

HIGHER EDUCATION ACT 2004

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Higher Education Act 2004 which received Royal Assent on 1 July 2004. They have been prepared by the Department for Education and Skills in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND

3. This Act is intended to assist in the implementation of a number of policies set out in the White Paper *The future of higher education* (Cm 5735), published on 22 January 2003 and available on the website www.dfes.gov.uk/highereducation, which set out the Government's position on higher education as a whole. Further detail on proposals to create an Office for Fair Access was contained in *Widening participation in higher education*, published on 8 April 2003, and available on the same website. The Act also contains provisions relating to three matters not covered by the White Paper: the provision of new powers to share information relating to student support, the exclusion of the jurisdiction of the Visitor over staff disputes, and the devolution of the tuition fee regime and student support in relation to Wales to the National Assembly for Wales.

Territorial Coverage

4. Part 1 of the Act extends to England, Wales, Scotland, and Northern Ireland. Provisions on information sharing apply to students in England and Wales, and student support authorities in England, Wales, Scotland and Northern Ireland. Provisions on the effect of bankruptcy extend to England, Wales, and Northern Ireland. Provision to amend section 22(3) of the Teaching and Higher Education Act 1998 extends to England, Wales, and Northern Ireland. The remainder of the Act extends to England and Wales only.
5. Annex A provides further detail on the provisions that affect the powers of the

National Assembly for Wales.

Abbreviations

6. Annex B contains a list of all abbreviations of terms used in these notes.

OVERVIEW

7. The Act is divided into 5 Parts.
8. Part 1 makes provision relating to a new Arts and Humanities Research Council (which is to be set up by Royal Charter) and the funding of arts and humanities research.
9. Part 2 (including Schedules 1 to 4) deals with the review of student complaints.
10. Part 3 (including Schedule 5) permits institutions to charge variable fees and, providing they have an approved plan, fees above a basic rate.
11. Part 4 includes provisions to transfer functions to the National Assembly for Wales, and provisions to prevent student loans being written off on discharge from bankruptcy, as well as amendments to allow loans in respect of money owed by students to universities to be paid to the latter so as to facilitate deferral of fee payments by students. It also includes provision about the disclosure of information.
12. Part 5 (including Schedules 6 and 7) contains miscellaneous and general provisions.

SUMMARY

Part 1 – Research in Arts and Humanities

13. This Part enables the existing Arts and Humanities Research Board to be replaced by a research council, to be established by Royal Charter, equivalent to the research councils dealt with in the Science and Technology Act 1965. As with the existing research councils, the new council will operate throughout the UK and will be a reserved matter for the purposes of the Scotland Act 1998 and the Northern Ireland Act 1998. This Part also makes provision for the direct funding of arts and humanities research in addition to that which may be funded through the new council.

Part 2 – Review of Student Complaints

14. This Part allows the Secretary of State or the National Assembly for Wales to

designate a body corporate providing a scheme for reviewing student complaints, which higher education institutions in England and Wales will then be required to use. The provisions of this Part set out conditions which must be met by the body corporate and the scheme which it provides, and duties with which a designated body must comply.

15. At present, students in some universities may appeal only to their university's Visitor (a person with a common law role to supervise the domestic affairs of that institution) about unresolved student complaints. The provisions end the jurisdiction of university Visitors over student complaints (there is similar provision in Part 5 ending the Visitor's jurisdiction over staff disputes).

Part 3 – Student Fees and Fair Access

16. **Student fees** – Previously, under section 26 of the Teaching and Higher Education Act 1998, the fee which higher education institutions (HEIs) charge for full-time undergraduate students in a given year was determined by the maximum fee remission grant for that year, as prescribed under section 22 of that Act. This Act enables HEIs to set their own fees, up to a basic amount specified in regulations, which is no longer linked to a grant for fees. Institutions that wish to charge fees above this rate will only be able to do so if they have in force a plan under this Part of the Act, approved by the relevant authority. For England, the relevant authority will be the new Director of Fair Access to Higher Education. For Wales, it will be a body to be designated by the National Assembly for Wales. If institutions have such a plan, they may charge up to a higher amount (within the bounds of their plan), also specified in regulations. It is intended that loans will be made available, on an income-contingent basis and with no real rate of interest, to allow students to defer payment of fees.

