



# Higher Education Act 2004

## 2004 CHAPTER 8

An Act to make provision about research in the arts and humanities and about complaints by students against institutions providing higher education; to make provision about fees payable by students in higher education; to provide for the appointment of a Director of Fair Access to Higher Education; to make provision about grants and loans to students in higher or further education; to limit the jurisdiction of visitors of institutions providing higher education; and for connected purposes. [1st July 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act applied (1.4.2005) by [Central Sussex College \(Government\) Regulations 2005 \(S.I. 2005/397\)](#), reg. 1, [Sch. 2 para. 2](#)
- C2 Act modified (7.4.2005) by [Education Act 2005 \(c. 18\)](#), [ss. 96\(2\)](#), 125(1)(b)
- C3 Act Education Acts modified (temp.) (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 6 para. 3\(3\)](#); S.I. 2007/935, art. 5(bb)

## PART 1

### RESEARCH IN ARTS AND HUMANITIES

#### 1 Arts and Humanities Research Council

In this Part “the Arts and Humanities Research Council” means a body to be established by Royal Charter wholly or mainly for objects consisting of, or comprised in, the following—

- (a) carrying out, facilitating, encouraging and supporting—
  - (i) research in the arts and humanities, and

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- (ii) instruction in the arts and humanities,
- (b) advancing and disseminating knowledge in, and promoting understanding of, the arts and humanities,
- (c) promoting awareness of the body's activities, and
- (d) providing advice on matters relating to the body's activities.

#### Commencement Information

**I1** S. 1 in force at 16.12.2004 by S.I. 2004/3255, art. 2

## 2 Transfer to Council of property etc of Arts and Humanities Research Board

- (1) All property, rights and liabilities to which the Arts and Humanities Research Board is entitled or subject immediately before the appointed day become, by virtue of this section, property, rights and liabilities of the Arts and Humanities Research Council on that day.
- (2) Where rights and liabilities under a contract of employment are transferred by virtue of subsection (1), the contract has effect from the appointed day as if originally made between the employee and the Council.
- (3) In this section “the appointed day” means the day appointed under section 52(2) for the commencement of this section.

#### Commencement Information

**I2** S. 2 in force at 1.4.2005 by S.I. 2005/767, art. 2

## 3 Expenses of Council

- (1) The Secretary of State may pay the Arts and Humanities Research Council such sums as he determines in respect of the expenses that the Council has incurred, or expects to incur, in carrying out the objects listed in section 1.
- (2) Subsection (1) applies whether the Council has incurred, or expects to incur, the expenses in the United Kingdom or elsewhere.
- (3) The Council must comply with any direction of the Secretary of State as to the use or expenditure of payments made under subsection (1).
- (4) The Council must give the Secretary of State programmes and estimates of its expenses.
- (5) Programmes and estimates under subsection (4) must be given—
  - (a) in the form required by the Secretary of State, and
  - (b) at the times required by the Secretary of State.

#### Commencement Information

**I3** S. 3 in force at 16.12.2004 by S.I. 2004/3255, art. 2

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#### **4 Returns, reports etc. by Council to Secretary of State**

- (1) The Arts and Humanities Research Council must give the Secretary of State such returns, accounts and other information relating to its property and activities as the Secretary of State requires.
- (2) As soon as possible after the end of each financial year, the Council must give the Secretary of State a report on the performance of its functions during that year.
- (3) The Secretary of State must lay a copy of any report given under subsection (2) before each House of Parliament.
- (4) The copy of a report laid in accordance with subsection (3) may include any comments which the Secretary of State has on the report.
- (5) In this section “financial year” means a period of 12 months ending with 31st March.

##### **Commencement Information**

**I4** S. 4 in force at 16.12.2004 by S.I. 2004/3255, art. 2

#### **5 Pensions**

- (1) Employment by the Arts and Humanities Research Council is included in the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.
- (2) Accordingly, in the appropriate place in the list of Other Bodies in Schedule 1 to that Act (which lists the kinds of employment etc. to which a scheme can apply) there is inserted “ The Arts and Humanities Research Council ”.
- (3) The Arts and Humanities Research Council 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 the increase attributable to subsection (1) in the sums payable under that Act out of money provided by Parliament.

##### **Commencement Information**

**I5** S. 5 in force at 16.12.2004 by S.I. 2004/3255, art. 2

#### **6 Accounts and records of Council**

- (1) The Arts and Humanities Research Council must keep proper accounts and other records.
- (2) The Council must give the Secretary of State a statement of accounts in relation to each financial year.
- (3) A statement of accounts under subsection (2) must be given—
  - (a) in the form required by the Secretary of State, and
  - (b) at the time required by the Secretary of State.

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- (4) The Secretary of State must transmit each statement of accounts given under subsection (2) to the Comptroller and Auditor General on or before 30th November following the end of the financial year to which the statement relates.
- (5) The Comptroller and Auditor General must—
- (a) examine and certify each statement of accounts transmitted under subsection (4), and
  - (b) lay before each House of Parliament—
    - (i) a copy of the accounts, and
    - (ii) a report on the accounts.
- (6) In this section “financial year” has the same meaning as in section 4.

**Commencement Information**

**I6** S. 6 in force at 16.12.2004 by S.I. 2004/3255, art. 2

**7 Northern Ireland: reserved matters**

In Schedule 3 to the Northern Ireland Act 1998 (c. 47) (reserved matters), after paragraph 35 there is inserted—

“35A The Arts and Humanities Research Council (as defined by section 1 of the Higher Education Act 2004).”

**Commencement Information**

**I7** S. 7 in force at 16.12.2004 by S.I. 2004/3255, art. 2

**8 Activities outside United Kingdom**

Nothing in this Part restricts the activities of the Arts and Humanities Research Council to the United Kingdom or any part of the United Kingdom.

**Commencement Information**

**I8** S. 8 in force at 16.12.2004 by S.I. 2004/3255, art. 2

**9 Charter of Council**

Nothing in this Part affects—

- (a) any power to amend or revoke the charter of the Arts and Humanities Research Council, or
- (b) the operation of any amendment made to the charter of the Council.

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#### Commencement Information

**19** S. 9 in force at 16.12.2004 by S.I. 2004/3255, art. 2

## 10 Research in arts and humanities

- (1) The Secretary of State may—
  - (a) carry out or support research in the arts and humanities,
  - (b) disseminate the results of research in the arts and humanities,
  - (c) further the practical application of the results of research in the arts and humanities,
  - (d) establish advisory bodies for the purpose of assisting the Secretary of State in matters connected with research in the arts and humanities, and
  - (e) if the Secretary of State establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.
- (2) The National Assembly for Wales (in this Act referred to as “the Assembly”) may, in relation to Wales,—
  - (a) carry out or support research in the arts and humanities,
  - (b) disseminate the results of research in the arts and humanities,
  - (c) further the practical application of the results of research in the arts and humanities,
  - (d) establish advisory bodies for the purpose of assisting the Assembly in matters connected with research in the arts and humanities, and
  - (e) if the Assembly establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.
- (3) The Scottish Ministers may, in relation to Scotland,—
  - (a) carry out or support research in the arts and humanities,
  - (b) disseminate the results of research in the arts and humanities,
  - (c) further the practical application of the results of research in the arts and humanities,
  - (d) establish advisory bodies for the purpose of assisting the Scottish Ministers in matters connected with research in the arts and humanities, and
  - (e) if the Scottish Ministers establish such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.
- (4) The Northern Ireland Department having responsibility for higher education may, in relation to Northern Ireland,—
  - (a) carry out or support research in the arts and humanities,
  - (b) disseminate the results of research in the arts and humanities,
  - (c) further the practical application of the results of research in the arts and humanities,
  - (d) establish advisory bodies for the purpose of assisting the Department in matters connected with research in the arts and humanities, and

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- (e) if the Department establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.
- [<sup>F1</sup>(5) The powers under this section to give financial support include, in particular, power to make a grant, loan or other payment, on such terms and conditions as the relevant authority considers appropriate.
- (6) The terms and conditions may, in particular—
- (a) enable the relevant authority to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with,
  - (b) require the payment of interest in respect of any period during which a sum due to the relevant authority in accordance with any of the terms and conditions remains unpaid, and
  - (c) require a person to whom financial support is given to provide the relevant authority with any information it requests for the purpose of the exercise of any of its functions.
- (7) In subsections (5) and (6), “the relevant authority” means—
- (a) in the case of the power under subsection (1)(a), the Secretary of State;
  - (b) in the case of the power under subsection (2)(a), the Welsh Ministers;
  - (c) in the case of the power under subsection (3)(a), the Scottish Ministers;
  - (d) in the case of the power under subsection (4)(a), the Northern Ireland Department having responsibility for higher education.]

