

Higher Education and Research Bill

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

TO

Make provision about higher education and research; and to make provision about alternative payments to students in higher or further education.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE OFFICE FOR STUDENTS

Establishment of the Office for Students

1 The Office for Students

- (1) A body corporate called the Office for Students is established. 5
- (2) In this Act that body is referred to as “the OfS”.
- (3) Schedule 1 contains further provision about the OfS.

2 General duties

- (1) In performing its functions, the OfS must have regard to—
 - (a) the need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers, 10
 - (b) the need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, 15
 - (c) the need to promote value for money in the provision of higher education by English higher education providers,

- (d) the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,
- (e) the need to use the OfS’s resources in an efficient, effective and economic way, and 5
- (f) so far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be—
- (i) transparent, accountable, proportionate and consistent, and
- (ii) targeted only at cases in which action is needed.
- (2) In performing its functions, including its duties under subsection (1), the OfS must have regard to guidance given to it by the Secretary of State. 10
- (3) In giving such guidance, the Secretary of State must have regard to the need to protect academic freedom, including, in particular, the freedom of English higher education providers—
- (a) to determine the content of particular courses and the manner in which they are taught, supervised and assessed, 15
- (b) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
- (c) to determine the criteria for the admission of students and apply those criteria in particular cases. 20
- (4) The guidance may, in particular, be framed by reference to particular courses of study but it must not relate to—
- (a) particular parts of courses of study,
- (b) the content of such courses,
- (c) the manner in which they are taught, supervised or assessed, 25
- (d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
- (e) the criteria for the admission of students, or how they are applied.
- (5) Guidance given by the Secretary of State to the OfS which relates to English higher education providers must apply to such providers generally or to a description of such providers. 30

The register of English higher education providers

3 The register

- (1) The OfS must establish and maintain a register of English higher education providers (referred to in this Part as “the register”). 35
- (2) The register may be divided by the OfS into different parts representing such different categories of registration as the OfS may determine.
- (3) The OfS must register an institution in the register (or, where it has been divided into parts, in a particular part of the register) if—
- (a) its governing body applies for it to be registered in the register (or in that part), 40
- (b) it is, or intends to become, an English higher education provider,
- (c) it satisfies the initial registration conditions applicable to it in respect of the registration sought (see section 5), and

-
- (d) the application complies with any requirements imposed under subsection (5).
- (4) The OfS may not otherwise register an institution in the register.
- (5) The OfS may determine –
- (a) the form of an application for registration in the register (or in a particular part of the register),
 - (b) the information to be contained in it or provided with it, and
 - (c) the manner in which an application is to be submitted.
- (6) The Secretary of State may by regulations make provision about the information which must be contained in an institution’s entry in the register.
- (7) Once registered, an institution’s ongoing registration is subject to satisfying –
- (a) the general ongoing registration conditions applicable to it at the time of its registration and as they may be later revised (see section 5), and
 - (b) the specific ongoing registration conditions (if any) imposed on it at the time of its registration and as they may be later varied (see section 6).
- (8) References in this Part to the ongoing registration conditions of an institution are to the conditions mentioned in subsection (7)(a) and (b).
- (9) The OfS must make the information contained in the register, and the information previously contained in it, publicly available by such means as it considers appropriate.
- (10) In this Part –
- (a) a “registered higher education provider” means an institution which is registered in the register, and
 - (b) references to “registration” are to be read accordingly.
- 4 Registration procedure**
- (1) Before refusing an application to register an institution, the OfS must notify the governing body of the institution of its intention to do so.
- (2) The notice must –
- (a) specify the OfS’s reasons for proposing to refuse to register the institution,
 - (b) specify the period during which the governing body of the institution may make representations about the proposal (“the specified period”), and
 - (c) specify the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The OfS must have regard to any representations made by the governing body of the institution during the specified period in deciding whether to register it in the register.
- (5) Having decided whether or not to register the institution, the OfS must notify the governing body of the institution of its decision.
- (6) Where the decision is to register the institution, the notice must –
- (a) specify the date of entry in the register, and

- (b) specify the ongoing registration conditions of the institution at that time.
- (7) Where the decision is to refuse to register the institution, the notice must contain information as to the grounds for the refusal.

Registration conditions

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5 The initial and general ongoing registration conditions

- (1) The OfS must determine and publish –
 - (a) the initial registration conditions, and
 - (b) the general ongoing registration conditions.
- (2) Different conditions may be determined – 10
 - (a) for different descriptions of provider;
 - (b) for registration in different parts of the register.
- (3) The OfS may revise the conditions.
- (4) If the OfS revises the conditions, it must publish them as revised.
- (5) Before determining or revising the conditions, the OfS must, if it appears to it appropriate to do so, consult bodies representing the interests of English higher education providers which appear to the OfS to be concerned. 15
- (6) The OfS may, at the time of an institution’s registration or later, decide that a particular general ongoing registration condition is not applicable to it.
- (7) Where the decision is made after the institution’s registration, the OfS must notify the governing body of the institution of its decision. 20

6 The specific ongoing registration conditions

- (1) The OfS may, at the time of an institution’s registration or later, impose such conditions on its registration as the OfS may determine (“the specific ongoing registration conditions”). 25
- (2) The OfS may at any time vary or remove a specific ongoing registration condition.
- (3) Before –
 - (a) varying or removing a specific ongoing registration condition on an institution’s registration, or
 - (b) imposing a new specific ongoing registration condition on its registration,
 the OfS must notify the governing body of the institution of its intention to do so. 30
- (4) The notice must – 35
 - (a) specify the OfS’s reasons for proposing to take the step in question,
 - (b) specify the period during which the governing body of the institution may make representations about the proposal (“the specified period”), and
 - (c) specify the way in which those representations may be made. 40

- (5) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (6) The OfS must have regard to any representations made by the governing body of the institution during the specified period in deciding whether to take the step in question. 5
- (7) Having decided whether or not to take the step in question, the OfS must notify the governing body of the institution of its decision.
- (8) If the OfS decides to vary or remove a specific ongoing registration condition or impose a new specific ongoing registration condition, the notice must – 10
 - (a) specify the condition (as varied), the condition being removed or the new condition (as the case may be), and
 - (b) specify the date when the variation, removal or imposition takes effect.
- (9) For the purposes of this section, a specific ongoing registration condition is “new” if it is imposed otherwise than at the time of the institution’s registration. 15

7 Proportionate conditions

- (1) The OfS must ensure that the initial registration conditions applicable to an institution and its ongoing registration conditions are proportionate to the OfS’s assessment of the regulatory risk posed by the institution.
- (2) “Regulatory risk” means the risk of the institution, when it is registered, failing to comply with regulation by the OfS. 20
- (3) In light of its duty under subsection (1), the OfS must keep the initial registration conditions applicable to an institution and its ongoing registration conditions under review.

Mandatory registration conditions 25

8 Mandatory ongoing registration conditions for all providers

- (1) The OfS must ensure that the ongoing registration conditions of each registered higher education provider include – 30
 - (a) a condition that requires the governing body of the provider to notify the OfS of any change of which it becomes aware which affects the accuracy of the information contained in the provider’s entry in the register,
 - (b) a condition that requires the governing body of the provider to provide the OfS with such information for the purposes of the performance of the OfS’s functions as the OfS may require it to provide, and 35
 - (c) a condition that requires the governing body of the provider to provide a designated body with such information for the purposes of the performance of its duty under section 59(1) (duty to publish English higher education information) as the body may require it to provide.
- (2) In subsection (1)(c), “designated body” means a body for the time being designated under Schedule 6. 40

9 Mandatory transparency condition for certain providers

- (1) The OfS must ensure that the ongoing registration conditions of each registered higher education provider of a prescribed description include a transparency condition.
- (2) A transparency condition is a condition that requires the governing body of a registered higher education provider to provide to the OfS, and publish, such information as the OfS requests in relation to one or more of the following –
- (a) the number of applications for admission on to higher education courses that the provider has received;
 - (b) the number of those applications that were received according to –
 - (i) gender,
 - (ii) ethnicity, and
 - (iii) socio-economic background;
 - (c) the number of offers made by the provider in relation to those applications;
 - (d) the number of those offers that were accepted;
 - (e) the number of students who accepted those offers that completed their course with the provider.
- (3) “Prescribed” means prescribed by regulations made by the Secretary of State for the purposes of this section.

10 Mandatory fee limit condition for certain providers

- (1) The OfS must ensure that the ongoing registration conditions of each registered higher education provider of a prescribed description include a fee limit condition.
- (2) In this Part, “a fee limit condition” means a condition that requires the governing body of the provider to secure that regulated course fees do not exceed the fee limit.
- (3) “Regulated course fees” are fees payable to the provider by a qualifying person –
- (a) in connection with his or her undertaking a qualifying course, and
 - (b) in respect of an academic year applicable to that course which begins at the same time as, or while, the provider is registered in the register.
- (4) A “qualifying person” means a person who –
- (a) is not an international student, and
 - (b) is within a prescribed description of persons.
- (5) An “international student” means a person who is not within any description of persons prescribed under section 1 of the Education (Fees and Awards) Act 1983 (charging of higher fees in case of students without prescribed connection with the UK) for the purposes of subsection (1) or (2) of that section.
- (6) A “qualifying course” means a higher education course of a prescribed description.
- (7) The power to prescribe descriptions of higher education course under subsection (6) may not be exercised in such a way 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, and

- (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) The OfS has no power, apart from this section, to limit the fees payable to an English higher education provider. 5
- (9) In this section –
 - “higher education course” does not include any postgraduate course other than a course of initial teacher training;
 - “prescribed” means prescribed by regulations made by the Secretary of State for the purposes of this section. 10
- (10) Schedule 2 contains provision about determining “the fee limit”; see section 78(2) for the meaning of “fees”.

11 Duty to publish a list regarding the fee limit condition

- (1) The OfS must publish in each year a list of –
 - (a) the registered higher education providers who have a fee limit condition as an ongoing registration condition, and 15
 - (b) the fee limits as determined under Schedule 2 in relation to each of those providers for fees in connection with each qualifying course provided by the provider in respect of each relevant academic year.
- (2) A “relevant academic year”, in relation to a qualifying course, is an academic year which is applicable to the course and which is due to start in the calendar year after the calendar year in which the list is published. 20
- (3) The OfS must send a copy of each published list to the Secretary of State who must lay it before Parliament.
- (4) The Secretary of State may by regulations prescribe the date by which a list under this section must be published by the OfS. 25

12 Mandatory access and participation plan condition for certain institutions

- (1) This section applies where –
 - (a) a fee limit condition will be or is one of the ongoing registration conditions of an institution, and 30
 - (b) the governing body of the institution requests the imposition of an access and participation plan condition in order to access the higher fee limits available in respect of the fee limit condition for institutions who have such a plan.
- (2) An access and participation plan condition – 35
 - (a) may be an initial registration condition that is applicable to the institution, and
 - (b) must be one of its ongoing registration conditions.
- (3) In this Part, “an access and participation plan condition”, in relation to an institution, means a condition requiring that – 40
 - (a) there is an access and participation plan in relation to the institution which –
 - (i) has been approved by the OfS under section 28 (power to approve an access and participation plan), and

- (ii) is in force, and
- (b) the governing body of the institution complies with the general provisions of that plan (within the meaning of section 31).
- (4) A governing body of an institution is not to be regarded as having failed to comply with the requirement mentioned in subsection (3)(b) by reason of its failure to comply with a general provision of the plan if it shows that it has taken all reasonable steps to comply with the provision. 5

Other registration conditions

13 Other initial and ongoing registration conditions

- (1) The initial or ongoing registration conditions may, in particular, include— 10
- (a) a condition relating to the quality of, or the standards applied to, the higher education provided by the provider (including requiring the quality to be of a particular level or particular standards to be applied);
- (b) a public interest governance condition (see section 14);
- (c) a condition relating to the provider having a student protection plan which has the OfS’s approval (including requiring the provider to have such a plan); 15
- (d) a condition requiring the payment of a fee charged under section 63(1) (initial fee and annual fee for ongoing registration);
- (e) a condition requiring the payment of a fee charged under section 27 or 61 (fees charged by designated bodies) or section 64(1) (other fees charged by the OfS). 20
- (2) For the purposes of subsection (1)(a), “standards” means the standards used by an institution to ascertain the level of achievement attained by a student undertaking a higher education course provided by it. 25
- (3) For the purposes of subsection (1)(c), “a student protection plan” is a plan for the protection of students if an event specified by the OfS were to occur (for example, the closure of a course).

14 Public interest governance condition

- (1) For the purposes of section 13(1)(b), “a public interest governance condition” in relation to a provider means a condition requiring the provider’s governing documents to be consistent with the principles in the list published under this section, so far as applicable to the provider. 30
- (2) The OfS must determine and publish a list of principles applicable to the governance of English higher education providers. 35
- (3) The principles must be those that the OfS considers will help to ensure that English higher education providers perform their functions in the public interest.
- (4) The list may include different principles for different descriptions of English higher education providers. 40
- (5) The OfS may revise the list.
- (6) If the OfS revises the list, it must publish it as revised.

- (7) The list (as originally determined and as revised) must include the principle that academic staff at an English higher education provider have freedom within the law –
 - (a) to question and test received wisdom, and
 - (b) to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider. 5
- (8) Before determining or revising the list, the OfS must consult –
 - (a) bodies representing the interests of English higher education providers which appear to the OfS to be concerned, 10
 - (b) the Secretary of State, and
 - (c) such other persons as the OfS considers appropriate.

Enforcement of ongoing registration conditions

15 Power to impose monetary penalties

- (1) The OfS may impose a monetary penalty on a registered higher education provider if it appears to the OfS that there is or has been a breach of one of its ongoing registration conditions. 15
- (2) A “monetary penalty” is a requirement to pay the OfS a penalty of an amount determined by the OfS in accordance with regulations made by the Secretary of State. 20
- (3) The Secretary of State may by regulations make provision about matters to which the OfS must, or must not, have regard in exercising its power under subsection (1).
- (4) Schedule 3 contains provision about –
 - (a) the procedure for imposing a monetary penalty, 25
 - (b) rights of appeal,
 - (c) the recovery of the penalty and interest, and
 - (d) the retention of sums received.

16 Suspension of registration

- (1) The OfS may suspend a registered higher education provider’s registration if it appears to the OfS that there is or has been a breach of one of its ongoing registration conditions. 30
- (2) Where a provider’s registration is suspended, the OfS –
 - (a) must specify the purposes for which the provider is not to be treated as a registered higher education provider during the suspension (“the excepted purposes”), and 35
 - (b) may impose conditions on the governing body of the provider which, if satisfied, will result in the OfS lifting the suspension (“the remedial conditions”).
- (3) During the suspension of a provider’s registration –
 - (a) the provider is treated as a registered higher education provider for all purposes other than the excepted purposes, and 40
 - (b) the provider’s entry in the register remains but must specify –

-
- (i) that the registration is suspended, and
 - (ii) the excepted purposes.
 - (4) The suspension of a provider’s registration ends –
 - (a) when the suspension is lifted by the OfS because the remedial conditions have been satisfied or for any other reason, or 5
 - (b) if earlier, when the provider is removed from the register under section 18 (de-registration by the OfS) or section 22 (voluntary de-registration).
 - (5) The OfS may vary the excepted purposes or the remedial conditions at any time during the suspension.
 - (6) Where it decides to vary the excepted purposes or the remedial conditions, the OfS must notify the governing body of the provider of its decision. 10
 - (7) The notice must specify the excepted purposes, or remedial conditions, as varied.
 - (8) Where the excepted purposes are varied, the OfS must update the provider’s entry in the register with the excepted purposes (as varied). 15
 - (9) Where the suspension of a provider’s registration ends otherwise than when the provider is removed from the register, the OfS must enter the date on which it ends in the provider’s entry in the register.
- 17 Suspension: procedure**
- (1) Before suspending a registered higher education provider’s registration under section 16, the OfS must notify the governing body of the provider of its intention to do so. 20
 - (2) The notice must –
 - (a) specify the OfS’s reasons for proposing to suspend the registration,
 - (b) specify the proposed excepted purposes and the proposed remedial conditions (if any), 25
 - (c) specify the period during which the governing body of the provider may make representations about the proposal (“the specified period”), and
 - (d) specify the way in which those representations may be made. 30
 - (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
 - (4) The OfS must have regard to any representations made by the governing body of the provider during the specified period in deciding whether to suspend its registration. 35
 - (5) Having decided whether or not to suspend the provider’s registration, the OfS must notify the governing body of the provider of its decision.
 - (6) Where the decision is to suspend the provider’s registration, the notice must –
 - (a) specify the date on which the suspension takes effect,
 - (b) specify the excepted purposes, 40
 - (c) specify the remedial conditions (if any), and
 - (d) contain information as to the grounds for the suspension.

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- (7) The OfS may vary the date specified under subsection (6)(a) at any time before that date by notifying the governing body of the provider.
- (8) Subsections (1) to (7) do not apply where the OfS considers that a suspension should take effect immediately because there is an urgent need to protect public money, including, in particular, payments made under – 5
- (a) section 37 or 38 (financial support for providers),
 - (b) section 86 in the exercise of UKRI’s power under that section to give financial support, or
 - (c) section 22 of the Teaching and Higher Education Act 1998 (financial support for students). 10
- (9) In such a case –
- (a) the OfS must notify the governing body of the provider of its decision to suspend the provider’s registration, and
 - (b) that notice must comply with the requirements of subsection (6).
- 18 De-registration by the OfS 15**
- (1) The OfS must remove a registered higher education provider from the register if the OfS becomes aware that the provider no longer is, or intends to become, an English higher education provider.
- (2) The OfS may remove a registered higher education provider from the register if condition A or B is satisfied. 20
- (3) Condition A is satisfied if –
- (a) the OfS has previously exercised its powers under section 15 (monetary penalties) or section 16 (suspension) in relation to breach of one of the provider’s ongoing registration conditions, and
 - (b) it appears to the OfS that – 25
 - (i) there is again a breach, or a continuing breach, of that condition, or
 - (ii) there is or has been a breach of a different one of the provider’s ongoing registration conditions.
- (4) Condition B is satisfied if it appears to the OfS that – 30
- (a) there is or has been a breach of one of the provider’s ongoing registration conditions, and
 - (b) its powers under sections 15 and 16 are insufficient to deal with the breach (whether or not they have been, are being or are to be, exercised in relation to it). 35
- (5) The OfS may make transitional or saving provision in connection with the removal of a provider from the register under this section.
- (6) That provision may include treating the provider as a registered higher education provider for such purposes as the OfS may specify.
- (7) The OfS must – 40
- (a) maintain a list of providers removed from the register under this section,
 - (b) include in that list the details of any provision made under subsection (5), and

- (c) make the list publicly available by such means as it considers appropriate.

19 De-registration by the OfS: procedure

- (1) Before removing a registered higher education provider from the register under section 18, the OfS must notify the governing body of the provider of its intention to do so. 5
- (2) The notice must –
- (a) specify the OfS’s reasons for proposing to remove the provider from the register,
 - (b) specify the period during which the governing body of the provider may make representations about the proposal (“the specified period”), and 10
 - (c) specify the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received. 15
- (4) The OfS must have regard to any representations made by the governing body of the provider during the specified period in deciding whether to remove it from the register.
- (5) Having decided whether or not to remove the provider from the register, the OfS must notify the governing body of the provider of its decision. 20
- (6) Where the decision is to remove the provider from the register, the notice must specify the date on which the removal takes effect.
- (7) The notice must also contain information as to –
- (a) the grounds for the removal,
 - (b) rights of appeal, and 25
 - (c) the period within which an appeal may be made.
- (8) The OfS may vary the date specified under subsection (6) at any time before that date by notifying the governing body of the provider.
- (9) A removal under section 18 may not take effect at any time when an appeal could be brought against the decision to remove or such an appeal is pending. 30
- (10) But that does not prevent a removal taking effect if the governing body of the provider notifies the OfS that it does not intend to appeal.

20 De-registration: appeals

- (1) The governing body of an institution may appeal to the First-tier Tribunal against a decision of the OfS to remove it from the register under section 18. 35
- (2) An appeal may be on the grounds –
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) On an appeal, the Tribunal may – 40
- (a) withdraw the removal;
 - (b) confirm the removal;

- (c) vary the date on which the removal takes effect;
- (d) remit the decision whether to confirm the removal, or any matter relating to that decision, to the OfS.

21 Refusal to renew an access and participation plan

- (1) This section applies where – 5
 - (a) an access and participation plan condition is one of the ongoing registration conditions of a registered higher education provider, and
 - (b) it appears to the OfS that there is or has been a failure by the governing body of the provider to comply with –
 - (i) the requirement of that condition mentioned in section 12(3)(b) (failure to comply with general provisions of access and participation plan), or 10
 - (ii) a fee limit condition which is one of its ongoing registration conditions.
- (2) The OfS may notify the governing body of the provider that, on the expiry of the access and participation plan in relation to the provider which is currently in force, it will refuse to approve a new plan under section 28 during such period as the OfS may specify in the notice. 15
- (3) The Secretary of State may by regulations make provision about –
 - (a) matters to which the OfS must, or must not, have regard in exercising its powers under subsection (2); 20
 - (b) the procedure to be followed in connection with the giving of notification under subsection (2);
 - (c) the effect of such a notification.
- (4) The regulations must include provision – 25
 - (a) requiring any decision of the OfS under subsection (2) affecting the governing body of a provider to have effect in the first instance as a provisional decision,
 - (b) enabling the governing body to apply for a review of the provisional decision to a person, or panel of persons, appointed by the Secretary of State in accordance with the regulations, 30
 - (c) enabling the Secretary of State to pay remuneration and allowances to any person so appointed,
 - (d) prescribing the grounds on which an application for the review of a provisional decision may be made, and 35
 - (e) requiring the OfS to reconsider its provisional decision, and make a final decision, having regard to any recommendation of the person or panel.
- (5) The OfS’s powers in sections 15 to 19 (penalties, suspension and de-registration) are also available in the event of the breach of a condition described in subsection (1)(b). 40

*Voluntary de-registration***22 Voluntary de-registration**

- (1) The OfS must remove a registered higher education provider from the register if –
- (a) the governing body of the provider applies to the OfS for the provider to be removed from the register, and 5
 - (b) the application complies with any requirements imposed under subsection (2).
- (2) The OfS may determine –
- (a) the form of an application under subsection (1), 10
 - (b) the information to be contained in it or provided with it, and
 - (c) the manner in which an application is to be submitted.
- (3) The OfS must notify the governing body of the provider of the date on which the provider is removed from the register (“the removal date”).
- (4) The OfS may vary the removal date at any time before that date by notifying the governing body of the provider. 15
- (5) The OfS may make transitional or saving provision in connection with the removal of a provider from the register under this section.
- (6) That provision may include treating the provider as a registered higher education provider for such purposes as the OfS may specify. 20
- (7) The OfS must –
- (a) maintain a list of providers removed from the register under this section,
 - (b) include in that list the details of any provision made under subsection (5), and 25
 - (c) make the list publicly available by such means as it considers appropriate.