17. **Director of Fair Access to Higher Education** – This Part of the Act creates a new office-holder, the Director of Fair Access to Higher Education. His or her office will informally be known as the Office for Fair Access (OFFA). The Director's role will be approving and monitoring plans made by institutions in England that wish to set fees higher than the basic amount. The matters to be covered by these plans – which will remain in force for up to five years – will be specified in regulations. Should an institution breach its plan, the Director may choose not to renew that plan or, where there is need for more immediate action, may direct the Higher Education Funding Council for England or the Teacher Training Agency to impose financial requirements, including reducing its grant to that institution.

Part 4 – Student Support

18. **Transferring functions to the National Assembly for Wales** – Most of the Secretary of State's functions in relation to education were already transferred prior to this Act, as respects Wales, to the National Assembly. The Act makes provision for the majority of functions related to student support which were previously not

transferred, as well as responsibility for policy on tuition fees, to be transferred from the Secretary of State for Education and Skills to the National Assembly for Wales.

19. **Preventing student loan debt forming part of a bankrupt's estate** - The Act makes it possible to prevent student loan debt being written off on discharge from bankruptcy.

20. **Facilitating the deferral of payment of tuition fees** – The Act contains a measure to support the deferral of the payment of tuition fees, by allowing loan payments to be made directly to institutions, so that they can receive fee payments up front and students can repay later.

21. **Supply of information** – This provision gives the Secretary of State powers to make regulations empowering specified supply of data to higher education institutions or other bodies exercising functions of a public nature.

Part 5 – General

22. This Part contains supplementary provisions.

COMMENTARY ON SECTIONS AND SCHEDULES

Part 1 – Research in Arts and Humanities

23. Research in the arts and humanities is at the time of enactment partly funded by the Arts and Humanities Research Board (AHRB). This is a company limited by guarantee which has charitable status, and receives its funding through the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, the Scottish Higher Education Funding Council, and the Department for Employment and Learning in Northern Ireland.

24. Research in the sciences and social sciences is at the time of enactment partly funded by seven research councils established by Royal Charter. These research councils receive money from the Office of Science and Technology under the Science and Technology Act 1965. That Act also contains various other provisions relating to the existing research councils, including requirements to keep accounts and records, and to provide reports to the Secretary of State.

25. The intention of the Act is to put arts and humanities research on the same footing as research in the sciences and social sciences, and so a new Arts and Humanities Research Council (AHRC) is to be established by Royal Charter. This Council will take over the funding of research in the arts and humanities that is currently carried out by the AHRB. Part 1 of the Act contains provisions relating to

the AHRC which are similar to those in the Science and Technology Act 1965 relating to the existing research councils.

26. Section 2 provides for the transfer of the property, rights, and liabilities of the AHRB to the AHRC.

27. Section 3 authorises the Secretary of State to fund the AHRC. This funding will be provided through the Office of Science and Technology, as is the case for the existing research councils.

28. Section 7 makes the AHRC a reserved matter in respect of Northern Ireland. It is intended that the AHRC should be a reserved matter in respect of Scotland as well. This is to be achieved by an Order in Council under section 30 of the Scotland Act 1998. As regards Wales, functions in respect of the AHRC are not to be exercisable by the National Assembly. As a result, the United Kingdom government will remain exclusively responsible for the AHRC.

29. Section 10 gives the Secretary of State the power directly to fund arts and humanities research, in addition to that which may be funded by the AHRC itself. Corresponding power is provided for the National Assembly for Wales, the Scottish Ministers, and the relevant department in Northern Ireland, in relation to Wales, Scotland, and Northern Ireland respectively.

Part 2 - Review of student complaints

30. Those universities and colleges which were originally established by Royal Charter have Visitors who exercise a supervisory role over an institution's domestic affairs, including ruling on complaints by students which cannot be resolved through an institution's internal procedures. The Visitor of most universities is the Crown acting through the Lord Chancellor or the Lord President of the Privy Council. Other Visitors are eminent people who are either specified in the Charter or appointed by the governing body. Rulings of the Visitor are binding on institutions and courts will only intervene in such matters in very limited circumstances. New universities and higher education colleges do not have Visitors and unresolved complaints by students can be taken to the courts.

