academies in the authority's area,”.
- (13) In section 509AA (local authorities in England: provision of transport etc for persons of sixth form age)—
(a) in subsection (2), omit the “or” at the end of paragraph (c) and after that paragraph insert—
“(ca) at any 16 to 19 Academy, or”;
(b) in subsection (2)(d), for “or (c)” substitute “, (c) or (ca)”.
- (14) In section 510 (provision of clothing), in subsection (4)(b), after “further education sector” insert “ or a 16 to 19 Academy ”.
- (15) In section 537 (power of Secretary of State to require information from governing bodies etc), in subsection (1)(b), after “every” insert “ (i) ” and at the end insert “or
“(ii) alternative provision Academy which is not an independent school,”.
- (16) In section 557 (adoption of statutory trusts), in subsection (10), in the definition of “relevant school”, for “Academy,” substitute “ Academy school, alternative provision Academy, ”.
- (17) In section 579(1) (general interpretation)—
(a) in the definition of “Academy”, for “a school” substitute “ an educational institution ”;
(b) after the definition of “Academy order” insert—
““Academy school”, “16 to 19 Academy” and “alternative provision Academy” have the meanings given by sections 1A, 1B and 1C respectively of that Act;”;
(c) in the definition of “proprietor”—
(i) after “a school” insert “ or a 16 to 19 Academy ”;
(ii) after “the school” insert “ or Academy ”.
- (18) In section 580 (index), at the appropriate places insert the following entries—

“Academy school	Section 579(1)”
“alternative provision Academy	Section 579(1)”
“16 to 19 Academy	Section 579(1)”

- (19) In paragraph 15(2) of Schedule 1 (management committees of pupil referral units), after paragraph (g) insert—

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“(ga) about the effect of closure of a pupil referral unit on members of the management committee for the unit or members of any sub-committee;”.

(20) In paragraph 15(2) of Schedule 35B (travel arrangements for eligible children: meaning of “qualifying school”), in paragraph (f), for “or an Academy” substitute “, an Academy school or an alternative provision Academy”.

Commencement Information

I189 Sch. 13 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 10 (1) SSFA 1998 is amended as follows.
- (2) In section 77 (control of disposals or changes in use of school playing fields) (as amended by Schedule 14)—
- (a) in subsection (2B)(c)(ii), for “of Academy” substitute “ of Academy school ”;
 - (b) in subsection (3), for “Academy” (in both places) substitute “ Academy school ”;
 - (c) in subsection (4B), for “Academy” substitute “ Academy school ”.
- (3) In section 88 (admission authorities and admission arrangements), in subsection (1) (c) (inserted by section 64), for “Academy” (in both places) substitute “ Academy school ”.
- (4) In section 88H (reference of objections to adjudicator) (as amended by section 64)—
- (a) in subsection (1A), for “an Academy” (in both places) substitute “ an Academy school ”;
 - (b) in subsection (6)(b), for “Academy” substitute “ Academy school ”.
- (5) In section 88I (other functions of adjudicator relating to admission arrangements), in subsection (1)(b) (inserted by section 64), for “Academy” substitute “ Academy school ”.
- (6) In section 88K (sections 88H and 88I: supplementary) (as amended by section 64)—
- (a) in subsection (4)(a), for “Academy” substitute “ Academy school ”;
 - (b) in subsection (5)(b), for “an Academy” substitute “ an Academy school ”.
- (7) In section 88P (reports by local authorities), in subsection (3)(b), for “Academy” substitute “ Academy school ”.
- (8) In section 88Q (reports under section 88P: provision of information), in subsection (2)(d)(i), for “Academy” substitute “ Academy school ”.

^{F12}(9)

Textual Amendments

F12 Sch. 13 para. 10(9) omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), Sch. 16 para. 2(2)(d); S.I. 2015/2074, art. 2

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Commencement Information

I190 Sch. 13 para. 10 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

- 11 In section 24 of the Anti-social Behaviour Act 2003 (sections 19 to 22A and 24: interpretation)—
- (a) in the definition of “governing body”, for “Academy” substitute “Academy school, alternative provision Academy”;
 - (b) in the definition of “relevant school”, for paragraph (e) substitute—
 - “(e) an Academy school,
 - (ea) an alternative provision Academy,”.

Commencement Information

I191 Sch. 13 para. 11 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

- 12 In section 14 of the International Development Act 2002 (functions of the Commonwealth Scholarship Commission etc), in subsection (1)(b)(i), after “higher education sector” insert “, at 16 to 19 Academies”.

Commencement Information

I192 Sch. 13 para. 12 in force at 1.4.2012 by [S.I. 2012/924](#), [art. 2](#)

- 13 (1) EA 2002 is amended as follows.
- (2) In section 135A (requirement to serve induction period: teachers in England) (inserted by section 9)—
 - (a) in subsection (1)(d), after “prescribed description” insert “ or a 16 to 19 Academy”;
 - (b) in subsection (2)(k), for “or to institutions within the further education sector” substitute “institutions within the further education sector or 16 to 19 Academies”;
 - (c) in subsection (5), after “further education sector” insert “ or a 16 to 19 Academy”.
 - (3) In section 141A (teacher misconduct: teachers to whom sections 141B to 141E apply) (inserted by section 8), in subsection (1), after paragraph (b) insert—
 - “(ba) a 16 to 19 Academy,”.
 - (4) In section 141D (supply of information following dismissal, resignation etc) (inserted by section 8), in subsection (4), in paragraph (c) of the definition of “relevant employer”, after “school” insert “ or 16 to 19 Academy”.
 - (5) In section 203 (further education institutions: hazardous material, etc)—
 - (a) after subsection (1) insert—
 - “(1A) The Secretary of State may by regulations require the proprietor of a 16 to 19 Academy to prevent the use in the Academy of specified equipment or specified materials without the approval of the Secretary of State.”;

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- (b) in subsection (5), at the end insert “ and “proprietor” has the same meaning as in the Education Act 1996 ”.

Commencement Information

I193 Sch. 13 para. 13 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 14 In section 71 of the Income Tax (Trading and Other Income) Act 2005 (educational establishments for the purposes of section 70), in subsection (1), omit the “or” after paragraph (c) and after paragraph (d) insert “, or
(e) a 16 to 19 Academy.”

Commencement Information

I194 Sch. 13 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 15 (1) EA 2005 is amended as follows.
(2) In section 5 (duty to inspect certain schools at prescribed intervals), in subsection (2), for paragraph (d) substitute—
“(d) Academy schools,
(da) alternative provision Academies,”.
(3) In section 113 (information about the school workforce: introductory), in subsection (2)(c), after “institution” insert “ or a 16 to 19 Academy ”.

Commencement Information

I195 Sch. 13 para. 15 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 16 (1) EIA 2006 is amended as follows.
(2) In section 7 (invitation for proposals for establishment of new schools), in subsection (2)(b), for “Academy” substitute “ Academy school ”.
(3) In section 100 (duty of governing body or proprietor where pupil excluded for fixed period), in subsection (5), in the definition of “governing body”, for “Academy,” substitute “ Academy school, an alternative provision Academy, ”.
(4) In section 104 (notice to parent relating to excluded pupil), in subsection (8), in paragraph (c) of the definition of “the appropriate authority”, for “Academy,” substitute “ Academy school, an alternative provision Academy, ”.
(5) In section 111 (meaning of “maintained school” and “relevant school” in Chapter 2 of Part 7), in the definition of “relevant school”, for paragraph (b) substitute—
“(b) an Academy school,
(ba) an alternative provision Academy,”.
(6) In section 123 (inspections: education and training to which Chapter applies), in subsection (1) after paragraph (b) insert—
“(ba) education provided in 16 to 19 Academies;”.