*Quality and standards***23 Assessing the quality of, and the standards applied to, higher education**

- (1) The OfS may assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by English higher education providers. 30
- (2) But the OfS must assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by –
- (a) institutions who have applied to be registered in the register for the purposes of determining whether they satisfy any initial registration condition applicable to them relating to the quality of, or the standards applied to, higher education provided by them (see section 13(1)(a)), and 35
 - (b) registered higher education providers for the purposes of determining whether they satisfy any ongoing registration condition of theirs relating to the quality of, or the standards applied to, higher education provided by them (see section 13(1)(a)). 40

- (3) “Standards” has the same meaning as in section 13(1)(a).

24 Quality Assessment Committee

- (1) The OfS must establish a committee called the “Quality Assessment Committee”.
- (2) The Committee has— 5
- (a) the function of giving the OfS advice on the exercise of its functions under section 23, and
 - (b) such other functions that the OfS may confer on it.
- (3) While a body is designated under Schedule 4 to perform the OfS’s functions under section 23, the Committee also has the function of giving to the OfS advice on the exercise by the designated body of those functions. 10
- (4) The majority of the members of the Committee must be individuals who appear to the OfS to have experience of providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider. 15
- (5) In appointing members of the Committee who meet those criteria, the OfS must have regard to the desirability of their being currently engaged at the time of their appointment in the provision of higher education or in being responsible for such provision.
- (6) The majority of the members of the Committee must be individuals who are not members of the OfS. 20
- (7) Schedule 1 applies to the Quality Assessment Committee as it applies to committees established under paragraph 8 of that Schedule.

25 Rating the quality of, and the standards applied to, higher education

- (1) The OfS may make arrangements for a scheme to give ratings— 25
- (a) to English higher education providers regarding the quality of, and the standards applied to, higher education that they provide where they apply for such a rating, and
 - (b) to higher education providers in Wales, Scotland or Northern Ireland, in respect of whom the appropriate consent is given, regarding the quality of, and the standards applied to, higher education that they provide where they apply for such a rating. 30
- (2) “The appropriate consent” means—
- (a) in the case of a higher education provider in Wales, the consent of the Welsh Ministers to the application of subsection (1) to the provider; 35
 - (b) in the case of a higher education provider in Scotland, the consent of the Scottish Ministers to the application of subsection (1) to the provider;
 - (c) in the case of a higher education provider in Northern Ireland, the consent of the Department for the Economy in Northern Ireland to the application of subsection (1) to the provider. 40
- (3) Such consent—
- (a) may be given either generally in respect of all providers or in respect of providers of a particular description or named providers,
 - (b) is given by notifying the Chair of the OfS, and

- (c) is valid until it is revoked by notifying the Chair.
- (4) For the purposes of applying the definition of “higher education provider” in section 76(1) to subsections (1)(b) and (2), the reference to “higher education” in that definition –
- (a) in the case of an institution in Wales, has the meaning given in section 76(1); 5
 - (b) in the case of an institution in Scotland, has the same meaning as in section 38 of the Further and Higher Education (Scotland) Act 1992;
 - (c) in the case of an institution in Northern Ireland, has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)); 10
- and the reference to “higher education” in subsection (1)(b) is to be read accordingly.
- (5) “Standards” has the same meaning as in section 13(1)(a).
- (6) For the purposes of applying that definition of “standards” to subsection (1)(b), the reference to a “higher education course” in that definition – 15
- (a) in the case of an institution in Wales, has the meaning given in section 76(1);
 - (b) in the case of an institution in Scotland, means a course falling within section 38 of the Further and Higher Education (Scotland) Act 1992; 20
 - (c) in the case of an institution in Northern Ireland, means a course of any description mentioned in Schedule 1 to the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).
- 26 Performance of assessment functions by a designated body**
- (1) In Schedule 4 – 25
- (a) Part 1 makes provision about the designation of a body to perform the assessment functions, and
 - (b) Part 2 makes provision about oversight of the designated body by the OfS.
- (2) The assessment functions are the functions of the OfS under section 23. 30
- (3) Where a body has been designated under Schedule 4 to perform the assessment functions, the functions do not cease to be exercisable by the OfS.
- (4) The OfS may by notice require a body for the time being designated under Schedule 4 (a “designated body”) to provide the OfS with information which is held by the designated body for the purposes of the performance of the assessment functions. 35
- (5) The OfS may give a notice under subsection (4) only in respect of information which is required by the OfS for the purposes of the performance of any of its functions.
- (6) A notice under subsection (4) may require the information to be provided – 40
- (a) by a time specified in the notice, and
 - (b) in a form and manner specified in the notice.
- (7) If a designated body fails to comply with a notice under subsection (4) and does not satisfy the OfS that it is unable to provide the information, the OfS

may enforce the duty to comply with the notice in civil proceedings for an injunction.

27 Power of designated body to charge fees

- (1) In this section “designated body” means a body for the time being designated under Schedule 4. 5
- (2) A designated body which is designated under that Schedule to perform the functions of the OfS under section 23 may –
 - (a) charge an institution a fee for any activity undertaken, or service provided, by the body in assessing the institution in the performance by the body of functions under section 23(2)(a) (duty to assess to determine if initial registration condition relating to quality or standards is met), and 10
 - (b) charge an annual fee to any registered higher education provider in respect of costs incurred, or to be incurred, by the body in the performance by the body of functions under section 23(2)(b) (duty to assess to determine if ongoing registration condition relating to quality or standards is met). 15
- (3) The amount of a fee payable under subsection (2)(a) by an institution or provider –
 - (a) may be calculated by reference to costs incurred by the designated body in the performance by the body of functions under section 23(2)(a) in relation to a different institution or of its general functions, and 20
 - (b) may not be calculated by reference to costs incurred by the designated body in the performance of any other functions.
- (4) The total fees payable under subsection (2)(a) must not exceed in any period of 12 months the total costs incurred by the body in that period in the performance by the body of the functions under section 23(2)(a) and of its general functions. 25
- (5) The amount of a fee payable under subsection (2)(b) may be calculated by reference to costs incurred, or to be incurred, by the body in the performance by the body of functions under section 23(2)(b) which are unconnected with the provider or of its general functions. 30
- (6) The total fees payable under subsection (2)(b) in any period of 12 months must not exceed the total costs incurred by the body in that period in the performance by the body of the functions under section 23(2)(b) and of its general functions. 35
- (7) A designated body must publish –
 - (a) a statement of the amount of the fees which it charges under this section and the basis on which they are calculated, and
 - (b) revised statements where the amount of the fees or the basis on which they are calculated changes. 40
- (8) In this section references to the general functions of a designated body are to its functions under section 26(4) or paragraph 8(1) of Schedule 4 (duty to provide information and an annual report).

*Access and participation***28 Power to approve an access and participation plan**

- (1) The governing body of an institution may apply to the OfS for the OfS's approval of a proposed access and participation plan relating to the institution for the purposes of satisfying an access and participation plan condition. 5
- (2) An access and participation plan is a plan that complies with sections 29 to 31.
- (3) The OfS may, if it thinks fit, approve the plan.
- (4) The OfS may issue guidance as to the matters to which the OfS will have regard in deciding whether to approve plans.
- (5) The Secretary of State may by regulations make provision about the procedure to be followed in connection with the giving of approval under this section. 10
- (6) The regulations may, in particular, specify matters to which the OfS is, or is not, to have regard in making any determination relating to approval.
- (7) The regulations may require the institution to which any plan approved under this section relates to publish the plan in the manner prescribed by the regulations. 15

29 Duration of a plan

- (1) An access and participation plan must specify the period during which it is to be in force.
- (2) The length of that period must not exceed such maximum as may be prescribed by regulations made by the Secretary of State. 20
- (3) Subsections (1) and (2) do not prevent the approval of a new plan taking effect on the expiry of a previous plan.

30 Content of a plan: fees

- (1) An access and participation plan relating to an institution must, in relation to each qualifying course in connection with which fees are to be payable to the institution by qualifying persons and in respect of each relevant academic year, specify or provide for the determination of a limit which those fees are not permitted to exceed. 25
- (2) The limit must not exceed – 30
- (a) the higher amount, if the institution has a high level quality rating at the time the plan is approved, or
- (b) in any other case, the applicable sub-level amount.
- (3) In this section – 35
- “the applicable sub-level amount” in relation to an institution means the amount determined from time to time under paragraph 2 of Schedule 2 as the sub-level amount applicable to that institution;
- “high level quality rating” has the same meaning as in that paragraph;
- “the higher amount” means the amount from time to time prescribed as the higher amount under that paragraph; 40

“qualifying course” and “qualifying person” have the same meaning as in section 10;

“relevant academic year”, in relation to a qualifying course, is an academic year –

- (a) which is applicable to the course, 5
- (b) in respect of which fees are payable to the institution, and
- (c) which begins when the plan comes into force or while it is in force.

31 Content of a plan: equality of opportunity

- (1) An access and participation plan relating to an institution – 10
 - (a) must also include such provisions relating to the promotion of equality of opportunity as are required by regulations made by the Secretary of State to be included in the plan, and
 - (b) may also include further provisions relating to the promotion of equality of opportunity. 15
- (2) In this section, any reference to the “general provisions” of an access and participation plan is a reference to the provisions included in the plan by virtue of subsection (1).
- (3) The general provisions that may be required by regulations made under subsection (1) include, in particular, provisions – 20
 - (a) requiring the governing body of the institution to take, or secure the taking of, measures to attract 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) requiring the governing body of the institution to provide, or secure the provision of, financial assistance to students, 25
 - (c) requiring the governing body of the institution to make available to students and prospective students information about financial assistance available to students from any source,
 - (d) setting out objectives relating to the promotion of equality of opportunity, 30
 - (e) relating to the monitoring by the governing body of the institution of –
 - (i) its compliance with the provisions of the plan, and
 - (ii) its progress in achieving any objectives set out in the plan by virtue of paragraph (d), and 35
 - (f) requiring the provision of information to the OfS.
- (4) Regulations under subsection (1) may not require a plan –
 - (a) to include among the general provisions of the plan any provision referring to particular courses or to the manner in which courses are taught, supervised or assessed, or 40
 - (b) to include any provision relating to the criteria for the admission of students.
- (5) In this section –
 - (a) “equality of opportunity” means equality of opportunity in connection with access to and participation in higher education provided by English higher education providers, and 45

- (b) references to higher education do not include education provided by means of any postgraduate course other than a course of initial teacher training.
- 32 Variation of a plan** 5
- (1) The Secretary of State may, by regulations, make provision enabling an access and participation plan which has been approved by the OfS under section 28 to be varied.
- (2) The regulations must provide for a variation to take effect only if approved by the OfS.
- 33 Review of decisions on approval or variation** 10
- Regulations made by virtue of section 28 or 32 must include provision –
- (a) requiring any decision of the OfS under section 28 or 32 affecting the governing body of an institution to have effect in the first instance as a provisional decision,
- (b) enabling the governing body to apply for a review of the provisional decision to a person, or panel of persons, appointed by the Secretary of State in accordance with the regulations, 15
- (c) enabling the Secretary of State to pay remuneration and allowances to any person so appointed,
- (d) prescribing the grounds on which an application for the review of a provisional decision may be made, and 20
- (e) requiring the OfS to reconsider its provisional decision, and make a final decision, having regard to any recommendation of the person or panel.
- 34 Advice on good practice** 25
- (1) The OfS may –
- (a) identify good practice relating to the promotion of equality of opportunity, and
- (b) give advice about such practice to registered higher education providers. 30
- (2) “Equality of opportunity” has the same meaning as in section 31.
- 35 Duty to protect academic freedom**
- (1) In performing its access and participation functions, the OfS has a duty to protect academic freedom including, in particular, the freedom of institutions – 35
- (a) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
- (b) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
- (c) to determine the criteria for the admission of students and apply those criteria in particular cases. 40
- (2) For the purposes of this section, the OfS’s “access and participation functions” are the functions conferred on it by or under –

- (a) section 21 (refusal to renew an access and participation plan), and
- (b) sections 28 to 33 (access and participation plans).

36 Power of Secretary of State to require a report

- (1) The Secretary of State may, by direction, require the OfS to report to the Secretary of State – 5
 - (a) in its annual report under paragraph 13 of Schedule 1, or
 - (b) in a special report,on such matters relating to equality of opportunity as may be specified in the direction.
- (2) “Equality of opportunity” has the same meaning as in section 31. 10
- (3) Where the Secretary of State is provided with a special report, the Secretary of State must lay it before Parliament.
- (4) See paragraph 13 of Schedule 1 for the laying of the OfS’s annual reports.

Powers to give financial support

37 Financial support for registered higher education providers 15

- (1) The OfS may make grants, loans or other payments to the governing body of an eligible higher education provider in respect of expenditure incurred, or to be incurred, by the provider or a qualifying connected institution, for the purposes of either or both of the following –
 - (a) the provision of education by the provider or by another eligible higher education provider; 20
 - (b) the provision of facilities, and the carrying on of other activities, by the provider, or by another eligible higher education provider, which its governing body considers it is necessary or desirable to provide or carry on for the purposes of, or in connection with, education. 25
- (2) The OfS may make grants, loans or other payments to any person in respect of expenditure incurred, or to be incurred, by the person for the purposes of the provision by any person of services for the purposes of, or in connection with, the provision of education by eligible higher education providers receiving financial support under subsection (1). 30
- (3) “Eligible higher education provider” means a registered higher education provider of a description prescribed by regulations made by the Secretary of State for the purposes of subsection (1).
- (4) “Qualifying connected institution”, in relation to an eligible higher education provider, means a college, school, hall or other institution – 35
 - (a) to which the provider’s governing body proposes to pay, with the consent of the OfS, all or some of the payments made to it under subsection (1), and
 - (b) which the OfS is satisfied has a sufficient connection with the provider for the purposes of that subsection. 40
- (5) “School” has the same meaning as in the Education Act 1996 (see section 4 of that Act) but also includes a 16 to 19 Academy (as defined in section 1B(3) of the Academies Act 2010).

- (6) See section 39 regarding the terms and conditions of financial support under this section.

38 Financial support for certain institutions

- (1) The OfS may make grants, loans or other payments to any person in respect of expenditure incurred, or to be incurred, by the person for the purposes of the provision of eligible higher education courses by – 5
- (a) institutions in England maintained or assisted by local authorities in England or Wales, or
 - (b) English further education providers.
- (2) “Eligible higher education course” means a higher education course prescribed by regulations made by the Secretary of State for the purposes of subsection (1). 10
- (3) In subsection (1)(a) –
- (a) an institution “assisted” by a local authority has the same meaning as in the Education Act 1996 (see section 579(5) to (7) of that Act), and
 - (b) the reference to a local authority in England or Wales has the same meaning as in that Act (see section 579(1) of that Act). 15
- (4) See section 39 regarding the terms and conditions of financial support under this section.

39 Financial support: terms and conditions

- (1) A grant, loan or other payment under section 37 or 38 may be made on such terms and conditions as the OfS considers appropriate. 20
- (2) The terms and conditions may, in particular –
- (a) enable the OfS to require the repayment, in whole or in part, of sums paid by the OfS if any of the terms and conditions subject to which the sums were paid is not complied with, 25
 - (b) require the payment of interest in respect of any period during which a sum due to the OfS in accordance with any of the terms and conditions remains unpaid, and
 - (c) require a person to whom sums are paid by the OfS to provide the OfS with any information it requests for the purpose of the exercise of any of its functions. 30
- (3) But the terms and conditions must not relate to the application of sums which are not derived from the OfS by the provider or any other person to whom the grant, loan or other payment is made.
- (4) Before determining the terms and conditions to be imposed on a grant, loan or other payment, the OfS must consult such persons as it considers appropriate. 35

Powers to grant degrees etc

40 Authorisation to grant degrees etc

- (1) The OfS may by order authorise –
- (a) a registered higher education provider to grant taught awards or research awards or both; 40
 - (b) a qualifying further education provider to grant foundation degrees.

-
- (2) An authorisation under subsection (1) may authorise a provider to grant, as the case may be –
- (a) taught awards, research awards or foundation degrees of any description;
 - (b) specified taught awards, research awards or foundation degrees; 5
 - (c) taught awards, research awards or foundation degrees of a specified description.
- (3) In this Part –
- “taught award” means a degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate course of study and satisfy an appropriate assessment; 10
 - “research award” means a degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate programme of supervised research and satisfy an appropriate assessment; 15
 - “foundation degree” means a foundation degree granted to persons who complete an appropriate course of study and satisfy an appropriate assessment.
- (4) The OfS may not authorise a provider under subsection (1)(b) unless –
- (a) the provider gives the OfS a progression statement, and 20
 - (b) the OfS considers that the proposals set out in that statement are satisfactory and are likely to be carried out.
- (5) A “progression statement” is a statement setting out what the provider proposes to do as regards making arrangements for securing that any person granted a foundation degree in pursuance of the authorisation (other than by virtue of section 41(3)(c) or (d) (honorary and staff degrees)) has an opportunity to progress to one or more particular courses of more advanced study. 25
- (6) An authorisation under subsection (1) must specify –
- (a) the date when it takes effect, and 30
 - (b) the period during which it has effect (which may be an indefinite period).
- (7) A provider authorised under subsection (1) has power to grant the authorised taught awards, research awards or foundation degrees (as the case may be) to persons who complete the appropriate course of study, or programme of supervised research, on or after the date the authorisation takes effect. 35
- (8) It is for the provider to determine, in accordance with any relevant provisions of the instruments relating to or regulating the provider –
- (a) the courses of study or programmes of supervised research, and the assessments, which are appropriate for the grant of an authorised taught award, research award or foundation degree, and 40
 - (b) the terms and conditions on which any of the powers conferred by the authorisation may be exercised.
- (9) An authorisation under subsection (1) may restrict the power to grant an authorised taught award, research award or foundation degree to persons enrolled with the provider at the time they complete the course of study or programme of supervised research for which the award is granted. 45

- (10) The OfS’s power to make an order under subsection (1) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 is to apply to such an instrument as if the order had been made by a Minister of the Crown.
- (11) An order under subsection (1) may make incidental, supplementary, transitional or saving provision. 5
- (12) In this section –
- “assessment” includes examination and test;
 - “authorised” means authorised by the authorisation under subsection (1);
 - “qualifying further education provider” means an English further education provider which is a registered higher education provider; 10
 - “specified” means specified in the order under subsection (1) giving the authorisation.

41 Supplementary powers with authorisation

- (1) An authorisation under section 40(1) may include power for the provider to authorise other institutions to grant on the provider’s behalf – 15
- (a) all the authorised taught awards, research awards and foundation degrees, or
 - (b) such of those awards and degrees as are specified or are of a specified description.
- (2) An authorisation under section 40(1)(a) includes – 20
- (a) power to grant the authorised taught awards or research awards, or such of those awards as are specified or are of a specified description, jointly with another institution,
 - (b) power to deprive a person of an authorised taught award or research award granted by or on behalf of the provider in pursuance of the authorisation, 25
 - (c) power to grant honorary degrees of any description, or specified honorary degrees, or honorary degrees of a specified description, and
 - (d) power to grant degrees of any description, or specified degrees, or degrees of a specified description, to members of the academic or other staff of the provider. 30
- (3) An authorisation under section 40(1)(b) includes –
- (a) power to grant the authorised foundation degrees, or such of those degrees as are specified or are of a specified description, jointly with another institution, 35
 - (b) power to deprive a person of an authorised foundation degree granted by or on behalf of the provider in pursuance of the authorisation,
 - (c) power to grant honorary foundation degrees of any description, or specified honorary foundation degrees, or honorary foundation degrees of a specified description, and 40
 - (d) power to grant foundation degrees of any description, or specified foundation degrees, or foundation degrees of a specified description, to members of the academic or other staff of the provider.
- (4) In the case of an authorised taught award, research award or foundation degree granted jointly with another institution, the power to deprive mentioned in subsection (2)(b) and (3)(b) is only exercisable jointly with that institution. 45

- (5) In this section, “authorised” and “specified” have the same meaning as in section 40.

42 Variation or revocation of section 40 authorisation

- (1) The OfS may, at any time, by a further order under section 40(1), vary or revoke an authorisation given by a previous order under that provision. 5
- (2) That is the case even if the authorisation was given for an indefinite period.
- (3) The OfS may, in particular, make such an order revoking an authorisation if the provider ceases to be a registered higher education provider.

43 Variation or revocation of other authorisations to grant degrees etc

- (1) The OfS may by order vary or revoke an authorisation given to an English higher education provider or an English further education provider – 10
- (a) by or under an Act of Parliament, other than under section 40(1) of this Act, or
- (b) by Royal Charter,
- to grant taught awards, research awards or foundation degrees. 15
- (2) That is the case even if the authorisation was given for an indefinite period.
- (3) An order under subsection (1) varying an authorisation may only make such provision as could be made by an order giving authorisation under section 40(1).
- (4) The OfS may, in particular, make an order under subsection (1) revoking an authorisation if the provider is not a registered higher education provider. 20
- (5) The OfS’s power to make an order under subsection (1) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 is to apply to such an instrument as if the order had been made by a Minister of the Crown.
- (6) An order under subsection (1) may make incidental, supplementary, transitional or saving provision. 25
- (7) Any power to vary or revoke an authorisation mentioned in subsection (1), which is a power which exists immediately before the coming into force of this section, ceases to exist on that coming into force.

44 Variation or revocation of authorisation: procedure 30

- (1) Before –
- (a) making a further order under section 40(1) varying or revoking a provider’s authorisation, or
- (b) making an order under section 43(1) varying or revoking a provider’s authorisation, 35
- the OfS must notify the governing body of the provider of its intention to do so.
- (2) The notice must –
- (a) specify the OfS’s reasons for proposing to take the step in question,
- (b) specify the period during which the governing body may make representations about the proposal (“the specified period”), and 40
- (c) specify the way in which those representations may be made.

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- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The OfS must have regard to any representations made by the governing body of the provider during the specified period in deciding whether to take the step in question. 5
- (5) Having decided whether or not to take the step in question, the OfS must notify the governing body of the provider of its decision.
- (6) If the OfS decides to vary or revoke a provider’s authorisation, the further order under section 40(1) or the order under section 43(1) must specify the date when the variation or revocation takes effect. 10
- (7) The notice must also contain information as to –
 (a) the rights of appeal, and
 (b) the period within which an appeal may be made.
- (8) The variation or revocation may not take effect at any time when an appeal could be brought against the decision to vary or revoke or such an appeal is pending. 15
- (9) But that does not prevent the variation or revocation taking effect if the governing body of the provider notifies the OfS that it does not intend to appeal.
- 45 Appeals against variation or revocation of authorisation 20**
- (1) The governing body of a provider may appeal to the First-tier Tribunal against a decision of the OfS to vary or revoke, by a further order under section 40(1) or an order under section 43(1), an authorisation given to it.
- (2) An appeal may be on the grounds –
 (a) that the decision was based on an error of fact; 25
 (b) that the decision was wrong in law;
 (c) that the decision was unreasonable.
- (3) On an appeal, the Tribunal may –
 (a) withdraw the decision;
 (b) confirm the decision; 30
 (c) remit the decision whether to confirm the decision, or any matter relating to that decision, to the OfS.
- 46 Validation by authorised providers**
- (1) The OfS may enter into arrangements (“commissioning arrangements”) with an authorised registered higher education provider requiring the provider to offer to enter into validation arrangements in respect of – 35
 (a) all the taught awards and foundation degrees that the provider is authorised to grant, or
 (b) such of those taught awards and foundation degrees as are specified in the commissioning arrangements or are of a description so specified. 40
- (2) Commissioning arrangements may require a provider to offer to enter into validation arrangements subject to conditions specified by the OfS.

