



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 2

REGISTRATION AND REGULATION OF TERTIARY EDUCATION PROVIDERS

CHAPTER 1

REGISTRATION OF TERTIARY EDUCATION PROVIDERS

The register and registration procedure

25 The register

- (1) The Commission must establish and maintain a register of tertiary education providers in Wales (referred to in this Act as “the register”).
- (2) The Welsh Ministers must, by regulations, specify one or more categories of registration for which the Commission must make provision in the register.
- (3) A category of registration specified in the regulations must relate to the provision of one or more kinds of tertiary education.
- (4) The Commission must register a tertiary education provider in a category of the register if—
 - (a) its governing body applies for it to be registered in the category,
 - (b) it is a tertiary education provider in Wales,
 - (c) it provides, or has provided on its behalf, the kind of tertiary education that relates to the category,
 - (d) it satisfies the initial registration conditions applicable to it in respect of the registration sought (see section 27),

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Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

- (e) registration is not prohibited by provision made in regulations under subsection (5), and
 - (f) the application complies with any requirements imposed under subsection (7).
- (5) The Welsh Ministers may, by regulations, prohibit the registration of a tertiary education provider in one category of the register at the same time that it is registered in one or more of the other categories.
- (6) The Commission must not register a tertiary education provider in the register otherwise than—
- (a) in a category of registration specified in regulations under subsection (2);
 - (b) in accordance with subsection (4), section 44 (change in registration category without application) and any regulations made under subsection (5).
- (7) The Commission may determine—
- (a) the form of an application for registration,
 - (b) the information to be contained in it or provided with it, and
 - (c) the way in which an application is to be submitted.
- (8) The Welsh Ministers may, by regulations, make provision about the information which must be contained in a tertiary education provider’s entry in the register.
- (9) Once registered, a tertiary education provider’s ongoing registration in a category of the register is subject to the provider satisfying—
- (a) the general ongoing registration conditions applicable to the provider’s registration in the category and as they may be later revised (see section 28), and
 - (b) the specific ongoing registration conditions (if any) imposed on it in that category of registration and as they may be later varied (see section 29).
- (10) References in this Part to the ongoing registration conditions of a tertiary education provider are to the conditions mentioned in subsection (9)(a) and (b).
- (11) The Commission must make the information contained in the register, and the information previously contained in it, publicly available by such means as it considers appropriate.

Commencement Information

- I1** S. 25 not in force at Royal Assent, see [s. 148\(2\)](#)
- I2** S. 25 in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(l\)](#)
- I3** S. 25(1)(4)(6)(a)(b) in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(m\)](#)
- I4** S. 25(4)(d) in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(n\)](#)
- I5** S. 25(7) in force at 4.9.2023 by [S.I. 2023/919, art. 2\(j\)](#)
- I6** S. 25(9)(a) in force at 4.9.2023 by [S.I. 2023/919, art. 3\(o\)](#)
- I7** S. 25(10) in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(o\)](#)

Status: This version of this chapter contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

PROSPECTIVE

26 Registration procedure

- (1) Before refusing an application to register a tertiary education provider in a category of the register, the Commission must notify the governing body of the provider that it proposes to do so.
- (2) The notice must specify—
 - (a) the Commission’s reasons for proposing to refuse to register the tertiary education provider in the category,
 - (b) the period during which the governing body of the provider may make representations about the proposal (“the specified period”), and
 - (c) the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The Commission must have regard to any representations made by the governing body of the tertiary education provider in accordance with the notice in deciding whether to register it in the category.
- (5) Having decided whether or not to register the tertiary education provider in the category, the Commission must notify the governing body of the provider of its decision.
- (6) Where the decision is to register the tertiary education provider in the category, the notice must specify—
 - (a) the date of entry in the register in the category, and
 - (b) the ongoing registration conditions applicable to the provider’s registration in the category at that time.
- (7) Where the decision is to refuse to register the provider in the category, the notice must specify—
 - (a) the grounds for the refusal,
 - (b) information as to the right of review, and
 - (c) the period specified in regulations under section 79(4)(c) within which an application for a review may be made.