#### Textual Amendments

**F1** S. 10(5)-(7) inserted (27.6.2017) by Higher Education and Research Act 2017 (c. 29), ss. 110(2), 124(4)

#### Commencement Information

**I10** S. 10(1)(4) in force at 16.12.2004 by S.I. 2004/3255, art. 2  
**I11** S. 10(2) in force for W. at 7.7.2005 by S.I. 2005/1833, art. 4(a)  
**I12** S. 10(3) in force for S. at 31.1.2005 by S.S.I. 2005/33, art. 3

## PART 2

### REVIEW OF STUDENT COMPLAINTS

#### 11 Qualifying institutions

In this Part “qualifying institution” means any of the following institutions <sup>F2</sup>...—

- (a) a university [<sup>F3</sup>in England or Wales] (whether or not receiving financial support under section 65 of the 1992 Act [<sup>F4</sup>or section 39 or 93 of the Higher Education and Research Act 2017 (“the 2017 Act”)]) whose entitlement to grant awards is conferred or confirmed by—
  - (i) an Act of Parliament,
  - (ii) a Royal Charter, or

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- (iii) an order under section 76 of the 1992 Act [<sup>F5</sup>or section 42 or 45 of the 2017 Act];
- (b) a constituent college, school or hall or other institution [<sup>F6</sup>in England or Wales] of a university falling within paragraph (a);
- (c) an institution [<sup>F7</sup>in England or Wales] conducted by a higher education corporation;
- (d) [<sup>F8</sup>an institution in Wales which is] a designated institution, as defined by section 72(3) of the 1992 Act.
- [<sup>F9</sup>(da) an institution in England which is a registered higher education provider as defined by section 85 of the 2017 Act (other than one within paragraph (a), (b), (c) or (d) of this section);]
- [<sup>F10</sup>(e) an institution [<sup>F11</sup>in England or Wales] (other than one within [<sup>F12</sup>any of the preceding paragraphs] of this section) which provides higher education courses which are designated for the purposes of section 22 of the 1998 Act by or under regulations under that section;
- [<sup>F13</sup>(ea) an institution in England (other than one within any of the preceding paragraphs of this section) which provides higher education courses leading to the grant of an award by or on behalf of—
  - (i) another institution in England within another paragraph of this section, or
  - (ii) the Office for Students where the grant is authorised by regulations under section 51(1) of the 2017 Act;]
- (f) an institution [<sup>F14</sup>in England or Wales] (other than one within another paragraph of this section) whose entitlement to grant awards is conferred by an order under section 76(1) of the 1992 Act [<sup>F15</sup>or section 42 or 45 of the 2017 Act].]

#### Textual Amendments

- F2** Words in s. 11 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), ss. **89(2)(a)**, 124(5); S.I. 2018/241, reg. 2(l)
- F3** Words in s. 11(a) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(b)(i)**, 124(5); S.I. 2018/241, reg. 2(l)
- F4** Words in s. 11(a) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(b)(ii)**, 124(5); S.I. 2018/241, reg. 2(l)
- F5** Words in s. 11(a)(iii) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(c)**, 124(5); S.I. 2018/241, reg. 2(l)
- F6** Words in s. 11(b) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(d)**, 124(5); S.I. 2018/241, reg. 2(l)
- F7** Words in s. 11(c) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(e)**, 124(5); S.I. 2018/241, reg. 2(l)
- F8** Words in s. 11(d) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(f)**, 124(5); S.I. 2018/241, reg. 2(l)
- F9** S. 11(da) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(g)**, 124(5); S.I. 2018/241, reg. 2(l)
- F10** S. 11(e)(f) inserted (1.9.2015) by Consumer Rights Act 2015 (c. 15), ss. **89(2)**, 100(5); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3)
- F11** Words in s. 11(e) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), ss. **89(2)(h)(i)**, 124(5); S.I. 2018/241, reg. 2(l)

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- F12** Words in s. 11(e) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 89(2)(h)(ii)**, 124(3); S.I. 2018/241, reg. 2(l); S.I. 2018/415, reg. 2(b)
- F13** S. 11(ea) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 89(2)(i)**, 124(5); S.I. 2018/241, reg. 2(l)
- F14** Words in s. 11(f) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 89(2)(j)(i)**, 124(5); S.I. 2018/241, reg. 2(l)
- F15** Words in s. 11(f) inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 89(2)(j)(ii)**, 124(5); S.I. 2018/241, reg. 2(l)

#### Commencement Information

- I13** S. 11 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**
- I14** S. 11 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

## 12 Qualifying complaints

- (1) In this Part “qualifying complaint” means, subject to <sup>[F16]</sup>subsections (2) and (3)], a complaint about an act or omission of a qualifying institution which is made by a person—
- as a student or former student at that institution, or
  - as a student or former student at another institution (whether or not a qualifying institution) undertaking a course of study, or programme of research, leading to the grant of one of the qualifying institution’s awards.
- (2) A complaint which falls within subsection (1) is not a qualifying complaint to the extent that it relates to matters of academic judgment.
- <sup>[F17]</sup>(3) The designated operator may determine that a complaint within subsection (1) about an act or omission of a qualifying institution within <sup>[F18]</sup>paragraph (da), (e), (ea)] or (f) of section 11 is a qualifying complaint only if it is made by a person who is undertaking or has undertaken a particular course or a course of a particular description.]

#### Textual Amendments

- F16** Words in s. 12(1) substituted (1.9.2015) by Consumer Rights Act 2015 (c. 15), **ss. 89(3)(a)**, 100(5); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3)
- F17** S. 12(3) inserted (1.9.2015) by Consumer Rights Act 2015 (c. 15), **ss. 89(3)(b)**, 100(5); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3); S.I. 2015/1575, art. 2 (with art. 3); S.I. 2015/1605, art. 2 (with art. 3)
- F18** Words in s. 12(3) substituted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), **ss. 89(3)**, 124(5); S.I. 2018/241, reg. 2(l)

#### Commencement Information

- I15** S. 12 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**
- I16** S. 12 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

## 13 Designation of operator of student complaints scheme

- (1) The Secretary of State may, for the purposes of this Part, designate a body corporate as the designated operator for England as from a date specified in the designation.



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- (2) The Assembly may, for the purposes of this Part, designate a body corporate as the designated operator for Wales as from a date specified in the designation.
- (3) The Secretary of State or the Assembly may not designate a body under subsection (1) or (2) unless he or the Assembly is satisfied that the body—
  - (a) meets all of the conditions set out in Schedule 1,
  - (b) is providing a scheme for the review of qualifying complaints that meets all of the conditions set out in Schedule 2, or is proposing to provide such a scheme from a date not later than the effective date,
  - (c) has consulted interested parties about the provisions of that scheme, and
  - (d) consents to the designation.
- (4) If a body is designated under subsection (1) or (2) the Secretary of State or the Assembly must, before the effective date,—
  - (a) give the body notice of the designation, and
  - (b) publish notice of the designation in such manner as he or the Assembly thinks fit.
- (5) In this Part—
  - (a) “the effective date”, in relation to the designation of a body corporate under this section, means the date specified in the designation as the date from which the body is designated as designated operator, and
  - (b) any reference to the designated operator is—
    - (i) in relation to an institution in England, a reference to the body designated under subsection (1), and
    - (ii) in relation to an institution in Wales, a reference to the body designated under subsection (2).

#### Commencement Information

**I17** S. 13 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)

**I18** S. 13 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

## 14 Duties of designated operator

The designated operator must comply with the duties set out in Schedule 3 during the period specified in that Schedule.