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- (7) In section 125 (inspection of further education institutions), in subsection (1) (amended by section 42), after “sector” insert “, and all 16 to 19 Academies,”.
- (8) In Schedule 2 (consideration, approval and implementation of proposals for establishment or discontinuance of schools in England), in paragraph 3A(a) (inserted by Schedule 11), for “an Academy” substitute “an Academy school”.

Commencement Information

I196 Sch. 13 para. 16 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 17 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In section 21 (controlled activity relating to children), in subsection (4), after “Education Act 2002” insert “ or a 16 to 19 Academy ”.
- (3) In section 59 (meaning of “vulnerable adults”), in subsection (3), after paragraph (d) insert—
- “(e) a 16 to 19 Academy which provides accommodation for children.”

Commencement Information

I197 Sch. 13 para. 17(1)(3) in force at 1.4.2012 by S.I. 2012/924, art. 2

- 18 In section 71 of the Corporation Tax Act 2009 (educational establishments for the purposes of section 70), in subsection (1), omit the “or” after paragraph (c) and after paragraph (d) insert “, or
- (e) a 16 to 19 Academy.”

Commencement Information

I198 Sch. 13 para. 18 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 19 In section 23 of ASCLA 2009 (duty to prepare and submit draft specification of apprenticeship standards: England), in subsection (2)(b), omit the “and” after sub-paragraph (ii), and after that sub-paragraph insert—
- “(ia) 16 to 19 Academies, and”.

Commencement Information

I199 Sch. 13 para. 19 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 20 (1) The Equality Act 2010 is amended as follows.
- (2) In section 91 (students: admission and treatment, etc)—
- (a) in subsection (10), after paragraph (c) insert—
- “(d) a 16 to 19 Academy.”;
- (b) in subsection (12), after paragraph (a) insert—
- “(aa) in the case of an institution within subsection (10)(d), the proprietor (within the meaning of the Education Act 1996);”.

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- (3) In Schedule 10 (accessibility for disabled pupils), in paragraph 5(3), for paragraph (b) substitute—
- “(b) Academy schools;
 - (c) alternative provision Academies.”
- (4) In Schedule 17 (disabled pupils: enforcement), in paragraph 13(5)(b), for “Academy” substitute “Academy school or an alternative provision Academy”.

Commencement Information

I200 Sch. 13 para. 20 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 14

Section 63

ACADEMIES: LAND

Schedule 1 to AA 2010

- 1 For Schedule 1 to AA 2010 (Academies: land) substitute—

“SCHEDULE 1

Section 13

ACADEMIES: LAND

PART 1

LAND HELD BY A LOCAL AUTHORITY

*Transfer scheme where land ceases to be used
for purposes of a school or 16 to 19 Academy*

- 1 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) at any time in the period of eight years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy;
 - (c) at the time the scheme is made the land is no longer used for the purposes of the school or 16 to 19 Academy mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used.
- (3) The scheme must meet the requirements in paragraph 3(1).

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Transfer scheme following proposals for establishment of new Academy

- 2 (1) The Secretary of State may make a scheme in relation to land if the requirements in sub-paragraph (2) are met.
- (2) The requirements are as follows—
- (a) a local authority holds a freehold or leasehold interest in the land when the scheme is made;
 - (b) the land forms the whole or part of a site specified in a notification given to the Secretary of State under section 6A of EIA 2006, or a notice published under section 7 of that Act, (proposals for new schools) as a possible site for a new school;
 - (c) before making the scheme, the Secretary of State consulted the authority.
- (3) The scheme must meet the requirements in paragraph 3(1).

Transfer schemes under paragraphs 1 and 2: general

- 3 (1) These requirements must be met as regards a scheme under paragraph 1 or 2—
- (a) the scheme must provide for a transfer of the land or such part of it as is specified in the scheme;
 - (b) the scheme must specify whether the transfer is the transfer of a freehold or leasehold interest in the land or the grant of a lease in respect of the land (see paragraph 22(4));
 - (c) the transfer must be to a person who is specified in the scheme and is concerned with the running of an Academy;
 - (d) the transfer must be made to the transferee for the purposes of the Academy;
 - (e) in the case of a scheme under paragraph 2, the Academy must have been the subject of proposals under section 6A or 7 of EIA 2006;
 - (f) the scheme must make provision about the transfer to the transferee of any right or liability held by the local authority as holder of the land or specified part concerned.
- (2) In sub-paragraph (1) the reference to a right or liability—
- (a) includes a reference to a right or liability as a trustee, but
 - (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (3) A scheme may include incidental, consequential, supplemental and transitional provision.
- (4) A scheme under paragraph 1 must be so expressed that it does not come into force while the land concerned is used for the purposes of the school or 16 to 19 Academy mentioned in paragraph 1(2)(b).
- (5) A scheme comes into force—
- (a) on the day it specifies for it to come into force, or
 - (b) on the day it otherwise identifies as the day for it to come into force.

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- (6) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the land, rights and liabilities to which it applies.
- (7) A transfer made by virtue of a scheme is binding on all persons even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person.

*Restriction on disposal of land held by local authority
for purposes of a school or 16 to 19 Academy*

- 4 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,
 - (b) the authority proposes to make a disposal in respect of the land, and
 - (c) at any time in the period of eight years ending with the day on which the disposal is proposed to be made, the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) Unless the Secretary of State consents, the authority must not make the disposal.
- (3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before 26 July 2002.
- (4) A disposal is not invalid only because it is made in contravention of sub-paragraph (2).
- (5) A person acquiring land, or entering into a contract to acquire it, is not to be concerned to enquire whether the consent required by sub-paragraph (2) has been given.
- 5 (1) This paragraph applies if a local authority has made a disposal in contravention of paragraph 4(2).
- (2) In a case where the authority has made a disposal within the meaning of this Schedule because it has granted an option (see paragraph 22(5)(d)), the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.
- (3) In a case where the authority has made a disposal within the meaning of this Schedule because it has entered into a contract to dispose of land (see paragraph 22(5)(c)), the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the land is executed.
- (4) A repudiation under sub-paragraph (2) or (3) has effect—
 - (a) when the notice is served, and
 - (b) as if the repudiation were made by the authority.
- (5) In a case where the land has been transferred (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the land compulsorily.
- (6) The Acquisition of Land Act 1981 applies in relation to the compulsory purchase of land under sub-paragraph (5).

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- (7) On completion of a compulsory purchase of land under sub-paragraph (5) the Secretary of State must transfer it to a person concerned with the running of an Academy.
- (8) If the Secretary of State acquires land by compulsory purchase under sub-paragraph (5), the Secretary of State is entitled to recover from the authority an amount equal to the aggregate of—
 - (a) the compensation agreed or awarded in respect of the purchase,
 - (b) any interest payable by the Secretary of State in respect of the compensation, and
 - (c) the costs and expenses incurred by the Secretary of State in connection with the making of the compulsory purchase order.
- (9) The authority must provide the Secretary of State with such information as the Secretary of State may require it to provide in connection with a compulsory purchase under sub-paragraph (5).

Restriction on appropriation of land held by local authority for purposes of a school or 16 to 19 Academy

- 6 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,
 - (b) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972, and
 - (c) at any time in the period of eight years ending with the day on which the appropriation is proposed to be made the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) Unless the Secretary of State consents, the authority must not make the appropriation.
- 7 (1) This paragraph applies if a local authority has made an appropriation in contravention of paragraph 6(2).
- (2) The Secretary of State may purchase the land concerned compulsorily.
- (3) Sub-paragraphs (6) to (9) of paragraph 5 apply to a compulsory purchase of land under sub-paragraph (2) as they apply to a compulsory purchase of land under paragraph 5(5).