31. Section 20 provides that Visitors of qualifying institutions will no longer have any jurisdiction over student complaints, including complaints about admissions to qualifying institutions as a student. Section 46 also removes the jurisdiction of the Visitor over staff disputes.

32. Section 13 gives the Secretary of State and the National Assembly for Wales the power to designate a body corporate that operates a student complaints scheme for England or Wales respectively. The scheme must provide for the review of qualifying

complaints as defined by section 12. These are complaints against qualifying institutions which are made by individuals as students or former students at those institutions (or students studying towards an award from a qualifying institution), except those which relate to matters of academic judgement. The complaint must relate to the acts or omissions of the qualifying institution. Section 11 sets out the qualifying institutions that will be subject to the scheme, which include all universities in England and Wales, constituent colleges of universities such as the colleges of the Universities of Oxford and Cambridge, higher education corporations and institutions designated by the Secretary of State or the National Assembly for Wales as eligible to receive funds administered by a higher education funding council.

33. Section 13 sets out certain conditions that must be met before the Secretary of State, or the National Assembly, may designate a body that operates a student complaints scheme. These conditions include a requirement for the body in question to comply with Schedule 1 and for the provisions of the scheme that it operates to comply with Schedule 2. The reviewer of student complaints under the scheme may make recommendations to an institution, which are non-binding. Paragraph 12 of Schedule 2 enables the Secretary of State, or the National Assembly for Wales, to amend the Schedule by regulations. These powers will enable the Schedule to be modified (for example, in order to respond to changing circumstances or to make the scheme more effective). In this Part of the Act a body that is designated under section 13 is referred to as the “designated operator” (see subsection (5)(b) of that section). A scheme may relate to institutions other than qualifying institutions. Where this is the case, the provisions of the scheme that apply to complaints against other institutions do not need to meet the requirements of Schedule 2.

34. Section 15 requires the governing bodies of qualifying institutions to participate in a scheme provided by the designated operator. This means complying with any obligation placed on them by the scheme (including any obligation in respect of payments to the operator).

35. Section 14 provides that as long as a body remains the designated operator it must comply with the duties set out in Schedule 3.

36. Section 16 and Schedule 4 give the Secretary of State and the National Assembly for Wales the power to terminate the designation of a body as the designated operator in certain circumstances. Schedule 4 provides that the Secretary of State or the National Assembly for Wales can give notice of termination if the operator no longer meets the conditions for designation. The designated operator may also give notice of its intention to cease operating the scheme. Where an agreement or notice to terminate an operator’s designation has been made or given, or the operator has ceased to exist, the Secretary of State, or the National Assembly for Wales, can make alternative transitional provision, including provision as to payments, by regulations under section 18.

37. Section 17 provides privilege in relation to defamation in connection with the

review of student complaints.

38. Section 19 provides that the time limit of six months for bringing certain discrimination proceedings under the Sex Discrimination Act 1975, the Race Relations Act 1976, or the Disability Discrimination Act 1995 shall be extended by two months in cases where the complaint is referred under the student complaints scheme before the end of the six month period.

Part 3 – Student Fees and Fair Access

Imposition of conditions as to fees

39. Sections 23 and 24 replace section 26 of the Teaching and Higher Education Act 1998 in relation to England (for provision relating to Wales see sections 27 and 28). They require the Secretary of State, when making grants to the Higher Education Funding Council for England (HEFCE) or the Teacher Training Agency (TTA), to impose a condition that the body to which the grant is made, when making a grant to an institution, in turn imposes the following condition:

- For institutions with an approved plan, the condition is that the fees payable do not exceed the amounts specified in the plan, and also that the institution complies with the rest of the plan. The fees set out in the plan may not exceed the fee cap set by regulations, referred to in the legislation as ‘the higher amount’.
- For institutions without an approved plan, the condition is that fees do not exceed the ‘basic amount’ (equivalent to the present standard fee) which will also be specified in regulations.

