EXPLANATORY MEMORANDUM TO

THE EDUCATION (DESIGNATED INSTITUTIONS) (ENGLAND) (No. 2) ORDER 2013

2013 No. 2490

1. This explanatory memorandum has been prepared by the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order designates the National Film and Television School as eligible to receive funding administered by the Higher Education Funding Council for England.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 129 of the Education Reform Act, as amended by the Further and Higher Education Act 1992, makes provision for the Secretary of State to designate institutions that are not universities or institutions conducted by higher education corporations to be eligible for funding from a higher education funding council.

4.2 The Higher Education Funding Council for England (HEFCE) was established by the Further and Higher Education Act 1992 to provide, in part, funding to higher education institutions. For this purpose 'higher education institutions' means universities, institutions conducted by higher education corporations and institutions designated under section 129(1) of the Education Reform Act 1988.

5. Territorial Extent and Application

5.1 This Order applies in relation to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The purpose of section 129(1) of the Education Reform Act 1988 is to enable certain additional providers of higher education that meet the legislative criterion to receive public funding from a higher education funding council. These are providers of higher education that are not either universities or institutions conducted by higher education corporations which are, by virtue of their status, eligible for funding by the higher education funding councils.

7.2 In considering an application for designation the Secretary of State has regard to whether the institution appears to him to satisfy the legislative requirement that its full-time equivalent enrolment number for courses of higher education exceeds 55% of its total full-time equivalent enrolment number.

7.3 The Secretary of State also requests advice from HEFCE who scrutinise the application against principles and tests agreed with the Department for Business, Innovation and Skills. The Secretary of State also takes such other advice as might be appropriate for the particular application.

7.4 The National Film and Television School applied to the Secretary of State for designation as an institution eligible to receive funds administered by HEFCE in January 2013.

7.5 The School is a wholly post-graduate institution offering two year MAs, six specialised diplomas and a range of short courses. It receives about 1,100 applications every year for 150 places and 92% of its students secure relevant industry employment within six months of graduation. It can demonstrate a sustained track record for excellence that is recognised internationally. The School is currently treated as a 'connected institution' allowing it to receive HEFCE funding via the Royal College of Arts (RCA). However, it now wishes to be recognised as a higher education institution in its own right and to receive funding from HEFCE directly. It believes that this will enable it to raise its profile in the HE sector, cement its international standing with educational bodies, reinforce its support from the creative industries and support its growth strategy.

7.6 The Secretary of State has considered the School's application and the detailed advice received on it and is satisfied that it meets the legislative criterion and the principles and tests for designation. In so doing he is satisfied that the School:

- has a standing and repute that would enhance the sector overall;
- can demonstrate strong demand from students and a strong graduate employment record;

- can demonstrate that its reputation is deserved and can be sustained in the sense that its provision meets appropriate quality standards expected of higher education institutions; and

- has demonstrated that it is in a satisfactory position with regard to the tests for designation which include financial viability, governance and accountability, quality and quality assurance, corporate planning, estates issues, data issues and management issues.

8. Consultation outcome

8.1 It has not been necessary to consult formally on the making of this Order. However, in considering this application, detailed advice was sought from HEFCE who, in turn, sought advice from the Quality Assurance Agency.

9. Guidance

9.1 This Order is specific to the National Film and Television School and does not therefore require any guidance to be published.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An impact assessment has not been prepared for this Order as it has no impact on the private or voluntary sector.

10.4 As a public authority the Department for Business, Innovation and Skills is required to give due regard to the aims of the public sector equality duty when making decisions and when setting policies. As a service provider and employer the National Film and Television School is already required to meet the main provisions of the Equality Act 2010 and, as such, to provide protection for its students and staff against discrimination, harassment and victimisation. As an institution designated as eligible to receive support from funds administered by HEFCE the School will come within the education provisions of the Equality Act, the public sector equality duty and the specific duties. As such the School will be required to take additional actions under these requirements, which could be beneficial in terms of eliminating discrimination, advancing equality of opportunity, and fostering good relations.

11. Regulating small business

11.1 This Order is specific to the National Film and Television School. It does not therefore apply to small business.

12. Monitoring & review

12.1 The outcome of this Order will be that the National Film and Television School can receive funding directly from HEFCE.

12.2 HEFCE has a regulatory duty to ensure that institutions in receipt of public funds provide value for money and are responsible in their use of these funds. HEFCE is also responsible for ensuring that the quality of learning and teaching is assessed in each institution and for assessing the quality of research and to fund research selectively by supporting excellence. Consequently, as a designated institution, the School will be required to agree a Financial Memorandum with HEFCE which will set out the terms and conditions for the payment of HEFCE grants as well as conditions specific to the institution, the funds available to the institution and the educational provision the institution has agreed in return for those funds.

13. Contact

Jacqui Entwistle at the Department for Business Innovation and Skills Tel: 020 7215 3970 or email Jacqui.Entwistle@bis.gsi.gov.uk can answer any queries regarding this Order.