Class consents

- 8 For the purposes of paragraphs 4(2) and 6(2), the consent of the Secretary of State—
 - (a) may be given in relation to a particular case or class of case, and
 - (b) may be given subject to conditions.

Duty to inform Secretary of State on proposed change of use of land used for purposes of a school or 16 to 19 Academy

- 9 (1) Sub-paragraph (2) applies if—
 - (a) a freehold or leasehold interest in land is held by a local authority,

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- (b) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school or a 16 to 19 Academy, and
 - (c) at any time in the period of eight years ending with the date of the proposed change of use the land was used wholly or mainly for the purposes of a school or a 16 to 19 Academy.
- (2) The authority must inform the Secretary of State of the proposal.

PART 2

LAND HELD BY A GOVERNING BODY, A FOUNDATION BODY OR TRUSTEES

Power of Secretary of State to make direction where Academy order made

- 10 (1) This paragraph applies where—
- (a) an Academy order has effect in respect of—
 - (i) a voluntary school,
 - (ii) a foundation school, or
 - (iii) a foundation special school, and
 - (b) the school is to be converted into an Academy.
- (2) The Secretary of State may make one or more of the directions listed in sub-paragraph (3) in respect of publicly funded land which is held for the purposes of the school by—
- (a) the governing body of the school,
 - (b) the foundation body of the school, or
 - (c) the trustees of the school.
- (3) The directions are—
- (a) that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) that the governing body, the foundation body or the trustees, as the case may be, pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land;
 - (c) that the land or any part of the land be transferred to a person concerned with the running of the Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.
- (4) Unless otherwise specified in the direction, any transfer of land pursuant to sub-paragraph (3) is to take place on the conversion date.

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Power of Secretary of State to make direction on discontinuance of foundation, voluntary or foundation special school

- 11 (1) This paragraph applies where the Secretary of State has received an application under sub-paragraph (2), (3) or (4ZA) of paragraph 5 of Schedule 22 to SSFA 1998 (application in respect of land held by governing body, foundation body or trustees on discontinuance of school).
- (2) The Secretary of State may direct that the land or any part of the land to which the application relates be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Power of Secretary of State to make direction on proposed disposal of school land

- 12 (1) This paragraph applies where the Secretary of State has received a notice under any of the following paragraphs of Schedule 22 to SSFA 1998—
- (a) paragraph A1A(4) (notice by governing body of intention to dispose of publicly funded land);
 - (b) paragraph A7A(4) (notice by foundation body of intention to dispose of publicly funded land);
 - (c) paragraph A13A(6) (notice by trustees of intention to dispose of publicly funded land);
 - (d) paragraph A23(4)(b) (notice by local authority of intention to apply for transfer order in respect of publicly funded land).
- (2) The Secretary of State may direct that the land or any part of the land to which the notice relates be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Transfer of land and other property on dissolution of governing body

- 13 (1) This paragraph applies where a governing body of a school are to be dissolved by virtue of paragraph 5(2)(a)(iv) of Schedule 1 to EA 2002 (dissolution of governing body on conversion date following Academy order).
- (2) Where a governing body are so dissolved, the following are transferred as provided in sub-paragraph (3)—
- (a) all publicly funded land which is held by the governing body for the purposes of the school and which is not transferred on the conversion date (pursuant to a direction under paragraph 10 or otherwise);
 - (b) all other property of the governing body which is used or held for the purposes of the school;
 - (c) all rights and liabilities of the governing body (including rights and liabilities in relation to staff) which were acquired or incurred for the purposes of the school.

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- (3) The land, other property, rights and liabilities are, on the conversion date, transferred to, and by virtue of this Act vest in—
- (a) the local authority that maintained the school, or
 - (b) such person concerned with the running of an Academy as the Secretary of State directs before the conversion date.
- (4) Sub-paragraph (2) does not apply to—
- (a) any land for which provision has been made for payment under paragraph 10(3)(b),
 - (b) any land or other property which is held by the governing body on trust for the purposes of the school,
 - (c) any property or rights to which section 7 (transfer of school surpluses) applies, or
 - (d) unless the Secretary of State otherwise directs before the conversion date, any liabilities of the governing body in respect of a loan made to the governing body.
- (5) Subject to sub-paragraphs (6) and (7), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land or other property which is held by them on trust for the purposes of the school to any person to hold such land or other property on trust for purposes connected with the provision of education in schools.
- (6) Sub-paragraph (5) does not apply to land in respect of which a direction has been made under paragraph 10(3) (a) or (c).
- (7) Sub-paragraph (5) does not apply to land or other property held by a governing body on trust for the purposes of the school in a case where any other persons (“other trustees”) also hold land or other property on trust for the purposes of the school.
- (8) In a case mentioned in sub-paragraph (7), the land or other property held on trust by the governing body is, on the conversion date, transferred to, and by virtue of this Act vests in, the other trustees.
- (9) If any doubt or dispute arises as to the persons to whom land or other property is transferred under sub-paragraph (8), it is to be treated as so transferred to such persons as the Secretary of State directs.

PART 3

LAND HELD FOR THE PURPOSES OF AN ACADEMY

Notice in relation to certain land held for the purposes of an Academy

- 14 (1) This paragraph applies to land—
- (a) that is held for the purposes of an Academy, and
 - (b) that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of—
 - (i) a local authority, or
 - (ii) the Secretary of State.

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This is subject to sub-paragraph (2).

- (2) If a leasehold interest in land is held for the purposes of a new Academy, this paragraph does not apply to—
 - (a) that or any other leasehold interest in the land, or
 - (b) a freehold interest in the land.
- (3) An Academy is a new Academy for the purposes of sub-paragraph (2) if, by virtue of section 9(1)(a) (new educational institutions), the duty in section 9(2) (impact on other schools etc) applied when the Secretary of State was deciding whether to enter into Academy arrangements in relation to it.
- (4) In the case of land to which this paragraph applies that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of a local authority, the authority may serve a notice under sub-paragraph (6).
- (5) In the case of land to which this paragraph applies that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of the Secretary of State, the Secretary of State may serve a notice under sub-paragraph (6).
- (6) A notice under this sub-paragraph is a notice that the land is publicly funded land for the purposes of this Schedule.
- (7) A notice under sub-paragraph (6) must be served—
 - (a) on the person holding the land (subject to sub-paragraph (8)),
 - (b) within the period of six months beginning with the date on which the payments were made, or, if there is more than one such date, the latest of those dates.
- (8) Where the land is vested in the official custodian for charities in trust for a charity, a notice under sub-paragraph (6) must be served—
 - (a) on the charity, if the charity is a corporate charity;
 - (b) on the persons having the general control and management of the administration of the charity, in any other case.

