WELSH STATUTORY INSTRUMENTS

2011 No. 884 (W.128)

EDUCATION, WALES

The Student Fees (Approved Plans) (Wales) Regulations 2011

Made - - - -	*21 March 2011*
Coming into force - -	*31 March 2011*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 33, 34, 35, 36, 38, 39 and 47(5) of the Higher Education Act 2004(**1**) and now exercisable by them(**2**), make the following Regulations.

In accordance with section 47(4) of that Act(**3**), a draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Student Fees (Approved Plans) (Wales) Regulations 2011 and they come into force on 31 March 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations "the 2004 Act" ("*Deddf 2004*") means the Higher Education Act 2004.

Content of plans

3. A plan under section 33(1) of the 2004 Act must set out the objectives of the institution, determined by its governing body, relating to–

(a) the promotion of equality of opportunity; and

(**1**) 2004 c. 8. Sections 34(1) and 38(4) were amended by paragraphs 31 and 33 of Schedule 14 to the Education Act 2005 (c. 18).

(**2**) The functions of the National Assembly for Wales as constituted by the Government of Wales Act 1998 (c. 38) contained in Part 3 of the Higher Education Act 2004 were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**3**) The function of making a statutory instrument containing regulations by virtue of section 33(3) and 34 of the Higher Education Act 2004 is substantially the same as the function conferred on the Secretary of State of making a statutory instrument containing regulations by virtue of section 33(2) and 34 of that Act. Section 47(4) provides that the Secretary of State may not make a statutory instrument containing (either alone or with other provisions) regulations by virtue of section 33(2) or 34 unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament. By virtue of paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006 (c. 32), the provision applies to the exercise by the Welsh Ministers of the function of making a statutory instrument containing such regulations as if any reference to either House of Parliament were a reference to the National Assembly for Wales.

(b) the promotion of higher education.

4. A plan must include provisions requiring the governing body of the institution to—

(a) take, or secure the taking of, the measures set out in the plan in order to attract an increased number of applications from prospective students who are members of groups which, at the time when the plan is approved, are under-represented in higher education;

(b) provide, or secure the provision of financial assistance set out in the plan to students undertaking a course at the institution;

(c) make the arrangements set out in the plan to make available to students undertaking a course at the institution and prospective students wishing to undertake such a course information about financial assistance available to them from any source;

(d) make the arrangements set out in the plan to inform any prospective student before the student commits to undertaking a course at the institution of the aggregate amount of fees that the institution will charge for the completion of the course;

(e) monitor in the manner set out in the plan its compliance with the provisions of the plan and its progress in achieving its objectives set out in the plan in accordance with regulation 3; and

(f) provide the relevant authority(**4**) with such information as the relevant authority may reasonably require from time to time.

Approval of plans

5. The relevant authority must exercise its functions in accordance with the following procedure where the governing body of an institution applies to the relevant authority for approval of a proposed plan:–

(a) the relevant authority must inform the governing body within a reasonable time whether the relevant authority approves the plan or whether it is minded not to approve the plan, giving reasons in the latter case;

(b) where the relevant authority informs the governing body under paragraph (a) that it is minded not to approve the plan, it must inform the governing body that it may, within a reasonable time, do either or both of the following–

(i) make representations to the relevant authority as to why the relevant authority should approve the plan, or

(ii) modify the plan;

(c) where the governing body acts in accordance with paragraph (b), the relevant authority must within a reasonable time consider the representations or modifications (or both) to the plan and, having considered them, inform the governing body whether or not it approves the plan;

(d) where the governing body does not act in accordance with paragraph (b) within a reasonable time, the relevant authority must, within a further reasonable time, inform the governing body whether or not it approves the plan.

6. In making any determination relating to approval of a plan, the relevant authority must have regard to–

(a) the safeguarding of fair access to higher education; and

(b) the desirability of protecting academic freedom and in particular the freedom of institutions to determine —

(**4**) The Higher Education Funding Council for Wales has been designated the relevant authority in relation to Wales by virtue of the Higher Education Act 2004 (Relevant Authority) (Designation) (Wales) Regulations 2011 (SI 2011/658 (W.96))