STATUTORY INSTRUMENTS

2018 No. 245

EDUCATION
SCIENTIFIC RESEARCH

The Higher Education and Research Act 2017 (Consequential, Transitional, Transitory and Saving Provisions) Regulations 2018

Made - - - -	*26th February 2018*
Laid before Parliament	*28th February 2018*
Coming into force - -	*1st April 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 116, 117 and 119 of the Higher Education and Research Act 2017(**1**).

Part 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Higher Education and Research Act 2017 (Consequential, Transitional, Transitory and Saving Provisions) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations—

"the 1992 Act" means the Further and Higher Education Act 1992(**2**);

"the 2004 Act" means the Higher Education Act 2004(**3**);

"the 2005 Act" means the Education Act 2005(**4**);

"the 2011 Act" means the Education Act 2011(**5**);

(**1**) 2017 c. 29.
(**2**) 1992 c. 13.
(**3**) 2004 c. 8.
(**4**) 2005 c. 18.
(**5**) 2011 c. 21.

"the 2017 Act" means the Higher Education and Research Act 2017;

"the Director" means the Director of Fair Access to Higher Education(**6**);

"HEFCE" means the Higher Education Funding Council for England(**7**);

"NERC" means the Natural Environment Research Council(**8**);

Part 2

General

2.—(1) Paragraphs (2) to (6) are subject to Parts 3 to 5 of these Regulations.

(2) Anything done (or having effect as if done) before the coming into force of these Regulations by, or in relation to, HEFCE or the Director in connection with a function to be performed by the OfS(**9**) by virtue of these Regulations is to have effect, so far as necessary for continuing its effect after their coming into force, as if done by, or in relation to, the OfS.

(3) Anything done (or having effect as if done) before the coming into force of these Regulations by, or in relation to, HEFCE in connection with a function to be performed by UKRI(**10**) by virtue of these Regulations is to have effect, so far as necessary for continuing its effect after their coming into force, as if done by, or in relation to, UKRI.

(4) Anything which, immediately before the coming into force of these Regulations, is in the process of being done by, or in relation to, HEFCE or the Director in connection with a function to be performed by the OfS by virtue of these Regulations may, after their coming into force, be continued by, or in relation to, the OfS.

(5) Anything which, immediately before the coming into force of these Regulations, is in the process of being done by, or in relation to, HEFCE in connection with a function to be performed by UKRI by virtue of these Regulations may, after their coming into force, be continued by, or in relation to, UKRI.

(6) Any enactment, instrument or other document passed or made before the coming into force of the Regulations is to have effect, so far as necessary for the purposes or in consequence of, or in connection with, paragraphs (2) to (5) or for giving full effect to these Regulations, as if any references (however expressed) to HEFCE or the Director were references to the OfS or, as applicable, UKRI.

Part 3

Matters relating to the OfS and UKRI

Applicability

3. This Part applies for the period which begins with 1st April 2018 and ends with 31st July 2019.

(**6**) The office of Director was established under section 31 of the Higher Education Act 2004.
(**7**) HEFCE was established under Part 2 of the Further and Higher Education Act 1992.
(**8**) NERC was established as a research council under section 1(3) of the Science and Technology Act 1965 (c. 4).
(**9**) The Office for Students (OfS) was established as a body corporate under section 1 of the Higher Education and Research Act 2017.
(**10**) United Kingdom Research and Innovation was established as a body corporate under section 91 of the Higher Education and Research Act 2017.

Provisions relating to the 1992 Act

4.—(1) Sections 62(5), (6), (7), (7A) and (9) (and the heading to that section), 65(1) to (4) (and the heading to that section), 66 and 68(1) and (2) (and the heading to that section) of the 1992 Act continue to apply as if paragraphs 14(6) to (10) and 15 to 17 of Schedule 11 to the 2017 Act had not been commenced, but as if the reference to "matters within the responsibility of the Higher Education Funding Council for England" in section 62(6)(a) were a reference to "matters within the responsibility of the OfS and, where applicable, UKRI".

(2) Pursuant to paragraph (1), any reference in the Education Acts to a higher education funding council in relation to such matters expressed to be matters within the responsibility of the Higher Education Funding Council for England are accordingly references to such matters within the responsibility of the OfS and, where applicable, UKRI.

(3) In this regulation, "the Education Acts" has the meaning given in section 578 of the Education Act 1996(**11**).