*Power of Secretary of State to make direction on
educational institution ceasing to be an Academy*

- 15 (1) This paragraph applies if—
 - (a) an educational institution ceases to be an Academy, and
 - (b) immediately before it does so, publicly funded land is held by a person for the purposes of the Academy.
- (2) Sub-paragraph (1)(a) applies whether or not, on the educational institution ceasing to be an Academy, it simultaneously ceases to function as an educational institution.
- (3) The Secretary of State may make one or more of the following directions—
 - (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;

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- (b) a direction that the person holding the land pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land;
- (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
- (d) a direction that the land or any part of the land be transferred to the governing body, foundation body or trustees of a school, subject to the payment by that body or trustees (as the case may be) or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

Termination of occupation by Academy of land held by trustees: notice of termination and power of Secretary of State to make direction

- 16 (1) This paragraph applies if—
- (a) land has been held for the purposes of a maintained school by the trustees of the school,
 - (b) the land is held by the trustees for the purposes of an Academy, and
 - (c) the termination of the Academy's occupation of the land would have the result that it was not reasonably practicable for the Academy to continue to be conducted at its existing site.
- (2) A notice given by the trustees to the Academy proprietor that purports to terminate the Academy's occupation of the land is not effective unless—
- (a) the period of notice is reasonable, having regard to the length of time that it would take to terminate the Academy arrangements, and in any event is not less than two years, and
 - (b) a copy of the notice is given to the Secretary of State and the local authority by which the school was maintained at the same time as the notice is given to the proprietor.
- (3) Where the trustees give, at the same (or substantially the same) time, notices purporting to terminate an Academy's occupation of two or more pieces of land held by the trustees for the purposes of the Academy, then for the purpose of determining whether sub-paragraph (1)(c) applies in relation to any of those pieces of land, regard may be had to the combined effect of terminating the Academy's occupation of both or all of them.
- (4) If a question arises as to whether the termination of an Academy's occupation of any land would have the result mentioned in sub-paragraph (1)(c) (including a question as to whether sub-paragraph (3) applies in any particular circumstances), it is to be determined by the Secretary of State.
- (5) Sub-paragraph (6) applies where a notice that is effective to terminate an Academy's occupation of land relates to publicly funded land.
- (6) The Secretary of State may make one or more of the following directions—
- (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the

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- payment by that authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
- (b) a direction that the trustees pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land;
 - (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (d) a direction that the land or any part of the land be transferred to the governing body, foundation body or trustees of a school, subject to the payment by that body or trustees (as the case may be) or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.

*Power of Secretary of State to make direction
on proposed disposal of Academy land*

- 17 (1) This paragraph applies to a disposal of publicly funded land that is held by a person (“P”) for the purposes of an Academy.
- (2) P must give the Secretary of State notice of P’s intention to dispose of the land.
- (3) In determining whether, and how, to give notice to the Secretary of State under sub-paragraph (2), P must have regard to any guidance given from time to time by the Secretary of State.
- (4) On receipt of the notice, the Secretary of State must—
- (a) decide whether to make a direction under sub-paragraph (7) in respect of the land specified in the notice, and
 - (b) notify P of that decision.
- (5) P may not dispose of the land until P has been notified of the Secretary of State’s decision.
- (6) If the Secretary of State decides to make a direction in respect of the land, P may not dispose of the land except in accordance with the direction.
- (7) The Secretary of State may make one or more of the following directions—
- (a) a direction that the land or any part of the land be transferred to such local authority as the Secretary of State may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate;
 - (b) a direction that P pay, either to the Secretary of State or to such local authority as the Secretary of State may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land;
 - (c) a direction that the land or any part of the land be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way

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- of consideration (if any) as the Secretary of State determines to be appropriate;
- (d) in the case of playing field land, a direction that the disposal is not to be made.
- (8) In this paragraph—
- (a) “playing field land” means land in the open air which is provided for the purposes of physical education or recreation, other than any land falling within a description prescribed under section 77(7) of SSFA 1998;
- (b) references to a disposal of land include references to a change of use of the land in cases where the land is no longer to be used for the purposes of an Academy.

PART 4

GENERAL

Directions under this Schedule: general

- 18 (1) Where a transfer pursuant to a direction under this Schedule relates to registered land, it is the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Act 2002,
- (b) to deliver any such certificate under that Act, and
- (c) to do such other things under that Act,
- as the transferor would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- (2) A direction under this Schedule may include such incidental, consequential, supplemental and transitional provision as the Secretary of State thinks is appropriate for giving it full effect.

Disapplication of rule against perpetuities

- 19 (1) Where—
- (a) land is transferred for no consideration for the purposes of an Academy, and
- (b) the person who transferred the land is granted an option to make a re-acquisition of the land (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.
- (2) Sub-paragraph (1) does not apply to an option granted before 26 July 2002.

Disapplication of other Acts

- 20 (1) Where a lease is granted or transferred to a person for the purposes of an Academy on or after 26 July 2002, section 153 of the Law of Property Act 1925 (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease.

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- (2) Subsections (2) and (2A) of section 123 of the Local Government Act 1972 (disposals of land by principal councils) do not apply to a disposal of land to a person for the purposes of an Academy.

Regulations

- 21 (1) The Secretary of State may make regulations containing such incidental, consequential, supplemental and transitional provisions as the Secretary of State thinks are appropriate in consequence of this Schedule or for giving it full effect.
- (2) Regulations under sub-paragraph (1) about transfer schemes may in particular include provision—
- (a) requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme;
 - (b) requiring the appointed person to identify the land, rights and liabilities to be transferred by or under a scheme;
 - (c) requiring a transferor under a scheme to provide the appointed person with such documents as may be required in order to identify the land, rights and liabilities to be transferred by or under the scheme;
 - (d) requiring a transferor under a scheme to execute such instruments, deliver such certificates and do any other such things as are required by the Land Registration Act 2002 in order to transfer the land;
 - (e) treating a transferor under a scheme as having given acknowledgement in writing of the rights to production of documents.
- (3) Regulations under sub-paragraph (1) about land held by a local authority may in particular include provision—
- (a) that consent under paragraph 4 (proposed disposal of school land) is to be sought in a specified way;
 - (b) that information is to be given under paragraph 9 (duty to inform Secretary of State of proposed change of use of school land) in a specified way.
- (4) Regulations under sub-paragraph (1) about the transfer of land, other property and rights and liabilities under paragraph 13 (transfer of land and other property on dissolution of governing body) may in particular include provision about the production of documents, execution of instruments, delivery of certificates and any other related matters.

Interpretation

- 22 (1) A dwelling-house used for occupation by a person employed to work at an educational institution is to be treated for the purposes of this Schedule as used for the purposes of the educational institution.
- (2) In this Schedule—
- “foundation body”, in relation to a school, has the same meaning as in SSFA 1998 (see section 21(4) of that Act);

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“trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school.

- (3) In this Schedule, “publicly funded land” means—
- (a) in relation to land held by a governing body, land falling within any of paragraphs (a) to (i) of paragraph A1(1) of Schedule 22 to SSFA 1998 (disposals of school land on discontinuance etc);
 - (b) in relation to land held by a foundation body, land falling within any of paragraphs (a) to (h) of paragraph A7(1) of that Schedule;
 - (c) in relation to land held by trustees, other than land held for the purposes of an Academy, land falling within sub-paragraph (1), (2) or (3) of paragraph A13 of that Schedule;
 - (d) in relation to land held for the purposes of an Academy—
 - (i) land acquired from a governing body, foundation body or trustees that was, at the time of the acquisition, publicly funded land within the meaning of paragraph (a), (b) or (c);
 - (ii) land held by trustees for the purposes of an Academy which was previously held by the trustees for the purposes of a maintained school and which, at the time it was held for the purposes of a maintained school, was publicly funded land within the meaning of paragraph (c);
 - (iii) land acquired from a local authority;
 - (iv) land in relation to which a notice has been served under paragraph 14;
 - (v) land acquired from a person concerned with the running of an Academy that was, at the time of the acquisition, publicly funded land within the meaning of sub-paragraphs (i) to (iv) or this sub-paragraph.
- (4) References in this Schedule to a transfer or disposal of land are to the transfer or disposal of a freehold or leasehold interest in the land or to the grant of a lease in respect of the land.
- (5) References in this Schedule to a disposal of land include references to—
- (a) a compulsory disposal,
 - (b) in the case of any premises held under a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies, the termination of the tenancy under that Part,
 - (c) entering into a contract to dispose of land, and
 - (d) granting an option to acquire a freehold or leasehold interest in land.
- (6) Where—
- (a) a person (A) holds a freehold or leasehold interest in land from which a leasehold interest has been granted to another person (B), and
 - (b) B is concerned with the running of an Academy,
- for the purposes of this Schedule both A and B are to be treated as holding land for the purposes of an Academy.
- (7) References in this Schedule to a lease include references to a sub-lease.”