- (3) Commissioning arrangements may not require a provider to offer to enter into validation arrangements that the provider is not authorised to enter into.
- (4) In this section, “validation arrangements” means arrangements between one registered higher education provider and another registered higher education provider under which the first provider – 5
 - (a) grants a taught award or a foundation degree to a person who is a student at the other provider, or
 - (b) authorises the other provider to grant a taught award or a foundation degree on behalf of the first provider.
- (5) In this section, “authorised”, in relation to a registered higher education provider, means authorised to grant taught awards or foundation degrees, and to enter into validation arrangements, by – 10
 - (a) an authorisation given –
 - (i) under section 40(1),
 - (ii) by or under any other provision of an Act of Parliament, or 15
 - (iii) by Royal Charter, or
 - (b) an authorisation varied under section 43(1).

47 Validation by the OfS

- (1) If (having regard to advice from the OfS) the Secretary of State considers it necessary or expedient, the Secretary of State may by regulations – 20
 - (a) authorise the OfS to enter into validation arrangements, and
 - (b) require the OfS to offer to do so with –
 - (i) registered higher education providers generally, or
 - (ii) such registered higher education providers as are specified in the regulations or are of a description so specified. 25
- (2) Regulations under subsection (1) may authorise the OfS to enter into validation arrangements in respect of –
 - (a) all taught awards and foundation degrees, or
 - (b) such taught awards and foundation degrees as are specified in the regulations or are of a description so specified. 30
- (3) Regulations under subsection (1) may require the OfS to offer to enter into validation arrangements subject to conditions specified in the regulations.
- (4) Regulations under subsection (1) may include power for the OfS to authorise authorised registered higher education providers to enter on its behalf into – 35
 - (a) all the validation arrangements that the OfS is authorised to enter into by the regulations, or
 - (b) such of those validation arrangements as are specified in the regulations or are of a description so specified.
- (5) But regulations under subsection (1) may not include power for the OfS to authorise a provider to enter on its behalf into validation arrangements which are – 40
 - (a) arrangements in respect of taught awards or foundation degrees that the provider is not authorised to grant, or
 - (b) arrangements that the provider is not authorised to enter into.

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- (6) Regulations under subsection (1) may include power for the OfS to deprive a person of a taught award or foundation degree granted by or on behalf of the OfS under validation arrangements.
- (7) In this section, “validation arrangements” means arrangements between the OfS and a registered higher education provider under which the OfS— 5
- (a) grants a taught award or a foundation degree to a person who is a student at the provider, or
 - (b) authorises the provider to grant a taught award or a foundation degree on behalf of the OfS.
- (8) In this section, “authorised”, in relation to a registered higher education provider, means authorised to grant taught awards or foundation degrees, and to enter into validation arrangements, by— 10
- (a) an authorisation given—
 - (i) under section 40(1),
 - (ii) by or under any other provision of an Act of Parliament, or 15
 - (iii) by Royal Charter, or
 - (b) an authorisation varied under section 43(1).
- (9) Validation arrangements may provide for—
- (a) the grant of a taught award or a foundation degree by the OfS, or
 - (b) the authorisation to grant a taught award or a foundation degree on 20
- behalf of the OfS,
to be subject to such conditions as the OfS considers appropriate.
- 48 Sections 40 to 47: consequential amendments**
- (1) Section 76 of the Further and Higher Education Act 1992 (power to award degrees, etc) is amended as follows. 25
- (2) In the heading, after “etc” insert “: institutions in Wales”.
- (3) In subsection (1), after “any institution” in both places insert “in Wales”.
- (4) After subsection (7), insert—
- “(8) References in this section to an institution in Wales are to an institution whose activities are carried on, or principally carried on, in Wales. 30
 - (9) See section 40 of the Higher Education and Research Act 2016 regarding institutions in England.”
- (5) The amendments made by this section do not affect the continuing validity of any orders made under section 76 of the Further and Higher Education Act 1992 before the coming into force of this section. 35
- 49 Unrecognised degrees**
- (1) Section 214 of the Education Reform Act 1988 (unrecognised degrees) is amended as follows.
- (2) In subsection (2), before paragraph (a) insert—
- “(za) an award granted or to be granted by a university, college or 40
- other body which it is authorised to grant by—

- (i) an authorisation given under section 40(1) of the Higher Education and Research Act 2016 (“the 2016 Act”),
 - (ii) an authorisation varied under section 43(1) of the 2016 Act, or
 - (iii) regulations under section 47(1) of the 2016 Act; 5
 - (zb) an award granted or to be granted by a body for the time being permitted by a body falling within paragraph (za) to act on its behalf in the granting of that award where the grant of that award by that other body on its behalf is authorised by –
 - (i) the authorisation mentioned in paragraph (za), or 10
 - (ii) regulations under section 47(1) of the 2016 Act;”.
 - (3) In subsection (2)(a), after “Act of Parliament” insert “(other than section 40(1), 43(1) or 47(1) of the 2016 Act)”.
 - (4) In subsection (2)(c), for “Secretary of State” substitute “appropriate authority”.
 - (5) After subsection (9) insert – 15
 - “(9ZA) For the purposes of this section as it extends to England and Wales, “the appropriate authority” means –
 - (a) so far as the power to make an order under subsection (2)(c) is exercisable in relation to England, the Office for Students, and
 - (b) so far as the power to make an order under that provision is exercisable in relation to Wales, the Welsh Ministers.” 20
 - (6) In subsection (9A) –
 - (a) for “and section 215 as they extend” substitute “as it extends”, and
 - (b) for “the reference to the Secretary of State is to be read as a reference to” substitute ““the appropriate authority” means”. 25
 - (7) In subsection (10)(a) –
 - (a) for “means” substitute “ –
 - (i) means”, and
 - (b) after “outside the United Kingdom” insert “, and
 - (ii) includes the Office for Students”. 30
- 50 Unrecognised degrees: supplementary**
- (1) Section 215 of the Education Reform Act 1988 (“the 1988 Act”) (unrecognised degrees: enforcement) is amended in accordance with subsections (2) and (3).
 - (2) In subsection (1) –
 - (a) for “Secretary of State” substitute “appropriate authority”, 35
 - (b) for “him” substitute “the appropriate authority”, and
 - (c) for “he” substitute “the appropriate authority”.
 - (3) After subsection (1A) insert –
 - “(1B) “The appropriate authority” means –
 - (a) in the case of a weights and measures authority in England, the Secretary of State, 40
 - (b) in the case of a weights and measures authority in Wales, the Welsh Ministers, and

- (c) in the case of a weights and measures authority in Scotland, the Scottish Ministers.”
- (4) Section 216 of the 1988 Act (identification of bodies granting or providing courses for recognised awards) is amended in accordance with subsections (6) to (12). 5
- (5) For subsection (1) substitute –
- “(1) The appropriate authority may by order designate each body which appears to the authority to be a recognised body within subsection (4)(a), (b) or (c).
- (1A) For the purposes of sections 214 and 215, any body for the time being designated by an order under subsection (1) as a recognised body within subsection (4)(c) is conclusively presumed to be such a body.” 10
- (6) In subsection (2) –
- (a) for “Secretary of State” substitute “appropriate authority”, and
- (b) for “him” substitute “the authority”. 15
- (7) After subsection (2) insert –
- “(2ZA) For the purposes of this section as it extends to England and Wales, “the appropriate authority” means –
- (a) so far as the functions in question are exercisable in relation to England, the Office for Students, and 20
- (b) so far as the functions in question are exercisable in relation to Wales, the Welsh Ministers.”
- (8) In subsection (2A), for “the references in subsections (1) and (2) above to the Secretary of State are to be read as references to” substitute ““the appropriate authority” means”. 25
- (9) In subsection (3) –
- (a) in the opening words for “either” substitute “it”, and
- (b) before paragraph (a) insert –
- “(za) provides any course which is –
- (i) in preparation for a degree to be granted by a recognised body within subsection (4)(a) or (b) which the recognised body is authorised to grant by the authorisation or regulations mentioned in subsection (4)(a), and 30
- (ii) is approved by or on behalf of that recognised body;” 35
- (10) In subsection (3)(a), after “a recognised body” insert “within subsection (4)(c)”.
- (11) In subsection (4), after “means” insert “–
- (a) a body which is authorised to grant awards by –
- (i) an authorisation given under section 40(1) of the Higher Education and Research Act 2016 (“the 2016 Act”), 40
- (ii) an authorisation varied under section 43(1) of the 2016 Act, or
- (iii) regulations under section 47(1) of the 2016 Act,

- (b) a body for the time being permitted by a body within paragraph (a) to act on its behalf in the granting of awards where the grant of the awards by that other body on its behalf is authorised by the authorisation or regulations mentioned in paragraph (a), or
 - (c) ”. 5
- (12) In the heading, after “awards” insert “etc”.
- (13) Section 232 of the 1988 Act (orders and regulations) is amended in accordance with subsections (14) and (15).
- (14) After subsection (4), insert –
 - “(4A) The power of the Office for Students to make an order under section 214 or 216 is exercisable by statutory instrument; and the Statutory Instruments Act 1946 is to apply to such an instrument as if the order had been made by a Minister of the Crown.” 10
- (15) In subsection (5), after “fit” insert “or, in the case of orders under section 214 or 216 made by the Office for Students, the Office for Students thinks fit”. 15
- (16) The amendments made by section 49 or this section to section 214 or 216 of the 1988 Act do not affect the continuing validity of any orders made under section 214 or 216 of the 1988 Act before the coming into force of this section.
- (17) Such orders made by the Secretary of State under section 214 or 216 of the 1988 Act have effect after the coming into force of this section as if made by the OfS under section 214 or 216 of the 1988 Act. 20
- (18) The power in section 217(2) of the 1988 Act may be exercised so as to extend to any of the Channel Islands any amendment made by section 49 or this section to sections 214 to 216 of the 1988 Act with such adaptations and modifications (if any) as may be specified in the Order. 25

Powers in relation to “university” title

51 Use of “university” in title of institution

- (1) Section 77 of the Further and Higher Education Act 1992 (use of “university” in title of institution) is amended as follows.
- (2) Before subsection (1) insert – 30
 - “(A1) Where –
 - (a) power is conferred by any enactment or instrument to change the name of any educational institution or any body corporate carrying on such an institution,
 - (b) the educational institution is a registered higher education provider, and 35
 - (c) the power is exercisable with the consent of the Privy Council, then, the power may be exercised so as to include the word “university” in the name of the institution and, if it is carried on by a body corporate, in the name of the body, but only if the Office for Students (instead of the Privy Council) consents to that exercise of the power.” 40
- (3) In subsection (1) –
 - (a) in paragraph (b), after “institution” insert “is in Wales and”, and

- (b) omit “(whether or not the institution would apart from this section be a university)”.
- (4) After subsection (1) insert –
“(1A) Subsections (A1) and (1) apply whether or not the educational institution would, apart from this section, be a university”. 5
- (5) In subsection (2) –
(a) after “in subsection” insert “(A1) or”, and
(b) for “that subsection” substitute “subsections (A1) and (1)”.
- (6) In subsection (3), after “name” insert “the Office for Students and”.
- (7) In subsection (4), after “subsection” insert “(A1) or”. 10
- (8) After subsection (4) insert –
“(5) In subsection (A1), “registered higher education provider” has the same meaning as in Part 1 of the Higher Education and Research Act 2016 (see section 78 of that Act).
(6) For the purposes of subsection (1), an educational institution is in Wales if the institution’s activities are carried on, or principally carried on, in Wales.” 15
- (9) The amendments made by this section do not affect the continuing validity of any consents given by the Privy Council under section 77 of the Further and Higher Education Act 1992 before the coming into force of this section. 20

52 Unauthorised use of “university” in title of institution etc

- (1) Section 39 of the Teaching and Higher Education Act 1998 (unauthorised use of “university” in title of institution etc) is amended as follows.
- (2) Before subsection (1) insert –
“(A1) A relevant institution in England must not, when making available (or offering to make available) educational services, do so under a name which includes the word “university” unless the inclusion of that word in that name is –
(a) authorised by or by virtue of any Act or Royal Charter, or
(b) approved by the Office for Students for the purposes of this section.” 25 30
- (3) In subsection (1), omit “England or”.
- (4) In subsection (2) –
(a) for “such an institution” substitute “a relevant institution in England or a relevant institution in Wales”, and
(b) after “subsection” insert “(A1) or”. 35
- (5) In subsection (3), after “Subsection” insert “(A1),”.
- (6) In subsection (4), after “subsection” insert “(A1),”.
- (7) In subsection (5), after “this section” insert “the Office for Students and”.

- (8) After subsection (5) insert –
- “(5A) The power of the Office for Students under subsection (A1) or (2) is not exercisable in a case where the inclusion of the word “university” in the name in question may be authorised by virtue of any other Act or any Royal Charter. 5
- (5B) But that does not prevent the power of the Office for Students under subsection (A1) or (2) being exercisable where the inclusion of the word “university” in the name in question has approval, or may require approval, under section 55 or 1194 of the Companies Act 2006.
- (5C) Where approval is given by the Office for Students under subsection (A1) or (2) in such a case, that does not affect any requirement for approval under section 55 or 1194 of the Companies Act 2006.” 10
- (9) In subsection (7), for the definition of “relevant institution” substitute –
- ““relevant institution in England” means a registered higher education provider as defined by section 78 of the Higher Education and Research Act 2016; 15
- “relevant institution in Wales” means –
- (a) an institution in Wales within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992, or 20
- (b) an institution in Wales within the higher education sector as defined by section 91(5) of that Act;”.
- (10) After subsection (7) insert –
- “(8) For the purposes of this section, an institution is in England or is in Wales if the institution’s activities are carried on, or principally carried on, in England or, as the case may be, in Wales.” 25
- (11) The amendments made by this section do not affect the continuing validity of any approvals given by the Privy Council under section 39 of the Teaching and Higher Education Act 1998 before the coming into force of this section.
- 53 Revocation of authorisation to use “university” title 30**
- (1) The OfS may by order revoke any authorisation, consent or other approval given by or by virtue of –
- (a) an Act (other than the Companies Act 2006), or
- (b) a Royal Charter,
- to an institution in England to include the word “university” in its name. 35
- (2) That is the case even if the authorisation, consent or other approval was granted for an indefinite period.
- (3) The OfS may, in particular, make an order under subsection (1) if –
- (a) in the case of consent or approval given by it under section 77 of the Further and Higher Education Act 1992 or section 39 of the Teaching and Higher Education Act 1998, the institution ceases to be a registered higher education provider, or 40
- (b) in any other case, the institution is not a registered higher education provider.

- (4) The OfS’s power to make an order under subsection (1) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 is to apply to such an instrument as if the order had been made by a Minister of the Crown.
- (5) An order under subsection (1) may make incidental, supplementary, transitional or saving provision. 5
- (6) Any power to revoke an authorisation, consent or other approval mentioned in subsection (1), which is a power which exists immediately before the coming into force of this section, ceases to exist on that coming into force.

54 Revocation of authorisation: procedure

- (1) Before making an order under section 53(1) revoking the authorisation, consent or other approval given to an institution to include the word “university” in its name, the OfS must notify the governing body of the institution of its intention to do so. 10
- (2) The notice must –
- (a) specify the OfS’s reasons for proposing to take the step in question, 15
 - (b) specify the period during which the governing body may make representations about the proposal (“the specified period”), and
 - (c) specify the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received. 20
- (4) The OfS must have regard to any representations made by the governing body of the institution during the specified period in deciding whether to take the step in question.
- (5) Having decided whether or not to take the step in question, the OfS must notify the governing body of the institution of its decision. 25
- (6) If the OfS decides to revoke the authorisation, consent or other approval given to an institution to include the word “university” in its name, the order under section 53(1) must specify the date when the revocation takes effect.
- (7) The notice must also contain information as to –
- (a) the rights of appeal, and 30
 - (b) the period within which an appeal may be made.
- (8) The revocation may not take effect at any time when an appeal could be brought against the decision to revoke the authorisation, consent or other approval, or such an appeal is pending.
- (9) But that does not prevent the revocation taking effect if the governing body of the institution notifies the OfS that it does not intend to appeal. 35

55 Appeals against revocation of authorisation

- (1) The governing body of an institution may appeal to the First-tier Tribunal against a decision of the OfS to revoke, by an order under section 53(1), an authorisation, consent or other approval given to the institution to include the word “university” in its name. 40
- (2) An appeal may be on the grounds –

- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) On an appeal, the Tribunal may –
- (a) withdraw the decision; 5
 - (b) confirm the decision;
 - (c) remit the decision whether to confirm the decision, or any matter relating to that decision, to the OfS.

Powers of entry and search

56 Entering and searching premises with a warrant 10

- (1) Schedule 5 makes provision about powers to enter and search premises in England occupied by supported higher education providers or linked institutions in relation to such providers.
- (2) “Supported higher education provider” means a registered higher education provider which – 15
- (a) is funded wholly or partly by a grant, loan or other payment from the OfS under section 37 or 38 (financial support for providers), or
 - (b) provides higher education courses which are designated for the purposes of section 22 of the Teaching and Higher Education Act 1998 (financial support for students) by or under regulations made under that section. 20
- (3) A “linked institution” in relation to a supported higher education provider means an institution which acts on behalf of the provider in the provision of a higher education course by the provider.

Information powers 25

57 Power to require information from unregistered providers

- (1) The OfS may by notice require the governing body of an unregistered provider to provide the OfS with such information for the purposes of the performance of the OfS’s functions as the OfS requests in the notice.
- (2) A notice under subsection (1) may require the information to be provided – 30
- (a) by a time specified in the notice, and
 - (b) in a form and manner specified in the notice.
- (3) If a governing body fails to comply with a notice under subsection (1) and does not satisfy the OfS that it is unable to provide the information, the OfS may enforce the duty to comply with the notice in civil proceedings for an injunction. 35
- (4) “An unregistered provider” is an English higher education provider which is not a registered higher education provider.
- (5) See section 8(1)(b) for the ongoing registration condition of a registered higher education provider to provide information to the OfS. 40

58 Cooperation and information sharing by the OfS

- (1) The OfS—
- (a) may cooperate with any person where it considers it appropriate to do so for the efficient performance of a function of the OfS, and
 - (b) must cooperate with a person in the performance of such a function if required to do so by the Secretary of State. 5
- (2) The OfS—
- (a) may cooperate with a relevant person where it considers it appropriate to do so for the efficient performance of a relevant function of the relevant person, and 10
 - (b) must cooperate with a relevant person in the performance of such a function if required to do so by the Secretary of State.
- (3) The OfS may provide information to any person if the disclosure is made for the purposes of the performance of a function of the OfS.
- (4) The OfS may provide information to a relevant person if the disclosure is made for the purposes of the performance of a relevant function of the relevant person. 15
- (5) Provision of information by the OfS which is authorised by this section does not breach—
- (a) an obligation of confidence owed by the OfS, or 20
 - (b) any other restriction on the provision of information (however imposed).
- (6) But nothing in this section authorises the OfS to provide information where doing so contravenes the Data Protection Act 1998.
- (7) In this section— 25
- “relevant person” means—
 - (a) the Privy Council, or
 - (b) a person prescribed by regulations made by the Secretary of State;
 - “relevant function” means— 30
 - (a) in relation to the Privy Council, any of its functions;
 - (b) in relation to any other relevant person, a function prescribed by regulations made by the Secretary of State.
- (8) Regulations under this section prescribing functions of a relevant person may prescribe all of the person’s functions. 35

*Publication of information***59 Duty to publish English higher education information**

- (1) The relevant body must publish, or arrange for the publication of, such information relating to higher education courses provided in England by registered higher education providers as the OfS considers appropriate. 40
- (2) In this section “the relevant body” means—
- (a) the designated body (see section 60), or
 - (b) if there is no such body, the OfS.

- (3) The information must be published –
 - (a) at times that the OfS considers appropriate, and
 - (b) at least once a year.
- (4) The information must be published in a form and manner that the OfS considers appropriate. 5
- (5) When determining what information should be published, and when and how it should be published, the OfS must in particular consider what would be helpful to –
 - (a) students on higher education courses provided in England by registered higher education providers; 10
 - (b) people thinking about undertaking such courses;
 - (c) registered higher education providers.
- (6) The OfS must from time to time consult the following about the matters described in subsection (5) –
 - (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers, 15
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers, 20
 - (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate. 25
- (7) In performing the duty under subsection (1), the relevant body must –
 - (a) cooperate with other persons who collect information from registered higher education providers, and
 - (b) have regard to the desirability of reducing the burdens on such providers relating to the collection of information. 30
- (8) In carrying out its other functions under this section, the OfS must have regard to the desirability of reducing the burdens described in subsection (7)(b).
- (9) The functions conferred by this section do not affect any other functions of the OfS regarding information.
- (10) In this section “graduate” means a graduate of a higher education course provided in England by a registered higher education provider. 35

60 Designated body

- (1) In section 59 and this section, “designated body” means a body for the time being designated under Schedule 6.
- (2) In Schedule 6 – 40
 - (a) Part 1 makes provision about the designation of a body for the purposes of section 59, and
 - (b) Part 2 makes provision about oversight of the designated body by the OfS.

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- (3) If there is a designated body, the OfS must have regard to the views of that body when making a decision under section 59 about what information should be published and when and how it should be published.
- (4) A person listed in subsection (5) may by notice require a designated body to provide the person with information which is held by the designated body for the purposes of the performance of its duty under section 59(1). 5
- (5) Those persons are –
 (a) the OfS,
 (b) UKRI, and
 (c) the Secretary of State. 10
- (6) A person may give a notice under subsection (4) only in respect of information which is required by the person for the purposes of the performance of any of the person’s functions.
- (7) A notice under subsection (4) may require the information to be provided –
 (a) by a time specified in the notice, and
 (b) in a form and manner specified in the notice. 15
- (8) If a designated body fails to comply with a notice under subsection (4) and does not satisfy the person who gave the notice that it is unable to provide the information, that person may enforce the duty to comply with the notice in civil proceedings for an injunction. 20

61 Power of designated body to charge fees

- (1) A designated body may charge an annual fee to any registered higher education provider in respect of costs incurred, or to be incurred, by the body in the performance by the body of its duty under section 59(1) and its other functions under this Act. 25
- (2) The amount of a fee payable by a registered higher education provider under this section may be calculated by reference to costs incurred, or to be incurred, by the body in the performance by the body of any of its functions under this Act which are unconnected with the provider.
- (3) The total fees payable under this section in any period of 12 months must not exceed the total costs incurred by the body in that period in the performance by the body of its functions under this Act. 30
- (4) The designated body must publish –
 (a) a statement of the amount of the fees which it charges under this section and the basis on which they are calculated, and
 (b) revised statements where the amount of the fees or the basis on which they are calculated changes. 35
- (5) “Designated body” has the same meaning as in section 60.

Efficiency studies etc

62 Studies for improving economy, efficiency and effectiveness

- (1) The OfS may arrange for studies designed to improve economy, efficiency and effectiveness in the management or operations of a registered higher education provider to be promoted or carried out by a person. 5
- (2) A person promoting or carrying out such studies at the request of the OfS (“a researcher”) may require the governing body of the provider concerned –
 - (a) to provide the researcher or an authorised person with such information as the researcher may reasonably require for that purpose, and 10
 - (b) to make available for inspection, to the researcher or an authorised person, their accounts and such other documents as the researcher may reasonably require for that purpose.
- (3) “Authorised person” means a person authorised by the researcher.