Commencement Information

18 S. 26 not in force at Royal Assent, see [s. 148\(2\)](#)

Registration conditions

27 Initial registration conditions

- (1) It is an initial condition of registration in each category of the register that the Commission is satisfied as to—

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- (a) the quality of the kind of tertiary education provided by, or on behalf of, the applicant tertiary education provider to which the category of the register relates;
 - (b) the effectiveness of the governance and management of the applicant tertiary education provider (including its financial management);
 - (c) the financial sustainability of the applicant tertiary education provider;
 - (d) the effectiveness of the applicant tertiary education provider’s arrangements for supporting and promoting the welfare of its students and staff;
 - (e) where there are validation arrangements in place, the effectiveness of those arrangements in enabling the applicant tertiary education provider to satisfy itself as to the quality of the education leading to the award of a qualification under the arrangements.
- (2) The Commission must publish a document specifying the requirements that must be met for it to be satisfied as to the matters mentioned in subsection (1).
 - (3) The Commission may revise the requirements.
 - (4) If the Commission revises the requirements, it must publish a revised document specifying the requirements as revised.
 - (5) Before publishing the document or revised document, the Commission must, if it appears to it appropriate to do so, consult such persons as it considers appropriate.
 - (6) The Welsh Ministers may, by regulations, provide for further initial conditions of registration for any category of registration.
 - (7) Regulations under subsection (6) may (among other things)—
 - (a) confer functions on the Commission in connection with the operation of further initial conditions provided for in the regulations;
 - (b) provide for further initial conditions of registration relating to—
 - (i) the charitable or other status of tertiary education providers;
 - (ii) the information provided to prospective students about a provider, its courses, and its terms and conditions of contracts with students;
 - (iii) complaints procedures of providers.
 - (8) In subsection (1)(e), “validation arrangements” means arrangements between an applicant tertiary education provider and another education provider under which the applicant tertiary education provider awards a qualification to a student at the other provider or authorises the other provider to award a qualification on its behalf.

Commencement Information

I9 S. 27 not in force at Royal Assent, see [s. 148\(2\)](#)

I10 S. 27 in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(p\)](#)

I11 S. 27(1)(2)(8) in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(q\)](#)

28 General ongoing registration conditions

- (1) The Commission must determine and publish general ongoing registration conditions.
- (2) Different conditions may be determined for different categories of registration.

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Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

- (3) In relation to a category of registration, different conditions may be determined for different descriptions of tertiary education provider.
- (4) The Commission must publish the general ongoing registration conditions in a way that identifies the category of registration to which the condition applies.
- (5) The Commission may revise the conditions.
- (6) If the Commission revises the conditions, it must publish them as revised.
- (7) Before determining or revising the conditions, the Commission must, if it appears to it appropriate to do so, consult such persons as it considers appropriate.
- (8) The Commission may, at the time of a tertiary education provider’s registration in a category of the register or later, decide that any one or more general ongoing registration conditions applicable to registration in that category is not applicable to the provider, subject to the requirements under this Part relating to mandatory ongoing registration conditions.
- (9) Where the decision is made after the tertiary education provider’s registration in that category of the register, the Commission must notify the governing body of the provider of its decision.

Commencement Information

I12 S. 28 not in force at Royal Assent, see [s. 148\(2\)](#)

I13 S. 28(1)-(3) in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(r\)](#)

PROSPECTIVE

29 Specific ongoing registration conditions

- (1) The Commission may, at the time of a tertiary education provider’s registration in a category of the register or later, impose such conditions on its registration in the category as the Commission may determine (“the specific ongoing registration conditions”).
- (2) The Commission may at any time vary or remove a specific ongoing registration condition.
- (3) Before—
 - (a) imposing a specific ongoing registration condition, or
 - (b) varying or removing a specific ongoing registration condition,
 the Commission must notify the governing body of the tertiary education provider that it proposes to do so.
- (4) The notice must—
 - (a) specify the Commission’s reasons for proposing to take the step in question,
 - (b) specify the period during which the governing body of the tertiary education provider may make representations about the proposal (“the specified period”), and
 - (c) specify the way in which those representations may be made.