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Commencement Information

I201 Sch. 14 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

Amendments to Schedule 22 to SSFA 1998

- 2 Schedule 22 to SSFA 1998 (disposals of land in case of certain schools and disposals on discontinuance) is amended as set out in paragraphs 3 to 15.

Commencement Information

I202 Sch. 14 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 3 In paragraph A1, in sub-paragraph (1)(b), at the end insert—
“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,”.

Commencement Information

I203 Sch. 14 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 4 After paragraph A1, insert—
- “A1A1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A2 to A5 and paragraph A19—
- (a) references to the disposal are to the disposal by the governing body of the non-playing field land, and
- (b) references to the land are to that non-playing field land.
- (4) The governing body must give the Secretary of State notice of their intention to dispose of the land.
- (5) On receipt of the notice, the Secretary of State must—
- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the governing body of that decision.
- (6) The governing body may not dispose of the land until they have been notified of the Secretary of State's decision.
- (7) If the Secretary of State decides to make a direction in respect of the land, the governing body may not dispose of the land except in accordance with the direction.”

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Commencement Information

I204 Sch. 14 para. 4 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

5 In paragraph A2, for sub-paragraphs (1) to (3), substitute—

“(1) This paragraph applies where a governing body receives a notification under paragraph A1A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I205 Sch. 14 para. 5 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

6 In paragraph A7, in sub-paragraph (1)(b), at the end insert—

“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,”.

Commencement Information

I206 Sch. 14 para. 6 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

7 After paragraph A7, insert—

“A7A1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.

(2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.

(3) Accordingly, in this paragraph, paragraphs A8 to A11 and paragraph A19—

- (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
- (b) references to the land are to that non-playing field land.

(4) The foundation body must give the Secretary of State notice of its intention to dispose of the land.

(5) On receipt of the notice, the Secretary of State must—

- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the foundation body of that decision.

(6) The foundation body may not dispose of the land until it has been notified of the Secretary of State's decision.

(7) If the Secretary of State decides to make a direction in respect of the land, the foundation body may not dispose of the land except in accordance with the direction.”

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Commencement Information

I207 Sch. 14 para. 7 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

8 In paragraph A8, for sub-paragraphs (1) to (3), substitute—

“(1) This paragraph applies where a foundation body receives a notification under paragraph A7A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I208 Sch. 14 para. 8 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

9 (1) Paragraph A13 is amended as follows.

(2) In sub-paragraph (1)(d), at the end insert—

“paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010.”.

(3) In sub-paragraph (7)—

- (a) after “maintained schools” insert “ or Academies ”;
- (b) for “A14 to A16” substitute “ A13A to A16 ”.

Commencement Information

I209 Sch. 14 para. 9 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

10 After paragraph A13, insert—

“A13A) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.

(2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).

(3) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.

(4) Accordingly, in this paragraph, paragraphs A14 to A17 and paragraph A19—

- (a) references to the disposal are to the disposal by the trustees of the non-playing field land, and
- (b) references to the land are to that non-playing field land.

(5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—

- (a) land acquired under section 60 or 61 of the Education Act 1996, or
- (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,

by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).

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- (6) The trustees must give the Secretary of State notice of their intention to dispose of the land.
- (7) On receipt of the notice, the Secretary of State must—
 - (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
 - (b) notify the trustees of that decision.
- (8) The trustees may not dispose of the land until they have been notified of the Secretary of State's decision.
- (9) If the Secretary of State decides to make a direction in respect of the land, the trustees may not dispose of the land except in accordance with the direction.”

Commencement Information

I210 Sch. 14 para. 10 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 11 In paragraph A14, for sub-paragraphs (1) to (5), substitute—

“(1) This paragraph applies where trustees receive a notification under paragraph A13A(7)(b) that the Secretary of State has decided not to make a direction in respect of the land.”

Commencement Information

I211 Sch. 14 para. 11 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 12 In paragraph A19, before sub-paragraph (1), insert—

“(A1) In determining whether, and how, to give notice to the Secretary of State under paragraph A1A, A7A or A13A, a governing body, a foundation body or trustees must have regard to any guidance given from time to time by the Secretary of State.”

Commencement Information

I212 Sch. 14 para. 12 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

- 13 (1) Paragraph A23 (land required by local authority for certain purposes) is amended as follows.

- (2) For sub-paragraph (4), substitute—

“(4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give notice of their intention to make the application to—

- (a) the body or trustees holding the land, and
- (b) the Secretary of State.”

- (3) In sub-paragraph (6), for “such an application” substitute “an application under sub-paragraph (1) or a notice under sub-paragraph (4) ”.

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(4) After sub-paragraph (6), insert—

“(6A) On receipt of a notice under sub-paragraph (4)(b), the Secretary of State must—

- (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
- (b) notify the local authority of that decision.

(6B) If the Secretary of State decides to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 in respect of the land, the local authority may not make an application under sub-paragraph (1) for a transfer order in relation to the land.”

Commencement Information

I213 Sch. 14 para. 13 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

14 (1) Paragraph 5 (discontinuance of foundation, voluntary and foundation special schools: land) is amended as follows.

(2) After sub-paragraph (1), insert—

“(1A) But this paragraph does not apply where proposals mentioned in sub-paragraph (1)(a) have been approved, adopted, confirmed or determined to be implemented in consequence of an Academy order made in respect of the school.”

(3) In sub-paragraph (4), after paragraph (a) insert—

“(aa) in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);”.

(4) In sub-paragraph (4B), after paragraph (a) insert—

“(aa) in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);”.

(5) In sub-paragraph (5A), in paragraph (b), after “maintained schools” insert “ or Academies ”.

Commencement Information

I214 Sch. 14 para. 14 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

15 (1) Paragraph 7 (disposal of property held by governing body of maintained school on their dissolution) is amended as follows.

(2) In sub-paragraph (1), at the end insert “ other than a dissolution by virtue of paragraph 5(2)(a)(iv) of that Schedule (dissolution following Academy order) ”.

(3) In sub-paragraph (2)(ii), for the words from “following” to “new school” substitute “ persons or bodies mentioned in sub-paragraph (2A) ”.

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(4) After sub-paragraph (2), insert—

“(2A) The persons and bodies are—

- (a) the governing body of a maintained school;
- (b) the temporary governing body of a new school;
- (c) in the case of the dissolution of a governing body of a maintained school in England, a person concerned with the running of an Academy.”

Commencement Information

I215 Sch. 14 para. 15 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

Other amendments

16 Section 482 of EA 1996 (Academies) is repealed.

Commencement Information

I216 Sch. 14 para. 16 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

17 Schedule 35A to EA 1996 (Academies: land) is repealed.

Commencement Information

I217 Sch. 14 para. 17 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

18 (1) Section 77 of SSFA 1998 (control of disposals or changes in use of school playing fields) is amended as follows.

(2) In subsection (2B)—

- (a) omit “or” at the end of paragraph (a);
- (b) after paragraph (b), insert “or
- (c) to a disposal in pursuance of—
 - (i) a transfer scheme under paragraph 1 or 2 of Schedule 1 to the Academies Act 2010 (transfer to person concerned with running of Academy), or
 - (ii) a direction under paragraph 10 of Schedule 1 to that Act (direction to transfer to local authority or person concerned with running of Academy, where Academy order made).”

(3) In subsection (3)—

- (a) in the opening words, for “subsections (4) and” substitute “ subsection ”;
- (b) in the opening words, for “(2B)(a) or (b)” substitute “ (2B)(a), (b) or (c) ”;
- (c) at the end insert “ , or by an Academy for the purposes of the Academy ”.

