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## SCHEDULE 4

### MINOR AND CONSEQUENTIAL AMENDMENTS

PROSPECTIVE

#### *School Standards and Organisation (Wales) Act 2013 (anaw 1)*

- 29 (1) The School Standards and Organisation (Wales) Act 2013 is amended as follows.
- (2) In section 1 (overview)—
- (a) after subsection (9) insert—
- “(9A) Chapter 3A provides for powers for the Commission for Tertiary Education and Research to restructure sixth form education.”;
- (b) omit subsection (11).
- (3) In section 38 (school organisation code)—
- (a) in subsection (2), after paragraph (c) insert—
- “(ca) the Commission for Tertiary Education and Research;”;
- (b) in subsection (5), at the end of paragraph (c) omit “or” and after that paragraph insert—
- “(ca) the Commission for Tertiary Education and Research, or”.
- (4) In section 39 (making and approval of school organisation code), in subsection (1), at the end of paragraph (c) omit “and” and after that paragraph insert—
- “(ca) the Commission for Tertiary Education and Research, and”.
- (5) In section 50 (approval by Welsh Ministers), in subsection (1) after “education” insert “and an objection has been made to the proposals in accordance with section 49(2) and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period”.
- (6) In section 61 (local inquiry into proposals)—
- (a) in subsection (4) for “70 and 73” substitute “63F, 63G and 70”;
- (b) in subsection (6) in paragraph (d) for “68 or 71” substitute “63C or 68”;
- (c) in subsection (8) for “the direction under section 57(2)” substitute “a direction under section 57(2) or 63A(1)”;
- (d) in subsection (9)—
- (i) in paragraph (a) for “70 or 73” substitute “63F or 70”;
- (ii) in paragraph (b) after “53” insert “or 63G”.
- (7) After section 63 insert—

#### “CHAPTER 3A

#### PROPOSALS FOR RESTRUCTURING SIXTH FORM PROVISION

##### **63A Directions by the Commission to make sixth form proposals**

- (1) The Commission may, in accordance with the Code—

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- (a) direct a local authority to exercise its powers to make proposals to—
    - (i) establish or discontinue a school providing education suitable only to the requirements of persons over compulsory school age, or
    - (ii) make an alteration described in Schedule 2 to a school, the effect of which would be that provision of education suitable to the requirements of persons over compulsory school age at the school increases or decreases.
  - (b) direct the governing body of a foundation or voluntary school to exercise its powers to make an alteration described in Schedule 2 to a school, the effect of which would be that provision of education suitable to the requirements of persons over compulsory school age at the school increases or decreases.
- (2) A direction under subsection (1) must—
- (a) require the proposals to be published no later than the date specified in the direction, and
  - (b) require the proposals, in giving effect to the direction, to apply any principles specified in it.

### **63B Further provision about proposals made after a direction under section 63A(1)**

- (1) Proposals made in accordance with a direction under section 63A(1) may not be withdrawn without the consent of the Commission.
- (2) The Commission may give consent for the purposes of subsection (1) subject to conditions.
- (3) A local authority must reimburse expenditure reasonably incurred by a governing body of a school maintained by it in making proposals in accordance with a direction under section 63A(1).
- (4) Despite anything in Part 1 of Schedule 3 (responsibility for implementation of statutory proposals), a local authority must meet the cost of implementing proposals made by a governing body of a school maintained by it in accordance with a direction under section 63A(1) which have been approved or determined to be implemented.

### **63C Making of proposals by the Commission**

- (1) This section applies where—
  - (a) the Commission has made a direction under section 63A(1), and
  - (b) either—
    - (i) proposals have been published in accordance with the direction, or
    - (ii) the time allowed under the direction for the publication of the proposals has expired.
- (2) The Commission may make any proposals that could have been made in accordance with the direction.

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- (3) But the Commission must obtain the consent of the Welsh Ministers before making a proposal to make an alteration described in paragraph 6 of Schedule 2 (opening or closing a school's sixth form) to a voluntary or foundation school.
- (4) Where the Commission makes proposals under this section, any proposals that have been made by a local authority or governing body and published in accordance with the direction are to be treated as having been withdrawn.

### **63D Publication of Commission's proposals and consultation**

- (1) The Commission must publish proposals made under section 63C in accordance with the Code.
- (2) Before publishing proposals made under section 63C, the Commission must consult on its proposals in accordance with the Code.
- (3) The requirement to consult does not apply to proposals to discontinue a school which is a small school within the meaning given by section 56.
- (4) Before the end of 7 days beginning with the day on which they were published, the Commission must send copies of the published proposals to—
  - (a) the Welsh Ministers,
  - (b) the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate, and
  - (c) the governing body (if any) of the school to which the proposals relate.
- (5) The Commission must publish a report on the consultation it has carried out in accordance with the Code.