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- (5) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (6) The Commission must have regard to any representations made by the governing body of the tertiary education provider in accordance with the notice in deciding whether to take the step in question.
- (7) Having decided whether or not to take the step in question, the Commission must—
 - (a) notify the governing body of the tertiary education provider of its decision, and
 - (b) publish the notice.
- (8) If the Commission decides to impose a new specific ongoing registration condition or vary or remove a specific ongoing registration condition, the notice must—
 - (a) specify the new condition, the condition as varied or the condition being removed (as the case may be), and
 - (b) specify the date when the imposition, variation or removal takes effect.
- (9) Where the notice relates to the imposition or variation of a specific ongoing registration condition, the notice must also specify—
 - (a) the grounds for the imposition or variation of the condition,
 - (b) information as to the right of review, and
 - (c) the period specified in regulations under section 79(4)(c) within which an application for a review may be made.
- (10) A specific ongoing registration condition, or a variation to such a condition, may not take effect at any time when—
 - (a) an application for review under section 45(b) could be brought in respect of the decision to impose or vary the condition, or
 - (b) a review or a decision by the Commission following such a review is pending.
- (11) But that does not prevent a specific ongoing registration condition, or a variation to such a condition, taking effect if the governing body of the tertiary education provider notifies the Commission that it does not intend to apply for a review.
- (12) Where subsection (10) ceases to prevent a specific ongoing registration condition, or a variation to such a condition, taking effect on the date specified under subsection (8), the Commission must determine a future date on which it takes effect.
- (13) But that is subject to what has been determined by the Commission following any review under section 45(b) in respect of the decision to impose or vary the condition.

Commencement Information

I14 S. 29 not in force at Royal Assent, see [s. 148\(2\)](#)

30 Proportionate conditions etc.

- (1) The Commission must ensure that—
 - (a) the requirements specified under section 27(2), and
 - (b) all ongoing registration conditions,

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are proportionate to the Commission’s assessment of the risks posed.

- (2) In light of its duty under subsection (1), the Commission must keep all ongoing registration conditions under review.

Commencement Information

I15 S. 30 not in force at Royal Assent, see **s. 148(2)**

I16 S. 30(1) in force at 4.9.2023 by **S.I. 2023/919, art. 2(k)**

31 Mandatory ongoing registration conditions for each registered provider

- (1) The Commission must ensure that the ongoing registration conditions of each tertiary education provider registered in a category include—
- (a) a condition relating to the quality of the kind of tertiary education provided by, or on behalf of, the provider to which the category of registration relates;
 - (b) a condition relating to the effectiveness of the governance and management of the provider (including its financial management);
 - (c) a condition relating to the financial sustainability of the provider;
 - (d) a condition relating to the effectiveness of the provider’s arrangements for supporting and promoting the welfare of its students and staff;
 - (e) a condition relating to the effectiveness of any validation arrangements in place;
 - (f) a condition requiring the governing body of the provider to notify the Commission of any change of which it becomes aware which affects the accuracy of the information contained in the provider’s entry in the register;
 - (g) a condition requiring the governing body of the provider, if it has been given notice under section 126(1), to have in place a learner protection plan approved by the Commission (under section 126(3) or (5)) on or before the date specified in the condition and to give effect to the plan;
 - (h) a condition requiring the governing body of the provider to comply with the requirements contained in the Learner Engagement Code published under section 129(1) or any revised code published under section 129(3);
 - (i) a condition requiring the governing body of the provider to have regard to advice or guidance given by the Commission to the body (either specifically or to persons generally) in exercise of the Commission’s functions under this Act;
 - (j) a condition requiring the governing body of the provider to provide the Commission, or a person authorised by the Commission, with such information, assistance and access to the provider’s facilities, systems and equipment as the Commission may reasonably require for the purpose of exercising the Commission’s functions under this Part.
- (2) In subsection (1)(e), “validation arrangements” means arrangements between the registered provider and another education provider under which the registered provider awards a qualification to a student at the other provider or authorises the other provider to award a qualification on its behalf.