Funding of the OfS 15

63 Registration fees

- (1) The OfS may, in accordance with regulations made by the Secretary of State, charge an institution either or both of the following –
 - (a) a fee for its initial registration in the register;
 - (b) a fee for its ongoing registration in the register for each period of twelve months. 20
- (2) The regulations may, in particular, make provision –
 - (a) about the amounts which may be charged, including different amounts for different institutions;
 - (b) about the charging of proportions of those amounts in certain circumstances; 25
 - (c) about when a fee is payable, including about payment by instalments;
 - (d) about the consequences of non-payment;
 - (e) about notification of institutions of the fees payable, when they are payable and the consequences of non-payment; 30
 - (f) about the recovery of fees and of costs in recovering those fees;
 - (g) about the imposition of financial penalties for late payment of fees;
 - (h) about rights of appeal in respect of the imposition of such penalties;
 - (i) about the charging of interest;
 - (j) about the waiving or refunding of fees. 35
- (3) The regulations may provide for the amounts of fees to be calculated by reference to costs incurred, or to be incurred, by the OfS in the performance of any of its functions (including costs unconnected with maintaining the register or with the institution in question).
- (4) Regulations under this section may be made only with the consent of the Treasury. 40

64 Other fees

- (1) The OfS may, in accordance with regulations made by the Secretary of State, charge a fee for –
- (a) any activity undertaken by the OfS in the performance of its functions which is specified in the regulations; 5
 - (b) any service provided by it in the performance of its functions which is specified in the regulations.
- (2) The regulations may, in particular, make provision –
- (a) about the persons required to pay the fees (“payees”);
 - (b) about the amounts which may be charged, including different amounts for different payees; 10
 - (c) about the charging of proportions of those amounts in certain circumstances;
 - (d) about when a fee is payable, including about payment by instalments;
 - (e) about the consequences of non-payment; 15
 - (f) about notification of payees of the fees payable, when they are payable and the consequences of non-payment;
 - (g) about the recovery of fees and of costs in recovering those fees;
 - (h) about the imposition of financial penalties for late payment of fees;
 - (i) about rights of appeal in respect of the imposition of such penalties; 20
 - (j) about the charging of interest;
 - (k) about the waiving or refunding of fees.
- (3) The regulations may provide for the amounts of fees to be calculated by reference to costs incurred by the OfS in the performance of the activity or service in question in relation to a person other than the payee. 25
- (4) If costs incurred by the OfS are costs by reference to which fees under section 63 are calculated as a result of regulations made under that section, fees calculated by reference to those costs may not be charged under this section.
- (5) Regulations under this section may be made only with the consent of the Treasury. 30

65 Retention of fee related income

- (1) The OfS must pay its fee income to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
- (2) “Fee income” means the sums received by the OfS by way of –
- (a) fees charged under section 63 (registration fees) or 64 (other fees), or 35
 - (b) costs recovered by virtue of regulations made under section 63(2)(f) or 64(2)(g).
- (3) The OfS must pay its other fee related income to the Secretary of State.
- (4) “Other fee related income” means the sums received by the OfS by way of –
- (a) penalties imposed by virtue of regulations made under section 63(2)(g) or 64(2)(h), or 40
 - (b) interest charged by virtue of regulations made under section 63(2)(i) or 64(2)(j).

66 Costs recovery

- (1) The OfS may, by notice, require the governing body of a provider in relation to which a sanction has been imposed to pay the costs incurred by the OfS in relation to imposing the sanction up to the date of notification.
- (2) The references in subsection (1) to imposing a sanction are to – 5
 - (a) imposing a monetary penalty under section 15;
 - (b) suspending a provider’s registration under section 16;
 - (c) removing a provider from the register under section 18.
- (3) “Costs” includes, in particular, investigation costs, administration costs and costs of obtaining expert advice (including legal advice). 10
- (4) “The date of notification” means the date on which the OfS notified the provider of its decision –
 - (a) in the case of a monetary penalty, under paragraph 2(5) of Schedule 3;
 - (b) in the case of suspension, under section 17(5);
 - (c) in the case of removal, under section 19(5). 15
- (5) Schedule 7 contains provision about –
 - (a) the procedure for imposing a requirement to pay costs,
 - (b) rights of appeal,
 - (c) the recovery of the amount required to be paid and interest, and
 - (d) the retention of sums received. 20

67 Grants from the Secretary of State

- (1) The Secretary of State may make grants to the OfS of such amounts, and subject to such terms and conditions, as the Secretary of State considers appropriate.
- (2) The terms and conditions under subsection (1) may, in particular, be framed by reference to particular courses of study. 25
- (3) But in determining the terms and conditions under subsection (1), the Secretary of State must have regard to the need to protect academic freedom, including, in particular, the freedom of institutions –
 - (a) to determine the content of particular courses and the manner in which they are taught, supervised and assessed, 30
 - (b) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
 - (c) to determine the criteria for the admission of students and apply those criteria in particular cases.
- (4) So the terms and conditions under subsection (1) must not relate to – 35
 - (a) particular parts of courses of study,
 - (b) the content of such courses,
 - (c) the manner in which they are taught, supervised or assessed,
 - (d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or 40
 - (e) the criteria for the admission of students, or how they are applied.
- (5) Terms and conditions under subsection (1) relating to the provision of financial support by the OfS under section 37 or 38 (financial support to registered higher education providers and others) may be imposed only if –

- (a) they are requirements to be met before financial support of a specified amount or of a specified description is given by the OfS in respect of activities carried on by an institution, and
 - (b) they apply to every institution, or every institution within a specified description, in respect of whose activities that support may be provided. 5
- (6) The terms and conditions under subsection (1) may, in particular –
- (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by the Secretary of State if any of the terms and conditions subject to which the sums were paid is not complied with, and 10
 - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.
- (7) In this section “specified” means specified in the terms and conditions. 15

Regulatory framework

68 Regulatory framework

- (1) The OfS must, from time to time, prepare and publish a regulatory framework.
- (2) The OfS must have regard to it when exercising its functions.
- (3) The regulatory framework is to consist of – 20
 - (a) a statement of how it intends to perform its functions, and
 - (b) guidance for registered higher education providers on the general ongoing registration conditions.
- (4) The statement under subsection (3)(a) must set out how the OfS intends to perform its functions in relation to a registered higher education provider in proportion to the OfS’s assessment of the regulatory risk posed by the provider. 25
- (5) “Regulatory risk” means the risk of a breach of the provider’s ongoing registration conditions.
- (6) Guidance under subsection (3)(b) must include guidance for the purpose of helping to determine whether or not behaviour complies with the general ongoing registration conditions. 30
- (7) The guidance may in particular specify – 35
 - (a) descriptions of behaviour which the OfS considers compliant with, or not compliant with, a general ongoing registration condition;
 - (b) factors which the OfS will take into account in determining whether or not behaviour is compliant with a general ongoing registration condition.
- (8) Before publishing a regulatory framework under this section the OfS must consult – 40
 - (a) bodies representing the interests of English higher education providers,
 - (b) bodies representing the interests of students on higher education courses provided by English higher education providers, and

- (c) such other persons as it considers appropriate.
- (9) Where a regulatory framework is published, the OfS must send a copy of it to the Secretary of State who must lay it before Parliament.

Supplementary functions

69 Secretary of State’s power to confer supplementary functions 5

- (1) The Secretary of State may by regulations confer on the OfS such supplementary functions relating to higher education as the Secretary of State considers appropriate.
- (2) A “supplementary function” is a function which –
 - (a) is exercisable for the purposes of – 10
 - (i) the performance by the Secretary of State of the Secretary of State’s functions under primary or secondary legislation, or
 - (ii) the doing by the Secretary of State of anything the Secretary of State has power to do apart from such legislation, and
 - (b) relates to, or to the activities of, an institution in England which provides, or may provide, higher education. 15
- (3) Subsection (4) applies where –
 - (a) any land or other property is or was used or held for the purposes of an institution, and
 - (b) the Secretary of State is entitled to any right or interest in respect of the property, or would be so entitled on the occurrence of any event. 20
- (4) If the institution is an English higher education provider –
 - (a) the Secretary of State may direct that all or any of the Secretary of State’s functions in respect of the property are to be exercisable on the Secretary of State’s behalf by the OfS, and 25
 - (b) the functions are to be so exercised in accordance with such directions as the Secretary of State may give.
- (5) This section does not affect any other powers to confer functions on, or delegate functions to, the OfS.

Directions 30

70 Secretary of State’s power to give directions

- (1) The Secretary of State may by regulations give the OfS general directions about the performance of any of its functions.
- (2) In giving such directions, the Secretary of State must have regard to the need to protect academic freedom, including, in particular, the freedom of institutions – 35
 - (a) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
 - (b) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and 40
 - (c) to determine the criteria for the admission of students and apply those criteria in particular cases.

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- (3) The directions may, in particular, be framed by reference to particular courses of study but they must not relate to—
- (a) particular parts of courses of study,
 - (b) the content of such courses,
 - (c) the manner in which they are taught, supervised or assessed, 5
 - (d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
 - (e) the criteria for the admission of students, or how they are applied.
- (4) The Secretary of State may also by regulations give the OfS financial support directions in relation to a particular registered higher education provider. 10
- (5) Financial support directions may be given only if—
- (a) it appears to the Secretary of State that the financial affairs of the provider have been or are being mismanaged, and
 - (b) the OfS and the provider are consulted by the Secretary of State before the directions are given. 15
- (6) “Financial support directions” are such directions about the provision of financial support under section 37 or 38 in respect of activities carried on by the provider as the Secretary of State considers necessary or expedient because of the mismanagement.
- (7) The OfS must comply with any directions given under this section. 20

Powers of Secretary of State to obtain information or advice

71 Power to require information or advice from the OfS

- (1) The OfS must provide the Secretary of State with—
- (a) such information regarding any of its functions, or obtained in the performance of any of its functions, as the Secretary of State may require it to provide, or 25
 - (b) such advice regarding any of its functions as the Secretary of State may require it to provide.
- (2) The OfS must provide information or advice under subsection (1) in such form as the Secretary of State may require. 30

72 Power to require application-to-acceptance information

- (1) The Secretary of State may, by notice, require a body within subsection (2) to provide such application-to-acceptance information as may be described in the notice for use for qualifying research.
- (2) A body is within this subsection if it provides services to one or more English higher education providers relating to applications for admission on to higher education courses provided by them. 35
- (3) “Application-to-acceptance information” means information relating to—
- (a) applying for admission on to higher education courses provided by English higher education providers (including predicted grades), 40
 - (b) offers and rejections regarding which individuals are admitted on to those courses, or
 - (c) the acceptance of such offers.

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- (4) “Qualifying research” means –
- (a) research into the choices available to individuals who are –
 - (i) applying for admission on to higher education courses provided by English higher education providers, or
 - (ii) considering whether to accept an offer for admission on such a course from such a provider;
 - (b) research into equality of opportunity;
 - (c) research into any other topic approved by the Secretary of State.
- (5) The notice under subsection (1) may require the information to be provided –
- (a) by a time specified in the notice, and
 - (b) in a form and manner specified in the notice.
- (6) If a body fails to comply with a notice under subsection (1) and does not satisfy the Secretary of State that it is unable to provide the information, the Secretary of State may enforce the duty to comply with the notice in civil proceedings for an injunction or (in Scotland) an interdict.
- (7) In this section, “equality of opportunity” means equality of opportunity in connection with access to and participation in higher education provided by English higher education providers.
- (8) See section 73 regarding the use of information obtained under this section.
- 73 Use of application-to-acceptance information for research purposes**
- (1) The Secretary of State may –
- (a) use information obtained under section 72 for use for qualifying research, and
 - (b) provide information obtained under section 72 to an approved person for use for qualifying research.
- (2) The Secretary of State or an approved person may publish the product of research conducted using information obtained under section 72 so long as –
- (a) a purpose of the Secretary of State or the approved person in publishing it is to provide statistical information,
 - (b) no individual to whom the information obtained under section 72 relates may be identified from the publication, and
 - (c) the publication does not include information obtained under section 72 that may be regarded as commercially sensitive.
- (3) “Approved person” means –
- (a) a body approved by the Secretary of State for the purposes of this section that uses or disseminates information for the purpose of research (“an approved body”), or
 - (b) an individual approved by the Secretary of State or an approved body for the purposes of this section (“an approved researcher”).
- (4) An approved body may provide information obtained under section 72 to an approved researcher, but an approved researcher may not provide that information to –
- (a) another approved researcher, or
 - (b) another approved body.

- (5) The Secretary of State must publish guidance regarding factors that will be taken into account in deciding whether to approve a body or individual for the purposes of this section.
- (6) “Qualifying research” has the same meaning as in section 72.

HEFCE and the DFA

5

74 Higher Education Funding Council for England

The Higher Education Funding Council for England ceases to exist.

75 The Director of Fair Access to Higher Education

The office of Director of Fair Access to Higher Education ceases to exist.

Interpretation

10

76 Meaning of “English higher education provider” etc

- (1) In this Part—
- “English higher education provider” means a higher education provider whose activities are carried on, or principally carried on, in England;
 - “higher education provider” means an institution which provides higher education; 15
 - “institution” includes any training provider (whether or not the training provider would otherwise be regarded as an institution);
 - “higher education” means education provided by means of a higher education course; 20
 - “higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988;
 - “training provider” means a person who provides training for members of the school workforce within the meaning of Part 3 of the Education Act 2005 (see section 100 of that Act). 25
- (2) In this Part—
- (a) “English further education provider” means an institution in England within the further education sector, and
 - (b) references to an institution within the further education sector have the same meaning as in the Further and Higher Education Act 1992 (see section 91(3) of that Act). 30
- (3) In this Part references to a higher education course provided in England are to a higher education course which is provided wholly, or principally, in England.
- (4) In this Part references to an institution in a part of the United Kingdom are to an institution whose activities are carried on, or principally carried on, in that part. 35
- (5) Subsection (1) is subject to express provision to the contrary, see section 25(4) and (6) (rating the quality of, and the standards applied to, higher education).

77 Designation of other providers of higher education

- (1) The Secretary of State 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 is within this subsection if –
 - (a) it provides higher education, 5
 - (b) its activities are carried on, or principally carried on, in England, and
 - (c) but for the designation it would not be regarded as an institution for the purposes of this Part.
- (3) 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 Part as being an institution. 10
- (4) The Secretary of State may, by regulations, 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); 15
 - (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 purposes prescribed in the regulations). 20
- (5) Subsection (3) is subject to any provision made under subsection (4)(d).

78 Other definitions

- (1) In this Part – 25
 - “an access and participation plan condition” has the meaning given by section 12(3);
 - “a fee limit condition” has the meaning given by section 10(2);
 - “foundation degree” has the meaning given by section 40(3);
 - “governing body” – 30
 - (a) in relation to a training provider who, but for the definition of “institution” in section 76(1), would not be regarded as an institution, means any persons responsible for the provider’s management;
 - (b) in relation to a provider designated under section 77 means any persons responsible for the provider’s management; 35
 - (c) in relation to any other institution, has the meaning given by section 90(1) of the Further and Higher Education Act 1992, but subject to any provision made by virtue of section 90(2) of that Act; 40
 - “the register” has the meaning given by section 3(1);
 - “registered higher education provider” has the meaning given by section 3(10);
 - “registration” has the meaning given by section 3(10);
 - “research award” has the meaning given by section 40(3); 45
 - “taught award” has the meaning given by section 40(3).

- (2) In this Part, “fees” in relation to undertaking a course, means fees in respect of, or otherwise in connection with, undertaking the course, including admission, registration, tuition and graduation fees and fees payable for awarding or accrediting a qualification in respect of the course, but excluding –
- (a) fees payable for board or lodging, 5
 - (b) fees payable for field trips (including any tuition element of such fees),
 - (c) fees payable for attending any graduation or other ceremony, and
 - (d) such other fees as may be prescribed by regulations made by the Secretary of State.
- (3) References in this Part to the ongoing registration conditions of a provider have the meaning given by section 3(8). 10
- (4) For the purposes of this Part an appeal is “pending” during the period –
- (a) beginning when it is instituted, and
 - (b) ending when it is determined, withdrawn or abandoned.

PART 2

15

OTHER EDUCATION MEASURES

Financial support for students

79 Power to make alternative payments

- (1) Section 22 of the Teaching and Higher Education Act 1998 (power to give financial support to students) is amended in accordance with subsections (2) to (7). 20
- (2) In subsection (1), for “or loans” substitute “, loans or alternative payments”.
- (3) In subsection (2) –
- (a) in paragraphs (a), (b) and (c), for “or loan” substitute “, loan or alternative payment”, 25
 - (b) in paragraph (g) –
 - (i) after “repayment” insert “, the making of contributions”, and
 - (ii) after “loans”, in each place, insert “or alternative payments”,
 - (c) in paragraph (i), after “loans” insert “or as part of alternative payments”, and 30
 - (d) in paragraph (j), for “or loans”, in each place, substitute “, loans or alternative payments”.
- (4) After subsection (4) insert –
- “(4A) Regulations under this section may not provide for alternative payments to bear any interest. 35
- (4B) The provision which may be made by virtue of subsection (2)(g) in relation to alternative payments under this section includes provision –
- (a) for a recipient of an alternative payment (an “AP recipient”) to be required to make, in such manner, at such times, and to such person or body as may be prescribed from time to time, contributions which together are equal to the aggregate of – 40

- (i) the amount of the alternative payment, and
 - (ii) the amounts which would be required to be paid by virtue of subsection (3)(a) if the alternative payment were a loan;
 - (b) for the payment, in respect of amounts overpaid by an AP recipient, of amounts which are the same as the amounts which would be required to be paid by virtue of subsection (3)(c) if the alternative payment were a loan; 5
 - (c) for an AP recipient not to be liable to make any contribution in respect of an alternative payment – 10
 - (i) during such period as may be prescribed from time to time, or
 - (ii) in such circumstances as may be so prescribed, including provision for the cancellation of any further such liability of the recipient in any such circumstances; 15
 - (d) in the case of alternative payments in connection with a higher education course, for the cancellation of the entitlement of an AP recipient to receive a sum as part of an alternative payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations, where the payment of the sum has been suspended; 20
 - (e) with respect to sums which an AP recipient receives, or is entitled to receive, as part of an alternative payment after the commencement of the recipient’s bankruptcy or the date of the sequestration of the recipient’s estate; 25
 - (f) with respect to the effect of bankruptcy upon an AP recipient’s liability to make contributions in respect of an alternative payment (whether the contributions relate to sums which the recipient receives, or is entitled to receive, before or after the commencement of the bankruptcy); 30
 - (g) with respect to sums which an AP recipient receives, or is entitled to receive, as part of an alternative payment before or after a voluntary arrangement under Part 8 of the Insolvency Act 1986 or Part 8 of the Insolvency (Northern Ireland) Order 1989 (individual voluntary arrangements) takes effect in respect of the recipient; 35
 - (h) excluding or modifying the application of Part 8 of that Act, or Part 8 of that Order, in relation to liability to make contributions in respect of an alternative payment (whether the contributions relate to sums which the AP recipient receives, or is entitled to receive, before or after a voluntary arrangement takes effect in respect of the recipient); 40
 - (i) for contributions made in respect of an alternative payment to be dealt with otherwise than by payment into the Consolidated Fund.” 45
- (5) In subsection (5) –
 - (a) in the opening words, after “loans” insert “or from AP recipients in respect of alternative payments”,
 - (b) in paragraphs (a)(i) and (c), after “borrowers” insert “or AP recipients”,
 - (c) in paragraph (d)(ii), at the end insert “or, in the case of requirements imposed on AP recipients, additional contributions in respect of such 50

- periods of the same amounts as the payments which would be required by virtue of this paragraph if the AP recipient were a borrower”,
- (d) after paragraph (e) insert –
- “(ea) requiring the making by AP recipients, in respect of periods when any contributions due in respect of their alternative payments have not been made, of –
- (i) additional contributions of the same amounts as the payments which would be required by virtue of paragraph (e)(i) if the alternative payments were loans, or
- (ii) both such additional contributions and one or more surcharges (together with further additional contributions in respect of periods when such surcharges are due but unpaid);”
- (e) in paragraph (f) –
- (i) after “borrowers” insert “or AP recipients”, and
- (ii) at the end insert “or contributions”, and
- (f) in paragraph (h), after “borrowers” insert “or AP recipients”.
- (6) In subsection (10), after “Interest” insert “or contributions”.
- (7) After subsection (10) insert –
- “(11) In this section –
- (a) references to an alternative payment are to a payment which, in the Secretary of State’s opinion, achieves a similar effect to a loan under this section without including provision for the payment of interest, and
- (b) references to a borrower are to a person to whom a loan is made.”
- (8) In section 46 of the Teaching and Higher Education Act 1998 (extent etc) –
- (a) in subsection (7), in the entry relating to section 22, after “(3)(e)” insert “, (4B)(e)”, and
- (b) in subsection (8), in the entry relating to section 22, after “or (h)” insert “, (4B)(e), (f), (g) or (h)”.
- (9) The functions of making any provision authorised by the new subsection (4B)(e) and (f) of section 22 of the Teaching and Higher Education Act 1998 (as inserted by subsection (4)) are exercisable in relation to Wales by the Secretary of State (rather than by the Welsh Ministers).
- (10) See section 44 of the Higher Education Act 2004 for provision about the exercise in relation to Wales of the other functions under section 22 of the Act of 1998 (including other functions conferred by virtue of this section).
- 80 Section 79: consequential amendments**
- (1) In section 73E of the Education (Scotland) Act 1980 (supply of information in connection with student loans) –
- (a) in subsections (2) and (3)(b), after “loans” insert “and alternative payments”,
- (b) in subsection (6)(c) –

- (i) in the opening words, after “loans” insert “and alternative payments”, and
 - (ii) in sub-paragraph (ii), after “loans” insert “or alternative payments”.
- (2) In section 23(7)(a)(i) of the Teaching and Higher Education Act 1998 (functions in respect of which payments are to be made) for “or loans” substitute “, loans or alternative payments”. 5
- (3) In section 24 of that Act (supply of information in connection with student support) –
 - (a) in subsections (2) and (3)(b)(i), after “loans” insert “and alternative payments”, 10
 - (b) in subsection (6)(c) –
 - (i) in the opening words, after “loans” insert “and alternative payments”, and
 - (ii) in sub-paragraph (i), after “loans” insert “or alternative payments”, and 15
 - (c) in subsection (10), for “or loans” substitute “loans, or alternative payments”.
- (4) In paragraph 15 of Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (restrictions on functions of Commissioners for Revenue and Customs) for “the student loan scheme” substitute “student support”. 20
- (5) In Article 5 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14) (supply of information in connection with student loans) –
 - (a) in paragraphs (2) and (3)(b), after “loans” insert “and alternative payments”, and 25
 - (b) in paragraph (6)(c) –
 - (i) in the opening words, after “loans” insert “and alternative payments”, and
 - (ii) in head (ii), after “loans” insert “or alternative payments”. 30

81 Other amendments relating to financial support

- (1) Section 22 of the Teaching and Higher Education Act 1998 (power to give financial support for students) is amended as follows.
- (2) In subsection (2), after paragraph (a) insert –
 - “(aa) for the designation of a higher education course for the purposes of this section to be determined by reference to matters determined or published by the Office for Students or other persons;” 35
- (3) In subsection (2), after paragraph (f) insert –
 - “(fa) in the case of a grant under this section in connection with a higher education course, where a payment has been so suspended, for the cancellation of any entitlement to the payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations;” 40

- (4) After subsection (2) insert—
- “(2A) The provision which may be made by virtue of subsection (2)(b) in respect of higher education courses includes provision prescribing the maximum amount by reference to matters determined or published by the Secretary of State or other persons.” 5
- (5) In subsection (3), after paragraph (d) insert—
- “(da) in the case of a loan under this section in connection with a higher education course, for the cancellation of the entitlement of a borrower to receive a sum under such a loan in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations where the payment of the sum has been suspended;” 10

Student complaints scheme

82 Qualifying institutions for purposes of student complaints scheme

- (1) Part 2 of the Higher Education Act 2004 (review of student complaints) is amended in accordance with subsections (2) to (4). 15
- (2) In section 11 (qualifying institutions for purposes of student complaints scheme)—
- (a) in paragraph (a)(iii), after “the 1992 Act” insert “or section 40 of the Higher Education and Research Act 2016 (“the 2016 Act”)”, 20
- (b) after paragraph (d), insert—
- “(da) a registered higher education provider as defined by section 78 of the 2016 Act (other than one within paragraph (a), (b), (c) or (d) of this section);”, and
- (c) in paragraph (f), after “the 1992 Act” insert “or section 40 of the 2016 Act”. 25
- (3) After section 20 insert—
- “20A Institutions in England that cease to be qualifying institutions**
- (1) An institution in England that ceases to be a qualifying institution is a “transitional institution” during the shorter of— 30
- (a) the period of 12 months beginning with the day on which it ceases to be a qualifying institution, and
- (b) the period beginning with that day and ending when it becomes a qualifying institution again,
- (and the shorter period is referred to in this section as “the transitional period”). 35
- (2) For the purposes of this Part, a transitional institution is to be treated as continuing to be a qualifying institution in England during the transitional period, subject to subsection (3).
- (3) A complaint is not a qualifying complaint to the extent that it is about an act or omission of a transitional institution which occurred on or after the day on which the transitional period began. 40
- (4) In section 12(3) (power of designated operator to determine when certain complaints are qualifying complaints), the reference to a

qualifying institution within paragraph (e) or (f) of section 11 includes a transitional institution that was a qualifying institution within either of those paragraphs immediately before the beginning of the transitional period.”