(4) Omit subsection (4).

(5) After subsection (4A), insert—

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“(4B) On receiving an application for consent under subsection (1) or (3), the Secretary of State may direct that the playing fields, or any part of them, be transferred to a person concerned with the running of an Academy, subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.”

Commencement Information

I218 Sch. 14 para. 18 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

19 In section 65 of EA 2002 (Academies), omit subsection (1).

Commencement Information

I219 Sch. 14 para. 19 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

20 (1) Section 12 of AA 2010 (charitable status of Academy proprietors etc) is amended as follows.

(2) After subsection (1) insert—

“(1A) In the definition of “trust corporation” in the provisions listed in subsection (1B), the reference to a corporation appointed by the court in any particular case to be a trustee includes a reference to a qualifying Academy proprietor.

(1B) The provisions are—

- (a) section 117(1)(xxx) of the Settled Land Act 1925;
- (b) paragraph (18) of section 68(1) of the Trustee Act 1925;
- (c) section 205(1)(xxviii) of the Law of Property Act 1925;
- (d) section 55(1)(xxvi) of the Administration of Estates Act 1925;
- (e) section 128 of the Senior Courts Act 1981.”

(3) In the heading, after “charitable” insert “ and trust corporation ”.

Commencement Information

I220 Sch. 14 para. 20 in force at 1.2.2012 by S.I. 2012/84, art. 3 (with art. 5)

SCHEDULE 15

Section 65

ACADEMIES: MINOR AMENDMENTS

1 In Schedule 4 to the Finance Act 2003 (stamp duty land tax: chargeable consideration), in paragraph 17(2)(e) (arrangements involving public or educational bodies) for “section 482 of the Education Act 1996” substitute “ section 1 of the Academies Act 2010 ”.

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Commencement Information

I221 Sch. 15 para. 1 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 2 In Schedule 17 to the Equality Act 2010 (disabled pupils: enforcement), in paragraph 13(4) (admissions) for paragraph (b) substitute—
“(b) Academy arrangements (as defined in section 1 of the Academies Act 2010) between the responsible body for an Academy and the Secretary of State.”.

Commencement Information

I222 Sch. 15 para. 2 in force at 1.2.2012 by S.I. 2012/84, art. 3

- 3 In section 2 of AA 2010 (payments under Academy arrangements), omit subsection (5).

Commencement Information

I223 Sch. 15 para. 3 in force at 1.2.2012 by S.I. 2012/84, art. 3

SCHEDULE 16

Section 67

ABOLITION OF THE YPLA: CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In paragraph 3 of Schedule 1 to the Public Records Act 1958, in Part 2 of the Table (definition of public records: other establishments and organisations) omit “Young People's Learning Agency for England.”

Commencement Information

I224 Sch. 16 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit “The Young People's Learning Agency for England.”

Commencement Information

I225 Sch. 16 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

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Superannuation Act 1972 (c. 11)

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment, etc, referred to in section 1 of that Act) omit “The Young People's Learning Agency for England.”

Commencement Information

I226 Sch. 16 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) omit the entry relating to members of the Young People's Learning Agency for England in receipt of remuneration.

Commencement Information

I227 Sch. 16 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

Education (Fees and Awards) Act 1983 (c. 40)

- 5 In section 1 of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments), in subsection (3)(f), for “Young People's Learning Agency for England” substitute “ Secretary of State ”.

Commencement Information

I228 Sch. 16 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 6 In section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education), in subsection (9), in paragraph (c) of the definition of “the responsible authority”—
- (a) omit “, the Young People's Learning Agency for England”;
 - (b) omit “, Young People's Learning Agency for England”.

Commencement Information

I229 Sch. 16 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

Employment Act 1988 (c. 19)

- 7 In section 26 of the Employment Act 1988 (status of trainees etc), for subsection (1A) substitute—
- “(1A) The Secretary of State may make an order under subsection (1B) where it appears to the Secretary of State that provision has been made for trainees to receive payments—

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- (a) from the Secretary of State under section 14 of the Education Act 2002,
- (b) from the Chief Executive of Skills Funding under section 100(1)(c) or (d) of the Apprenticeships, Skills, Children and Learning Act 2009, or
- (c) from the Welsh Ministers under section 34(1)(c) of the Learning and Skills Act 2000.

(1B) An order under this subsection may provide—

- (a) that the trainees are, for the purposes and in the cases specified or described in or determined under the order, to be treated in respect of the training as being or as not being employed;
- (b) that where the trainees are treated as being employed they are to be treated as being the employees of the persons so specified, described or determined and of no others;
- (c) that where the trainees are treated as not being employed, they are to be treated in such other manner as may be so specified, described or determined; and
- (d) that the payments are to be treated for the purposes of such enactments and subordinate legislation as may be so specified, described or determined in such manner as may be so specified, described or determined.

For the purposes of subsection (1A) and this subsection, trainees are persons receiving or proposing to receive training.”

Commencement Information

I230 Sch. 16 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

Education Reform Act 1988 (c. 40)

- 8 In section 128 (dissolution of higher education corporations), in subsection (1)(b), omit sub-paragraph (iib).

Commencement Information

I231 Sch. 16 para. 8 in force at 1.4.2012 by S.I. 2012/924, art. 2

Value Added Tax Act 1994 (c. 23)

- 9 (1) Group 6 of Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemptions: education) is amended as follows.
- (2) In item 5A—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for “that Act” substitute “ the Apprenticeships, Skills, Children and Learning Act 2009 ”.
- (3) After item 5A insert—

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“5B The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to persons who are—

- (a) aged under 19,
- (b) aged 19 or over, in respect of education or training begun by them when they were aged under 19,
- (c) aged 19 or over but under 25 and subject to learning difficulty assessment, or
- (d) aged 25 or over, in respect of education or training begun by them when they were within paragraph (c),

to the extent that the consideration payable is ultimately a charge to funds provided by the Secretary of State.”

(4) In note (5A), for “item 5A” substitute “ items 5A and 5B ”.

(5) After note (5A) insert—

“(5B) In item 5B, “subject to learning difficulty assessment” has the same meaning as in the Education Act 1996.”

Commencement Information

I232 Sch. 16 para. 9 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 1996

10 EA 1996 is amended as follows.

Commencement Information

I233 Sch. 16 para. 10 in force at 1.4.2012 by S.I. 2012/924, art. 2

11 After section 15ZC insert—

“15ZD Sections 15ZA to 15ZC: duty to have regard to guidance

In performing the duties imposed by sections 15ZA(1), 15ZB and 15ZC(1) (b) (duties in relation to education and training for persons over compulsory school age), a local authority in England must have regard to any guidance issued by the Secretary of State.”

Commencement Information

I234 Sch. 16 para. 11 in force at 1.4.2012 by S.I. 2012/924, art. 2

SSFA 1998

12 In section 30 of SSFA 1998 (notice by governing body to discontinue foundation or voluntary school), in subsection (3)(a)(i), for the words from “Young” to “school” substitute “ Secretary of State ”.

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Commencement Information

I235 Sch. 16 para. 12 in force at 1.4.2012 by S.I. 2012/924, art. 2

LSA 2000

13 LSA 2000 is amended as follows.

Commencement Information

I236 Sch. 16 para. 13 in force at 1.4.2012 by S.I. 2012/924, art. 2

14 In section 98 (approved qualifications: England), omit subsections (7) and (8).

Commencement Information

I237 Sch. 16 para. 14 in force at 1.4.2012 by S.I. 2012/924, art. 2

15 (1) Section 144 (designated institutions: disposal of land, etc) is amended as follows.