40. The condition must set out that, for institutions with an approved plan, if the fee limit in the plan is exceeded, HEFCE or TTA are to impose financial sanctions at the direction of the Director of Fair Access to Higher Education relating to the institution’s grant, unless fees exceed the higher amount. In that case, in addition to any sanction imposed by the Director, HEFCE may impose sanctions, the principles governing which will be set out by the Secretary of State. In addition, where the conditions of the plan other than those relating to fee levels are breached, the Director may direct HEFCE or TTA to impose financial requirements.

41. Similarly, HEFCE may impose sanctions on any institution without an approved plan which charges fees higher than the basic amount.

42. Section 24(6) provides that the basic and higher amounts are to be prescribed by regulations made by the Secretary of State.

43. Section 25 makes a transitional provision which prevents fees above the basic amount being charged for students receiving offers of a place in 2005, whether for immediate entry or for deferred entry in 2006, or for students unable to accept a place in sufficient time because of the delay caused by a successful appeal against A-level results affecting entry to higher education.

44. Section 26 provides that the first regulations under section 24(6) setting the basic and higher amounts must be laid in draft and approved by a resolution of each House of Parliament. The same procedure will apply to any further regulations increasing the basic amount by more than is needed to keep up with inflation. Section 26 also provides that once the first set of regulations setting a higher amount have been made, that amount cannot be raised in real terms until 2nd January 2010 at the earliest. After that date, regulations raising the higher amount in real terms can only be made once a resolution has been passed in both Houses that the amount should be raised to a specified level.

45. Sections 27 and 28 provide for an equivalent system in Wales, where the National Assembly may impose an equivalent condition on the Higher Education Funding Council for Wales, and in place of the Director, a plan must be approved by the relevant authority, a body which the National Assembly may designate as set out in section 30. The power to designate the relevant authority in Wales includes power to modify any enactment as necessary or expedient in connection with the designation. This is to ensure that whatever body the Assembly may choose to designate is able to carry out its functions effectively.

46. Section 29 re-enacts provisions in section 26 of the Teaching and Higher Education Act 1998 covering the exclusion of international students from the provisions limiting fees, restrictions on the Secretary of State's power to discriminate between certain classes of courses in prescribing descriptions of courses covered by these sections, and disapplying some elements of previous Acts with respect to these sections.

Plans authorising fees of more than the basic amount

47. Before higher fees can be charged, a plan will have to be approved by either the Director of Fair Access to Higher Education (in England), or the body specified by the National Assembly for Wales. The Director and any body specified by the National Assembly are referred to in Part 3 of the Act as the "relevant authority" (see section 30). The Secretary of State (or the National Assembly) has the power to make regulations setting out what must be contained in these plans. The plan will have to make clear what the maximum fee charged for each course will be. Section 31 creates the Director of Fair Access to Higher Education, who will be appointed by the Secretary of State, to operate this system in England. It also makes clear that his role is to include identifying and promoting good practice in relation to the promotion of equality of opportunity in access to higher education.

48. Section 32 requires the Director to perform his duties in such a way as to promote and safeguard fair access to higher education. The section provides that in performing his functions, the Director must protect academic freedom, including the freedom of institutions to determine the contents and manner of teaching of their courses, and to determine their own admissions criteria.

49. Section 33 makes provision about the contents of plans. It sets out that plans must specify, or provide for the determination of, a fee limit for each qualifying course. For England, plans must also include any provisions relating to the promotion of equality of opportunity which are required by regulations. In Wales, a plan must also include provisions related to the equality of opportunity or the promotion of higher education, as required by regulations.

50. Section 33(5)(a) allows regulations to require institutions to include in their plans provision for outreach measures. These are measures, such as the provision of summer schools or work with schools and colleges, which are designed to widen participation by attracting students who might otherwise not consider entering higher education at all or not consider applying to particular institutions. The reference to under-represented groups in the provision is not intended to have a strict statistical interpretation.