- (4) In section 21 (interpretation of Part 2) – 5
- (a) number the existing text as subsection (1),
 - (b) in that subsection, omit the definition of “governing body”,
 - (c) in that subsection, after the definition of “higher education corporation” insert –
““institution” includes a training provider in England who would not otherwise be regarded as an institution;”, 10
 - (d) in that subsection, at the end insert –
““training provider” means a person who provides training for members of the school workforce within the meaning of Part 3 of the Education Act 2005 (see section 100 of that Act).”, and 15
 - (e) after that subsection insert –
“(2) In this Part “governing body” –
 - (a) in relation to a training provider in England who, but for the definition of “institution” in subsection (1), would not be regarded as an institution, means any persons responsible for the provider’s management; 20
 - (b) in relation to a provider of higher education designated under section 77 of the Higher Education and Research Act 2016, means any persons responsible for the provider’s management; 25
 - (c) in relation to any other institution, has the meaning given by section 90(1) of the 1992 Act, but subject to any provision made by virtue of section 90(2) of that Act.”
- (5) In section 118(8) of the Equality Act 2010 (time limits), in the definition of “qualifying institution”, at the end insert “, disregarding paragraph (da) of that section and the definition of “institution” in section 21(1) of that Act”. 30
- (6) In section 32(1) of the Counter-Terrorism and Security Act 2015 (monitoring of performance: further and higher education bodies), in paragraph (a) of the definition of “relevant higher education body”, after “2004” insert “, disregarding paragraph (da) of that section and the definition of “institution” in section 21(1) of that Act”. 35

Deregulation of higher education corporations

83 Higher education corporations in England

Schedule 8 contains provision about higher education corporations in England. 40

PART 3

RESEARCH

*Establishment of United Kingdom Research and Innovation***84 United Kingdom Research and Innovation**

- (1) A body corporate called United Kingdom Research and Innovation or, in Welsh, Ymchwil ac Arloesedd y Deyrnas Unedig, is established. 5
- (2) In this Act that body is referred to as “UKRI”.
- (3) Section 85 and Schedule 9 contain further provision about UKRI.

85 The Councils of UKRI

- (1) UKRI is to have the following committees (referred to in this Part as the “Councils”)— 10
- (a) the Arts and Humanities Research Council,
 - (b) the Biotechnology and Biological Sciences Research Council,
 - (c) the Economic and Social Research Council,
 - (d) the Engineering and Physical Sciences Research Council, 15
 - (e) the Medical Research Council,
 - (f) the Natural Environment Research Council,
 - (g) the Science and Technology Facilities Council,
 - (h) Innovate UK, and
 - (i) Research England. 20
- (2) The Secretary of State may by regulations amend subsection (1) so as to—
- (a) add or omit a Council, or
 - (b) change the name of a Council.
- (3) But the regulations may not omit, or change the name of, Innovate UK or Research England. 25

*Research and innovation functions and role of the Councils***86 UK research and innovation functions**

- (1) UKRI may —
- (a) carry out research into science, technology, humanities and new ideas,
 - (b) facilitate, encourage and support research into science, technology, humanities and new ideas, 30
 - (c) facilitate, encourage and support the development and exploitation of science, technology, new ideas and advancements in humanities,
 - (d) collect, disseminate and advance knowledge in and in connection with science, technology, humanities and new ideas, 35
 - (e) promote awareness and understanding of science, technology, humanities and new ideas,
 - (f) provide advice on any matter relating to any of its functions, and
 - (g) promote awareness and understanding of its activities.

- (2) The activities which UKRI may carry out in, or in connection with, exercising a function conferred by subsection (1) are not restricted to the United Kingdom.
- (3) Section 87 makes further provision about the giving of financial support under this section. 5
- (4) Sections 88 to 91 provide for UKRI to make arrangements for the exercise of functions by the Councils on UKRI’s behalf.

87 Financial support: supplementary provision

- (1) The power of UKRI under section 86 to give financial support includes, in particular, power to make grants, loans or other payments. 10
- (2) Financial support may be given by UKRI under that section on such terms and conditions as UKRI considers appropriate.
- (3) The terms and conditions may, in particular –
 - (a) enable UKRI to require the repayment, in whole or in part, of sums paid by UKRI if any of the terms and conditions subject to which the sums were paid is not complied with, 15
 - (b) require the payment of interest in respect of any period during which a sum due to UKRI in accordance with any of the terms and conditions remains unpaid, and
 - (c) require a person to whom financial support is given to provide UKRI with any information it requests for the purpose of the exercise of any of its functions. 20
- (4) In exercising the power under section 86 to give financial support to any person, UKRI must have regard to the desirability of not discouraging the person from maintaining or developing funding from other sources. 25

88 Exercise of functions by science and humanities Councils

- (1) UKRI must arrange for the Council listed in the first column of the following table to exercise such functions of UKRI in respect of the field of activity listed in the corresponding entry in the second column of the table as UKRI may determine. 30

<i>Council</i>	<i>Field of activity</i>
Arts and Humanities Research Council	Arts and humanities
Biotechnology and Biological Sciences Research Council	Biotechnology and biological sciences 35
Economic and Social Research Council	Social sciences
Engineering and Physical Sciences Research Council	Engineering and physical sciences

<i>Council</i>	<i>Field of activity</i>	
Medical Research Council	Medicine and biomedicine aimed at improving human health	
Natural Environment Research Council	Environmental and related sciences	5
Science and Technology Facilities Council	Astronomy, particle physics, space science, nuclear physics and provision and operation of research facilities in relation to any area of activity specified in this column	10
	(2) Arrangements under this section may, in particular, provide for the exercise by the Council concerned of UKRI's functions under paragraph 8(1) and (2) of Schedule 9 in relation to relevant specialist employees.	15
	(3) A "relevant specialist employee", in relation to a Council, means a researcher or scientist employed by UKRI to work in the field of activity of that Council (see the table in subsection (1)).	
	(4) Arrangements under this section must require the Council concerned, when exercising any function to which the arrangements relate, to have regard to the desirability of—	20
	(a) contributing to economic growth in the United Kingdom, and	
	(b) improving quality of life (whether in the United Kingdom or elsewhere).	25
	(5) The Secretary of State may by regulations—	
	(a) amend the first column of the table in subsection (1) in consequence of provision made by regulations under section 85;	
	(b) amend the second column of that table.	
89	Exercise of functions by Innovate UK	30
	(1) UKRI must arrange for Innovate UK to exercise such functions of UKRI as UKRI may determine for the purpose of increasing economic growth in the United Kingdom.	
	(2) But arrangements may not be made under this section for the exercise by Innovate UK of UKRI's function mentioned in section 86(1)(a).	35
	(3) Arrangements under this section must require Innovate UK, when exercising any function to which the arrangements relate, to have regard to the desirability of—	
	(a) benefitting (whether directly or indirectly) persons carrying on business in the United Kingdom, and	
	(b) improving quality of life in the United Kingdom.	40

90 Exercise of functions by Research England

- (1) UKRI must arrange for Research England to exercise such functions of UKRI as UKRI may determine for the purpose of giving financial support within subsection (2) or (3).
- (2) Financial support is within this subsection if it is given to the governing body of an eligible higher education provider in respect of expenditure incurred, or to be incurred, by the provider for the purposes of either or both of the following –
 - (a) the undertaking of research by the provider;
 - (b) the provision of facilities, or the carrying out of other activities, by the provider which its governing body considers it is necessary or desirable to provide or carry out for the purposes of, or in connection with, research.
- (3) Financial support is within this subsection if it is given to any person in respect of expenditure incurred, or to be incurred, by the person for the purposes of the provision by any person of services for the purposes of, or in connection with, the undertaking of research by eligible higher education providers receiving financial support which is within subsection (2).
- (4) Arrangements under this section must require Research England, when exercising a function for the purpose of giving financial support, to consult such persons as Research England considers appropriate before determining any terms and conditions to be imposed in relation to the financial support.
- (5) “Eligible higher education provider” has the same meaning as in section 37.

91 Exercise of functions by the Councils: supplementary

- (1) UKRI may arrange for any Council to exercise such other functions of UKRI as UKRI may determine in addition to those exercisable by the Council pursuant to arrangements under section 88, 89 or 90 (as the case may be).
- (2) Arrangements under subsection (1) may result in a function of UKRI being exercisable by more than one Council.
- (3) A function of UKRI which is exercisable by a Council on UKRI’s behalf pursuant to arrangements under sections 88 to 90 or subsection (1) may also be exercised by UKRI.
- (4) Arrangements under sections 88 to 90 or subsection (1) must require the Council concerned to provide UKRI with such advice or information about the exercise of any function to which the arrangements relate as UKRI may require it to provide.

Strategies and strategic delivery plans

92 UKRI’s research and innovation strategy

- (1) UKRI must –
 - (a) if requested to do so by the Secretary of State, prepare a strategy for the exercise of its functions during the period specified in the request, and
 - (b) submit the strategy to the Secretary of State for approval.

-
- (2) A strategy under subsection (1) is referred to in this Part as a “research and innovation strategy”.
 - (3) A research and innovation strategy must specify –
 - (a) the period before the end of which each Council must submit a strategic delivery plan to UKRI under section 93, and 5
 - (b) the period to which such a plan must relate.
 - (4) The Secretary of State may approve a research and innovation strategy with or without modifications.
 - (5) UKRI must publish a research and innovation strategy approved under this section in such manner as the Secretary of State may require it to be published. 10

93 Councils’ strategic delivery plans

- (1) This section applies where UKRI publishes a research and innovation strategy under section 92.
- (2) UKRI must arrange for each Council to –
 - (a) prepare a strategic delivery plan for the period specified in the strategy by virtue of section 92(3)(b), and 15
 - (b) submit it to UKRI for approval.
- (3) The strategic delivery plan must be submitted before the end of the period specified in the strategy by virtue of section 92(3)(a).
- (4) A strategic delivery plan is a plan setting out the Council’s proposals for the exercise by the Council, during the period to which the plan relates, of functions of UKRI pursuant to arrangements under sections 88 to 91. 20
- (5) UKRI may approve a strategic delivery plan with or without modifications.
- (6) UKRI must publish a strategic delivery plan approved under this section in such manner as the Secretary of State may require it to be published. 25
- (7) Arrangements under sections 88 to 91 must require the Council concerned, when exercising any function to which the arrangements relate, to do so in accordance with any relevant strategic delivery plan.
- (8) A strategic delivery plan is a “relevant strategic delivery plan” for the purposes of subsection (7) if –
 - (a) it was prepared by the Council concerned and has been approved under this section, and
 - (b) it relates to the period during which the function concerned is being exercised. 30

Funding and directions 35

94 Grants to UKRI from the Secretary of State

- (1) The Secretary of State may make grants to UKRI of such amounts, and subject to such terms and conditions, as the Secretary of State considers appropriate.
- (2) Where a grant is made in respect of functions exercisable by Research England pursuant to arrangements under section 90, terms and conditions under subsection (1) may be imposed only if – 40

- (a) they are requirements to be met before financial support of a specified amount or of a specified description is given by Research England in respect of activities carried on by an institution, and
 - (b) they apply to every institution, or every institution within a specified description, in respect of whose activities that support may be provided. 5
- (3) Where a grant is made in respect of functions exercisable by Research England pursuant to arrangements under section 90, any terms and conditions under subsection (1) may not be framed by reference to –
 - (a) particular courses of study or programmes of research (including the contents of courses or programmes and the manner in which they are taught, supervised or assessed), or 10
 - (b) the criteria for the selection and appointment of academic staff and for the admission of students.
- (4) Terms and conditions under subsection (1) may, in particular – 15
 - (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by the Secretary of State if any of the terms and conditions subject to which the sums were paid is not complied with, and
 - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid. 20
- (5) In this section “specified” means specified in the terms and conditions.

95 Secretary of State’s power to give directions to UKRI

- (1) The Secretary of State may give UKRI directions about the allocation or expenditure by UKRI of grants received under section 94. 25
- (2) The Secretary of State may give a direction under this section in respect of functions exercisable by Research England pursuant to arrangements under section 90, only if –
 - (a) it relates to requirements to be met before financial support of a specified amount or of a specified description is given by Research England in respect of activities carried on by an institution, and 30
 - (b) it relates to every institution, or every institution within a specified description, in respect of whose activities that support may be provided. 35
- (3) The Secretary of State may not give a direction under this section in respect of functions exercisable by Research England pursuant to arrangements under section 90 which is framed by reference to –
 - (a) particular courses of study or programmes of research (including the contents of courses or programmes and the manner in which they are taught, supervised or assessed), or 40
 - (b) the criteria for the selection and appointment of academic staff and for the admission of students.
- (4) UKRI must comply with any directions given under this section.
- (5) In this section “specified” means specified in the direction. 45

96 Balanced funding and advice from UKRI

- (1) The Secretary of State must have regard to the matters mentioned in subsection (2) when –
- (a) deciding to make a grant under section 94,
 - (b) determining any terms and conditions of a grant under that section, or
 - (c) giving a direction under section 95.
- 5
- (2) The matters are –
- (a) the balanced funding principle, and
 - (b) any advice provided to the Secretary of State by UKRI about the allocation of funding in relation to its functions.
- 10
- (3) The “balanced funding principle” is the principle that it is necessary to ensure that a reasonable balance is achieved in the allocation of funding as between –
- (a) functions exercisable by the Councils mentioned in section 88(1) pursuant to arrangements under that section, and
 - (b) functions exercisable by Research England pursuant to arrangements under section 90.
- 15

*General functions***97 General duties**

- (1) In exercising its functions, UKRI must have regard to the need to use its resources in the most efficient, effective and economic way.
- 20
- (2) In exercising its functions, including its duty under subsection (1), UKRI must have regard to guidance given to it by the Secretary of State.

98 Power to require information and advice from UKRI

- (1) UKRI must provide the Secretary of State with –
- (a) such information regarding any of its functions, or obtained in the exercise of any of its functions, as the Secretary of State may require it to provide, and
 - (b) such advice regarding any of its functions as the Secretary of State may require it to provide.
- 25
- (2) UKRI must provide information or advice under subsection (1) in such form as the Secretary of State may require it to be provided.
- 30

99 Studies for improving economy, efficiency and effectiveness

- (1) UKRI may arrange for studies falling within subsection (2) to be promoted or carried out by a person.
- (2) Studies fall within this subsection if they are designed to improve economy, efficiency and effectiveness in carrying out activities in respect of which UKRI gives financial support.
- 35
- (3) A person promoting or carrying out such studies at the request of UKRI (“a researcher”) may require the person carrying out the activities –

- (a) to provide the researcher or an authorised person with such information as the researcher may reasonably require for that purpose, and
 - (b) to make available for inspection, to the researcher or an authorised person, their accounts and such other documents as the researcher may reasonably require for that purpose. 5
- (4) “Authorised person” means a person authorised by the researcher.

100 Provision of research services

- (1) UKRI may, in connection with any of its functions, provide research services to a person (whether or not in the United Kingdom). 10
- (2) The following are “research services” –
 - (a) undertaking research into science, technology, humanities or new ideas;
 - (b) making facilities available for the undertaking of such research by another person; 15
 - (c) the carrying out of any other activity for the purposes of, or in connection with, the undertaking of such research.
- (3) Research services provided by virtue of this section may be provided subject to such terms and conditions as UKRI considers appropriate.
- (4) UKRI may charge for research services provided by virtue of this section. 20

101 Representing the United Kingdom

UKRI must, if so requested by the Secretary of State, represent the government of the United Kingdom in matters relating to international relations in any field of activity connected to its functions.

Supplementary 25

102 Predecessor bodies and preservation of symbolic property

- (1) The following bodies corporate (each a “research council”) cease to exist –
 - (a) the Arts and Humanities Research Council,
 - (b) the Biotechnology and Biological Sciences Research Council,
 - (c) the Economic and Social Research Council, 30
 - (d) the Engineering and Physical Sciences Research Council,
 - (e) the Medical Research Council,
 - (f) the Natural Environment Research Council,
 - (g) the Science and Technology Facilities Council, and
 - (h) the Technology Strategy Board. 35
- (2) The Royal Charters establishing the research councils, and any supplemental Royal Charter granted to a council, are revoked.
- (3) A property transfer scheme made by the Secretary of State under Schedule 10 in connection with a research council must, in particular, make provision for the transfer of the symbolic property of the council to UKRI. 40

- (4) The symbolic property of a research council is –
- (a) the name of, and any other name used by, the council,
 - (b) any goodwill in a name falling within paragraph (a),
 - (c) any logo or insignia of the council, and
 - (d) any seal of the council.
- 5

103 Amendments to powers to support research

- (1) In section 5 of the Science and Technology Act 1965 (further powers of Secretary of State), after subsection (1) insert –
- “(1ZA) The power to give financial support under subsection (1)(a) includes, in particular, power to make a grant, loan or other payment, on such terms and conditions as the relevant authority considers appropriate. 10
- (1ZB) The terms and conditions may, in particular –
- (a) enable the relevant authority to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, 15
 - (b) require the payment of interest in respect of any period during which a sum due to the relevant authority in accordance with any of the terms and conditions remains unpaid, and
 - (c) require a person to whom financial support is given to provide the relevant authority with any information it requests for the purpose of the exercise of any of its functions. 20
- (1ZC) In subsections (1ZA) and (1ZB), “the relevant authority” means –
- (a) in the case of the power of the Secretary of State to give financial support under subsection (1)(a), the Secretary of State;
 - (b) in the case of the power of the Welsh Ministers to give financial support under subsection (1)(a), the Welsh Ministers; 25
 - (c) in the case of the power of the Scottish Ministers to give financial support under subsection (1)(a), the Scottish Ministers.”
- (2) In section 10 of the Higher Education Act 2004 (research in arts and humanities), after subsection (4) insert – 30
- “(5) The powers under this section to give financial support include, in particular, power to make a grant, loan or other payment, on such terms and conditions as the relevant authority considers appropriate.
- (6) The terms and conditions may, in particular – 35
- (a) enable the relevant authority to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with,
 - (b) require the payment of interest in respect of any period during which a sum due to the relevant authority in accordance with any of the terms and conditions remains unpaid, and 40
 - (c) require a person to whom financial support is given to provide the relevant authority with any information it requests for the purpose of the exercise of any of its functions.
- (7) In subsections (5) and (6), “the relevant authority” means – 45

- (a) in the case of the power under subsection (1)(a), the Secretary of State;
- (b) in the case of the power under subsection (2)(a), the Welsh Ministers;
- (c) in the case of the power under subsection (3)(a), the Scottish Ministers; 5
- (d) in the case of the power under subsection (4)(a), the Northern Ireland Department having responsibility for higher education.”

Interpretation 10

104 Definitions

- (1) In this Part—
 - “Council” has the meaning given by section 85;
 - “humanities” includes the arts;
 - “research and innovation strategy” has the meaning given by section 92; 15
 - “science” includes social sciences.
- (2) In this Part, a reference to the United Kingdom includes a reference to any part of the United Kingdom.

PART 4

GENERAL 20

General

105 Cooperation and information sharing between the OfS and UKRI

- (1) The OfS and UKRI may cooperate with one another in exercising any of their functions.
- (2) The OfS and UKRI must, if required to do so by the Secretary of State, cooperate with one another in exercising any of their functions. 25
- (3) The OfS may provide information to UKRI if the disclosure is made for the purposes of the exercise of any function of UKRI.
- (4) UKRI may provide information to the OfS if the disclosure is made for the purposes of the exercise of any function of the OfS. 30
- (5) Provision of information which is authorised by this section does not breach—
 - (a) an obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the provision of information (however imposed). 35
- (6) But nothing in this section authorises the OfS or UKRI to provide information where doing so contravenes the Data Protection Act 1998.

106 Joint working

- (1) A relevant authority may exercise any of its functions jointly with another relevant authority if the condition in subsection (2) is met.
- (2) The condition is that it appears to the relevant authorities concerned that exercising the function jointly – 5
- (a) will be more efficient, or
 - (b) will enable them more effectively to exercise any of their functions.
- (3) In this section “relevant authority” means –
- (a) the OfS,
 - (b) UKRI, but only in relation to functions exercisable by Research England pursuant to arrangements made under section 90, 10
 - (c) the Higher Education Funding Council for Wales,
 - (d) the Scottish Further and Higher Education Funding Council,
 - (e) the Secretary of State to the extent that the Secretary of State is exercising functions under section 14 of the Education Act 2002 (power to give financial assistance for purposes related to education or children etc), 15
 - (f) the Welsh Ministers to the extent that they are exercising their functions under Part 2 of the Learning and Skills Act 2000 (further and sixth form education in Wales), or 20
 - (g) the Department for the Economy in Northern Ireland, or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, in relation to funding higher education, or research, in Northern Ireland but only to the extent that the Department is exercising functions in connection with such funding. 25
- (4) For the purposes of subsection (3)(g) “higher education” has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).