#### Commencement Information

**I19** S. 14 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)

**I20** S. 14 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

## 15 Duties of qualifying institutions

- (1) The governing body of every qualifying institution in England and Wales must comply with any obligation imposed upon it by a scheme for the review of qualifying complaints that is provided by the designated operator.

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- (2) The duty imposed by subsection (1) applies from the effective date of the designation and ceases to apply only if the designation is terminated.
- (3) The obligations referred to in subsection (1) include any obligation to pay fees to the designated operator.

#### Commencement Information

- I21** S. 15 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)  
**I22** S. 15 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

### 16 Termination of designation

- (1) The designation of a body under section 13 continues until it is terminated in accordance with Schedule 4.
- (2) If the designation of a body is terminated, the Secretary of State or the Assembly must publish notice of the termination in such manner as he or it thinks fit.

#### Commencement Information

- I23** S. 16 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)  
**I24** S. 16 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

### 17 Privilege in relation to law of defamation

- (1) For the purposes of the law of defamation, any proceedings relating to the review under the scheme of a qualifying complaint are to be treated as if they were proceedings before a court.
- (2) For those purposes, absolute privilege attaches to the publication of—
  - (a) any decision or recommendation made under the scheme by a person responsible for reviewing a qualifying complaint, and
  - (b) any report under paragraph 6 or 7 of Schedule 3.
- (3) In this section “the scheme” means the scheme for the review of qualifying complaints provided by the designated operator.

#### Commencement Information

- I25** S. 17 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)  
**I26** S. 17 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

### 18 Provision where designation of operator to cease

- (1) Where—
  - (a) an agreement to terminate a designation has been made under paragraph 2 of Schedule 4,
  - (b) notice to terminate a designation has been given under paragraph 4 or 6 of Schedule 4, or

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- (c) the designated operator has ceased to exist,  
the Secretary of State (in relation to England) or, as the case requires, the Assembly (in relation to Wales) may by order make such provision as he or it thinks fit for, or in connection with, the review of qualifying complaints.
- (2) The provision that may be made under this section includes any one or more of the following—
- (a) provision requiring the designated operator to provide the scheme in accordance with specified requirements;
  - (b) provision modifying, or requiring the designated operator to modify, the provisions of the scheme;
  - (c) provision about the fees payable under the scheme, including provision requiring the repayment of fees already paid;
  - (d) provision for a specified person to take over provision of the scheme;
  - (e) provision for any provision of this Part that applies in relation to a scheme provided by the designated operator to apply (with or without modifications) in relation to a scheme provided by a person specified by virtue of paragraph (d);
  - (f) provision for a specified person to review qualifying complaints, or specified descriptions of qualifying complaints, otherwise than under the scheme;
  - (g) provision requiring the payment of fees by the governing bodies of qualifying institutions to a person specified by virtue of paragraph (f);
  - (h) provision requiring the designated operator to provide such information and assistance as the Secretary of State or the Assembly considers necessary—
    - (i) for the Secretary of State or the Assembly to make provision under this section; or
    - (ii) for any person to comply with, or act under or in accordance with, provision made under this section.
- (3) The Secretary of State or the Assembly may be specified by virtue of subsection (2) (d), but not by virtue of subsection (2)(f).
- (4) In this section—  
“the scheme” means the scheme for the review of qualifying complaints that the designated operator provides or has been providing;  
“specified” means specified in an order under this section.

#### Commencement Information

**I27** S. 18 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)

**I28** S. 18 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), [Sch. Pt. 1](#)

#### <sup>F19</sup> **19 Extension of time for bringing discrimination proceedings**

#### Textual Amendments

**F19** S. 19 repealed (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), [art. 1\(2\)](#), [Sch. 2](#) (see [S.I. 2010/2317](#), [art. 2](#))

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#### Commencement Information

**I29** S. 19 in force at 1.11.2004 by [S.I. 2004/2781](#), [art. 3](#)

## 20 Exclusion of visitor’s jurisdiction in relation to student complaints

- (1) The visitor of a qualifying institution has no jurisdiction in respect of any complaint which falls within subsection (2) or (3).
- (2) A complaint falls within this subsection if it is made in respect of an application for admission to the qualifying institution as a student.
- (3) A complaint falls within this subsection if it is made by a person—
  - (a) as a student or former student at the qualifying institution, or
  - (b) as a student or former student at another institution (whether or not a qualifying institution) undertaking a course of study, or programme of research, leading to the grant of one of the qualifying institution’s awards.

#### Commencement Information

**I30** S. 20 in force for E. at 1.1.2005 by [S.I. 2004/2781](#), [art. 4](#) (with [art. 5](#))

**I31** S. 20 in force for W. at 1.1.2005 by [S.I. 2004/3144](#), [Sch. Pt. 2](#) (with [art. 6](#))

## [<sup>F20</sup>20A Institutions that cease to be qualifying institutions

- (1) An institution that ceases to be a qualifying institution is a “transitional institution” during the shorter of—
  - (a) the period of 12 months beginning with the day on which it ceases to be a qualifying institution, and
  - (b) the period beginning with that day and ending when it becomes a qualifying institution again,
 (and the shorter period is referred to in this section as “the transitional period”).
- (2) For the purposes of this Part, a transitional institution is to be treated as continuing to be a qualifying institution during the transitional period, subject to subsection (3).
- (3) A complaint is not a qualifying complaint to the extent that it is about an act or omission of a transitional institution which occurred on or after the day on which the transitional period began.
- (4) In section 12(3) (power of designated operator to determine when certain complaints are qualifying complaints), the reference to a qualifying institution within paragraph (da), (e), (ea) or (f) of section 11 includes a transitional institution that was a qualifying institution within the paragraph in question immediately before the beginning of the transitional period.]

#### Textual Amendments

**F20** [S. 20A](#) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(4\)](#), [124\(3\)](#); [S.I. 2018/241](#), [reg. 2\(1\)](#); [S.I. 2018/415](#), [reg. 2\(b\)](#)

*Status: Point in time view as at 01/04/2018.*

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## 21 Interpretation of Part 2

[<sup>F21</sup>(1)] In this Part—

“award” means any degree, diploma, certificate or other academic award or distinction;

“designated operator” has the meaning given by section 13(5)(b);

“the effective date” has the meaning given by section 13(5)(a);

<sup>F22</sup>  
...

“higher education corporation” has the meaning given by section 90(1) of the 1992 Act;

[<sup>F23</sup>“institution” includes a training provider in England who would not otherwise be regarded as an institution;]

“interested parties”, in relation to a scheme for the review of qualifying complaints provided or to be provided by a body corporate, means—

(a) qualifying institutions in England or Wales (as the case may be), and

(b) persons selected by the body corporate from amongst those it considers to represent the interests of students at qualifying institutions in England or Wales (as the case may be);

“qualifying complaint” has the meaning given by section 12;

“qualifying institution” has the meaning given by section 11.

[<sup>F24</sup>“training provider” means a person who provides training for members of the school workforce within the meaning of Part 3 of the Education Act 2005 (see section 100 of that Act).]

[<sup>F25</sup>(2)] In this Part “governing body”—

(a) in relation to a training provider in England who, but for the definition of “institution” in subsection (1), would not be regarded as an institution, means any persons responsible for the provider's management;

(b) in relation to a provider of higher education designated under section 84 of the Higher Education and Research Act 2017, means any persons responsible for the provider's management;

(c) in relation to any other institution, has the meaning given by section 90(1) of the 1992 Act, but subject to any provision made by virtue of section 90(2) of that Act.]

