



Higher Education (Wales) Act 2015

2015 anaw 1

An Act of the National Assembly for Wales to make provision about student fees payable to certain institutions providing higher education; to make provision about the quality of education provided by and on behalf of those institutions and about their financial management; and for connected purposes. [12 March 2015]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PART 1

INTRODUCTION

1 Overview of this Act

- (1) This Act has eight Parts.
- (2) This Part contains an overview of the Act.
- (3) Part 2 makes provision about fee and access plans. It deals with—
 - (a) the contents of a fee and access plan, including a fee limit;
 - (b) failure to comply with a fee limit or other requirement included in a fee and access plan;
 - (c) the validity of certain contracts;
 - (d) the monitoring of fee and access plans.
- (4) Part 3 makes provision about the assessment of the quality of education provided by or on behalf of institutions that have a fee and access plan, including provision about—
 - (a) powers available for the purposes of assessment;
 - (b) steps that may be taken by HEFCW in respect of education of inadequate quality.

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Higher Education (Wales) Act 2015. (See end of Document for details)

- (5) Part 4 makes provision about the preparation and publication of a code relating to the organisation and management of the financial affairs of institutions that have a fee and access plan, including provision about—
 - (a) compliance with the code;
 - (b) powers available for the purposes of monitoring compliance with the code, and in the case of failure to comply with the code.
- (6) Part 5 makes provision for circumstances in which—
 - (a) HEFCW may refuse to approve a new fee and access plan for an institution;
 - (b) HEFCW must, or may, withdraw their approval of an institution's fee and access plan.
- (7) Part 6 makes procedural provision about notices and directions given by HEFCW (including provision about the review of certain notices and directions).
- (8) Part 7 makes supplementary provision about functions of HEFCW, including provision relating to guidance, reports, information and advice.
- (9) Part 8 contains general provisions, including provision about—
 - (a) the exercise of powers to make regulations;
 - (b) the interpretation of terms used in the Act.
- (10) That Part also introduces a Schedule containing amendments to existing enactments and transitional provision.

PART 2

FEE AND ACCESS PLANS

Annotations:

Modifications etc. (not altering text)

- C1 Pt. 2 modified (1.9.2015) by [The Higher Education \(Wales\) Act 2015 \(Consequential Provision\) Order 2015 \(S.I. 2015/1353\)](#), arts. 1(2), 3

Application for approval of fee and access plan

- 2 Application by institution for HEFCW's approval of fee and access plan**
- (1) The governing body of an institution within subsection (3) may apply to HEFCW for HEFCW's approval of a proposed fee and access plan relating to the institution.
 - (2) A fee and access plan is a plan that complies with sections 4 to 6.
 - (3) An institution within this subsection is an institution in Wales that—
 - (a) provides higher education, and
 - (b) is a charity.
 - (4) Regulations may make provision about the making of applications for approval of a fee and access plan.

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Higher Education (Wales) Act 2015. (See end of Document for details)

Annotations:

Commencement Information

- I1** S. 2(1)-(3) in force at 1.1.2016 by S.I. 2015/1327, **art. 6(a)**
- I2** S. 2(4) in force at 20.5.2015 for specified purposes by S.I. 2015/1327, **art. 2(a)**
- I3** S. 2(4) in force at 1.1.2016 in so far as not already in force by S.I. 2015/1327, **art. 6(a)**

3 Designation of other providers of higher education

- (1) The Welsh Ministers may, on the application of a provider of higher education within subsection (2), designate the provider for the purposes of this section.
- (2) A provider of higher education within this subsection is one that—
 - (a) provides higher education in Wales and is a charity, but
 - (b) would not (but for the designation) be regarded as an institution for the purposes of this Act.
- (3) Subject to any provision made under subsection (4)(d), a provider of higher education designated under this section is, unless the designation is withdrawn, to be treated for the purposes of any provision made by or under this Act as being an institution.
- (4) Regulations may make provision about—
 - (a) the making of applications for designation;
 - (b) the making of designations under this section (including provision about matters to be taken into account in determining whether to make a designation);
 - (c) the withdrawal of a designation (including provision about matters to be taken into account in determining whether to withdraw a designation);
 - (d) the effect of a withdrawal of a designation (including provision for a provider whose designation is withdrawn to continue to be treated as an institution for prescribed purposes).

Annotations:

Commencement Information

- I4** S. 3(1)-(3) in force at 1.9.2015 by S.I. 2015/1327, **art. 5(a)**
- I5** S. 3(4) in force at 20.5.2015 for specified purposes by S.I. 2015/1327, **art. 2(b)**
- I6** S. 3(4) in force at 1.9.2015 in so far as not already in force by S.I. 2015/1327, **art. 5(a)**

Contents of fee and access plan

4 Period to which plan relates

- (1) A fee and access plan relating to an institution must specify a period in respect of which it is to have effect.
- (2) The period specified must not exceed two years.
- (3) Regulations may amend subsection (2) to substitute a different period for the period for the time being mentioned in that subsection.

