Supersedes draft laid on 7 July 2004 and published on 12 July 2004Draft Regulations laid before Parliament under section 47(4) of the Higher Education Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

EDUCATION, ENGLAND

The Student Fees (Approved Plans) (England) Regulations 2004

Made - - - - 2004

Coming into force - in accordance with regulation 1

The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 33, 34, 35, 36, 37, 39 and 47(5) of the Higher Education Act 2004(**1**), hereby makes the following Regulations, a draft of which has been laid before, and approved by a resolution of, each House of Parliament:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Student Fees (Approved Plans) (England) Regulations 2004 and shall come into force on the day after the day on which they are made.

(2) These Regulations apply in England.

Interpretation

2. In these Regulations "the 2004 Act" means the Higher Education Act 2004.

Content of approved plans

3. A plan(**2**) must include provisions requiring the governing body of the institution to do the following—

(a) to 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) to provide, or secure the provision of, bursaries and other forms of financial assistance set out in the plan to students undertaking a course(**3**) at the institution;

(**1**) 2004, c. 8
(**2**) "plan" is defined in section 22 of the 2004 Act.
(**3**) "course" is defined in section 41(1) of the 2004 Act.

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

(e) to 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 by virtue of regulation 4; and

(f) to provide the Director with such information as he may reasonably require from time to time.

4. A plan must set out the objectives of the institution, determined by its governing body, relating to the promotion of equality of opportunity(**4**).

Approval of plans

5. Where the governing body of an institution applies to the Director for approval of a proposed plan, the following procedure applies:—

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

(b) where the Director informs the governing body under paragraph (a) that he is minded not to approve the plan, the governing body may, within a reasonable time, do either or both of the following—

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

(ii) modify the plan;

(c) where the governing body acts in accordance with paragraph (b), the Director 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 he approves the plan;

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

6. Where the Director has approved a plan, the institution must publish it in a manner which makes it conveniently accessible to students and prospective students.

Duration of plans

7. The maximum period of time during which a plan may be in force is five years.

Variation of plans

8. The governing body may at any time within the period during which an approved plan is in force apply to the Director for approval of a variation of the plan. Where the governing body does so, the procedure to be followed shall be as set out in regulations 5 and 6, as if in those regulations all occurrences of the word "plan" were substituted by "variation".

Enforcement of plans

9. The Director must act in accordance with the following procedure in connection with the giving of any direction or notification under section 37(1) of the 2004 Act—

(**4**) "equality of opportunity" is defined in section 33(7) of the 2004 Act.

(a) where the Director considers that the governing body may have failed to comply with any provision of the plan, he must inform the governing body of that fact, specifying the provision, and give the governing body a reasonable time within which to make representations;

(b) where the governing body makes representations within a reasonable time, the Director must consider the representations and, having considered them, inform the governing body whether he is satisfied that the governing body has failed to comply with any provision of the plan, and if so, specify the provision;

(c) where the governing body does not make representations within a reasonable time, the Director must inform the governing body whether he is satisfied that the governing body has failed to comply with any provision of the plan, and if so, specify the provision;

(d) where the Director has informed the governing body that he is satisfied that the governing body has failed to comply with a specified provision of the plan, the Director may inform the governing body that he is minded to do either or both of the following—

(i) direct the Higher Education Funding Council for England or the Teacher Training Agency or both under section 37(1)(a) of the 2004 Act to impose on the governing body specified financial requirements under section 24(3) of that Act, or

(ii) notify the governing body under section 37(1)(b) of the 2004 Act that on the expiry of the existing plan he will refuse to approve a new plan under section 34 of that Act during the period specified in the notification;

(e) where the Director has informed the governing body under paragraph (d), he must give the governing body a reasonable time within which to make representations as to the amount of the specified financial requirements to be included in the direction or the financial consequences of the refusal to approve a new plan;

(f) where the governing body makes representations within a reasonable time, the Director must consider the representations and, having considered them—

(i) where the Director had informed the governing body that he was minded to make a direction under section 37(1)(a) of the 2004 Act, he must either make such a direction and provide the governing body with a copy of it or not make such a direction and inform the governing body, and

(ii) where the Director had informed the governing body that he was minded to notify the governing body under section 37(1)(b) of the 2004 Act, he must either so notify the governing body or inform the governing body that he will not issue such a notification;

(g) where the governing body does not make representations within a reasonable time—

(i) where the Director had informed the governing body that he was minded to make a direction under section 37(1)(a) of the 2004 Act, he must either make such a direction and provide the governing body with a copy of it or not make such a direction and inform the governing body, and

(ii) where the Director had informed the governing body that he was minded to notify the governing body under section 37(1)(b) of the 2004 Act, he must either so notify the governing body or inform the governing body that he will not issue such a notification.

10. The Director may specify as the financial requirements by virtue of section 37(1)(a) of the 2004 Act all or any of the following reductions in the amount of the institution's grant, loan or other payment mentioned in section 24(4)(b) or (c) of that Act—