107 Advice to Northern Ireland departments

- (1) The OfS and UKRI may provide such advisory services as the Department for the Economy in Northern Ireland or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland may require in connection with the discharge of the Department’s functions relating to higher education in Northern Ireland. 30
- (2) The services may be provided on such terms as may be agreed. 35
- (3) For the purposes of this section “higher education” has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).

108 Transfer schemes

- Schedule 10 contains provision about schemes for the transfer of staff and property, rights and liabilities in connection with – 40
- (a) the establishment of the OfS or UKRI by this Act, or
 - (b) a body or office ceasing to exist by virtue of this Act.

109 Power to make consequential provision etc

- (1) The Secretary of State may by regulations make such provision as appears to the Secretary of State to be appropriate in consequence of any provision made by or under this Act.
- (2) The power conferred by subsection (1) includes power to amend, repeal, revoke or otherwise modify –
 - (a) primary or secondary legislation passed or made before this Act or in the same Session as this Act, or
 - (b) subject to subsection (3), a Royal Charter granted before this Act is passed or in the same Session as this Act.
- (3) Provision may be made under subsection (1) by virtue of subsection (2)(b) only if such provision appears to the Secretary of State to be appropriate in consequence of provision made by or under any of sections 40 to 55 (degree awarding powers and university title).

110 Transitional, transitory or saving provision

The Secretary of State may by regulations make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

111 Pre-commencement consultation

- (1) Subsections (2) and (3) apply in relation to a provision of this Act under or by virtue of which the OfS has a function of consulting another person.
- (2) At any time before the provision comes into force (and whether before or after the passing of this Act), the Secretary of State, the DFA or HEFCE or any of them acting jointly –
 - (a) may carry out any consultation that the OfS would have power or a duty to carry out after the provision comes into force, and
 - (b) for that purpose, may prepare drafts of any documents to which the consultation relates.
- (3) At any time after the provision comes into force, the OfS may elect to treat any consultation carried out or other thing done under subsection (2) by the Secretary of State, the DFA or HEFCE (or any of them acting jointly) as carried out or done by the OfS.
- (4) Subsections (5) and (6) apply in relation to a provision of this Act under or by virtue of which UKRI has a function of consulting another person.
- (5) At any time before the provision comes into force (and whether before or after the passing of this Act), the Secretary of State or HEFCE or the Secretary of State and HEFCE acting jointly –
 - (a) may carry out any consultation that UKRI would have power or a duty to carry out after the provision comes into force, and
 - (b) for that purpose, may prepare drafts of any documents to which the consultation relates.
- (6) At any time after the provision comes into force, UKRI may elect to treat any consultation carried out or other thing done under subsection (5) by the

Secretary of State or HEFCE (or the Secretary of State and HEFCE acting jointly) as carried out or done by UKRI.

- (7) In this section –
 “the DFA” means the Director of Fair Access to Higher Education;
 “HEFCE” means the Higher Education Funding Council for England. 5

112 Regulations

- (1) Any power to make regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument which contains (whether alone or with other provision) any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament – 10
- (a) regulations under section 15(2) (power to impose monetary penalties);
 - (b) regulations under section 28(5) (regulations regarding the OfS’s approval of access and participation plans);
 - (c) regulations under section 31(1) (content of such a plan: equality of opportunity); 15
 - (d) regulations under section 85(2) (regulations changing the structure of UKRI’s Councils);
 - (e) regulations under section 88(5) (regulations in connection with changes made to structure of UKRI’s Councils or changing the fields of activity of the Councils); 20
 - (f) regulations under section 109(1) (power to make consequential provision) which include provision that amends or repeals a provision of primary legislation or a Royal Charter.
- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament. 25
- (4) But subsection (3) does not apply to regulations under Schedule 2 to which paragraph 4(2)(b), (3)(b) or (4)(b) (regulations increasing the higher, basic or floor amounts) applies.
- (5) Regulations under this Act may – 30
- (a) make different provision for different purposes, cases or areas,
 - (b) make provision generally or only in relation to specified cases, and
 - (c) make incidental, consequential, supplementary, transitional, transitory or saving provision.
- (6) Nothing in this Act is to be regarded as affecting the generality of subsection (5). 35
- (7) This section does not apply to regulations made under section 117 (commencement).

113 Directions

Any power conferred by this Act to give directions includes power, exercisable in the same manner and subject to the same conditions or limitations, to vary or revoke directions previously given. 40

114 General interpretation

In this Act –

“notice” means written notice (and to “notify” means to give written notice);

“the OfS” has the meaning given by section 1; 5

“primary legislation” means –

(a) an Act of Parliament;

(b) an Act of the Scottish Parliament;

(c) a Measure or Act of the National Assembly for Wales;

(d) Northern Ireland legislation; 10

“secondary legislation” means an instrument made under primary legislation;

“UKRI” has the meaning given by section 84.

115 Minor and consequential amendments

(1) Schedule 11 contains minor and consequential amendments relating to Part 1. 15

(2) Schedule 12 contains minor and consequential amendments relating to Part 3.

116 Extent

(1) Subject to the rest of this section, this Act extends to England and Wales only.

(2) The following provisions also extend to Scotland and Northern Ireland –

(a) section 25 (rating the quality of, and the standards applied to, higher education); 20

(b) sections 72 and 73 (powers to obtain and use application-to-acceptance information);

(c) section 76 (meaning of “English higher education provider” etc);

(d) Part 3 (research); 25

(e) this Part.

(3) Any amendment or repeal made by this Act has the same extent within the United Kingdom as the enactment amended or repealed.

(4) Subsection (3) does not apply to the amendment made by section 79(4) (power to make alternative payments) which – 30

(a) so far as it inserts subsection (4B)(e) into section 22 of the Teaching and Higher Education Act 1998, extends to England and Wales, Scotland and Northern Ireland,

(b) so far as it inserts subsection (4B)(f), (g) and (h) into that section, extends to England and Wales and Northern Ireland, and 35

(c) otherwise extends to England and Wales only.

(5) Subsection (3) does not apply to the amendments and repeals made by paragraph 13 of Schedule 12 to section 41 of the Patents Act 1977 which have the same extent as that section.

117 Commencement

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(1) This Part, apart from sections to 107 and section 111, comes into force on the day on which this Act is passed.

- (2) Sections 79, 80 and 81 come into force, so far as relating to a matter specified in an entry in column 1 of the following table, on such day as the person specified in the corresponding entry in column 2 of the table may by regulations made by statutory instrument appoint, after consulting the person (if any) specified in the corresponding entry in column 3 of the table.

5

TABLE

<i>1. Matters:</i>	<i>2. Commencement by:</i>	<i>3. After consulting:</i>	
Powers exercisable by the Welsh Ministers	The Welsh Ministers		10
Powers exercisable by the Secretary of State concurrently with the Welsh Ministers	The Secretary of State	The Welsh Ministers	15
Powers exercisable by the Secretary of State in relation to Wales	The Secretary of State	The Welsh Ministers	
Other matters	The Secretary of State.		20

- (3) Section 103 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (5) Regulations under this section may appoint different days for different purposes or areas.

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118 Short title

- (1) This Act may be cited as the Higher Education and Research Act 2016.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996.

30

SCHEDULES

SCHEDULE 1

Section 1

THE OFFICE FOR STUDENTS

Status

- | | | |
|---|---|----|
| 1 | (1) The OfS is not to be regarded – | 5 |
| | (a) as the servant or agent of the Crown, or | |
| | (b) as enjoying any status, immunity or privilege of the Crown. | |
| | (2) The OfS’s property is not to be regarded – | |
| | (a) as the property of the Crown, or | |
| | (b) as property held on behalf of the Crown. | 10 |

Membership

- | | | |
|---|---|----|
| 2 | (1) The OfS is to consist of the following members appointed by the Secretary of State – | |
| | (a) a chair (“the chair”), | |
| | (b) the Chief Executive Officer, | 15 |
| | (c) the Director for Fair Access and Participation, and | |
| | (d) at least seven and not more than twelve other members (“the ordinary members”). | |
| | (2) The Secretary of State must, in appointing the chair and the ordinary members, have regard to the desirability of the OfS’s members (between them) having experience of – | 20 |
| | (a) representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers, | |
| | (b) providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider, | 25 |
| | (c) employing graduates of higher education courses provided by higher education providers covering a range of academic and practical disciplines, | 30 |
| | (d) promoting choice for consumers or other service users, and encouraging competition, in industry or another sector of society, | |
| | (e) creating, reviewing, implementing or managing a regulatory system in industry or another sector of society, | |
| | (f) managing or auditing the financial affairs of an organisation, and | 35 |
| | (g) a broad range of the different types of English higher education providers. | |

- (3) A person may not be appointed as a member of the OfS if the person is a civil servant.
- (4) In this Schedule, “civil servant” means a person employed in the civil service of the State.

The Director for Fair Access and Participation

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- 3 (1) The Director for Fair Access and Participation (“the Director”) is responsible for reporting to the other members of the OfS on the performance by the OfS of its access and participation functions.
- (2) The Director may also report to the other members of the OfS on the measures taken by the OfS to comply with its duty under section 2(1)(d) (duty to have regard to the need to promote equality of opportunity etc) in performing a particular function of the OfS. 10
- (3) For the purposes of this paragraph, the OfS’s “access and participation functions” are the functions conferred on it by or under –
- (a) section 21 (refusal to renew an access and participation plan), 15
 - (b) sections 28 to 33 (access and participation plans),
 - (c) section 34 (advice on good practice),
 - (d) section 35 (duty to protect academic freedom in performing certain access and participation functions), and
 - (e) section 36 (power of the Secretary of State to require a report). 20

Terms of appointment and tenure of members

- 4 (1) A person holds and vacates office as a member of the OfS in accordance with the terms of his or her appointment.
- (2) The terms and conditions of a person’s appointment as a member of the OfS are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule. 25
- (3) The matters with which the terms and conditions of a member’s appointment may deal include, in particular –
- (a) the period for which the member is to hold office;
 - (b) the member’s eligibility for re-appointment; 30
 - (c) circumstances in which membership may be suspended.
- 5 (1) A person may resign from office as a member of the OfS by notifying the Secretary of State.
- (2) The Secretary of State may remove a person from office as a member of the OfS on any of the following grounds – 35
- (a) absence from the OfS’s meetings for a continuous period of more than six months without the OfS’s permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as the Secretary of State considers appropriate.
- (3) If a person appointed as a member of the OfS becomes a civil servant, the person ceases to be a member. 40

Remuneration etc of members

- 6 (1) The OfS must pay to members of the OfS such remuneration, allowances and expenses as the Secretary of State may determine.
- (2) The OfS must pay, or make provision for paying, to or in respect of a person who is or has been a member of the OfS such sums as the Secretary of State may determine in respect of pension, allowances, expenses or gratuities. 5
- (3) If, where a person ceases to be a member of the OfS, the Secretary of State determines that he or she should be compensated because of special circumstances, the OfS must pay him or her compensation of such amount as the Secretary of State may determine. 10

Staffing of the OfS

- 7 (1) The OfS may –
- (a) appoint employees, and
 - (b) make such other arrangements for the staffing of the OfS as it considers appropriate. 15
- (2) The terms and conditions of appointment as employees are to be determined by the OfS with the approval of the Secretary of State.
- (3) The OfS must pay its employees such remuneration, allowances and expenses as the OfS may determine with the approval of the Secretary of State. 20
- (4) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert –
“Office for Students.”
- (5) The OfS must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (4) in the sums payable out of money provided by Parliament under the 1972 Act. 25

Committees

- 8 (1) The OfS may establish committees, and any committee so established may establish sub-committees. 30
- (2) A committee or sub-committee so established is referred to in this Schedule as an “OfS committee”.
- (3) An OfS committee may consist of or include persons who are neither members, nor employees, of the OfS. 35
- (4) The OfS must pay such allowances as the Secretary of State may determine to any person who –
- (a) is a member of an OfS committee, but
 - (b) is neither a member, nor an employee, of the OfS.
- (5) The OfS must keep under review – 40
- (a) the structure of the OfS committees, and
 - (b) the scope of each committee’s activities.

Procedure

- 9 (1) The OfS may determine –
- (a) its own procedure, and
 - (b) the procedure of any OfS committee;
- but that is subject to the rest of this paragraph. 5
- (2) The quorum for a meeting of the OfS is half the number of its members.
- (3) A representative of the Secretary of State is entitled –
- (a) to attend any meeting of the OfS or of any OfS committee, and
 - (b) to take part in any deliberations (but not in decisions) at such meetings. 10
- (4) The OfS must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any OfS committee as the Secretary of State or representative may require it to provide.
- 10 The validity of any proceedings of the OfS, or of any OfS committee, is not affected by a vacancy or a defective appointment. 15

Delegation of functions

- 11 (1) The OfS may delegate any of its functions to –
- (a) a member of the OfS,
 - (b) an employee of the OfS authorised for that purpose, or
 - (c) an OfS committee. 20
- (2) A function is delegated under this paragraph to the extent, and on the terms that, the OfS determines.

Accounts and audit

- 12 (1) The OfS must – 25
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to –
- (a) its content and form; 30
 - (b) the methods and principles to be applied in preparing it;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The OfS must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates. 35
- (4) The Comptroller and Auditor General must –
- (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Secretary of State. 40
- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.

- (6) In this Schedule “financial year” means –
- (a) the period beginning with the date on which the OfS is established and ending with the second 31 March following that date, and
 - (b) each successive period of 12 months.

Annual report 5

- 13 (1) The OfS must prepare a report on the performance of its functions during each financial year.
- (2) The report must include the statement of accounts in respect of that year.
- (3) The report relating to a financial year must be prepared as soon as possible after the end of the financial year. 10
- (4) The OfS must send the report to the Secretary of State.
- (5) The Secretary of State must lay the report before Parliament.

Seal and evidence

- 14 (1) The application of the OfS’s seal must be authenticated by the signature of –
- (a) the chair or some other person authorised for that purpose by the OfS, and 15
 - (b) one other member of the OfS.
- (2) A document purporting to be duly executed under the OfS’s seal or signed on its behalf –
- (a) is to be received in evidence, and 20
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.

Supplementary powers

- 15 (1) The OfS may do anything (except borrow money) which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions. 25
- (2) In particular, the OfS may –
- (a) acquire and dispose of land and other property,
 - (b) enter into contracts,
 - (c) invest sums, and 30
 - (d) accept gifts of money, land or other property.

Public records

- 16 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert – 35
- “Office for Students.”

Investigation by the Parliamentary Commissioner

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert –
- “Office for Students.”

House of Commons disqualification

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert –
“The Office for Students.” 5

Northern Ireland Assembly disqualification

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert –
“The Office for Students.” 10

Freedom of information

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place insert –
“The Office for Students.”

Public sector equality duty

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Other educational bodies”, at the appropriate place insert –
“The Office for Students.” 15

SCHEDULE 2

Section 10 20

THE FEE LIMIT

Introduction

- 1 (1) This Schedule is about determining the amount of “the fee limit” where a fee limit condition is an ongoing registration condition of a registered higher education provider. 25
- (2) The amount of “the fee limit” for the purposes of applying that condition to fees in connection with a qualifying course and in respect of an academic year is determined in as follows.
- (3) References to “the relevant course” and “the relevant academic year” are to that course and year. 30

The fee limit where the provider has an access and participation plan

- 2 (1) This paragraph applies if an access and participation plan approved by the OfS under section 28 in relation to the provider is in force, or comes into force, when the relevant academic year begins.
- (2) If the provider – 35

- (a) had a high level quality rating at the relevant time, the fee limit is such limit, not exceeding the higher amount, as is provided by the plan for the relevant course and for the relevant academic year, and
 - (b) in any other case, the fee limit is such limit, not exceeding the applicable sub-level amount, as is provided by the plan for the relevant course and for the relevant academic year. 5
- (3) “A high level quality rating” means such rating or ratings given in accordance with arrangements made under section 25 (rating the quality of, and the standards applied to, higher education) as the Secretary of State determines to be a high level quality rating for the purposes of this paragraph. 10
- (4) “The relevant time” means at the time when the access and participation plan is approved.
- (5) “The higher amount” means such amount as may be prescribed for the purposes of this paragraph as the higher amount. 15
- (6) The Secretary of State determines “the sub-level amount” for the purposes of this paragraph, and may determine different amounts for different descriptions of provider.
- (7) Those descriptions may be by reference only to –
 - (a) whether a provider has or has not a rating given to it in accordance with arrangements under section 25, and 20
 - (b) where it has such a rating, the level, type or other description of the rating.
- (8) Any amount determined as “the sub-level amount” –
 - (a) must not exceed the higher amount, and 25
 - (b) must be greater than the floor amount.
- (9) “The floor amount” means such amount as may be prescribed for the purposes of this paragraph as the floor amount.
- (10) The “applicable” sub-level amount in relation to a provider is the sub-level amount determined under sub-paragraph (6) which applies to the provider. 30
- (11) “Prescribed” means prescribed by regulations made by the Secretary of State.

The fee limit where the provider has no access and participation plan

- 3 (1) This paragraph applies if an access and participation plan approved by the OfS under section 28 in relation to the provider is not in force, and does not come into force, when the relevant academic year begins. 35
- (2) If the provider –
 - (a) had a high level quality rating within the meaning of paragraph 2 at the relevant time, the fee limit is the basic amount, and
 - (b) in any other case, the fee limit is the applicable sub-level amount. 40
- (3) “The relevant time” means on 1 January in the calendar year before the calendar year in which the relevant academic year begins.
- (4) “The basic amount” means such amount as may be prescribed for the purposes of this paragraph as the basic amount.

- (5) The Secretary of State determines “the sub-level amount” for the purposes of this paragraph, and may determine different amounts for different descriptions of provider.
- (6) Those descriptions may be by reference only to –
- (a) whether a provider has or has not a rating given to it in accordance with arrangements under section 25, and 5
 - (b) where it has such a rating, the level, type or other description of the rating.
- (7) Any amount determined as “the sub-level amount” –
- (a) must not exceed the basic amount, and 10
 - (b) must be greater than the floor amount.
- (8) “The floor amount” means such amount as may be prescribed for the purposes of this paragraph as the floor amount.
- (9) The “applicable” sub-level amount in relation to a provider is the sub-level amount determined under sub-paragraph (5) which applies to the provider. 15
- (10) “Prescribed” means prescribed by regulations made by the Secretary of State.

Procedure

- 4 (1) The Secretary of State must –
- (a) notify the OfS of initial and subsequent determinations made under – 20
 - (i) paragraph 2(3) (meaning of “a high level quality rating” for the purposes of paragraph 2),
 - (ii) paragraph 2(6) (meaning of “the sub-level amount” for the purposes of paragraph 2), or 25
 - (iii) paragraph 3(5) (meaning of “the sub-level amount” for the purposes of paragraph 3), and
 - (b) publish those determinations.
- (2) No regulations may be made under paragraph 2 increasing the higher amount unless – 30
- (a) the Secretary of State is satisfied that the increase is no greater than is required to maintain the value of the amount in real terms, or
 - (b) each House of Parliament has passed a resolution that, with effect from a date specified in the resolution, the higher amount should be increased to an amount specified in the resolution, and the increase is an increase to the specified amount with effect from the specified date. 35
- (3) No regulations may be made under paragraph 3 increasing the basic amount unless – 40
- (a) the Secretary of State is satisfied that the increase is no greater than is required to maintain the value of the amount in real terms, or
 - (b) a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) No regulations may be made under paragraph 2 or 3 increasing the floor amount for the purposes of that paragraph unless – 45

- (a) the Secretary of State is satisfied that the increase is no greater than is required to maintain the value of the amount in real terms, or
 - (b) a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) For the purposes of sub-paragraph (2)(a), (3)(a) and (4)(a), the Secretary of State is to have regard to such index of prices as may be specified in, or determined in accordance with, regulations made by the Secretary of State under this sub-paragraph. 5

SCHEDULE 3

Section 15

MONETARY PENALTIES: PROCEDURE, APPEALS AND RECOVERY 10

Introduction

- 1 This Schedule applies in relation to the imposition by the OfS of a monetary penalty on a registered higher education provider under section 15.

Procedure

- 2 (1) Before imposing a monetary penalty on the provider under that section, the OfS must notify the provider of its intention to do so. 15
- (2) The notice must –
- (a) specify the proposed amount of the penalty,
 - (b) specify the OfS’s reasons for proposing to impose the penalty,
 - (c) specify the period during which the provider may make representations about the proposal (“the specified period”), and 20
 - (d) specify the way in which those representations may be made.
- (3) The specified period must not be less than 28 days beginning with the date on which the notice is received.
- (4) The OfS must have regard to any representations made by the provider during the specified period in deciding whether to impose a monetary penalty on it. 25
- (5) Having decided whether or not to impose a monetary penalty, the OfS must notify the provider of its decision.
- (6) Where the decision is to impose a monetary penalty, the notice must specify – 30
- (a) the amount of the penalty, and
 - (b) the period within which the penalty must be paid or the periods within which different portions of the penalty must be paid.
- (7) The notice must also contain information as to – 35
- (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) rights of appeal,
 - (d) the period within which an appeal may be made, and
 - (e) the consequences of non-payment. 40

- (8) The requirement to pay the penalty is suspended at any time when an appeal could be brought in respect of the penalty or such an appeal is pending.
- (9) But that does not prevent the requirement to pay taking effect if the provider notifies the OfS that it does not intend to appeal. 5

Appeals

- 3 (1) The governing body of a provider may appeal to the First-tier Tribunal against—
- (a) a decision under section 15 to impose a monetary penalty on the provider; 10
 - (b) a decision as to the amount of the penalty.
- (2) An appeal under this paragraph may be made on the grounds—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable. 15
- (3) On an appeal under this paragraph the Tribunal may—
- (a) withdraw the requirement to pay the penalty;
 - (b) confirm that requirement;
 - (c) vary that requirement;
 - (d) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the OfS. 20

Interest and recovery

- 4 (1) This paragraph applies if all or part of a monetary penalty imposed on a provider under section 15 is unpaid by the time when it is required to be paid. 25
- (2) The unpaid amount of the penalty for the time being—
- (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
 - (b) does not also carry interest as a judgment debt under that section.
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the penalty. 30
- (4) The OfS may recover from the provider, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.