51. Examples are given in section 33(5) of other matters which regulations may require to be included in the plans, such as requiring financial assistance to be provided to students or requiring the institution to set out its own objectives. Section 33(6) makes clear that regulations may not require plans to contain measures referring to particular courses or the manner in which they are taught or relating to admissions criteria.

52. Section 34 provides that the relevant authority must exercise its functions in accordance with regulations which may, in particular, specify what the relevant authority must, or may not, have regard to in approving a plan. Regulations under this section may also require institutions to publish their plans. The relevant authority may issue guidance to institutions.

53. Sections 35 and 36 enable regulations to set out the maximum period a plan can be in force, and enable plans to be varied with the approval of the relevant authority. Plans must specify the period during which they are to be in force.

54. Section 37 provides that the Director may, if an institution breaches the conditions of its plan, direct HEFCE or TTA to impose financial sanctions relating to their grant on the institution, or refuse to renew the plan for a specified length of time. The Director may not apply such a sanction if an institution can demonstrate that it has done all it reasonably could to comply with the provisions of its plan.

55. The Secretary of State may make regulations setting out the nature of the financial penalties the Director may apply, and the procedures for using these

sanctions.

56. Section 38 provides that, in Wales, the relevant authority may refuse to renew a plan for a specified length of time if the conditions of the plan are breached. This is in addition to any financial requirements that may be imposed by HEFCW under section 28.

57. Section 39 provides that regulations about the approval of plans, variation of plans, or imposing sanctions, in both England and Wales, must include provision for a mechanism for review of the relevant authority's decisions on those matters.

Supplementary

58. Section 40 provides that HEFCE or TTA will be required to provide information to the Director if requested, and likewise the Director will have to provide information to HEFCE and TTA at their request.

59. Schedule 5 sets out detailed arrangements regarding the Director of Fair Access. It contains detailed provisions regarding the arrangements for his appointment and dismissal. These include provision that the appointment is to be for no more than three years at a time, and provision conferring on him the power to appoint staff. It also gives the Secretary of State power to fund the Director, and requires the Director to keep proper accounts.

60. The Schedule also requires the Director to provide the Secretary of State with an annual report on how the Director has performed his functions. The Secretary of State must lay a copy of the report before Parliament. The Director must then publish the report. Special reports can also be required from the Director by the Secretary of State, dealing with matters related to access to higher education. For instance, a report could be requested asking for an overview of the effect of plans on widening participation over a specified period.

Part 4 - Student Support

Effect of bankruptcy

61. In England and Wales, student loans are currently provided under regulations made under section 22 of the Teaching and Higher Education Act 1998. Previously, student loans were provided under arrangements made under the Education (Student Loans) Act 1990. Although loans can no longer be provided under the 1990 Act, some loans made under it are still outstanding.

62. In section 42, subsection (1) inserts a new paragraph (f) into section 22(3) of the 1998 Act. With this new paragraph, it will be possible for regulations under section 22 to include provision relating to the effect of bankruptcy on the liability to

repay student loans provided under the 1998 Act. It is intended to use this power to ensure that the liability to repay student loans is not cancelled by the bankruptcy of the borrower. Regulations under section 22(3)(e) of the Teaching and Higher Education Act 1998 already provide that funds advanced under student loans cannot be taken by a student's trustee in bankruptcy to pay off other debts. By virtue of section 42(2), the new paragraph (f) will extend to Northern Ireland, as well as to England and Wales. Subsections (3) and (4) of section 42 make amendments of the Education (Student Loans) Act 1990 relating to the effect of bankruptcy.

63. The changes made by section 42 will not affect the position of any borrower whose bankruptcy commences before the section comes into effect.

64. By virtue of section 281 of the Insolvency Act 1986, when a bankrupt is discharged, he is released from all his bankruptcy debts. The amendment to section 22 of the 1998 Act, together with the regulations proposed to be made under section 22 as amended, and the amendment of the Education (Student Loans) Act 1990, will have the effect of excluding student loans from bankruptcy debt. It follows that student debt in relation to both types of loan will not be written off on discharge from bankruptcy.