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Commencement Information

I17 S. 31 not in force at Royal Assent, see **s. 148(2)**

I18 S. 31(1)(a)-(f)(i)(j)(2) in force at 4.9.2023 for specified purposes by **S.I. 2023/919, art. 3(s)**

32 Mandatory ongoing registration condition on fee limits

- (1) The Commission must ensure that the ongoing registration conditions of each registered provider—
 - (a) falling within a fee limit category, and
 - (b) providing qualifying courses, or having qualifying courses provided on its behalf,
 include a fee limit condition.
- (2) A fee limit category is a category of registration—
 - (a) for which the Commission must make provision in the register, and
 - (b) which is specified for the purpose of this section in regulations made by the Welsh Ministers.
- (3) A fee limit condition is a condition that requires the governing body of a registered provider to—
 - (a) have a fee limit statement approved under section 47, and
 - (b) secure that regulated course fees do not exceed the applicable fee limit.
- (4) A qualifying course is a course of a description specified in regulations made by the Welsh Ministers to which subsection (5) applies.
- (5) This subsection applies to a course provided—
 - (a) at one or more places in Wales or elsewhere,
 - (b) by means of correspondence, equipment or other facility that enables persons who are not in the same place (whether in Wales or elsewhere) to participate in teaching or studying the course, or
 - (c) by a combination of the ways described in paragraphs (a) and (b).
- (6) The power to specify a description of course under subsection (4) must not be exercised so as to discriminate—
 - (a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given;
 - (b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.
- (7) Regulated course fees are fees payable to the tertiary education provider by a qualifying person—
 - (a) in connection with the person undertaking a qualifying course, and
 - (b) in respect of an academic year applicable to that course, where the year begins on a day when the applicable provisions in the fee limit statement have effect.
- (8) The applicable fee limit is—
 - (a) in a case where the tertiary education provider’s fee limit statement specifies a fee limit for the course and year in question, that limit;

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- (b) in a case where the provider’s fee limit statement provides for the determination of a fee limit for the course and year in question, that limit as determined in accordance with the statement.
- (9) A qualifying person is a person who—
- (a) is not an international student, and
 - (b) falls within any class of persons specified in regulations made by the Welsh Ministers for the purposes of this Part.
- (10) An international student is a person who may or must be charged higher fees by virtue of regulations made under section 1 of the [Education \(Fees and Awards\) Act 1983 \(c. 40\)](#) (charging of higher fees in case of students not having prescribed connection with the United Kingdom).
- (11) The Welsh Ministers may, by regulations, make provision for circumstances in which fees payable to a person, in connection with a qualifying person’s undertaking a course, or part of a course, provided on behalf of a tertiary education provider, are to be treated for the purposes of subsection (7) and section 46 as being payable to that provider in connection with the qualifying person’s undertaking the course.

Commencement Information

119 S. 32 not in force at Royal Assent, see [s. 148\(2\)](#)

120 S. 32 in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(f\)\(u\)](#)

33 Mandatory ongoing registration conditions on equal opportunity

- (1) The Commission must ensure that the ongoing registration conditions of each registered provider include conditions requiring the delivery of measurable outcomes to further each of the aims in subsection (2).
- (2) The aims are—
- (a) increasing participation in relevant tertiary education provided by, or on behalf of, the registered provider by persons who are members of under-represented groups;
 - (b) retention of students who are members of under-represented groups to the end of courses of relevant tertiary education provided by, or on behalf of, the registered provider;
 - (c) reduction of any gaps in attainment in relevant tertiary education provided by, or on behalf of, the registered provider between different groups of students specified in the conditions, where the differences arise from social, cultural, economic or organisational factors;
 - (d) provision of support for students finishing courses of relevant tertiary education provided by, or on behalf of, the registered provider who are members of under-represented groups to continue their tertiary education, find employment or start a business.
- (3) In this section—
- “relevant tertiary education” (“*addysg drydyddol berthnasol*”) means courses of tertiary education provided wholly or mainly in Wales and of a kind that relates to the category of the register in which the provider in question is registered;