### **63E Objections to the Commission's proposals**

- (1) Any person may object to proposals published under section 63D.
- (2) Objections must be sent in writing to the Commission before the end of 28 days beginning with the day on which the proposals were published ("the objection period").
- (3) The Commission must publish a summary of all objections made in accordance with subsection (2) (and not withdrawn) and its response to those objections before the end of 28 days beginning with the end of the objection period.

### **63F Approval by Welsh Ministers**

- (1) Proposals published by the Commission under section 63D require approval under this section if an objection has been made in accordance with section 63E(2) and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.
- (2) Where proposals require approval under this section, the Commission must send a copy of the documents listed in subsection (3) to the Welsh Ministers before the end of 35 days beginning with the end of the objection period.

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- (3) The documents are—
  - (a) the report published under section 63D(5),
  - (b) the published proposals,
  - (c) any objections made in accordance with section 63E(2) (and not withdrawn), and
  - (d) where objections have been so made (and not withdrawn), the response published under section 63E(3).
- (4) Where proposals require approval under this section, the Welsh Ministers may—
  - (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with modifications—
    - (i) after obtaining the consent of the Commission to the modifications, and
    - (ii) after consulting the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate and the governing body (if any) of the school to which the proposals relate.
- (5) An approval may be expressed to take effect only if an event specified in the approval occurs by a date so specified.
- (6) The Welsh Ministers may, at the request of the Commission, specify a later date by which the event referred to in subsection (5) is to occur.
- (7) Subsection (1) does not prevent proposals from being withdrawn by notice in writing given by the Commission to the Welsh Ministers at any time before they are approved under this section.
- (8) No approval is required under this section for proposals to discontinue a school which is a small school within the meaning given by section 56.

### **63G Determination**

- (1) Where proposals published under section 63D do not require approval under section 63F, the Commission must determine whether the proposals should be implemented.
- (2) If a determination under subsection (1) is not made before the end of 16 weeks beginning with the end of the objection period, the Commission is to be taken to have withdrawn the proposals.
- (3) Before the end of 7 days beginning with the day of its determination under subsection (1), the Commission must notify the following of the determination—
  - (a) the Welsh Ministers;
  - (b) the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate;
  - (c) the governing body (if any) of the school to which the proposals relate.

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### **63H Implementation of proposals**

- (1) Proposals approved by the Welsh Ministers under section 63F or determined to be implemented by the Commission under section 63G have effect as if they had been approved by the Welsh Ministers under section 50 after having been made—
  - (a) by the local authority under its powers to make proposals to establish, alter or discontinue schools, or
  - (b) in the case of proposals to alter a foundation or voluntary school, by the governing body under its powers to make proposals to alter its school.
- (2) Despite anything in Part 1 of Schedule 3 (responsibility for implementation of statutory proposals), the local authority that maintains the school in question must meet the cost of implementing proposals approved under section 63F or determined to be implemented under section 63G which have effect as mentioned in subsection (1)(b).

### **63I Interpretation of Chapter 3A**

In this Chapter—

“the Code” (“*y Cod*”) means the code on school organisation issued under section 38(1);

“the Commission” (“*y Comisiwn*”) means the Commission for Tertiary Education and Research.”

- (8) Omit sections 71 to 76 (proposals for restructuring sixth form education).
- (9) In section 80 (notice by governing body to discontinue foundation or voluntary school), in subsection (3) for “the Welsh Ministers” substitute “the Commission for Tertiary Education and Research”.
- (10) In section 82 (transitional exemption orders for purposes of Equality Act 2010), in subsection (2) for “, 68 or 71” substitute “or 68”.
- (11) In section 98 (general interpretation and index of defined expressions), in subsection (3)—
  - (a) insert in the appropriate place—

““the Commission” (“*y Comisiwn*) in Chapter 3A of Part 3 means the Commission for Tertiary Education and Research;”;
  - (b) in the definition of “the Code” for “Chapter 2” substitute “Chapters 2 and 3A”;
  - (c) in the definition of “objection period” after “Part 3” insert “and in section 63E(2) for the purposes of Chapter 3A of Part 3”.
- (12) In Schedule 2 (regulated alterations)—
  - (a) in paragraph 10 (alterations to premises), in sub-paragraph (3)(c)(i), after “59,” insert “63D,”;
  - (b) in paragraph 19 (increase in pupils: special schools), in sub-paragraph (2)(c)(i), after “59,” insert “63D,”.

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(13) In Schedule 5 (minor and consequential amendments), omit paragraphs 2(3) and 20(3).

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**Commencement Information**

**II** Sch. 4 para. 29 not in force at Royal Assent, see [s. 148\(2\)](#)

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