



Lifelong Learning (Higher Education Fee Limits) Act 2023

2023 CHAPTER 40

2 Related amendments

- (1) The Higher Education and Research Act 2017 is amended as follows.
- (2) In section 10 (fee limit condition)—
 - (a) after subsection (3) insert—

“(3A) The reference in subsection (3) to fees payable to the provider includes fees payable to any other institution or person who, under arrangements with the provider, participates in the provision of the qualifying course.”;
 - (b) after subsection (6) insert—

“(6A) A module that falls within a description prescribed under subsection (6) is not to be treated as a qualifying course in relation to a course year of the module if—

 - (a) the fee limit applicable to the course year would be determined by the credit-based method (see paragraph 1 of Schedule 2), but
 - (b) credits are not to be regarded as attached to the course year for the purposes of paragraphs 1D and 1E of Schedule 2.”;
 - (c) after subsection (7) insert—

“(7A) Subsection (7) does not prevent regulations under subsection (6) from treating courses differently according to whether, or how, regulations under section 22 of the Teaching and Higher Education Act 1998 apply in relation to them.”
- (3) In section 11 (published list of fee limits)—
 - (a) in subsection (1), omit paragraph (b) (and the “and” immediately before it);
 - (b) after subsection (1) insert—

“(1A) The list must include the following information—

- (a) in respect of each provider on the list, the qualifying courses that the OfS expects the provider to provide in the calendar year after that in which the list is published (“the next calendar year”),
- (b) in respect of each such course, whether the fee limit applicable to a course year beginning in the next calendar year will be determined by the credit-based method or the fixed method,
- (c) in respect of each such course for which the credit-based method will be used, what the applicable per-credit limit or limits will be in respect of a course year beginning in the next calendar year, and
- (d) in respect of each such course for which the fixed method will be used, what the fixed limit will be in respect of a course year beginning in the next calendar year.

(1B) In subsection (1A)(c), “the applicable per-credit limit or limits” means—

- (a) if the course year is to include credit-differentiated activity (see paragraph 1B(3) of Schedule 2), the per-credit limit for each such activity;
- (b) otherwise, the per-credit limit.”;

(c) for subsection (2) substitute—

“(2) In subsections (1) to (1B)—

- (a) “course year”, in relation to a qualifying course, means a course year within the meaning given (in relation to that course) by section 10(7B);
- (b) “qualifying course” has the same meaning as in section 10;
- (c) the references to methods of determining the fee limit are to be read in accordance with paragraph 1 of Schedule 2;
- (d) the references to the per-credit limit and the fixed limit are to those limits as determined in accordance with paragraphs 11 to 3 of that Schedule.

(2A) If any of the information mentioned in subsection (1) or (1A) will differ according to when a course year begins, the list must include the information applicable to course years beginning both before and after the relevant date.”

(4) In section 31 (provision about fees in access and participation plan)—

(a) for subsection (1) substitute—

“(1) An access and participation plan relating to an institution must, in respect of each relevant course year of a qualifying course, specify or provide for the determination of—

- (a) the required per-credit limit or limits, in the case of a course year in respect of which the fee limit is to be determined by the credit-based method, and

- (b) a fixed limit, in the case of a course year in respect of which the fee limit is to be determined by the fixed method.
- (1A) “The required per-credit limit or limits” means—
 - (a) if the course year is to include credit-differentiated activity (see paragraph 1B(3) of Schedule 2), a per-credit limit for each such activity;
 - (b) otherwise, a per-credit limit.”;
- (b) in subsection (2), for “The” substitute “Each”;
- (c) after subsection (2) insert—
 - “(2A) A course year of a qualifying course is a “relevant course year” if—
 - (a) it begins when the plan comes into force or while it is in force, and
 - (b) fees are payable to the institution in respect of so much of the course as is undertaken during the course year.
 - (2B) The references in subsection (1) to methods of determining the fee limit are to be read in accordance with paragraph 1 of Schedule 2.”;
- (d) in subsection (3), for the definition of “relevant academic year” substitute—
 - ““course year”, in relation to a qualifying course, has the meaning given (in relation to that course) by section 10(7B).”;
- (e) after subsection (3) insert—
 - “(4) The references in this section to fees payable to the institution include fees payable to any other institution or person who, under arrangements with the institution, participates in the provision of the qualifying course.”
- (5) In section 85(1) (definitions), at the appropriate place insert—
 - ““module”, in relation to a course, includes anything that is a “module” in relation to that course for the purposes of section 22 of the Teaching and Higher Education Act 1998 (see, in particular, subsection (2ZA) of that section as treated as inserted by section 28A(1)(e) of that Act);”.
- (6) In section 119(2) (regulations subject to affirmative procedure), after paragraph (h) insert—
 - “(ha) regulations under paragraph 1(3) of Schedule 2 (choice of method for determining fee limit);
 - (hb) regulations under paragraph 1B, 1C or 1F of Schedule 2 (credit-based method for determining fee limit);”.
- (7) In paragraph 5 of Schedule 2 (procedure for setting amounts for purposes of fee limit), after sub-paragraph (3) insert—
 - “(4) In sub-paragraph (2)(b), effect “from a date” includes effect in relation to a course year beginning on or after a date.”