### Textual Amendments

**F21** S. 21(1): s. 21 renumbered as s. 21(1) (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(5\)\(a\)](#), 124(5); [S.I. 2018/241](#), [reg. 2\(l\)](#)

**F22** Words in s. 21(1) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(5\)\(b\)](#), 124(5); [S.I. 2018/241](#), [reg. 2\(l\)](#)

**F23** Words in s. 21(1) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(5\)\(c\)](#), 124(5); [S.I. 2018/241](#), [reg. 2\(l\)](#)

**F24** Words in s. 21(1) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(5\)\(d\)](#), 124(5); [S.I. 2018/241](#), [reg. 2\(l\)](#)

**F25** S. 21(2) inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), [ss. 89\(5\)\(e\)](#), 124(5); [S.I. 2018/241](#), [reg. 2\(l\)](#)

### Commencement Information

**I32** S. 21 in force for E. at 1.11.2004 by [S.I. 2004/2781](#), [art. 2](#)

*Status: Point in time view as at 01/04/2018.*

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**I33** S. 21 in force for W. at 1.12.2004 by [S.I. 2004/3144](#), **Sch. Pt. 1**

**PART 3**

STUDENT FEES AND FAIR ACCESS

*Introductory*

**F26 22** **Meaning of “plan” etc.**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); [S.I. 2018/241](#), reg. 2(s) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 13-16)

*Imposition of conditions as to fees*

**F26 23** **Duty of Secretary of State to impose condition as to student fees, etc.**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); [S.I. 2018/241](#), reg. 2(s) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 13-16)

**F26 24** **Condition to be imposed by English funding bodies**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); [S.I. 2018/241](#), reg. 2(s) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 13-16)

**F26 25** **Transitional cases in which condition must not allow fees to exceed basic amount**

.....

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**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F26 26 Regulations under section 24(6) relating to basic or higher amount**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F27 27 Power of National Assembly for Wales to impose conditions as to student fees, etc.**

.....

**Textual Amendments**

**F27** Ss. 27, 28 omitted (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 9](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)

**F27 28 [F28 Condition that may be required to be imposed by [F29 HEFCW]]**

.....

**Textual Amendments**

**F27** Ss. 27, 28 omitted (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 9](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)  
**F28** S. 28 heading substituted (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(3)(a), [Sch. 14 para. 28\(2\)](#)  
**F29** Words in s. 28 heading substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 5 para. 22\(5\)](#); S.I. 2012/924, art. 2

**F26 29 Sections 23 to [F30 26]: supplementary provisions**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

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**F30** Word in s. 29 heading substituted (1.9.2015) by [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 10\(5\)](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)

*Plans authorising fees of more than basic amount*

**F2630 Meaning of “the relevant authority”**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, [reg. 2\(s\)](#) (with transitional and savings provisions in S.I. 2018/245, [regs. 2, 3, 13-16](#))

**F2631 Director of Fair Access to Higher Education**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, [reg. 2\(s\)](#) (with transitional and savings provisions in S.I. 2018/245, [regs. 2, 3, 13-16](#))

**F2632 General duties of relevant authority**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, [reg. 2\(s\)](#) (with transitional and savings provisions in S.I. 2018/245, [regs. 2, 3, 13-16](#))

**F2633 Contents of plans**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, [reg. 2\(s\)](#) (with transitional and savings provisions in S.I. 2018/245, [regs. 2, 3, 13-16](#))

**F2634 Approval of plans**

.....



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**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F26<sup>35</sup> Duration of plans**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F26<sup>36</sup> Variation of plans**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F26<sup>37</sup> Enforcement of plans<sup>F31</sup> ...**

.....

**Textual Amendments**

**F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

**F31** Word in s. 37 heading omitted (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 17](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)

**F32<sup>38</sup> Enforcement of plans: Wales**

.....

**Textual Amendments**

**F32** S. 38 omitted (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 18](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)

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## **F26 39 Review of decisions made by relevant authority**

.....

### **Textual Amendments**

- F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

### *Supplementary*

## **F26 40 Provision of information**

.....

### **Textual Amendments**

- F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

## **F33 40A Provision of reports, information and advice by the relevant authority in relation to Wales**

.....

### **Textual Amendments**

- F33** S. 40A omitted (1.9.2015) by virtue of [Higher Education \(Wales\) Act 2015 \(anaw 1\)](#), s. 59(2), [Sch. para. 20](#) (with [Sch. paras. 27-30](#)); S.I. 2015/1327, art. 5(s)(iii)

## **F26 41 Interpretation of Part 3**

.....

### **Textual Amendments**

- F26** Ss. 22-41 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

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## PART 4

### STUDENT SUPPORT

#### 42 Effect of bankruptcy

- (1) In section 22 of the 1998 Act (arrangements for giving financial support to students), after subsection (3)(e) insert—
  - “(f) with respect to the effect of bankruptcy upon a borrower’s liability to make repayments in respect of such a loan (whether the repayments relate to sums which the borrower receives, or is entitled to receive, before or after the commencement of the bankruptcy).”
- (2) In section 46(8) of the 1998 Act (provisions that extend to Northern Ireland), in the entry relating to section 22 for “(3)(e)” substitute “ (3)(e) or (f) ”.
- (3) Subsection (4) has effect in relation to the Education (Student Loans) Act 1990 (c. 6) to the extent that it continues in force by virtue of any savings made, in connection with its repeal by the 1998 Act, by an order under section 46(4) of the 1998 Act.
- (4) Schedule 2 to the Education (Student Loans) Act 1990 (loans for students) is to have effect as if in paragraph 5(2) (liabilities relating to student loans not to be included in bankruptcy debts) the reference to “any such sum” were a reference to “any sums to which this paragraph applies”.
- (5) Nothing in this section affects any bankruptcy commencing before this section comes into force.

#### 43 Other amendments of section 22 of Teaching and Higher Education Act 1998

- (1) Section 22 of the 1998 Act (arrangements for giving financial support to students) is amended as follows.
- (2) In subsection (2)(i), for “who have previously made loans of any prescribed description to those persons” substitute “ to whom those persons are liable to make payments ”.
- (3) Omit subsection (7) (which provides that regulations made by virtue of subsection (2) (b) of that section are to be subject to affirmative resolution procedure in certain circumstances).

#### Commencement Information

I34 S. 43 in force at 14.1.2006 by S.I. 2006/51, art. 2

#### 44 Transfer of certain functions to National Assembly for Wales

- (1) In relation to Wales, the functions of the Secretary of State under section 22 of the 1998 Act (arrangements for giving financial support to students) are hereby transferred to the Assembly, except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of that section.
- (2) The functions of the Secretary of State under section 22 of the 1998 Act are to be exercisable concurrently with the Assembly so far as they relate to the making in

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relation to Wales of any provision authorised by subsection (2)(a), (c) or (k) of that section.

- (3) Regulations made under section 22 of the 1998 Act by the Secretary of State must provide that no provision made by virtue of subsection (5) of that section is to apply in relation to any loan made under that section by the Assembly unless the Assembly—
  - (a) has determined, in relation to any loan or description of loan, that repayments are to be collected by the Commissioners of Inland Revenue, and
  - (b) has given notice of that determination to the Secretary of State and to the person liable to make the repayments.
- (4) The functions of the Secretary of State under section 23 of the 1998 Act (transfer or delegation of functions relating to student support) are hereby transferred to the Assembly so far as they relate to functions which are exercisable by the Assembly under regulations under section 22 of that Act.
- (5) Until the commencement of subsection (4), the functions of the Secretary of State under subsections (7) and (8) of section 23 of the 1998 Act (power to make payments to body or person by whom function is exercisable by virtue of subsection (1) or (4) of that section) are to be exercisable concurrently with the Assembly so far as they relate to payments to any body or person by whom there is exercisable any function that will after the commencement of subsections (1) and (2) be exercisable by the Assembly.
- (6) For the purposes of the Government of Wales Act 1998 (c. 38)—
  - (a) any function that is transferred to the Assembly by subsection (1) or (4) or made exercisable by the Assembly by subsection (2) or (5) is to be taken to have been transferred to, or made exercisable by, the Assembly by an Order in Council under section 22 of that Act, and
  - (b) in relation to any function which is taken by virtue of paragraph (a) to have been transferred to the Assembly by such an Order in Council, any reference to the coming into force of the Order in Council transferring it is to be read as a reference to the commencement of the provision of this section by which the function is transferred.

#### Commencement Information

**I35** S. 44(1)(2)(5)(6) in force for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(b)** (with **art. 6**)

**I36** S. 44(3) in force at 1.9.2006 for W. by S.I. 2005/1833, **art. 5A**

**I37** S. 44(4) in force at 23.6.2006 for W. by S.I. 2005/1833, **art. 5**

## 45 Supply of information held by student support authority

- (1) Regulations may provide that a student support authority may supply student support information of a prescribed description to a prescribed person for a prescribed purpose.
- (2) A person may not be prescribed under subsection (1) unless the person—
  - (a) is the governing body of an institution with which eligible students (as defined for the purposes of the student support scheme) are undertaking courses, or
  - (b) is a person who appears to the Secretary of State or, as the case may be, the Assembly to be exercising functions of a public nature.