Retention of sums received

- 5 The OfS must pay the sums received by it by way of a penalty under section 15 or interest under paragraph 4 to the Secretary of State. 35

SCHEDULE 4

Section 26

ASSESSING HIGHER EDUCATION: DESIGNATED BODY

PART 1

DESIGNATION

Recommendation 5

- 1 The OfS must recommend to the Secretary of State that a body is designated to perform the assessment functions if it considers that –
- (a) the body is suitable to perform the functions, and
 - (b) designating the body would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers. 10

Consultation prior to recommendation

- 2 (1) Before recommending the designation of a body under this Schedule, the OfS must consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions. 15
- (2) The Secretary of State may direct the OfS to consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to perform the assessment functions.
- (3) The OfS consults in accordance with this sub-paragraph if it consults –
- (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers, 20
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers, 25
 - (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate. 30
- (4) If the OfS consults in accordance with this paragraph, it must –
- (a) decide whether to recommend the designation of a body under this Schedule, and
 - (b) notify the Secretary of State of its decision.
- (5) The OfS must publish its decision under sub-paragraph (4). 35

Designation

- 3 (1) This paragraph applies where, in accordance with paragraphs 1 and 2, the OfS recommends that a body (“the recommended body”) be designated to perform the assessment functions.
- (2) The Secretary of State may designate the recommended body only if the Secretary of State considers that – 40

-
- (a) the body is suitable to perform the assessment functions, and
 - (b) designating the body would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.
- (3) If the Secretary of State decides to designate the recommended body, the Secretary of State must – 5
- (a) notify the body of the designation before the date on which the designation takes effect (“the effective date”), and
 - (b) publish notice of the designation before that date.
- (4) The notice of the designation must state – 10
- (a) the name of the body, and
 - (b) the effective date.
- (5) If the Secretary of State decides not to designate the recommended body, the Secretary of State must publish the reasons for not doing so.
- Bodies suitable to perform assessment functions* 15
- 4 (1) A body is suitable to perform the assessment functions if the body satisfies conditions A to D.
- (2) Condition A is that the body is capable of performing the assessment functions in an effective manner.
- (3) Condition B is that – 20
- (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers,
 - (b) the body commands the confidence of registered higher education providers, and
 - (c) the body exercises its functions independent of any particular higher education provider. 25
- (4) Condition C is that the body consents to being designated under this Schedule.
- (5) Condition D is that the body is a body corporate and is not – 30
- (a) a servant or agent of the Crown, or
 - (b) a body to which the Secretary of State appoints members.
- Removal of designation*
- 5 (1) The Secretary of State may by notice remove a designation under this Schedule.
- (2) The notice must – 35
- (a) include the reasons for the Secretary of State’s decision, and
 - (b) specify the date on which the designation is removed.
- (3) The Secretary of State may only remove the designation if – 40
- (a) the Secretary of State is satisfied that removing the designation would be appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers, or
 - (b) the designated body consents to the removal of the designation.

- (4) Before removing the designation the Secretary of State must consult –
- (a) the OfS,
 - (b) a number of registered higher education providers that, taken together, appear to the Secretary of State to comprise a broad range of the different types of such providers, 5
 - (c) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers,
 - (d) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of employers of graduates, and 10
 - (e) such other persons as the Secretary of State considers appropriate.
- (5) In determining whether a designation under this Schedule should be removed, the Secretary of State must have regard to any relevant information that the OfS has provided to the Secretary of State. 15
- (6) The Secretary of State must publish a notice under this paragraph.

PART 2

OVERSIGHT BY THE OFS

Application 20

- 6 This Part applies if there is a body designated under this Schedule to perform the assessment functions.

Oversight arrangements

- 7 The OfS must make arrangements for holding the designated body to account for the performance of the assessment functions. 25

Annual report by the designated body

- 8 (1) As soon as possible after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance of the assessment functions during the period.
- (2) “Annual reporting period”, in relation to a designated body, means – 30
- (a) the period of 12 months beginning with the effective date, and
 - (b) each successive period of 12 months.

Triennial report by the OfS

- 9 (1) As soon as possible after the end of each triennial reporting period, the OfS must prepare and send to the Secretary of State a triennial report about – 35
- (a) how the designated body has performed the assessment functions during the period,
 - (b) whether the designated body should continue to be designated under Part 1 of this Schedule,
 - (c) the appropriateness of any fees charged by the designated body under section 27, and 40

- (d) any other matters that the OfS considers relevant.
- (2) In preparing a triennial report, the OfS must have regard to any views provided to the OfS by a person listed in sub-paragraph (3) about—
- (a) the matters listed in sub-paragraph (1)(a) to (c), and
 - (b) what other matters, if any, should be dealt with in the report. 5
- (3) Those persons are—
- (a) registered higher education providers,
 - (b) persons representing, or promoting the interests of, students on higher education courses provided in England by registered higher education providers, 10
 - (c) persons representing, or promoting the interests of, employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.
- (4) “Triennial reporting period”, in relation to a designated body, means—
- (a) the period of 3 years beginning with the effective date, and 15
 - (b) each successive period of 3 years.

Power of the OfS to give directions

- 10 (1) The OfS may give the designated body general directions about the performance of any of the assessment functions.
- (2) In giving such directions, the OfS must have regard to the need to protect the expertise of the designated body. 20
- (3) Such directions must relate to—
- (a) English higher education providers or registered higher education providers generally, or
 - (b) a description of such providers. 25
- (4) The designated body must comply with any directions given under this paragraph.

Duty of the OfS to inform the Secretary of State about significant concerns

- 11 The OfS must inform the Secretary of State if it has significant concerns about— 30
- (a) how the designated body is performing the assessment functions, or
 - (b) the continued suitability of the designated body to carry out those functions.

PART 3

INTERPRETATION 35

- 12 (1) In this Schedule—
- “assessment functions” has the meaning given in section 26;
 - “designated body” means a body for the time being designated under this Schedule;
 - “the effective date”, in relation to a designated body, has the meaning given in paragraph 3; 40

“graduate” means a graduate of a higher education course provided in England by a registered higher education provider;
“standards” has the same meaning as in section 13(1)(a).

- (2) References in this Schedule to a body that is suitable to perform the assessment functions are to be read in accordance with paragraph 4. 5

SCHEDULE 5

Section 56

POWERS OF ENTRY AND SEARCH ETC

Power to issue search warrant

- 1 (1) A justice of the peace who is satisfied that the requirements in sub-paragraph (3) are met in relation to relevant higher education premises may issue a warrant under this paragraph (a “search warrant”) in respect of the premises. 10
- (2) “Relevant higher education premises” means premises in England which –
(a) are occupied by a supported higher education provider or a linked institution in relation to such a provider, and 15
(b) are used for, or in connection with, the provision of higher education courses by such a provider,
but does not include premises which are used wholly or mainly as a private dwelling.
- (3) The requirements of this sub-paragraph are met in relation to premises occupied by a supported higher education provider or a linked institution in relation to such a provider if – 20
(a) there are reasonable grounds for suspecting that there is, or has been, a breach of a registration condition or funding condition of the provider, 25
(b) the suspected breach is sufficiently serious to justify entering the premises,
(c) entry to the premises is necessary to determine whether the suspected breach is taking place or has taken place, and
(d) either of the requirements in sub-paragraph (4) is met. 30
- (4) The requirements referred to in sub-paragraph (3)(d) are –
(a) that entry to the premises has been, or it is likely to be, refused;
(b) that requesting entry may frustrate or seriously prejudice the purpose of entry.
- (5) References in this Schedule to a registration condition of a supported higher education provider are to an ongoing registration condition of the provider (see section 3(8)). 35
- (6) References in this Schedule to a funding condition of a supported higher education provider are to –
(a) a term or condition subject to which a grant, loan or other payment under section 37 or 38 (financial support for providers) was paid to the provider, or 40

- (b) a condition imposed on the provider by or under regulations made under section 22 of the Teaching and Higher Education Act 1998 (financial support for students) in connection with the designation of a course for the purposes of that section.

Application for search warrant by an authorised person 5

- 2 (1) A search warrant may be issued only on the application of a person authorised in writing by the OfS or the Secretary of State to exercise the powers conferred by a search warrant (an “authorised person”).
- (2) An application for a search warrant in respect of premises may be made without notice being given to— 10
- (a) the supported higher education provider or linked institution occupying the premises, or
- (b) any other persons who may be affected by it.
- (3) An application for a search warrant in respect of premises must be supported by an information in writing. 15
- (4) An authorised person applying for a search warrant must answer on oath any question that the justice of the peace hearing the application asks the person.

Search warrant

- 3 (1) A search warrant must— 20
- (a) specify the name of the authorised person who applied for it,
- (b) specify the date on which it is issued,
- (c) state that it is issued under this Schedule,
- (d) specify the premises to be searched,
- (e) specify the supported higher education provider or linked institution occupying the premises, and 25
- (f) identify, so far as is possible, the suspected breach of a registration condition or funding condition of the provider.
- (2) A search warrant may permit or require a constable to accompany an authorised person who is executing it. 30
- (3) A search warrant authorises an authorised person to enter each set of premises specified in the warrant on one occasion only unless it specifies that it authorises multiple entries.
- (4) If a search warrant specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited or limited to a specified maximum. 35
- (5) Two copies must be made of a search warrant that specifies only one set of premises and does not authorise multiple entries.
- (6) As many copies as are reasonably required may be made of any other kind of search warrant. 40
- (7) The copies made under sub-paragraphs (5) and (6) must be clearly certified as copies.

Powers conferred by search warrant

- 4 (1) A search warrant authorises an authorised person –
- (a) to enter the premises specified in the warrant at a reasonable hour,
 - (b) to search the premises to the extent that is reasonably required for the purpose of determining whether there is, or has been, a breach of a registration condition or funding condition of the relevant supported higher education provider, 5
 - (c) for that purpose, to inspect items found on the premises,
 - (d) for that purpose, to copy documents found on the premises, and
 - (e) to seize and retain items found on the premises which the authorised person reasonably believes are evidence of a breach of a registration condition or a funding condition of the relevant supported higher education provider. 10
- (2) A search warrant may be executed by any authorised person.
- (3) A constable accompanying an authorised person under paragraph 3(2) may, if necessary, use reasonable force to enable the exercise of the powers conferred by the warrant. 15
- (4) An authorised person entering premises under a search warrant may –
- (a) be accompanied by such other persons as the authorised person considers necessary, and 20
 - (b) take onto the premises such equipment as the authorised person considers necessary.

Entering and searching premises

- 5 (1) Where the occupier of the premises to be entered and searched is present at the time when an authorised person seeks to execute a search warrant, the authorised person must – 25
- (a) identify himself or herself to the occupier,
 - (b) produce to the occupier documentary evidence that he or she is an authorised person,
 - (c) produce the search warrant to the occupier, and 30
 - (d) supply the occupier with a certified copy of it.
- (2) Where the occupier of the premises is not present at the time when an authorised person seeks to execute a search warrant –
- (a) if another person who appears to the authorised person to be in charge of the premises is present, sub-paragraph (1) has effect as if references to the occupier were references to the other person; 35
 - (b) if there is no such person present, the authorised person must leave a certified copy of the warrant in a prominent place on the premises.
- (3) An authorised person who enters premises under a search warrant must take reasonable steps to ensure that, when the authorised person leaves the premises, they are as secure as they were before the authorised person entered them. 40
- (4) Entry and search under a search warrant may not take place after the end of the period of one month beginning with the date on which it is issued.

Inspecting, copying, seizing and retaining items

- 6 (1) The powers conferred by a search warrant to inspect, copy, seize and retain items found on premises include –
- (a) power to require a person on the premises who is holding or accountable for items that are on the premises to produce them, 5
 - (b) power to require a person on the premises to provide an explanation of an item or state where an item may be found,
 - (c) in relation to documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away, and 10
 - (d) power to require a person on the premises to provide such other assistance as the authorised person may reasonably require.
- (2) Those powers also include –
- (a) power to check the operation of a computer or electronic storage device, and 15
 - (b) power to require a person within sub-paragraph (3) to provide the authorised person with such reasonable assistance as the authorised person may require for that purpose.
- (3) A person is within this sub-paragraph if the person is –
- (a) a person by whom or on whose behalf the computer or device is or has been used, or 20
 - (b) a person having charge of, or otherwise concerned with the operation of, the computer or device.
- (4) The power conferred by a search warrant to inspect, copy, seize and retain items does not include power to inspect, copy, seize or retain excluded items. 25
- (5) “Excluded items” means items that are –
- (a) items subject to legal privilege (as defined in section 10 of the Police and Criminal Evidence Act 1984);
 - (b) excluded material (as defined in section 11 of that Act); 30
 - (c) special procedure material (as defined in section 14 of that Act).
- (6) If an item is seized from premises in the exercise of powers conferred by a search warrant, the authorised person executing the warrant –
- (a) must make reasonable efforts to give a notice to a person who appears to be the occupier of the premises or otherwise to be in charge of the premises (an “affected person”), and 35
 - (b) if it is not reasonably practicable to do so, must leave a copy of the notice in a prominent place on the premises.
- (7) A notice under sub-paragraph (6) must –
- (a) state what has been seized and the reason for its seizure, and 40
 - (b) specify which registration condition or funding condition the authorised person believes has been breached.
- (8) An authorised person exercising powers under a search warrant must –
- (a) make a record of items seized from premises in the exercise of the powers, and 45

- (b) if a person who appears to the authorised person to be an affected person in relation to the premises asks for a copy of that record, provide a copy of that record to that person within a reasonable time.
- (9) An item which is seized in the exercise of powers under a search warrant may be retained as long as is necessary in all the circumstances, including for use as evidence on a prosecution for an offence. 5
- (10) An item may not be retained for use as evidence on a prosecution for an offence if a photograph or a copy would be sufficient for that purpose.
- (11) Nothing in this paragraph confers power to search a person.
- Offence* 10
- 7 (1) A person commits an offence if, without reasonable excuse, the person –
- (a) intentionally obstructs the exercise of a power conferred by a search warrant, or
- (b) fails to comply with a requirement reasonably imposed in the exercise of a power conferred by a search warrant. 15
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- Self-incrimination*
- 8 (1) An explanation or information provided by a person in response to a requirement under paragraph 6(1)(b) or (d) or (2)(b) may be used in evidence against the person, subject to sub-paragraphs (2) to (4). 20
- (2) In criminal proceedings against the person –
- (a) no evidence relating to the explanation or information may be adduced by or on behalf of the prosecution, and
- (b) no question relating to it may be asked by or on behalf of the prosecution. 25
- (3) Sub-paragraph (2) does not apply if the proceedings are for –
- (a) an offence under paragraph 7 of this Schedule, or
- (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath). 30
- (4) Sub-paragraph (2) does not apply if, in the proceedings –
- (a) evidence relating to the explanation or information is adduced by or on behalf of the person who provided it, or
- (b) a question relating to it is asked by or on behalf of that person.
- Interpretation* 35
- 9 (1) In this Schedule –
- “authorised person” has the meaning given in paragraph 2;
- “document” means anything in which information of any description is recorded;
- “item” includes – 40
- (a) a document;
- (b) a computer or electronic storage device;

- “linked institution”, in relation to a supported higher education provider, has the meaning given in section 56(3);
- “relevant supported higher education provider” means –
- (a) in the case of premises occupied by a supported higher education provider, that provider, and 5
 - (b) in the case of premises occupied by a linked institution in relation to a supported higher education provider, that provider;
- “supported higher education provider” has the meaning given in section 56(2). 10
- (2) For the purposes of this Schedule, references to items found on premises include –
- (a) documents stored on computers or electronic storage devices on the premises, and
 - (b) documents stored elsewhere which can be accessed by computers on the premises. 15

SCHEDULE 6

Section 60

ENGLISH HIGHER EDUCATION INFORMATION: DESIGNATED BODY

PART 1

DESIGNATION 20

Recommendation

- 1 (1) The OfS may recommend to the Secretary of State that a body is designated for the purposes of section 59.
- (2) The OfS may recommend a body only if it considers that the body is suitable to be designated under this Schedule. 25

Consultation prior to recommendation

- 2 (1) Before recommending the designation of a body under this Schedule, the OfS must consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to be designated under this Schedule.
- (2) The Secretary of State may direct the OfS to consult in accordance with sub-paragraph (3) about whether there is a body that is suitable to be designated under this Schedule. 30
- (3) The OfS consults in accordance with this sub-paragraph if it consults –
- (a) a number of registered higher education providers that, taken together, appear to the OfS to comprise a broad range of the different types of such providers, 35
 - (b) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers, 40

- (c) a number of persons that, taken together, appear to the OfS to represent, or promote the interests of, a broad range of employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.
- (4) If the OfS consults in accordance with this paragraph, it must – 5
- (a) decide whether to recommend the designation of a body under this Schedule, and
 - (b) notify the Secretary of State of its decision.
- (5) The OfS must publish its decision under sub-paragraph (4).

Designation 10

- 3 (1) This paragraph applies where, in accordance with paragraphs 1 and 2, the OfS recommends the designation of a body (“the recommended body”) under this Schedule.
- (2) The Secretary of State may designate the recommended body only if the Secretary of State considers that the body is suitable to be designated under this Schedule. 15
- (3) If the Secretary of State decides to designate the recommended body, the Secretary of State must –
- (a) notify the body of the designation before the date on which the designation takes effect (“the effective date”), and 20
 - (b) publish notice of the designation before that date.
- (4) The notice of the designation must state –
- (a) the name of the body, and
 - (b) the effective date.
- (5) If the Secretary of State decides not to designate the recommended body, the Secretary of State must publish the reasons for not doing so. 25

Bodies suitable to be designated under this Schedule

- 4 (1) A body is suitable to be designated under this Schedule if the body satisfies conditions A to D.
- (2) Condition A is that the body is capable of performing the duty of the relevant body under section 59(1) in an effective manner. 30
- (3) Condition B is that –
- (a) the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers,
 - (b) the body commands the confidence of registered higher education providers, and 35
 - (c) the body exercises its functions independent of any particular higher education provider.
- (4) Condition C is that the body consents to being designated under this Schedule. 40
- (5) Condition D is that the body is a body corporate and is not –
- (a) a servant or agent of the Crown, or

- (b) a body to which the Secretary of State appoints members.

Removal of designation

- 5 (1) The Secretary of State may by notice remove a designation under this Schedule.
- (2) The notice must – 5
- (a) include reasons for the Secretary of State’s decision, and
- (b) specify the date on which the designation is removed.
- (3) The Secretary of State may only remove the designation if – 10
- (a) the Secretary of State is satisfied that removing the designation would be appropriate, or
- (b) the designated body consents to the removal of the designation.
- (4) Before removing the designation the Secretary of State must consult –
- (a) the OfS,
- (b) a number of registered higher education providers that, taken together, appear to the Secretary of State to comprise a broad range of the different types of such providers, 15
- (c) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of students on higher education courses provided in England by registered higher education providers, 20
- (d) a number of persons that, taken together, appear to the Secretary of State to represent, or promote the interests of, a broad range of employees of graduates, and
- (e) such other persons as the Secretary of State considers appropriate.
- (5) In determining whether a designation under this Schedule should be removed, the Secretary of State must have regard to any relevant information that the OfS has provided to the Secretary of State. 25
- (6) The Secretary of State must publish a notice under this paragraph.

PART 2

OVERSIGHT BY THE OFS 30

Application

- 6 This Part applies if there is a body designated under this Schedule.

Oversight arrangements

- 7 The OfS must make arrangements for holding the designated body to account for the performance of its duty under section 59(1). 35

Annual report by the designated body

- 8 (1) As soon as possible after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance of its duty under section 59(1) during the period.
- (2) “Annual reporting period”, in relation to a designated body, means – 40

- (a) the period of 12 months beginning with the effective date, and
- (b) each successive period of 12 months.

Triennial report by the OfS

- 9 (1) As soon as possible after the end of each triennial reporting period, the OfS must prepare and send to the Secretary of State a triennial report about – 5
- (a) how the designated body has performed its duty under section 59(1) during the period,
 - (b) whether the designated body should continue to be designated under Part 1 of this Schedule,
 - (c) the appropriateness of any fees charged by the designated body under section 61, and 10
 - (d) any other matters that the OfS considers relevant.
- (2) In preparing a triennial report, the OfS must have regard to any views provided to the OfS by a person listed in sub-paragraph (3) about – 15
- (a) the matters listed in sub-paragraph (1)(a) to (c), and
 - (b) what other matters, if any, should be dealt with in the report.
- (3) Those persons are –
- (a) registered higher education providers,
 - (b) persons representing, or promoting the interests of, students on higher education courses provided in England by registered higher education providers, 20
 - (c) persons representing, or promoting the interests of, employers of graduates, and
 - (d) such other persons as the OfS considers appropriate.
- (4) “Triennial reporting period”, in relation to a designated body, means – 25
- (a) the period of 3 years beginning with the effective date, and
 - (b) each successive period of 3 years.

Duty of the OfS to inform the Secretary of State about significant concerns

- 10 The OfS must inform the Secretary of State if it has significant concerns about – 30
- (a) how the designated body is performing its duty under section 59(1), or
 - (b) the continued suitability of the designated body to be designated under this Schedule.

PART 3 35

INTERPRETATION

- 11 (1) In this Schedule –
- “designated body” means a body for the time being designated under this Schedule;
 - “the effective date”, in relation to a designated body, has the meaning given in paragraph 3; 40
 - “graduate” has the same meaning as in section 59.

- (2) References in this Schedule to a body that is suitable to be designated under this Schedule are to be read in accordance with paragraph 4.

SCHEDULE 7

Section 66

COSTS RECOVERY: PROCEDURE, APPEALS AND RECOVERY

<i>Introduction</i>	5
1 This Schedule applies in relation to the imposition by the OfS of a requirement to pay costs on the governing body of a provider under section 66.	
<i>Procedure</i>	
2 (1) The notice which the OfS gives the governing body under section 66(1) must specify – (a) the amount required to be paid, and (b) the period within which payment is required to be made (which must not be less than 28 days).	10
(2) The notice must also contain information as to – (a) how payment may be made, (b) rights of appeal, (c) the period within which an appeal may be made, and (d) the consequences of non-payment.	15
(3) The governing body may require the OfS to provide a detailed breakdown of the amount specified in the notice.	20
(4) The requirement to pay the costs is suspended at any time when an appeal could be brought in respect of the requirement to pay the costs or such an appeal is pending.	
(5) But that does not prevent the requirement to pay the costs taking effect if the governing body notifies the OfS that it does not intend to appeal.	25
<i>Appeals</i>	
3 (1) The governing body of a provider may appeal to the First-tier Tribunal against – (a) a decision under section 66 to require it to pay costs; (b) a decision as to the amount of those costs.	30
(2) An appeal under this paragraph may be made on the grounds – (a) that the decision was based on an error of fact; (b) that the decision was wrong in law; (c) that the decision was unreasonable.	35
(3) On an appeal under this paragraph the Tribunal may – (a) withdraw the requirement to pay the costs; (b) confirm that requirement; (c) vary that requirement;	

- (d) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to the OfS.

Interest and recovery

- 4 (1) This paragraph applies if all or part of an amount of costs that a governing body is required to pay under section 66 is unpaid by the time when it is required to be paid. 5
- (2) The unpaid amount of the costs for the time being –
 - (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
 - (b) does not also carry interest as a judgment debt under that section. 10
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the costs.
- (4) The OfS may recover from the governing body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.