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- (4) Before making regulations under subsection (3), the Welsh Ministers must consult—
- (a) HEFCW,
 - (b) the governing body of each regulated institution, and
 - (c) any other persons they think appropriate.
- (5) References in this Act to the period to which a plan relates are to the period specified in it under this section.

Annotations:

Commencement Information

- I7** S. 4(1)(2)(5) in force at 1.1.2016 by S.I. 2015/1327, art. 6(b)
I8 S. 4(3)(4) in force at 20.5.2015 for specified purposes by S.I. 2015/1327, art. 2(c)
I9 S. 4(3)(4) in force at 1.1.2016 in so far as not already in force by S.I. 2015/1327, art. 6(b)

5 Fee limit

- (1) A fee and access plan relating to an institution must—
- (a) specify, or
 - (b) provide for the determination of,

a fee limit, in relation to each qualifying course and in respect of each relevant academic year (and for this purpose may specify, or provide for the determination of, different fee limits in relation to different courses and in respect of different relevant academic years).
- (2) For this purpose—
- (a) a fee limit, in relation to a course, is a limit that the fees payable to the institution by a qualifying person, in connection with the person's undertaking the course, may not exceed;
 - (b) a qualifying course is a course, of any prescribed description, that is wholly or principally provided in Wales;
 - (c) a relevant academic year, in relation to a course, is an academic year that is applicable to the course, and in respect of which fees are payable to the institution, and which begins within the period to which the fee and access plan relates.
- (3) Where a fee and access plan specifies a fee limit in relation to a year and course, the fee limit specified must not exceed whatever amount is prescribed for the purposes of this section (“the maximum amount”).
- (4) Where a fee and access plan provides for the determination of a fee limit in relation to a year and course, the plan must specify that the fee limit determined in accordance with the plan is not to exceed the maximum amount.
- (5) A qualifying person, for the purposes of subsection (2)(a), is a person who—
- (a) is not an international student, and
 - (b) falls within any class of persons prescribed for the purposes of this section.
- (6) The power to prescribe a description of course under this section may not be exercised so as to prescribe a postgraduate course, unless it is a course of initial teacher training.

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- (7) Nor may the power to prescribe a description of course under this section be exercised so as to discriminate—
- (a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given;
 - (b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.
- (8) An international student is a person who does not fall within any class of persons prescribed under section 1 of the Education (Fees and Awards) Act 1983 (charging of higher fees in case of students not having prescribed connection with the United Kingdom) for the purposes of subsection (1) or (2) of that section.
- (9) Regulations may make provision for circumstances in which fees payable to a person, in connection with a qualifying person's undertaking a course, or part of a course, provided on behalf of an institution, are to be treated for the purposes of subsection (2)
- (a) as being payable to that institution in connection with the qualifying person's undertaking the course.

Annotations:

Modifications etc. (not altering text)

- C2** S. 5(2)(b) modified (W.) (31.7.2015) by [The Higher Education \(Qualifying Courses, Qualifying Persons and Supplementary Provision\) \(Wales\) Regulations 2015 \(No. 1484\)](#), regs. 1(1), **5(1)**

Commencement Information

- I10** S. 5(1)(2)(a)(c)(4) in force at 1.1.2016 by [S.I. 2015/1327](#), **art. 6(c)**
- I11** S. 5(2)(b)(3)(5)-(9) in force at 20.5.2015 for specified purposes by [S.I. 2015/1327](#), **art. 2(d)**
- I12** S. 5(2)(b)(3)(5)-(9) in force at 1.1.2016 in so far as not already in force by [S.I. 2015/1327](#), **art. 6(c)**

6 Promotion of equality of opportunity and higher education

- (1) A fee and access plan relating to an institution must include such provisions relating to the promotion of equality of opportunity or the promotion of higher education as may be prescribed.
- (2) A fee and access plan may also include further provisions relating to the promotion of equality of opportunity or the promotion of higher education.
- (3) The provisions that may be prescribed under subsection (1) for inclusion in a plan include provisions requiring the governing body—
- (a) to take measures to attract applications from prospective students who are members of under-represented groups (or to secure the taking of such measures);
 - (b) to take measures to retain students who are members of under-represented groups (or to secure the taking of such measures);
 - (c) to provide financial assistance to students (or to secure the provision of such assistance);
 - (d) to make available to students or prospective students information about financial assistance available to students from any source (or to secure that such information is made available).