*Status: Point in time view as at 01/04/2018.*

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- (3) Regulations under subsection (1) may not allow information to be supplied except with the consent of every individual to whom the information relates, given in such manner as may be prescribed.
- (4) Subsection (3) does not apply to the supply of information for the purposes of any civil or criminal proceedings arising out of the student support scheme.
- (5) Regulations under subsection (1) may provide that information may be supplied under such regulations only if prescribed conditions are met.
- (6) This section does not limit the circumstances in which information may be supplied apart from this section.
- (7) In this section “student support authority” means—
- (a) the Secretary of State,
  - (b) any authority or governing body by whom any function of the Secretary of State is for the time being exercisable to any extent by virtue of section 23(1) of the 1998 Act,
  - (c) any person acting on behalf of the Secretary of State to any extent by virtue of section 23(4) of the 1998 Act,
  - (d) the Assembly,
  - (e) any authority or governing body by whom any function of the Assembly is for the time being exercisable to any extent by virtue of section 23(1) of the 1998 Act, and
  - (f) any person acting on behalf of the Assembly to any extent by virtue of section 23(4) of the 1998 Act.
- (8) In this section—
- “prescribed” means prescribed by regulations;
  - “regulations” means—
    - (a) in relation to a student support authority falling within any of paragraphs (a) to (c) of subsection (7), regulations made by the Secretary of State, and
    - (b) in relation to a student support authority falling within any of paragraphs (d) to (f) of subsection (7), regulations made by the Assembly;
  - “student support scheme” means the provisions of regulations under section 22 of the 1998 Act;
  - “student support information”, in relation to a student support authority, means any information which the student support authority holds in connection with, or in consequence of, the exercise of any function relating to the operation of the student support scheme.

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**Commencement Information**

**I38** S. 45 in force at 14.1.2006 by S.I. 2006/51, art. 2

*Status: Point in time view as at 01/04/2018.*

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## PART 5

### MISCELLANEOUS AND GENERAL

#### *Staff disputes: jurisdiction of visitor*

#### 46 Exclusion of visitor’s jurisdiction in relation to staff disputes

- (1) The visitor of a qualifying institution has no jurisdiction in respect of—
  - (a) any dispute relating to a member of staff which concerns his appointment or employment or the termination of his appointment or employment,
  - (b) any other dispute between a member of staff and the qualifying institution in respect of which proceedings could be brought before any court or tribunal, or
  - (c) any dispute as to the application of the statutes or other internal laws of the institution in relation to a matter falling within paragraph (a) or (b).
- (2) In subsection (1) “qualifying institution” has the meaning given by section 11.
- (3) In determining whether a dispute falls within subsection (1)(b) it is to be assumed that the visitor does not have jurisdiction to determine the dispute.
- (4) Section 206 of the Education Reform Act 1988 (c. 40) (which is superseded by subsection (1)) shall cease to have effect.

#### Commencement Information

**I39** S. 46 in force for W. at 1.1.2005 by S.I. 2004/3144, Sch. Pt. 2 (with art. 6)

**I40** S. 46 in force for E. at 1.1.2005 by S.I. 2004/2781, art. 4 (with art. 5)

#### *General*

#### 47 Orders and regulations

- (1) Any power—
  - (a) of the Secretary of State or the Assembly to make an order or regulations under this Act, or
  - (b) of the Scottish Ministers to make an order under this Act,
 is exercisable by statutory instrument.
- (2) Any statutory instrument containing—
  - (a) an order made by the Secretary of State under section 18, or
  - (b) regulations made by the Secretary of State under any provision of this Act,
 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) does not apply to—
  - <sup>F34</sup>(a) .....
  - (b) regulations to which paragraph 12(3) of Schedule 2 applies, or
  - <sup>F35</sup>(c) .....
- <sup>F36</sup>(4) .....

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- (5) Any order or regulations under this Act may—
- (a) make different provision for different cases or different areas,
  - (b) make provision generally or only in relation to specified cases, and
  - (c) contain such incidental, supplemental, saving or transitional provisions as the person making the order or regulations thinks fit.
- (6) Nothing in this Act is to be regarded as affecting the generality of subsection (5).

#### Textual Amendments

- F34** S. 47(3)(a) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(3\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)
- F35** S. 47(3)(c) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(3\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)
- F36** S. 47(4) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(3\)\(b\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

## 48 General interpretation

In this Act—

“the 1992 Act” means the Further and Higher Education Act 1992 (c. 13);

<sup>F37</sup>  
...

“the 1998 Act” means the Teaching and Higher Education Act 1998 (c. 30);

<sup>F38</sup>  
...

“the Assembly” means the National Assembly for Wales.

#### Textual Amendments

- F37** Words in s. 48 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(3)(a), (b), [Sch. 19 Pt. 3](#)
- F38** Words in s. 48 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(4\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

## 49 Consequential amendments

Schedule 6 contains amendments related to the provisions of this Act.

#### Commencement Information

- I41** S. 49 partly in force; s. 49 in force for certain purposes at Royal Assent, see s. 52(1)
- I42** S. 49 in force for specified purposes at 16.12.2004 by S.I. 2004/3255, [art. 2](#)
- I43** S. 49 in force for specified purposes at 1.4.2005 by S.I. 2005/767, [art. 2](#)
- I44** S. 49 in force for specified purposes for W. at 7.7.2005 by S.I. 2005/1833, [art. 4\(c\)](#)
- I45** S. 49 in force at 14.1.2006 for specified purposes by S.I. 2006/51, [art. 2](#)
- I46** S. 49 in force at 31.3.2011 for specified purposes for W. by S.I. 2011/297, [art. 4\(e\)](#)

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## 50 Repeals

Schedule 7 contains repeals.

### Commencement Information

- I47** S. 50 in force for specified purposes for E. at 1.1.2005 by S.I. 2004/2781, **art. 4**  
**I48** S. 50 in force for specified purposes for W. at 1.1.2005 by S.I. 2004/3144, **Sch. Pt. 2**  
**I49** S. 50 in force for specified purposes at 1.4.2005 by S.I. 2005/767, **art. 2**  
**I50** S. 50 in force for specified purposes for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(d)**  
**I51** S. 50 in force at 14.1.2006 for specified purposes by S.I. 2006/51, **art. 2**  
**I52** S. 50 in force at 31.3.2011 for specified purposes for W. by S.I. 2011/297, **art. 4(f)**

## 51 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money so provided.
- (2) There shall be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act.

## 52 Commencement

- (1) The following provisions come into force on the passing of this Act—
- section 22, so far as relating to England;
  - section 24(6), so far as enabling regulations to be made;
  - section 26;
  - section 29, so far as relating to England;
  - section 30(1), so far as relating to England;
  - section 31;
  - section 32(1);
  - sections 33 and 34, so far as relating to England;
  - sections 35 to 37, so far as enabling regulations to be made in relation to England;
  - section 39, so far as relating to England;
  - section 40;
  - section 41, so far as relating to England;
  - section 42;
  - sections 47 and 48;
  - section 51, this section and sections 53 and 54;
  - Schedule 5; and
  - paragraph 1 of Schedule 6 and, so far as relating to the Director of Fair Access to Higher Education, paragraphs 4 and 10 of that Schedule (and section 49 so far as relating to those provisions).
- (2) The following provisions (so far as not coming into force in accordance with subsection (1)) come into force in accordance with provision made by the Secretary of State by order—



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- Part 1, except section 10(2) and (3);  
section 19;  
section 23;  
section 37;  
section 43;  
section 45;  
paragraphs 2 to 6 and 9 and 10 of Schedule 6 (and section 49 so far as relating to those paragraphs); and  
in Schedule 7, the repeals in the Superannuation Act 1972 (c. 11) and in section 22 of the 1998 Act (and section 50 so far as relating to those repeals).
- (3) The following provisions come into force in accordance with provision made by the Assembly by order—  
section 10(2);  
sections 27 and 28;  
section 30(2) and (3);  
section 32(4);  
section 38; and  
section 44.
- (4) The Assembly may not make an order under subsection (3) in relation to section 44 except with the agreement of the Secretary of State.
- (5) Section 10(3) comes into force in accordance with provision made by the Scottish Ministers by order.
- (6) Except as provided by subsections (1) to (5), the provisions of this Act come into force—  
(a) in relation to England, in accordance with provision made by the Secretary of State by order, and  
(b) in relation to Wales, in accordance with provision made by the Assembly by order.