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“under-represented groups” (“*grwpiau sydd heb gynrychiolaeth ddigonol*”) are groups specified in the conditions that are under-represented in relevant tertiary education as a result of social, cultural, economic or organisational factors.

Commencement Information

- I21** S. 33 not in force at Royal Assent, see [s. 148\(2\)](#)
I22 S. 33 in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(u\)](#)

34 Power to provide for further mandatory ongoing registration conditions

The Welsh Ministers may, by regulations, provide for further mandatory ongoing registration conditions applicable to one or more of the categories of registration.

Commencement Information

- I23** S. 34 not in force at Royal Assent, see [s. 148\(2\)](#)
I24 S. 34 in force at 4.9.2023 by [S.I. 2023/919, art. 2\(l\)](#)

35 Commission duty to give guidance about ongoing registration conditions

The Commission must publish guidance for registered providers about ongoing registration conditions.

Commencement Information

- I25** S. 35 not in force at Royal Assent, see [s. 148\(2\)](#)
I26 S. 35 in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(v\)](#)

Monitoring and enforcement of registration conditions

36 Commission duty to monitor compliance with ongoing registration conditions

The Commission must monitor compliance with ongoing registration conditions by registered providers.

Commencement Information

- I27** S. 36 not in force at Royal Assent, see [s. 148\(2\)](#)
I28 S. 36 in force at 4.9.2023 for specified purposes by [S.I. 2023/919, art. 3\(w\)](#)

Status: This version of this chapter contains provisions that are prospective.

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PROSPECTIVE

37 Advice and assistance in respect of compliance with ongoing registration conditions

The Commission may provide, or make arrangements for the provision of, advice or other assistance to a registered provider for the purpose of securing compliance by the provider with its ongoing registration conditions.

Commencement Information

I29 S. 37 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

38 Reviews relevant to compliance with ongoing registration conditions

The Commission may carry out, or arrange for another person to carry out, a review of any matters that it considers relevant to compliance by a registered provider with its ongoing registration conditions.

Commencement Information

I30 S. 38 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

39 Directions in respect of failure to comply with ongoing registration conditions

- (1) The Commission may give the governing body of a tertiary education provider a direction under this section if it is satisfied that the governing body has failed, or is likely to fail, to comply with an ongoing registration condition.
- (2) In the case of a failure, or likely failure, to comply with an ongoing registration condition, the Commission may direct the governing body to comply with the condition.
- (3) In the case of a failure to comply with a fee limit condition, the Commission may also, as an alternative or in addition to a direction described in subsection (2), direct the governing body to reimburse excess fees paid to the tertiary education provider.
- (4) A direction under this section may specify steps that are (or are not) to be taken by the governing body for the purpose of compliance with the condition.
- (5) A direction of the kind described in subsection (3) may specify the manner in which reimbursement of excess fees is to be, or may be, effected.
- (6) If the Commission gives a direction under this section, it must—

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- (a) give a copy of the direction to the Welsh Ministers;
 - (b) publish the direction.
- (7) “Excess fees” are regulated course fees to the extent that those fees exceed the applicable fee limit (as quantified for the purposes of the duty under section 32 with which the governing body has failed to comply).
- (8) For procedural provision about directions under this section, see sections 75 to 78.