Other amendments of Teaching and Higher Education Act 1998

65. Section 43 makes two further amendments to section 22 of the Teaching and Higher Education Act 1998. Subsection (2) amends subsection (2)(i) of section 22. It provides that a loan payable to a student may be paid direct to the institution at which the student is studying. Where the loan is being provided to cover fees, rather than living costs etc., it may be desirable to pay it direct to the institution concerned. This is a key part of the machinery for students to defer payment of their fees by taking out income contingent loans on which no interest will be charged in real terms.

66. Subsection (3) amends section 22 of the Teaching and Higher Education Act 1998 by omitting subsection (7) of that section, thereby removing the requirement for affirmative resolution procedure in the case of regulations raising any grant in respect of fees by more than the rate of inflation. In the 1998 Act, the maximum amount of the grant actually sets the fee itself, so this requirement was intended to prevent the fee being raised by more than inflation without an affirmative resolution. In this Act, the basic and higher amounts are set independently of the grant for fees, and affirmative resolution procedure is required for any above inflation increases of the fees. This means that it is no longer necessary to apply the affirmative resolution procedure to any grant in respect of fees in order to preserve the original intent. This change will mean that the level of grant for fees is treated in the same way as other amounts in the student support regulations.

Transfer of certain functions to National Assembly for Wales

67. Section 44 transfers to the National Assembly for Wales the majority of

regulation-making powers in respect of student support contained in the 1998 Act. Certain functions are not transferred, for example those powers whose use is connected with taxation and bankruptcy, which are UK-wide matters. The Assembly intends in practice to make regulations affecting students who have a prescribed connection with Wales when they start their course, regardless of the location of the institution at which they are studying and of their place of residence after graduation.

Supply of information held by student support authority

68. Section 45 permits the Secretary of State to make regulations allowing student support authorities to supply information collected in connection with the operation of the student support scheme to prescribed persons, with the consent of the individuals in relation to whom information is to be supplied. The intention is to be able to simplify the interactions of citizens with other government or higher education organisations. The regulations will specify the conditions under which information may be supplied including what information may be supplied and the organisation to which it may be supplied. They may also specify further constraints such as restrictions on passing on information received and the manner in which consent must be obtained.

69. The effect of the provisions in relation to Wales is that the regulation-making powers can be effectively exercised by the Assembly only after the student support functions have been transferred to it. Prior to this, the Assembly will have no functions relating to the operation of the student support scheme and, accordingly, can hold no student support information (as defined in the section).

Part 5 – Miscellaneous and General

70. This Part contains general provisions including those relating to the exercise of powers to make orders and regulations; commencement; extent; and short title.

71. These include provision at section 46 which excludes from the visitor's jurisdiction all staff disputes related to employment and such other staff disputes as could be brought before a court or tribunal (including by an application for judicial review). The matters excluded cover the substance of such disputes and the application to them of the internal laws of the institution concerned (including the application and interpretation of its statutes). This provision supersedes the more limited exclusion in section 206 of the Education Reform Act 1988.

COMMENCEMENT

72. The commencement section provides for some provisions to come into force on Royal Assent, and the remainder to be commenced by order by the Secretary of

These notes refer to the Higher Education Act 2004 (c.8) which received Royal Assent on 1 July 2004

State, the National Assembly for Wales or the Scottish Ministers (as appropriate). The reasons for early commencement are to ensure that systems for producing plans in relation to the charging of higher fees in England can be put in place in time for students to have adequate notice of fee arrangements before applying for entrance in 2006, and to safeguard public funds in relation to bankruptcy.

73. The transfer of functions to the National Assembly for Wales is to be commenced by the National Assembly by order, with the consent of the Secretary of State.

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ANNEX A

Table of powers, duties and responsibilities which Higher Education Act confers on the National Assembly for Wales

PROVISION	Effect
Section 10	Provides the Assembly with the power to fund arts and humanities research and related activities in relation to Wales.
Section 13	Provides power for the Assembly to designate a body corporate as the operator for a student complaints scheme for qualifying institutions.
Section 16	Requires the Assembly to publish notice of the termination of designation of an operator to student complaints if and when that takes place.
Section 18	Empowers the Assembly by order to make provision where a designated body ceases providing a scheme, or an agreement or notice to terminate has been made.
Schedule 2	Provides the Assembly with the power to amend the Schedule by regulations, in order to change conditions that must be met by the student complaints scheme.
Schedule 3	Requires that the designated operator for student complaints must comply with requests from the Assembly to provide information or conduct a review of the scheme's operation.
Schedule 4	Empowers the Assembly to terminate the designation of an operator for student complaints.