### **53 Extent**

- (1) Subject to subsections (2) to (4), this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland and Northern Ireland—  
(a) Part 1,  
(b) section 45,  
(c) sections 47, 48, 51 and 52, and  
(d) this section and section 54.
- (3) Subsections (1), (2) and (5) of section 42 also extend to Northern Ireland.
- (4) Any amendment or repeal made by this Act has the same extent within the United Kingdom as the enactment to which it relates.

### **54 Short title, etc.**

- (1) This Act may be cited as the Higher Education Act 2004.

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- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

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## SCHEDULES

### SCHEDULE 1

Section 13

#### CONDITIONS TO BE MET BY OPERATOR OF STUDENT COMPLAINTS SCHEME

##### *Introduction*

- 1 This Schedule sets out the conditions referred to in section 13(3)(a) (and other provisions of Part 2 of this Act).

##### **Commencement Information**

- I53** Sch. 1 para. 1 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I54** Sch. 1 para. 1 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

##### *Suitability*

- 2 Condition A is that the body corporate is a suitable person to be the designated operator.

##### **Commencement Information**

- I55** Sch. 1 para. 2 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I56** Sch. 1 para. 2 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

##### *Capability*

- 3 Condition B is that the body corporate is capable of providing in an effective manner, on and after the effective date, a scheme for the review of qualifying complaints which meets all of the conditions set out in Schedule 2.

##### **Commencement Information**

- I57** Sch. 1 para. 3 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I58** Sch. 1 para. 3 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Status: Point in time view as at 01/04/2018.**Changes to legislation: Higher Education Act 2004 is up to date with all changes known to be in force on or before 30 June 2024. 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)*

## SCHEDULE 2

Section 13

## CONDITIONS TO BE MET BY STUDENT COMPLAINTS SCHEME

*Introduction.*

- 1 This Schedule sets out the conditions referred to in section 13(3)(b) (and other provisions of Part 2 of this Act).

**Commencement Information**

- I59** Sch. 2 para. 1 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I60** Sch. 2 para. 1 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Qualifying institutions*

- 2 Condition A is that at any given time the scheme relates (as the case may be)—
- (a) to every institution in England,
  - (b) to every institution in Wales, or
  - (c) to every institution in England and Wales,
- that is a qualifying institution at that time.

**Commencement Information**

- I61** Sch. 2 para. 2 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I62** Sch. 2 para. 2 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Referral of qualifying complaints*

- 3 (1) Condition B is that the scheme provides that every qualifying complaint made about the qualifying institutions to which it relates is capable of being referred under the scheme.
- (2) A scheme does not fail to meet condition B only because it contains some or all of the following—
- (a) provision that qualifying complaints are to be referred under the scheme within a time limit specified in, or determined in accordance with, the scheme;
  - (b) provision that, where a qualifying complaint is made about a qualifying institution which provides an internal procedure for the review of complaints, the complaint is not to be referred under the scheme until the complainant has exhausted the internal procedure;
  - (c) provision that a qualifying complaint is not to be referred under the scheme if—
    - (i) relevant proceedings have been concluded, or
    - (ii) relevant proceedings that have not been concluded have not been stayed.

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- (3) In sub-paragraph (2)(c) “relevant proceedings” means proceedings relating to the subject matter of the qualifying complaint that have been brought at first instance before a court or tribunal.

**Commencement Information**

- I63** Sch. 2 para. 3 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I64** Sch. 2 para. 3 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Individuals to review complaints*

- 4 Condition C is that the scheme requires every qualifying complaint referred under the scheme to be reviewed by an individual who—
- (a) is independent of the parties, and
  - (b) is suitable to review that complaint.

**Commencement Information**

- I65** Sch. 2 para. 4 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I66** Sch. 2 para. 4 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Review of complaint*

- 5 (1) Condition D is that the scheme requires a reviewer—
- (a) to make a decision as to the extent to which a qualifying complaint is justified; and
  - (b) to make that decision as soon as reasonably practicable.
- (2) A scheme does not fail to meet condition D only because it contains provision that a reviewer may dismiss a qualifying complaint without consideration of the merits if the reviewer considers the complaint to be frivolous or vexatious.

**Commencement Information**

- I67** Sch. 2 para. 5 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I68** Sch. 2 para. 5 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Recommendation of reviewer if complaint justified*

- 6 Condition E is that the scheme provides that, in a case where a reviewer decides that a qualifying complaint is to any extent justified, the reviewer—
- (a) may recommend the governing body of the institution to which the complaint relates—
    - (i) to do anything specified in the recommendation (which may include the payment of sums so specified), and
    - (ii) to refrain from doing anything so specified, but
  - (b) may not require any person to do, or refrain from doing, anything.

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**Commencement Information**

- I69** Sch. 2 para. 6 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**  
**I70** Sch. 2 para. 6 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

*Reviewers to notify parties of decisions, recommendations etc.*

- 7 Condition F is that the scheme requires a reviewer to notify the parties to a qualifying complaint in writing of—
- (a) the decision the reviewer has made,
  - (b) the reviewer’s reasons for making that decision, and
  - (c) if the reviewer makes a recommendation—
    - (i) that recommendation, and
    - (ii) the reviewer’s reasons for making that recommendation.

**Commencement Information**

- I71** Sch. 2 para. 7 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**  
**I72** Sch. 2 para. 7 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

*Fees*

- 8 Condition G is that the scheme does not require complainants to pay any fees in connection with the operation of the scheme.

**Commencement Information**

- I73** Sch. 2 para. 8 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**  
**I74** Sch. 2 para. 8 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

- 9 Condition H is that any fees payable under the scheme by the qualifying institutions to which it relates do not exceed the amount incurred by the operator, taking one year with another, in providing the scheme in relation to those institutions.

**Commencement Information**

- I75** Sch. 2 para. 9 in force for E. at 1.11.2004 by S.I. 2004/2781, **art. 2**  
**I76** Sch. 2 para. 9 in force for W. at 1.12.2004 by S.I. 2004/3144, **Sch. Pt. 1**

*Scheme also applying to bodies that are not qualifying institutions*

- 10 (1) A scheme does not fail to meet the conditions in this Schedule only because it also relates to bodies that are not qualifying institutions.
- (2) A scheme which relates to such bodies does not fail to meet the conditions in this Schedule only because the provisions of the scheme that apply to such bodies do not meet those conditions.

*Status: Point in time view as at 01/04/2018.*

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#### Commencement Information

- I77** Sch. 2 para. 10 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I78** Sch. 2 para. 10 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

#### Interpretation

- 11 In this Schedule—
- “complainant” means the person making a qualifying complaint;
  - “parties”, in relation to a qualifying complaint, means—
    - (a) the complainant, and
    - (b) the governing body of the institution about which the complaint is made;
  - “reviewer”, in relation to the review of a qualifying complaint under a scheme, means the individual who is reviewing the complaint.

#### Commencement Information

- I79** Sch. 2 para. 11 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I80** Sch. 2 para. 11 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

#### Power to amend this Schedule

- 12 (1) Regulations may amend the preceding provisions of this Schedule.
- (2) In sub-paragraph (1) “regulations” means regulations made—
- (a) in relation to schemes relating to qualifying institutions in England, by the Secretary of State, or
  - (b) in relation to schemes relating to qualifying institutions in Wales, by the Assembly.
- (3) No regulations may be made by the Secretary of State under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

#### Commencement Information

- I81** Sch. 2 para. 12 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I82** Sch. 2 para. 12 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

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## SCHEDULE 3

Section 14

### DUTIES OF DESIGNATED OPERATOR OF STUDENT COMPLAINTS SCHEME

#### *Introduction*

- 1 This Schedule sets out the duties referred to in section 14 and the period during which those duties must be complied with.

