
STATUTORY INSTRUMENTS

2019 No. 1026

**The Higher Education (Monetary Penalties
and Refusal to Renew an Access and
Participation Plan) (England) Regulations 2019**

Monetary penalties: meaning of “qualifying income”

3.—(1) Where the relevant year of a registered higher education provider equals 12 months, the provider’s qualifying income is the provider’s relevant year income.

(2) Where the relevant year of a registered higher education provider does not equal 12 months, the provider’s qualifying income is the provider’s relevant year income divided by the number of days in the relevant year and multiplied by 365 or, if the relevant year includes 29th February, 366.

(3) In this regulation a registered higher education provider’s relevant year income is the sum of—

- (a) all relevant fees paid to the provider for relevant courses in the relevant year, and
- (b) all grants made to the provider in the relevant year by the OfS under section 39 or 40 of the Act.

(4) In this regulation—

“business year of a registered higher education provider” means a period of more than six months in respect of which the governing body of a provider publishes accounts or, if no such accounts have been published for the period, prepares accounts;

“date of the OfS notice” means the date on which the OfS notifies a registered higher education provider in accordance with paragraph 2(1) of Schedule 3 to the Act of its intention to impose a monetary penalty on that provider;

“relevant course” is a higher education course(1) provided in England that leads to a taught award or a research award(2);

“relevant fees” are fees(3) paid to a registered higher education provider in connection with a person undertaking a relevant course, exclusive of any value added tax;

“the relevant year” means the business year of a registered higher education provider which immediately precedes the date of the OfS notice, or if no such business year exists, the 12 month period which ends on the last day of the month preceding the month in which the date of the OfS notice falls.

(1) “Higher education course” is defined in section 83(1) of the Act.

(2) “Taught award” and “research award” are defined in section 42(3) of the Act.

(3) “Fees” are defined in section 85(2) of the Act.