5. Section 69(1) and (2) of the 1992 Act is to continue to apply as if paragraph 18(2) to (4) of Schedule 11 to the 2017 Act had not been commenced.

6. Section 70 of the 1992 Act is to continue to apply as if paragraph 19 of Schedule 11 to the 2017 Act had not been commenced.

7. Section 79 of the 1992 Act is to continue to apply as if paragraph 20 of Schedule 11 to the 2017 Act had not been commenced.

8. Section 79A of the 1992 Act is to continue to apply as if paragraph 21 of Schedule 11 to the 2017 Act had not been commenced, but as if the reference to "The Higher Education Funding Council for England" were a reference to "The OfS".

9. Section 81 of the 1992 Act is to continue to apply as if paragraph 22 of Schedule 11 to the 2017 Act had not been commenced.

10. Section 82 of the 1992 Act is to continue to apply as if paragraph 23 of Schedule 11 to the 2017 Act had not been commenced.

11. Section 83(1B) of the 1992 Act is to continue to apply as if paragraph 24 of Schedule 11 to the 2017 Act had not been commenced.

12. Section 91(4) of the 1992 Act is to continue to apply as if paragraph 25 of Schedule 11 to the 2017 Act had not been commenced, but as if the reference to section 62(6) were a reference to that provision as it is to be read pursuant to regulation 4 of these Regulations.

Provisions relating to the 2004 Act

13.—(1) Sections 22 to 30, 32 to 36, 38, 39 and 41 of, and Schedule 5 to, the 2004 Act are to continue to apply as if paragraph 30(2) of Schedule 11 to the 2017 Act had not been commenced.

(2) Section 31 of the 2004 Act is to continue to apply as if paragraph 30(2) of Schedule 11 to the 2017 Act (insofar as it applies to that section) had not been commenced, but as if references to "Director" (however expressed) in that section (and accordingly, throughout the 2004 Act) were references to "the OfS".

14. Section 37 of the 2004 Act is to continue to apply as if paragraph 30(2) of Schedule 11 to the 2017 Act (insofar as it applies to that section) had not been commenced, but as if subsection (1)(a) of that section said—

> "(a) impose specified financial requirements on the governing body under section 24(3) or direct the Secretary of State to do so;".

(**11**) 1996 c. 56.

15. Section 47(3)(a) and (c) and (4) of the 2004 Act is to continue to apply as if paragraph 30(3) of Schedule 11 to the 2017 Act had not been commenced.

16. In section 48 of the 2004 Act, the definition of "the 2005 Act" is to continue to apply as if paragraph 30(4) of Schedule 11 to the 2017 Act had not been commenced.

Provisions relating to the 2005 Act

17. Section 92(5) of the 2005 Act is to continue to apply as if paragraph 31(2)(b) of Schedule 11 to the 2017 Act had not been commenced.

18. Paragraphs 26 to 35 of Schedule 14 to the 2005 Act are to continue to apply as if paragraph 31(3) of Schedule 11 to the 2017 Act had not been commenced.

Provisions relating to the 2011 Act

19. The following provisions of the 2011 Act continue to apply as if paragraph 33 of Schedule 11 to the 2017 Act had not been commenced—

(a) section 77;

(b) Schedule 5, paragraphs 18 to 29;

(c) Schedule 16, paragraph 22.

Matters relating to higher education providers

20. In the 2017 Act references to "registered higher education providers"(**12**) in—

(a) section 64(1)(a) and (8)(a);

(b) section 65(1), (7)(a) and (c), (8)(a) and (c), (9), (10)(a) and (b), (11)(a) and (14),

are to be read as references to "English higher education providers"(**13**).

Part 4

Final Accounts

Interpretation

21. In this Part—

"cessation date" means the 1st April 2018;

"financial year" means the period of 12 months ending with 31st March in any year.

HEFCE: final accounts

22.—(1) As soon as possible after the cessation date, the OfS must prepare a statement of accounts for HEFCE in respect of the financial year to end before the cessation date.

(2) A statement of accounts under paragraph (1) must be prepared in accordance with the last direction given by the Secretary of State to HEFCE under paragraph 16(2) of Schedule 1 to the 1992 Act.

(**12**) For the meaning of "registered higher education provider" see sections 3(10) and 85(1) of the Higher Education and Research Act 2017.

(**13**) For the meaning of "English higher education provider" see section 83(1) of the Higher Education and Research Act 2017.