Commencement Information

I31 S. 39 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

40 Supplementary provision about directions under section 39

- (1) The Commission may issue guidance about steps to be taken for the purpose of complying with a direction under section 39.
- (2) Before issuing guidance under this section the Commission must consult the governing body of each registered provider; and may consult the governing body of any other tertiary education provider in Wales as it considers appropriate.

Commencement Information

I32 S. 40 not in force at Royal Assent, see [s. 148\(2\)](#)

De-registration

41 De-registration

- (1) The Commission must remove a tertiary education provider from a category of the register if the Commission becomes aware that the provider—
 - (a) is no longer a tertiary education provider in Wales, or
 - (b) no longer provides, or has provided on its behalf, the kind of tertiary education that relates to the category.
- (2) The Welsh Ministers may, by regulations, specify other circumstances in which a registered provider must be removed from one or more categories of the register or all categories of the register.
- (3) The Commission may remove a registered provider from a category of the register if condition A or B is satisfied.
- (4) Condition A is satisfied if—
 - (a) the Commission has previously exercised its powers under section 39 (directions in respect of failure to comply with ongoing registration

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- conditions) in relation to breach of one of the tertiary education provider’s ongoing registration conditions that apply to the category of registration, and
- (b) it appears to the Commission that—
- (i) there is again a breach, or a continuing breach, of that condition, or
 - (ii) there is or has been a breach of a different one of the provider’s ongoing registration conditions that apply to the category of registration.
- (5) Condition B is satisfied if it appears to the Commission that—
- (a) there is or has been a breach of one of the tertiary education provider’s ongoing registration conditions that apply to the category of registration, and
 - (b) its powers under section 39 are insufficient to deal with the breach (whether or not they have been, are being or are to be, exercised in relation to it).
- (6) The Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a tertiary education provider from a category of the register under this section.
- (7) Regulations under subsection (6) may include provision treating the tertiary education provider as a registered provider for such purposes as the regulations may specify.
- (8) The Commission must—
- (a) maintain a list of tertiary education providers removed from a category of the register under this section,
 - (b) include in that list reference to any regulations made under subsection (6), and
 - (c) make the list publicly available by such means as it considers appropriate.

Commencement Information

I33 S. 41 not in force at Royal Assent, see [s. 148\(2\)](#)

I34 S. 41 in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(x\)](#)

PROSPECTIVE

42 De-registration: procedure

- (1) Before removing a registered provider from a category of the register under section 41, the Commission must notify the governing body of the provider that it proposes to do so.
- (2) The notice must specify—
 - (a) the Commission’s reasons for proposing to remove the provider from a category of the register,
 - (b) the period during which the governing body of the provider may make representations about the proposal (“the specified period”), and
 - (c) the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.

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- (4) The Commission must have regard to any representations made by the governing body of the provider in accordance with the notice in deciding whether to remove it from a category of the register.
- (5) Having decided whether or not to remove the provider from a category of the register, the Commission must notify the governing body of the provider of its decision.
- (6) Where the decision is to remove the provider from a category of the register, the notice must specify the date on which the removal takes effect.
- (7) The notice must also specify—
 - (a) the grounds for the removal,
 - (b) information as to the right of review, and
 - (c) the period specified in regulations under section 79(4)(c) within which an application for review may be made.
- (8) A removal under section 41 may not take effect at any time when—
 - (a) an application for a review under section 45(c) or (d) could be brought in respect of the decision to remove, or
 - (b) a review or a decision by the Commission following such a review is pending.
- (9) But that does not prevent a removal taking effect if the governing body of the provider notifies the Commission that it does not intend to apply for a review.
- (10) Where subsection (8) ceases to prevent a removal taking effect on the date specified under subsection (6), the Commission must determine a future date on which the removal takes effect.
- (11) But that is subject to what has been determined by the Commission following any review under section 45(c) or (d) in respect of the decision to remove.