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Sections 27 and 28	Provide the Assembly with a power to impose conditions as to student fees, and a regulation making power to set a higher and basic amount for fee limits, and for those fee limits to be enforced by the Higher Education Funding Council for Wales (HEFCW). Provides the Assembly with powers to require institutions to comply with an approved plan.
Section 30	Provides the Assembly with the power to specify by regulations the relevant authority which will approve plans, including modifying any enactments as necessary or expedient for that authority to carry out its function.
Section 33	Empowers the Assembly to make regulations setting out the content that is required to be included in plans, which must be approved before fees above the basic level can be charged.
Section 34	Allows the Assembly to make regulations relating to approval of plans. In particular, regulations may specify what the relevant authority is or is not to have regard to in deciding whether to approve a plan.
Section 35	Gives the Assembly the power to prescribe the maximum duration of plans in Wales.
Section 36	Empowers the Assembly to make regulations enabling plans to be varied with the approval of the relevant authority.
Section 38	Provides that the Assembly may make regulations setting out procedures and effect of sanctions that may be imposed by the relevant authority in the event of a plan being breached.

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Section 39	Requires the Assembly to make regulations providing for a procedure for review of the decisions of the relevant authority.
Section 44	This section transfers to the Assembly certain functions under section 22 of the Teaching and Higher Education Act 1998 (except functions related to repayment of loans through the tax system) and functions under section 23 of that Act.
Section 45	Permits the Assembly (once student support functions are transferred) to make regulations allowing student support authorities to supply information collected from individuals in connection with student support to other designated organisations. Consent of the individuals is required before information can be supplied.

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ANNEX B

Glossary of abbreviations used in these notes

- **AHRB** – the Arts and Humanities Research Board
- **AHRC** – the Arts and Humanities Research Council
- **DfES** – the Department for Education and Skills
- **the Director** – the Director of Fair Access to Higher Education
- **DTI** – the Department for Trade and Industry
- **ECHR** – the European Convention on Human Rights
- **HEFCE** – the Higher Education Funding Council for England
- **HEFCW** – the Higher Education Funding Council for Wales
- **HEIs** – higher education institutions
- **LEA** – local education authority
- **OFFA** – the Office for Fair Access, which will be headed by the Director of Fair Access to Higher Education
- **TTA** – the Teacher Training Agency

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HANSARD REFERENCES

74. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
<i>House of Commons</i>		
Introduction	8 January 2004	Vol. 416 Col 441
Second Reading	27 January 2004	Vol. 417 Cols. 167-281
Committee	10 February 2004 – 9 March 2004 (total 14 sittings)	Standing Committee H
Report and Third Reading	31 March 2004	Vol. 419 Cols. 1599-723
<i>House of Lords</i>		
Introduction	1 April 2004	Vol. 659 Col 1457
Second Reading	19 April 2004	Vol. 660 Cols. 12-27
Committee - Day 1	10 May 2004	Vol. 661 Cols. 12-45, 58-87, 103-36
Committee - Day 2	13 May 2004	Vol. 661 Cols. 391-434, 445-506
Committee - Day 3	17 May 2004	Vol. 661 Cols. 516-97, 614-36
Committee - Day 4	25 May 2004	Vol. 661 Cols. 1243-97
Report - Day 1	8 June 2004	Vol. 662 Cols. 153-221, 247-54
Report - Day 2	14 June 2004	Vol. 662 Cols. 506-31, 542-78, 590-616
Third Reading	22 June 2004	Vol. 662 Cols. 1136-94

These notes refer to the Higher Education Act 2004 (c.8) which received Royal Assent on 1 July 2004

Royal Assent – House of Lords Hansard Vol. 663 Col. 430

House of Commons Hansard Vol. 423 Col. 450

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