#### **Commencement Information**

- I83** Sch. 3 para. 1 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I84** Sch. 3 para. 1 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

#### *Provision of scheme*

- 2 The designated operator must provide a scheme for the review of qualifying complaints which meets all of the conditions set out in Schedule 2.

#### **Commencement Information**

- I85** Sch. 3 para. 2 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I86** Sch. 3 para. 2 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

#### *Publication of scheme*

- 3 The designated operator must publish the latest version of the scheme in such manner as it thinks fit.

#### **Commencement Information**

- I87** Sch. 3 para. 3 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I88** Sch. 3 para. 3 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

#### *Changes to scheme*

- 4 The designated operator must not make any change to a provision of the scheme to which a condition set out in Schedule 2 relates unless the operator has first—
- (a) consulted interested parties about the proposed change, and
  - (b) notified the Secretary of State or the Assembly (as the case requires) of the proposed change.

#### **Commencement Information**

- I89** Sch. 3 para. 4 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I90** Sch. 3 para. 4 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1



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### *Compliance with scheme*

- 5 The designated operator must comply with any requirements that the scheme imposes on it.

#### **Commencement Information**

- I91** Sch. 3 para. 5 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I92** Sch. 3 para. 5 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

### *Annual report*

- 6 (1) The designated operator must—
- (a) produce an annual report on the scheme and its operation, and
  - (b) publish the report in such manner as it thinks fit.
- (2) The report must include information about—
- (a) complaints referred under the scheme,
  - (b) the decisions and recommendations made by reviewers,
  - (c) the extent to which recommendations made by reviewers have been followed, and
  - (d) the way in which the operator has used the fees (if any) paid in connection with the scheme.

#### **Commencement Information**

- I93** Sch. 3 para. 6 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I94** Sch. 3 para. 6 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

### *Review*

- 7 (1) This paragraph applies if the Secretary of State or the Assembly requests the designated body to—
- (a) conduct a review of the scheme or its operation (or any aspect of either of those matters), and
  - (b) report the results of the review to the Secretary of State or Assembly.
- (2) The designated body must comply with the request within such time as may be specified by the Secretary of State or the Assembly.
- (3) In conducting the review, the designated body must comply with any particular requirements imposed by the Secretary of State or the Assembly.

#### **Commencement Information**

- I95** Sch. 3 para. 7 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I96** Sch. 3 para. 7 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

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### *Supply of information*

- 8 The designated operator must provide the Secretary of State or the Assembly with such information about itself, and the scheme and its operation, as the Secretary of State or the Assembly may reasonably require for the purposes of his or the Assembly’s functions under Part 2 of this Act.

#### **Commencement Information**

- I97** Sch. 3 para. 8 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I98** Sch. 3 para. 8 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

### *Period during which the designated operator must comply with duties*

- 9 (1) The duties set out in this Schedule apply from the relevant date and cease to apply only if the designation is terminated.
- (2) The “relevant date” means—
- (a) in relation to the duties set out in paragraphs 3, 4, 5 and 8, the date on which notice of designation is received in accordance with section 13(4)(a), and
  - (b) in relation to the duties set out in the other paragraphs, the effective date of the designation.

#### **Commencement Information**

- I99** Sch. 3 para. 9 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I100** Sch. 3 para. 9 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

### *Duties to publish information: further provision*

- 10 Where by virtue of this Schedule the designated operator is under a duty to publish information, it must, in choosing the manner in which the information is to be published, have regard to the object of making that information available to interested parties.

#### **Commencement Information**

- I101** Sch. 3 para. 10 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I102** Sch. 3 para. 10 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Status: Point in time view as at 01/04/2018.*

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## SCHEDULE 4

Section 16

### TERMINATION OF DESIGNATION OF OPERATOR OF STUDENT COMPLAINTS SCHEME

#### PART 1

##### CIRCUMSTANCES IN WHICH DESIGNATION TERMINATED

###### *Introduction*

- 1 This Part of this Schedule sets out the circumstances in which the designation of a body corporate under section 13 is terminated.

###### **Commencement Information**

**I103** Sch. 4 para. 1 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I104** Sch. 4 para. 1 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

###### *Agreement*

- 2 The designation is terminated if the designated operator and the Secretary of State or the Assembly (as the case may be) make an agreement which specifies a date when the designation is to terminate.

###### **Commencement Information**

**I105** Sch. 4 para. 2 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I106** Sch. 4 para. 2 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

- 3 In this case the designation is terminated on the date specified in the agreement.

###### **Commencement Information**

**I107** Sch. 4 para. 3 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I108** Sch. 4 para. 3 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

###### *Notice given by the designated operator*

- 4 (1) The designation is terminated if the designated operator gives the Secretary of State or the Assembly (as the case may be) notice which specifies a date when the designation is to terminate.
- (2) Notice under this paragraph is valid only if the period between—
- (a) the date when the notice is given, and
  - (b) the date specified in the notice,
- is one year or longer.

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: Higher Education Act 2004 is up to date with all changes known to be in force on or before 30 June 2024. 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)*

**Commencement Information**

**I109** Sch. 4 para. 4 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I110** Sch. 4 para. 4 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

5 In this case the designation is terminated on the date specified in the notice.

**Commencement Information**

**I111** Sch. 4 para. 5 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I112** Sch. 4 para. 5 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Notice given by Secretary of State or Assembly*

- 6 (1) The designation is terminated if the Secretary of State or the Assembly (as the case may be) gives the designated operator notice which specifies a date when the designation is to terminate.
- (2) Notice under this paragraph may not be given unless the Secretary of State or the Assembly—
- (a) is no longer satisfied that the designated operator meets all of the conditions in Schedule 1, or
  - (b) is satisfied that the designated operator has failed to comply with section 14.
- (3) Notice under this paragraph is valid only if the period between—
- (a) the date when the notice is given, and
  - (b) the date specified in the notice,
- is such as the Secretary of State or the Assembly considers reasonable.

**Commencement Information**

**I113** Sch. 4 para. 6 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I114** Sch. 4 para. 6 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

7 In this case the designation is terminated on the date specified in the notice.

**Commencement Information**

**I115** Sch. 4 para. 7 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I116** Sch. 4 para. 7 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Operator ceases to exist*

8 The designation is terminated if the designated operator ceases to exist.

**Commencement Information**

**I117** Sch. 4 para. 8 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I118** Sch. 4 para. 8 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

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- 9 In this case the designation is terminated on the date when the operator ceases to exist.

**Commencement Information**

**I119** Sch. 4 para. 9 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I120** Sch. 4 para. 9 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

**PART 2**

AGREEMENT MADE OR NOTICE GIVEN UNDER PART 1: SUPPLEMENTARY PROVISION

*Introduction*

- 10 (1) This Part of this Schedule applies where—
- (a) the designated operator and the Secretary of State or the Assembly have made an agreement under paragraph 2,
  - (b) the designated operator has given notice under paragraph 4, or
  - (c) the Secretary of State or the Assembly has given notice under paragraph 6.

- (2) In this Part—

“original instrument of termination” means the agreement or notice referred to in sub-paragraph (1);

“termination date” means the date specified in an agreement under paragraph 2, or notice under paragraph 4 or 6, as the date when the designation in question is to terminate.

**Commencement Information**

**I121** Sch. 4 para. 10 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2

**I122** Sch. 4 para. 10 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Effect of agreement or notice on provisions of Part 1 of Schedule*

- 11 (1) Where this Part of this Schedule applies—
- (a) the designated operator and the Secretary of State or the Assembly may not make an agreement, or a new agreement, under paragraph 2,
  - (b) the designated operator may not give a notice, or a new notice, under paragraph 4, and
  - (c) the Secretary of State or the Assembly may not—
    - (i) give a notice under paragraph 6 except in accordance with sub-paragraph (2) below, or
    - (ii) give a new notice under paragraph 6.
- (2) The Secretary of State or the Assembly may give a notice under paragraph 6 if—
- (a) the original instrument of termination is—
    - (i) an agreement under paragraph 2, or
    - (ii) a notice under paragraph 4, and

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- (b) the termination date specified in the notice under paragraph 6 falls before the termination date specified in the original instrument of termination.