(2) In subsection (4)(b), for sub-paragraphs (i) and (ii) substitute—

“(i) in the case of land in England held for the purposes of a sixth form college, or land in Wales, by an arbitrator to be appointed in default of agreement by the President of the Chartered Institute of Arbitrators;

(ii) in the case of any other land in England, by the Secretary of State.”

(3) After subsection (4) insert—

“(4A) The expense of an arbitrator appointed under subsection (4)(b)(i) is to be borne equally by the trustees and—

(a) in the case of land in England, the Secretary of State;

(b) in the case of land in Wales, the Welsh Ministers.”

(4) In subsection (9)(a), for “Young People's Learning Agency for England” substitute “Secretary of State”.

Commencement Information

I238 Sch. 16 para. 15 in force at 1.4.2012 by S.I. 2012/924, art. 2

16 In Schedule 9 (amendments), omit paragraph 14.

Commencement Information

I239 Sch. 16 para. 16 in force at 1.4.2012 by S.I. 2012/924, art. 2

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Freedom of Information Act 2000 (c. 36)

- 17 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit “The Young People's Learning Agency for England.”

Commencement Information

I240 Sch. 16 para. 17 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 2002

- 18 EA 2002 is amended as follows.

Commencement Information

I241 Sch. 16 para. 18 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 19 In section 183 (transfer of functions relating to allowances under section 181), in subsection (1), omit paragraph (aa) (but not the “or” after it).

Commencement Information

I242 Sch. 16 para. 19 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 20 Omit section 208A (recoupment: adjustment between local authorities and the YPLA).

Commencement Information

I243 Sch. 16 para. 20 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 21 In section 210(6A) (Welsh orders and regulations subject to negative resolution), omit “or section 208A”.

Commencement Information

I244 Sch. 16 para. 21 in force at 1.4.2012 by S.I. 2012/924, art. 2

HEA 2004

- ^{F13}22

Textual Amendments

F13 Sch. 16 para. 22 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 33\(c\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 19)

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Children Act 2004 (c. 31)

- 23 In section 10 (co-operation to improve wellbeing), in subsection (9)(c), omit “66,”.

Commencement Information

I245 Sch. 16 para. 23 in force at 1.4.2012 by S.I. 2012/924, art. 2

EA 2005

- 24 EA 2005 is amended as follows.

Commencement Information

I246 Sch. 16 para. 24 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 25 In section 14 (destination of reports: maintained schools), omit subsection (3).

Commencement Information

I247 Sch. 16 para. 25 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 26 In section 14A (destination of interim statements: maintained schools), omit subsection (3).

Commencement Information

I248 Sch. 16 para. 26 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 27 In section 92 (joint exercise of functions), in subsection (2), omit “the Young People's Learning Agency for England,”.

Commencement Information

I249 Sch. 16 para. 27 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 28 In section 108 (supply of information: education maintenance allowances), in subsection (3), omit paragraph (ba).

Commencement Information

I250 Sch. 16 para. 28 in force at 1.4.2012 by S.I. 2012/924, art. 2

EIA 2006

- 29 EIA 2006 is amended as follows.

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Commencement Information

I251 Sch. 16 para. 29 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 30 (1) Section 123 (inspection of further education and training: education and training to which Chapter applies) is amended as follows.
- (2) In subsection (1), in paragraphs (b), (c) and (g), for “YPLA” substitute “ Secretary of State ”.
- (3) In subsection (3)(a), omit “61(4)(f) or”.

Commencement Information

I252 Sch. 16 para. 30 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 31 In section 124 (inspection of education and training to which Chapter applies), in subsection (5), omit paragraph (b).

Commencement Information

I253 Sch. 16 para. 31 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 32 In section 125 (inspection of further education institutions), in subsection (5), omit paragraph (b).

Commencement Information

I254 Sch. 16 para. 32 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 33 In section 126 (other inspections), in subsection (4), omit paragraph (b).

Commencement Information

I255 Sch. 16 para. 33 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 34 In section 128 (area inspections), in subsection (3)(a), for “YPLA” substitute “ Secretary of State ”.

Commencement Information

I256 Sch. 16 para. 34 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 35 In section 129 (reports of area inspections), in subsection (2), omit paragraph (b).

Commencement Information

I257 Sch. 16 para. 35 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 36 (1) Section 130 (action plans following area inspections) is amended as follows.

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- (2) In subsection (2), for “a relevant body” substitute “ the Chief Executive ”.
- (3) In subsections (4) and (5), for “body” substitute “ Chief Executive ”.
- (4) Omit subsection (6).

Commencement Information

I258 Sch. 16 para. 36 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 37 In section 159(1) (interpretation of Part 8), omit the definition of “the YPLA”.

Commencement Information

I259 Sch. 16 para. 37 in force at 1.4.2012 by S.I. 2012/924, art. 2

Safeguarding Vulnerable Groups Act 2006 (c. 47)

- 38 In Schedule 7 to the Safeguarding Vulnerable Groups Act 2006 (vetting information), in the table in paragraph 1, in column 1 of entry 18—
- (a) omit “61 or”;
 - (b) after “2009” insert “, section 14 of the Education Act 2002 ”.

Commencement Information

I260 Sch. 16 para. 38 in force at 1.4.2012 by S.I. 2012/924, art. 2

Local Government and Public Involvement in Health Act 2007 (c. 28)

- 39 In section 104 of the Local Government and Public Involvement in Health Act 2007 (partner authorities), in subsection (4), omit paragraph (fa).

Commencement Information

I261 Sch. 16 para. 39 in force at 1.4.2012 by S.I. 2012/924, art. 2

ESA 2008

- 40 ESA 2008 is amended as follows.

Commencement Information

I262 Sch. 16 para. 40 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 41 In section 13 (notification of non-compliance with section 2 duty), in subsection (5), in paragraph (f) of the definition of “educational institution”, for “Young People's Learning Agency for England” substitute “ Secretary of State ”.

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Commencement Information

I263 Sch. 16 para. 41 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 42 In section 72 (educational institutions: duty to provide information), in subsection (5), in paragraph (f) of the definition of “educational institution”, for “Young People's Learning Agency for England” substitute “ Secretary of State ”.

Commencement Information

I264 Sch. 16 para. 42 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 43 In section 77 (supply of information by public bodies), in subsection (2)(b), for “Young People's Learning Agency for England” substitute “ Secretary of State ”.

Commencement Information

I265 Sch. 16 para. 43 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 44 In section 132 (providers of independent education or training for 16 to 18 year olds), in subsection (2)(b)(iv), for “Young People's Learning Agency for England” substitute “ Secretary of State ”.

Commencement Information

I266 Sch. 16 para. 44 in force at 1.4.2012 by S.I. 2012/924, art. 2

Local Democracy, Economic Development and Construction Act 2009 (c. 20)

- ^{F14}45

Textual Amendments

F14 Sch. 16 para. 45 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), ss. 102(2)(b), 115(3)(k)

ASCLA 2009

- 46 ASCLA 2009 is amended as follows.

Commencement Information

I267 Sch. 16 para. 46 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 47 In section 107 (provision of services), in subsection (4), omit paragraph (e).

Commencement Information

I268 Sch. 16 para. 47 in force at 1.4.2012 by S.I. 2012/924, art. 2

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- 48 (1) Section 122 (sharing of information for education and training purposes) is amended as follows.
- (2) In subsection (3)(b), for “Young People's Learning Agency for England” substitute “ Secretary of State ”.
- (3) In subsection (5)(b), for “Young People's Learning Agency for England” substitute “ Secretary of State relating to education or training ”.

Commencement Information

I269 Sch. 16 para. 48 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 49 In Schedule 6 (dissolution of the Learning and Skills Council for England: minor and consequential amendments), omit paragraphs 54 to 56 and 57(b).