Commencement Information

I35 S. 42 not in force at Royal Assent, see [s. 148\(2\)](#)

43 Voluntary de-registration and de-registration with consent

- (1) The Commission must remove a registered provider from a category of the register if—
 - (a) the governing body of the provider applies to the Commission for the provider to be removed from that category of the register, and
 - (b) the application complies with any requirements imposed under subsection (6).
- (2) But if the application under subsection (1)(a) specifies that it is combined with an application under section 25(4)(a) for registration in another category, the duty in subsection (1) does not apply unless the condition in subsection (3) applies or both of the conditions in subsection (4) apply.
- (3) The condition in this subsection is that the Commission is required to register the provider in the other category in accordance with the application under section 25(4)(a).
- (4) The conditions in this subsection are—

Status: This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

- (a) that the Commission would be required to register the provider in the other category in accordance with the application under section 25(4)(a) were it not for the effect of section 25(4)(e) in relation to the categories of registration that are the subject of the application under subsection (1)(a) and section 25(4)(a), and
 - (b) that the Commission would be required to register the provider in the other category if the provider is removed from the category in respect of which the application under subsection (1)(a) is made.
- (5) The Commission may remove a registered provider from a category of the register if the governing body of the provider consents.
- (6) The Commission may determine—
 - (a) the form of an application under subsection (1),
 - (b) the information to be contained in it or provided with it, and
 - (c) the way in which an application is to be submitted.
- (7) The Commission must notify the governing body of the provider of the date on which the provider is removed from the category of the register under this section (“the removal date”).
- (8) The Commission may vary the removal date at any time before that date by notifying the governing body of the provider.
- (9) A removal under this section may not take effect at any time when—
 - (a) an application for a review under section 45(d) could be brought in respect of the decision to remove, or
 - (b) a review or a decision by the Commission following a such review is pending.
- (10) But that does not prevent a removal taking effect if the governing body of the provider notifies the Commission that it does not intend to apply for a review.
- (11) Where subsection (9) ceases to prevent a removal taking effect on the date specified under subsection (7), the Commission must determine a future date on which the removal takes effect.
- (12) But that is subject to what has been determined by the Commission following any review under section 45(d) in respect of the decision to remove.
- (13) The Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a provider from a category of the register under this section.
- (14) Regulations under subsection (13) may include provision treating the provider as a registered provider in that category for such purposes as the regulations may specify.
- (15) The Commission must—
 - (a) maintain a list of tertiary education providers removed from categories of the register under this section,
 - (b) include in that list reference to any regulations made under subsection (13), and
 - (c) make the list publicly available by such means as it considers appropriate.

Status: This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

Commencement Information

- I36** S. 43 not in force at Royal Assent, see [s. 148\(2\)](#)
I37 S. 43 in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(y\)](#)

PROSPECTIVE

44 Change of registration category without application

Where a registered provider is removed from a category of the register under section 41(3) or 43(5), the Commission may register the provider in another category without an application under section 25(4)(a) if—

- (a) the governing body of the provider consents,
- (b) it continues to be a tertiary education provider in Wales,
- (c) it provides, or has provided on its behalf, the kind of tertiary education that relates to the other category,
- (d) it satisfies the initial registration conditions applicable to it in respect of the registration in the other category (see section 27), and
- (e) registration in the other category is not prohibited by provision made in regulations under section 25(5).

Commencement Information

- I38** S. 44 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

Registration decision reviews

45 Registration decision reviews

The governing body of a tertiary education provider may apply for a review by the decision reviewer of any of the following decisions —

- (a) a decision of the Commission to refuse to register the provider in a category of the register under section 25;
- (b) a decision of the Commission to impose or vary a specific ongoing registration condition on the provider under section 29;
- (c) a decision of the Commission to remove the provider from a category of the register under section 41;
- (d) a decision of the Commission as to the date specified under section 42(6) or section 43(7) or (8) as the date on which a removal of the provider from a category of the register takes effect.