**Commencement Information**  
**I123** Sch. 4 para. 11 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I124** Sch. 4 para. 11 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Circumstances in which agreement or notice superseded*

- 12 The original instrument of termination is superseded only if—
- (a) notice under paragraph 6 is given in accordance with paragraph 11(2), or
  - (b) the designation in question is terminated in accordance with paragraph 8 (operator ceases to exist).

**Commencement Information**  
**I125** Sch. 4 para. 12 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I126** Sch. 4 para. 12 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

*Agreement or notice not capable of variation or cancellation or revocation*

- 13 (1) An agreement made under paragraph 2 may not be varied or cancelled.
- (2) Accordingly such an agreement continues in force until—
- (a) the designation is terminated in accordance with the agreement, or
  - (b) the agreement is superseded in accordance with paragraph 12.

**Commencement Information**  
**I127** Sch. 4 para. 13 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I128** Sch. 4 para. 13 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

- 14 (1) Notice given under paragraph 4 or 6 may not be varied or revoked.
- (2) Accordingly such notice continues in force until—
- (a) the designation is terminated in accordance with the notice, or
  - (b) the notice is superseded in accordance with paragraph 12.

**Commencement Information**  
**I129** Sch. 4 para. 14 in force for E. at 1.11.2004 by S.I. 2004/2781, art. 2  
**I130** Sch. 4 para. 14 in force for W. at 1.12.2004 by S.I. 2004/3144, Sch. Pt. 1

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#### Textual Amendments

- F39** Sch. 5 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(2\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

## SCHEDULE 6

Section 49

### CONSEQUENTIAL AMENDMENTS

#### *Public Records Act 1958 (c. 51)*

**F40**<sup>1</sup> .....

#### Textual Amendments

- F40** Sch. 6 para. 1 omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(5\)\(a\)](#); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

#### *Parliamentary Commissioner Act 1967 (c. 13)*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), insert at the appropriate place “ The Arts and Humanities Research Council. ”.

#### Commencement Information

- I131** Sch. 6 para. 2 in force at 16.12.2004 by [S.I. 2004/3255](#), [art. 2](#)

#### *Superannuation Act 1972 (c. 11)*

- 3 In Schedule 1 to the Superannuation Act 1972 (which lists the kinds of employment etc. to which a scheme under that Act can apply) omit “The Arts and Humanities Research Board”.

#### Commencement Information

- I132** Sch. 6 para. 3 in force at 1.4.2005 by [S.I. 2005/767](#), [art. 2](#)

#### *House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), in Part 3 (other disqualifying offices) insert at the appropriate places— “ Chairman, Deputy Chairman or Chief Executive of the Arts and Humanities Research Council. ”, and <sup>F41</sup>...

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#### Textual Amendments

**F41** Words in [Sch. 6 para. 4](#) omitted (1.4.2018) by virtue of [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 11 para. 30\(5\)\(b\)](#); [S.I. 2018/241](#), reg. 2(s) (with transitional and savings provisions in [S.I. 2018/245](#), regs. 2, 3, 13-16)

#### Commencement Information

**I133** [Sch. 6 para. 4](#) partly in force; [Sch. 6 para. 4](#) in force for certain purposes at Royal Assent, see s. 52(1)

**I134** [Sch. 6 para. 4](#) in force in so far as not already in force at 16.12.2004 by [S.I. 2004/3255](#), [art. 2](#)

#### *Patents Act 1977 (c. 37)*

- 5 In section 41 of the Patents Act 1977 (amount of compensation awarded to employees in relation to patent for an invention), in subsection (3) after “Science and Technology Act 1965” insert “ or the Arts and Humanities Research Council (as defined by section 1 of the Higher Education Act 2004) ”.

#### Commencement Information

**I135** [Sch. 6 para. 5](#) in force at 16.12.2004 by [S.I. 2004/3255](#), [art. 2](#)

#### *Further Education Act 1985 (c. 47)*

- 6 In section 2 of the Further Education Act 1985 (power of local education authorities to supply goods or services through further or higher education institutions), in subsection (4)(a) after “Science and Technology Act 1965” insert “ or for the Arts and Humanities Research Council (as defined by section 1 of the Higher Education Act 2004) ”.

#### Commencement Information

**I136** [Sch. 6 para. 6](#) in force at 16.12.2004 by [S.I. 2004/3255](#), [art. 2](#)

#### *Teaching and Higher Education Act 1998 (c. 30)*

- 7 Omit section 26 of the 1998 Act (imposition of conditions as to fees at further or higher education institutions).

#### Commencement Information

**I137** [Sch. 6 para. 7](#) in force for specified purposes for W. at 7.7.2005 by [S.I. 2005/1833](#), [art. 4\(e\)](#)

**I138** [Sch. 6 para. 7](#) in force at 14.1.2006 for E. by [S.I. 2006/51](#), [art. 2](#)

**I139** [Sch. 6 para. 7](#) in force at 31.3.2011 for W. in so far as not already in force by [S.I. 2011/297](#), [art. 4\(g\)](#)

- 8 In section 28 of the 1998 Act (interpretation of Chapter 1 of Part 2), in subsection (1) omit the definitions of “fees” and “publicly-funded institution”.



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#### Commencement Information

- I140** Sch. 6 para. 8 in force at 14.1.2006 for E. by S.I. 2006/51, art. 2  
**I141** Sch. 6 para. 8 in force at 31.3.2011 for W. by S.I. 2011/297, art. 4(h)

- 9 In section 42 of the 1998 Act (orders and regulations), for subsection (5) substitute—

“(5) That subsection also does not apply to any other regulations under section 22 a draft of which has been laid before, and approved by a resolution of, each House of Parliament.”

#### Commencement Information

- I142** Sch. 6 para. 9 in force at 14.1.2006 for E. by S.I. 2006/51, art. 2

#### *Freedom of Information Act 2000 (c. 36)*

- 10 In Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of the Act), in Part 6 (other public bodies and offices: general), insert at the appropriate places— “ The Arts and Humanities Research Council. ”, and <sup>F42</sup>...

#### Textual Amendments

- F42** Words in Sch. 6 para. 10 omitted (1.4.2018) by virtue of Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 11 para. 30(5)(c); S.I. 2018/241, reg. 2(s) (with transitional and savings provisions in S.I. 2018/245, regs. 2, 3, 13-16)

#### Commencement Information

- I143** Sch. 6 para. 10 partly in force; Sch. 6 para. 10 in force for certain purposes at Royal Assent, see s. 52(1)  
**I144** Sch. 6 para. 10 in force in so far as not already in force at 16.12.2004 by S.I. 2004/3255, art. 2

## SCHEDULE 7

Section 50

### REPEALS

#### Commencement Information

- I145** Sch. 7 in force for specified purposes for W. at 1.1.2005 by S.I. 2004/3144, Sch. Pt. 2  
**I146** Sch. 7 in force for specified purposes for E. at 1.1.2005 by S.I. 2004/2781, art. 4  
**I147** Sch. 7 in force for specified purposes at 1.4.2005 by S.I. 2005/767, art. 2  
**I148** Sch. 7 in force for specified purposes for W. at 7.7.2005 by S.I. 2005/1833, art. 4(f)  
**I149** Sch. 7 in force at 14.1.2006 for specified purposes by S.I. 2006/51, art. 2  
**I150** Sch. 7 in force at 31.3.2011 for specified purposes for W. by S.I. 2011/297, art. 4(i)(j)

*Short title and chapter*

*Extent of repeal*

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Superannuation Act 1972 (c. 11)	In Schedule 1, the entry relating to the Arts and Humanities Research Board.
Education Reform Act 1988 (c. 40)	Section 206. In section 207(1), paragraph (c) and the word “or” immediately preceding it.
Teaching and Higher Education Act 1998 (c. 30)	In section 22, subsection (7) and, in subsection (8), the words “or (7)(a)”. Section 26. In section 28(1), the definitions of “fees” and “publicly-funded institution”.
Learning and Skills Act 2000 (c. 21)	Section 146(4) and (5). In Schedule 9, paragraphs 74 and 75.

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**Status:**

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**Changes to legislation:**

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