Commencement Information

I270 Sch. 16 para. 49 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 50 In Schedule 12 (Ofqual and the QCDA: minor and consequential amendments), omit paragraph 28(3).

Commencement Information

I271 Sch. 16 para. 50 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 17

Section 68

ABOLITION OF THE YPLA: TRANSFER SCHEMES

Staff transfer schemes

- 1 The Secretary of State may make a scheme (a “staff transfer scheme”) providing for designated employees of the YPLA—
- (a) to become members of staff of the Secretary of State (and accordingly to become employed in the civil service of the state), or
- (b) to be transferred to a permitted transferee.

Commencement Information

I272 Sch. 17 para. 1 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 2 (1) This paragraph applies where a staff transfer scheme provides for an employee of the YPLA to become a member of staff of the Secretary of State.
- (2) The staff transfer scheme may provide—
- (a) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee's employment with the YPLA

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- to have effect as if they were the conditions of service as a member of the Secretary of State's staff;
 - (b) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the YPLA under or in connection with the employee's contract of employment;
 - (c) for anything done (or having effect as if done) before that transfer by or in relation to the YPLA in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State.
- (3) The staff transfer scheme may provide for a period before the employee became a member of the Secretary of State's staff to count as a period during which the employee was a member of the Secretary of State's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (4) The staff transfer scheme may provide for the employee not to become a member of the Secretary of State's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (5) The staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (6) The staff transfer scheme may provide for an employee of the YPLA to become a member of the Secretary of State's staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.

Commencement Information

I273 Sch. 17 para. 2 in force at 1.4.2012 by S.I. 2012/924, art. 2

- 3 (1) This paragraph applies where a staff transfer scheme provides for the transfer of an employee of the YPLA to a permitted transferee.
- (2) The staff transfer scheme may provide—
- (a) for the employee's contract of employment to have effect (subject to any necessary modifications)—
 - (i) as if originally made between the employee and the permitted transferee, or
 - (ii) as the conditions of service as a member of the permitted transferee's staff;
 - (b) for the transfer to the permitted transferee of the rights, powers, duties and liabilities of the YPLA under or in connection with the employee's contract of employment;
 - (c) for anything done (or having effect as if done) before that transfer by or in relation to the YPLA in respect of such a contract or the employee to be treated as having been done by or in relation to the permitted transferee.
- (3) The staff transfer scheme may provide for a period before the employee became a member of the permitted transferee's staff to count as a period during which the employee was a member of the permitted transferee's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).

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- (4) The staff transfer scheme may provide for the employee not to become a member of the permitted transferee's staff if the employee gives notice objecting to the operation of the scheme in relation to the employee.
- (5) The staff transfer scheme may provide for any person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (6) The staff transfer scheme may provide for the transfer of an employee of the YPLA to a permitted transferee despite any provision, of whatever nature, which would otherwise prevent the employee from being so transferred.

Commencement Information

I274 Sch. 17 para. 3 in force at 1.4.2012 by S.I. 2012/924, art. 2

Property transfer schemes

- 4 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the YPLA of designated property, rights or liabilities of the YPLA to—
 - (a) the Secretary of State, or
 - (b) a permitted transferee.
- (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the YPLA in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property 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.

Commencement Information

I275 Sch. 17 para. 4 in force at 1.4.2012 by S.I. 2012/924, art. 2

Continuity

- 5 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the YPLA before the transfer takes effect.

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Commencement Information

I276 Sch. 17 para. 5 in force at 1.4.2012 by S.I. 2012/924, art. 2

Supplementary provision etc.

- 6 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Commencement Information

I277 Sch. 17 para. 6 in force at 1.4.2012 by S.I. 2012/924, art. 2

Interpretation

- 7 In this Schedule—
- “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
- “permitted transferee” means a person specified in an order made by the Secretary of State;
- “the YPLA” means the Young People's Learning Agency for England.

Commencement Information

I278 Sch. 17 para. 7 in force at 1.4.2012 by S.I. 2012/924, art. 2

SCHEDULE 18

Section 69

THE APPRENTICESHIP OFFER: CONSEQUENTIAL AMENDMENTS

- 1 ASCLA 2009 is amended as follows.

Commencement Information

I279 Sch. 18 para. 1 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 2 In section 27(1) (contents of specification of apprenticeship standards for England)
-
- (a) after paragraph (a) insert “ and ”;
- (b) omit paragraph (c) and the “and” immediately before it.

Commencement Information

I280 Sch. 18 para. 2 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 3 In section 36(5) (power to apply provisions with modifications in application to Crown servants etc), omit “, or any of sections 91 to 99,”.

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Commencement Information

I281 Sch. 18 para. 3 in force at 1.9.2012 by S.I. 2012/1087, art. 3

^{F15}4

Textual Amendments

F15 Sch. 18 para. 4 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(g), Sch. 14 para. 65(d)

5 In section 83, for the heading substitute “ Power to secure provision of apprenticeship training ”.

Commencement Information

I282 Sch. 18 para. 5 in force at 1.9.2012 by S.I. 2012/1087, art. 3

^{F16}6

Textual Amendments

F16 Sch. 18 para. 6 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(g), Sch. 14 para. 65(d)

7 In section 86 (education and training for persons aged 19 or over or subject to adult detention), in subsection (2), after “that section” insert “ 83A or ”.

Commencement Information

I283 Sch. 18 para. 7 in force at 1.9.2012 by S.I. 2012/1087, art. 3

8 Sections 91 to 99 (functions of the Chief Executive of Skills Funding: the apprenticeship offer) are repealed.

Commencement Information

I284 Sch. 18 para. 8 in force at 1.9.2012 by S.I. 2012/1087, art. 3

9 In section 100(1) (power of Chief Executive to secure provision of financial resources), omit paragraph (i).

Commencement Information

I285 Sch. 18 para. 9 in force at 1.9.2012 by S.I. 2012/1087, art. 3

10 Section 104 (assistance and support in relation to apprenticeship places) is repealed.

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Commencement Information

I286 Sch. 18 para. 10 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 11 In section 105 (promoting progression from level 2 to level 3 apprenticeships), for subsection (5) substitute—

“(5) In this section “apprenticeship certificate” means an apprenticeship certificate issued under section 3 or 4.

(6) A reference in this section to an apprenticeship certificate at any level includes a reference to a certificate or other evidence (including a certificate awarded or evidence provided by a person outside England) which appears to the Chief Executive to be evidence of experience and attainment at a comparable or higher level.”

Commencement Information

I287 Sch. 18 para. 11 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 12 In section 121(3) (interpretation of Part 4: training within the Chief Executive's remit), after paragraph (a) insert—

“(aa) training falling within section 83A(1).”

Commencement Information

I288 Sch. 18 para. 12 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 13 (1) Section 262 (orders and regulations) is amended as follows.

(2) After subsection (3) insert—

“(3A) An order under section 83A(12) may amend, repeal or revoke any provision of, or in an instrument made under, this or any other Act.”

(3) Omit subsection (4).

(4) In subsection (6) (orders and regulations subject to affirmative resolution)—

(a) before paragraph (b) insert—

“(ab) an order under section 83A(12).”;

(b) omit paragraph (c).

Commencement Information

I289 Sch. 18 para. 13 in force at 1.9.2012 by S.I. 2012/1087, art. 3

- 14 In section 269 (commencement), omit subsection (5).

Commencement Information

I290 Sch. 18 para. 14 in force at 1.9.2012 by S.I. 2012/1087, art. 3

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. 13 para. 9(4) omitted by [2018 anaw 2 Sch. 1 para. 6\(p\)](#)
- Sch. 13 para. 9(5) omitted by [2018 anaw 2 Sch. 1 para. 6\(p\)](#)