Status: This version of this chapter contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

Commencement Information

I39 S. 45 not in force at Royal Assent, see [s. 148\(2\)](#)

Fee limit statements

46 Requirements of a fee limit statement

- (1) A fee limit statement is a document that complies with this section.
- (2) A fee limit statement must—
 - (a) specify a fee limit, or
 - (b) provide for the determination of a fee limit, in relation to each qualifying course and in respect of each relevant academic year.
- (3) A fee limit statement may specify, or provide for the determination of, different fee limits in relation to different courses and in respect of different relevant academic years.
- (4) A fee limit statement must specify the date on which it begins to have effect and any variation of a fee limit statement must specify the date on which the variation begins to have effect.
- (5) In this Part—
 - (a) a fee limit, in relation to a course, is a limit that the fees payable to the tertiary education provider by a qualifying person, in connection with the person's undertaking the course, must not exceed;
 - (b) a relevant academic year, in relation to a course, is an academic year that is applicable to the course, and in respect of which fees are payable to the provider, and which begins on a day when the applicable provisions in the fee limit statement have effect.
- (6) Where a fee limit statement specifies a fee limit in relation to a year and course, the fee limit specified must not exceed whatever amount is specified in regulations made by the Welsh Ministers for the purposes of this section (“the maximum amount”).
- (7) Where a fee limit statement provides for the determination of a fee limit in relation to a year and course, the statement must specify that the fee limit determined in accordance with the statement is not to exceed the maximum amount.

Commencement Information

I40 S. 46 not in force at Royal Assent, see [s. 148\(2\)](#)

I41 S. 46 in force at 4.9.2023 by [S.I. 2023/919, art. 2\(m\)](#)

47 Approval of fee limit statement

- (1) The governing body of a tertiary education provider in Wales may apply to the Commission for the Commission's approval of a proposed fee limit statement relating to the provider.

Status: This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

- (2) If an application for approval of a fee limit statement is made to the Commission, the Commission must by notice to the governing body concerned either—
 - (a) approve the statement, or
 - (b) reject the statement.
- (3) The governing body of a provider with an approved fee limit statement may apply to the Commission for approval of a variation or replacement of the statement.
- (4) If an application for approval of a variation or replacement is made, the Commission must by notice to the governing body either—
 - (a) approve the variation or replacement, or
 - (b) reject the variation or replacement.
- (5) An approved fee limit statement ceases to be approved if the provider to which it relates ceases to be registered in a category of registration specified under section 32(2)(b) to which the statement relates.
- (6) For procedural provision about notice under subsections (2)(b) and (4)(b), see sections 75 to 78.

Commencement Information

I42 S. 47 not in force at Royal Assent, see [s. 148\(2\)](#)

I43 S. 47(1)-(5) in force at 4.9.2023 for specified purposes by [S.I. 2023/919](#), [art. 3\(z\)](#)

PROSPECTIVE

48 Publication of approved fee limit statement

- (1) Where the Commission has approved a fee limit statement, the governing body of the provider to which the statement relates must publish the statement (and any approved variation or replacement of the statement).
- (2) In discharging its duty under subsection (1), the governing body must have regard to the need to make the statement easily accessible to students and prospective students.

Commencement Information

I44 S. 48 not in force at Royal Assent, see [s. 148\(2\)](#)

PROSPECTIVE

49 Validity of contracts

- (1) This section applies to a contract that provides for the payment of regulated course fees to a tertiary education provider, by a qualifying person and in connection with the person's undertaking a qualifying course, that exceed the applicable fee limit.

Status: This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1. (See end of Document for details)

- (2) For the purposes of any rights and liabilities arising under the contract, and any proceedings in respect of those rights and liabilities, the contract is to be treated as providing for the payment of fees in an amount equivalent to the applicable fee limit.
- (3) Except as provided in subsection (2), the contract is not void or unenforceable in consequence of providing for the payment of fees exceeding the applicable fee limit.

Commencement Information

I45 S. 49 not in force at Royal Assent, see [s. 148\(2\)](#)

Status:

This version of this chapter contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, CHAPTER 1.