Retention of sums received 15

- 5 (1) The OfS must pay the sums received by it by way of a requirement to pay costs under section 66 to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
- (2) The OfS must pay the sums received by it by way of interest under paragraph 4 to the Secretary of State. 20

SCHEDULE 8

Section 83

HIGHER EDUCATION CORPORATIONS IN ENGLAND

Education Reform Act 1988

- 1 The Education Reform Act 1988 is amended as follows.
- 2 In section 122 (orders incorporating higher education institutions maintained by local authorities) –
 - (a) in the heading, after “local authorities” insert “in Wales”, and
 - (b) in subsection (1), after “local authority” insert “in Wales”. 25
- 3 Before section 122A insert –
 - “**122ZA Orders for further education corporations in England to become higher education corporations** 30
 - (1) The Secretary of State may by order provide for a further education corporation in England to become a higher education corporation.
 - (2) The first members of the higher education corporation are to be appointed by the governing body of the further education corporation. 35
 - (3) On such date as may be specified in the order –

- (a) the corporation ceases to be a further education corporation and becomes a higher education corporation, and
- (b) any member of the further education corporation who is not re-appointed by the governing body as a member of the higher education corporation ceases to hold office.” 5
- 4 In section 122A (orders transferring further education corporations to higher education sector) –
- (a) in the heading, after “further education corporations” insert “in Wales”, and
- (b) in subsection (1), after “further education corporation” insert “in Wales”. 10
- 5 In section 123 (provisions supplementary to sections 121 and 122) –
- (a) in the heading, for “and 122” substitute “to 122A”,
- (b) in subsection (1), after “by virtue of section” insert “122ZA or”, and
- (c) in subsections (3) and (4), after “higher education corporation” insert “in Wales”. 15
- 6 Before section 124 insert –
- “123A Principal powers of a higher education corporation in England**
- (1) A higher education corporation in England has power –
- (a) to provide higher education; 20
- (b) to provide further education;
- (c) to provide secondary education suitable to the requirements of persons who have attained the age of 14 years;
- (d) to provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education); 25
- (e) to participate in the provision of secondary education at a school; and
- (f) to carry out research and to publish the results of the research or any other material arising out of or connected with it in such manner as the corporation think fit. 30
- (2) A higher education corporation in England may not provide education of a kind specified in subsection (1)(c) or (d) unless they have consulted such local authorities as they consider appropriate.
- 123B Supplementary powers of a higher education corporation in England** 35
- (1) A higher education corporation in England has power to do anything which appears to the corporation to be necessary or expedient for the purpose of, or in connection with, the exercise of any of their principal powers.
- (2) The corporation’s “principal powers” are the powers conferred by section 123A(1).” 40
- 7 In section 124 (powers of a higher education corporation) –
- (a) in the heading, after “higher education corporation” insert “in Wales”, and
- (b) in subsections (1), (1A) and (2), after “higher education corporation” insert “in Wales”. 45

8 Before section 124A insert –

“124ZA Instrument of government of higher education corporations in England

- (1) For each higher education corporation in England there is to be an instrument providing for the constitution of the corporation (to be known as the instrument of government). 5
- (2) A higher education corporation in England may vary, replace or revoke the instrument of government.
- (3) The corporation must not make changes to the instrument of government that (but for section 125A) would result in the corporation ceasing to be a charity. 10

124ZB Proceedings etc. of higher education corporations in England

- (1) The validity of any proceedings of a higher education corporation in England, or of a committee of such a corporation, is not affected by – 15
- (a) a vacancy among the members, or
- (b) a defect in the appointment or nomination of a member.
- (2) The application of the seal of a higher education corporation in England must be authenticated by the signature of –
- (a) the chair of the corporation or some other person authorised for that purpose by the corporation, and 20
- (b) any other member of the corporation.
- (3) A document purporting to be duly executed under the seal of a higher education corporation in England or signed on the corporation’s behalf – 25
- (a) is to be received in evidence, and
- (b) is to be taken to be executed or signed in that way, unless the contrary is shown.
- (4) The members for the time being of a higher education corporation in England are to be known as the board of governors of the institution conducted by the corporation.” 30

9 In section 124A (constitution and conduct of higher education corporations) –

- (a) in the heading, for “corporations” substitute “higher education corporations in Wales”, and
- (b) in subsections (1), (2), (3)(a) (in each place), (4), (6), (7) and (8), after “higher education corporation” insert “in Wales”. 35

10 In section 124B(2)(b) (accounts), at the beginning insert “in the case of a higher education corporation in Wales,”.

11 In section 124C (initial and transitional arrangements) –

- (a) in the heading, at the end insert “: Wales”, 40
- (b) in subsection (1), after “a corporation” insert “in Wales”, and
- (c) in subsection (3), after “higher education corporation” insert “in Wales”.

12 Before section 125 insert –

“124E Articles of government: higher education corporations in England

- (1) An institution conducted by a higher education corporation in England is to be conducted in accordance with articles of government made by the corporation. 5
- (2) The articles of government may make provision with respect to the powers of the corporation under section 123B.
- (3) A higher education corporation in England may vary, replace or revoke the articles of government.
- (4) The corporation must not make changes to the articles of government that (but for section 125A) would result in the corporation ceasing to be a charity.” 10

13 In section 125 (articles of government) –

- (a) in the heading, at the end insert “: higher education corporations in Wales”, 15
- (b) in subsection (1), after “higher education corporation” insert “in Wales”, and
- (c) in subsection (6) –
- (i) after “higher education corporations” insert “in Wales”, and
- (ii) after “higher education corporation” insert “in Wales”. 20

14 In section 125A (charitable status of a higher education corporation) –

- (a) for “an English higher education corporation” substitute “a higher education corporation in England”, and
- (b) for “Welsh higher education corporation” substitute “higher education corporation in Wales”. 25

15 In section 127(1) (transfer of staff to higher education corporations), after “higher education corporation” insert “established under section 121 or 122”.

16 Before section 128 insert –

“127A Dissolution of higher education corporations in England

- (1) If requested to do so by notice given by a higher education corporation in England, the Secretary of State may make an order providing for – 30
- (a) the dissolution of the corporation, and
- (b) the transfer of property, rights and liabilities of the corporation to – 35
- (i) a person appearing to the Secretary of State to be wholly or mainly engaged in the provision of educational facilities or services of any description;
- (ii) a body corporate established for purposes which include the provision of such facilities or services; 40
- (iii) the Office for Students.
- (2) An order under this section must not provide for transferring the property, rights or liabilities of a higher education corporation in England to a person or body without the consent of the person or body. 45

- (3) Subsection (4) applies where the recipient of a transfer under an order under this section is not a charity established for charitable purposes which are exclusively educational purposes.
 - (4) Any property transferred must be transferred on trust to be used for charitable purposes which are exclusively educational purposes. 5
 - (5) Before making an order under this section the Secretary of State must consult the Office for Students.
 - (6) In this section “charitable purposes” has the meaning given by section 11 of the Charities Act 2011.
 - (7) An order under this section may apply section 127 with such modifications as the Secretary of State may consider necessary or desirable.” 10
- 17 In section 128 (dissolution of higher education corporations) –
- (a) in the heading, after “higher education corporations” insert “in Wales”, and 15
 - (b) in subsections (1)(a), (2) and (4), after “higher education corporation” insert “in Wales”.
- 18 In section 129(5)(e) (designation of institutions), before “128” insert “127A or”.
- 19 In section 157(2)(a) (variation of trust deeds etc: institutions conducted by higher education corporations), after “higher education corporation” insert “in Wales”. 20
- 20 In section 161(1) (interpretation of Part 2) –
- (a) after paragraph (b) insert –
 - “(ba) “further education corporation in England” means a further education corporation established to conduct an institution whose activities are carried on, or principally carried on, in England; 25
 - (bb) “further education corporation in Wales” means a further education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales;”, and 30
 - (b) after paragraph (d) insert –
 - “(e) “higher education corporation in England” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in England; 35
 - (f) “higher education corporation in Wales” means a higher education corporation established to conduct an institution whose activities are carried on, or principally carried on, in Wales.” 40
- 21 In Schedule 7 (the higher education corporations) –
- (a) for the heading substitute “Higher education corporations in Wales established before the appointed day”, and
 - (b) in paragraph 1(1), (2) and (3)(a), after “higher education corporation” insert “in Wales”. 45

- 22 In Schedule 7A (instruments of government made by Privy Council), for the heading substitute “Higher education corporations in Wales established on or after the appointed day: instruments of government made by Privy Council”.

Further and Higher Education Act 1992 5

- 23 The Further and Higher Education Act 1992 is amended as follows.
- 24 In section 90(1) (interpretation of Act), in the definition of “higher education corporation”, after “by virtue of section” insert “122ZA or”.
- 25 In section 91 (interpretation of Education Acts), in subsection (6)(b), for “by virtue of section 122A” substitute “by virtue of section 122ZA or 122A”. 10

SCHEDULE 9

Section 84

UNITED KINGDOM RESEARCH AND INNOVATION

Status

- 1 (1) UKRI is not to be regarded – 15
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) UKRI’s property is not to be regarded –
- (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Membership of UKRI 20

- 2 (1) UKRI is to consist of the following members appointed by the Secretary of State –
- (a) a chair (“the chair”),
 - (b) the Chief Executive Officer (“the CEO”),
 - (c) the Chief Finance Officer (“the CFO”), and 25
 - (d) at least nine and not more than twelve other members.
- (2) In this Schedule, references to the “members of UKRI” are to the members mentioned in sub-paragraph (1).
- (3) The chair may not also be the CEO or the CFO.
- (4) Before appointing the members mentioned in sub-paragraph (1)(b) to (d), the Secretary of State must consult the chair. 30
- (5) The Secretary of State must, in appointing the members of UKRI, have regard to the desirability of the members (between them) having experience of –
- (a) research into science, technology, humanities and new ideas, 35
 - (b) the development and exploitation of science, technology, new ideas and advancements in humanities, and
 - (c) industrial, commercial and financial matters and the practice of any profession.

Membership of the Councils

- 3 (1) Each Council is to consist of—
- (a) an executive chair appointed by the Secretary of State (the “executive chair”), and
 - (b) at least five and not more than nine other members (the “ordinary Council members”).
- (2) In this Schedule, a reference to the “Council members” is to the executive chair and the ordinary Council members of each Council.
- (3) The Secretary of State may appoint one of the ordinary Council members of each Council.
- (4) The other ordinary Council members are to be appointed by UKRI after consulting the executive chair.
- (5) A majority of the ordinary Council members of a Council must be persons who are neither members, nor employees, of UKRI.

Terms of appointment and tenure

- 4 A person holds and vacates office as a member of UKRI or as a Council member in accordance with the terms of his or her appointment.
- 5 (1) This paragraph applies to a person (a “Ministerial appointee”) appointed as—
- (a) a member of UKRI,
 - (b) an executive chair, or
 - (c) an ordinary Council member where the appointment was made by the Secretary of State.
- (2) The terms and conditions of a Ministerial appointee’s appointment are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.
- (3) A Ministerial appointee may resign from office as a member of UKRI, executive chair or an ordinary Council member by notifying the Secretary of State.
- (4) The Secretary of State may remove a Ministerial appointee from office on any of the following grounds—
- (a) absence from UKRI’s or the Council’s meetings, as the case may be, for a continuous period of more than six months without UKRI’s or the Council’s permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as the Secretary of State considers appropriate.
- 6 (1) This paragraph applies to a person (an “UKRI appointee”) appointed as an ordinary Council member where the appointment was made by UKRI.
- (2) The terms and conditions of an UKRI appointee’s appointment are to be determined by UKRI; but that is subject to the following provisions of this Schedule.
- (3) An UKRI appointee may resign from office as an ordinary Council member by notifying UKRI.

- (4) UKRI may remove an UKRI appointee from office on any of the following grounds –
- (a) absence from the Council’s meetings for a continuous period of more than six months without the Council’s permission,
 - (b) inability or unfitness to carry out the functions of the office, or 5
 - (c) such other grounds as UKRI considers appropriate.

Remuneration etc

- 7 (1) UKRI must pay to members of UKRI and Council members such remuneration as the Secretary of State may determine.
- (2) UKRI must pay, or make provision for paying, to or in respect of a person who is or has been a member of UKRI or a Council member, such sums as the Secretary of State may determine in respect of pension, allowances, expenses or gratuities. 10
- (3) If, where a person ceases to be a member of UKRI or a Council member, the Secretary of State determines that he or she should be compensated because of special circumstances, UKRI must pay him or her compensation of such amount as the Secretary of State may determine. 15

Staffing of UKRI

- 8 (1) UKRI may –
- (a) appoint employees, and 20
 - (b) make such other arrangements for the staffing of UKRI as it considers appropriate.
- (2) The terms and conditions of appointment as employees are to be determined by UKRI with the approval of the Secretary of State.
- (3) UKRI must pay its employees such remuneration as UKRI may determine with the approval of the Secretary of State. 25
- (4) UKRI must pay, or make provision for paying, to or in respect of a person who is an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (5) UKRI may pay, or make provision for paying – 30
- (a) to or in respect of a person who is or has been an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of pensions or gratuities, and
 - (b) to or in respect of a person who has been an employee of UKRI, such sums as UKRI may determine with the approval of the Secretary of State in respect of allowances or expenses. 35
- (6) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert – 40
“United Kingdom Research and Innovation.”
- (7) UKRI must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (6) in the sums payable out of money provided by Parliament under the 1972 Act.

Committees and sub-committees

- 9 (1) UKRI may establish committees (in addition to the Councils).
- (2) A committee established under sub-paragraph (1) may establish sub-committees.
- (3) A committee or sub-committee established under sub-paragraph (1) or (2) is referred to in this Schedule as a “general committee”. 5
- (4) A Council may establish sub-committees and a sub-committee so established is referred to in this Schedule as a “Council sub-committee”.
- (5) A general committee and a Council sub-committee may include persons who are not members of UKRI, Council members or employees of UKRI. 10
- (6) UKRI must pay such allowances as the Secretary of State may determine to any person who—
- (a) is a member of a general committee or a Council sub-committee, but
- (b) is not a member of UKRI, a Council member or an employee of UKRI.
- (7) UKRI must keep under review— 15
- (a) the structure of the general committees, and
- (b) the scope of each such committee’s activities.
- (8) Each Council must keep under review—
- (a) the structure of its Council sub-committees, and
- (b) the scope of each such sub-committee’s activities. 20

Procedure

- 10 (1) UKRI may determine—
- (a) its own procedure, and
- (b) the procedure of any general committee;
- but that is subject to the rest of this paragraph. 25
- (2) A Council may determine—
- (a) its own procedure, and
- (b) the procedure of any Council sub-committee it establishes;
- but that is subject to the rest of this paragraph.
- (3) The quorum for a meeting of UKRI or a Council is half the number of its members. 30
- (4) The Secretary of State, or a representative of the Secretary of State, is entitled—
- (a) to attend any meeting of UKRI or of any Council, Council sub-committee or general committee, and 35
- (b) to take part in any deliberations (but not in decisions) at such meetings.
- (5) UKRI must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any general committee as the Secretary of State or the representative may require it to provide. 40

(6) A Council must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any Council sub-committee as the Secretary of State or the representative may require it to provide.

11 The validity of any proceedings of UKRI, or of any Council, Council sub-committee or general committee, is not affected by a vacancy or a defective appointment. 5

Delegation of functions by UKRI

12 (1) UKRI may delegate any of its functions to— 10

- (a) a member of UKRI,
- (b) an employee authorised for that purpose,
- (c) a Council or a Council sub-committee, or
- (d) a general committee.

(2) A function is delegated under this paragraph to the extent, and on the terms that, UKRI determines. 15

Accounts and audit

13 (1) UKRI must—

- (a) keep proper accounts and proper records in relation to them, and
- (b) prepare a statement of accounts in respect of each financial year.

(2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to— 20

- (a) its content and form;
- (b) the methods and principles to be applied in preparing it;
- (c) the additional information (if any) which is to be provided for the information of Parliament. 25

(3) UKRI must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.

(4) The Comptroller and Auditor General must— 30

- (a) examine, certify and report on each statement of accounts, and
- (b) send a copy of each report and certified statement to the Secretary of State.

(5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.

(6) In this Schedule “financial year” means— 35

- (a) the period beginning with the date on which UKRI is established and ending with the second 31 March following that date, and
- (b) each successive period of 12 months.

Annual report

14 (1) UKRI must prepare a report on the exercise of its functions during each financial year. 40

(2) The report must include the statement of accounts in respect of that year.

- (3) The report relating to a financial year must be prepared as soon as possible after the end of the financial year.
- (4) UKRI must send the report to the Secretary of State.
- (5) The Secretary of State must lay the report before Parliament.

Seal and evidence

5

- 15 (1) The application of UKRI’s seal must be authenticated by the signature of –
 - (a) a member of UKRI, or
 - (b) another person authorised for that purpose by UKRI.
- (2) A document purporting to be duly executed under UKRI’s seal or signed on its behalf – 10
 - (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.
- (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland. 15

Supplementary powers

- 16 (1) UKRI may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) In particular, UKRI may – 20
 - (a) acquire and dispose of land and other property,
 - (b) enter into contracts, and
 - (c) accept gifts of money, land or other property.
- (3) UKRI may not do any of the following except with the consent of the Secretary of State – 25
 - (a) borrow money;
 - (b) enter into joint ventures;
 - (c) form, participate in forming or invest in a company, partnership or other similar form of organisation;
 - (d) invest sums.

Public records

30

- 17 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert –
“United Kingdom Research and Innovation.”

Investigation by the Parliamentary Commissioner

- 18 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert –
“United Kingdom Research and Innovation.” 35

House of Commons disqualification

- 19 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975

(bodies of which all members are disqualified), at the appropriate place insert –

“United Kingdom Research and Innovation (“UKRI”), any Council or other committee of UKRI and any sub-committee of such a Council or committee (see section 85 of, and paragraph 9 of Schedule 9 to, the Higher Education and Research Act 2016).” 5

Northern Ireland Assembly disqualification

20 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert – 10

“United Kingdom Research and Innovation (“UKRI”), any Council or other committee of UKRI and any sub-committee of such a Council or committee (see section 85 of, and paragraph 9 of Schedule 9 to, the Higher Education and Research Act 2016).” 15

Freedom of information

21 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place insert – “United Kingdom Research and Innovation.” 20

Public sector equality duty

22 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Industry, business, finance etc”, at the end insert – “United Kingdom Research and Innovation.” 25

SCHEDULE 10

Section 108

TRANSFER SCHEMES

Transfer schemes

- 1 (1) The Secretary of State may make one or more property transfer schemes or staff transfer schemes in connection with – 30
- (a) the establishment of the OfS or UKRI by this Act, or
 - (b) any of the following ceasing to exist by virtue of this Act –
 - (i) the Higher Education Funding Council for England,
 - (ii) the office of Director of Fair Access to Higher Education, or
 - (iii) a research council listed in section 102(1). 35
- (2) In this Schedule, a “permitted transferor” means the Secretary of State or a body or office listed in sub-paragraph (1)(b).
- (3) A “property transfer scheme” is a scheme for the transfer from a permitted transferor of any property, rights or liabilities, other than rights or liabilities

under or in connection with a contract of employment, to a permitted transferee.

- (4) A “staff transfer scheme” is a scheme for the transfer from a permitted transferor of any rights or liabilities under or in connection with a contract of employment to a permitted transferee. 5
- (5) In this Schedule, a “permitted transferee” means –
- (a) the OfS,
 - (b) UKRI,
 - (c) the Secretary of State, or
 - (d) such other person as may be specified by the Secretary of State in the scheme. 10

Supplementary

- 2 (1) The things that may be transferred under a property transfer scheme or a staff transfer scheme include –
- (a) property, rights and liabilities that could not otherwise be transferred; 15
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (2) A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular – 20
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the permitted transferor in respect of anything transferred; 25
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, or on behalf of, or in relation to, the permitted transferor in respect of anything transferred; 30
 - (d) make provision for references to the permitted transferor in an instrument or other document in respect of anything transferred to be treated as references to the permitted transferee.
- (3) A property transfer scheme may make provision for the shared ownership or use of property. 35
- (4) A staff transfer scheme may make provision which is the same as or similar to the TUPE regulations.
- (5) A property transfer scheme or a staff transfer scheme may provide –
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect. 40

Interpretation

- 3 (1) For the purposes of this Schedule –

- (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- (2) In this Schedule – 5
- (a) “civil service” means civil service of the State;
 - (b) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);
 - (c) references to the transfer of property include references to the grant of a lease. 10

SCHEDULE 11

Section 115

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

Public Records Act 1958

- 1 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), omit the references to – 15
- (a) the Director of Fair Access to Higher Education, and
 - (b) the Higher Education Funding Council for England.

Parliamentary Commissioner Act 1967

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), omit the references to – 20
- (a) the Director of Fair Access to Higher Education, and
 - (b) the Higher Education Funding Council for England.

Superannuation Act 1972

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), omit – 25
- (a) “Employment by the Director of Fair Access to Higher Education.” and
 - (b) “Higher Education Funding Council for England in receipt of remuneration.”

House of Commons Disqualification Act 1975 30

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), omit the references to –
- (a) the Director of Fair Access to Higher Education, and
 - (b) any member of the Higher Education Funding Council for England in receipt of remuneration. 35

Education Reform Act 1988

- 5 The Education Reform Act 1988 is amended as follows.

- 6 In section 124B(2)(b) (accounts), for “the higher education funding council” substitute “the Higher Education Funding Council for Wales”.
- 7 (1) Section 128 (dissolution of higher education corporations) is amended as follows.
- (2) In subsection (1)(b)(iii), for “a higher education funding council” substitute “the Higher Education Funding Council for Wales”. 5
- (3) In subsection (4)(b), for “the higher education funding council” substitute “the Higher Education Funding Council for Wales”.
- 8 In section 129(1) (designation of institutions) for “a higher education funding council” substitute “the Higher Education Funding Council for Wales”. 10
- 9 (1) Section 133 (payments in respect of persons employed in the provision of higher or further education) is amended as follows.
- (2) In the heading, omit “by Polytechnics and Colleges Funding Council”.
- (3) In subsection (1) – 15
- (a) for “A higher education funding council shall” substitute “The Office for Students and the Higher Education Funding Council for Wales each”;
- (b) for “the council” substitute “they”.
- 10 In Schedule 7 (higher education corporations), in paragraph 18(2)(b), for “higher education funding council” substitute “Higher Education Funding Council for Wales”. 20

Further and Higher Education Act 1992

- 11 The Further and Higher Education Act 1992 is amended as follows.
- 12 In section 61 (interpretation of Part 1), omit subsection (3)(b). 25
- 13 (1) Section 62 (establishment of the Higher Education Funding Councils) is amended as follows.
- (2) In the heading, for “The Higher Education Funding Councils” substitute “The Higher Education Funding Council for Wales”.
- (3) In subsection (1) – 30
- (a) omit paragraph (a), and
- (b) in paragraph (b), after “them” insert “(referred to in this Act as “the HEFCW”)
- (4) Omit subsection (2).
- (5) In subsection (4), for “a council” substitute “the HEFCW”. 35
- (6) Omit subsections (5) and (6).
- (7) In subsection (7) –
- (a) omit “institutions in England or”,
- (b) in paragraph (a), omit “England or, as the case may be,” and
- (c) in paragraph (b), omit “, in both cases,”. 40
- (8) In subsection (7A), for “each council” substitute “the HEFCW”.

- (9) In subsection (8), for “one of the councils” substitute “the HEFCW or the Office for Students”.
- (10) In subsection (9), for “each of the councils” substitute “the HEFCW”.
- 14 (1) Section 65 (administration of funds by councils) is amended as follows.
- (2) In the heading, for “councils” substitute “the HEFCW”. 5
- (3) In subsection (1) –
- (a) for “Each council” substitute “The HEFCW”, and
- (b) for “the council” substitute “the HEFCW”.
- (4) In subsection (2)(a), for “the council’s” substitute “the HEFCW’s”.
- (5) In subsection (3) – 10
- (a) for “A council” substitute “The HEFCW”, and
- (b) for “the council” substitute “the HEFCW”.
- (6) In subsection (3A) –
- (a) for “a Council” substitute “the HEFCW”, and
- (b) for “the Council” substitute “the HEFCW”. 15
- (7) In subsection (3B), for “the Council in question” substitute “the HEFCW”.
- (8) In subsection (4) –
- (a) for “a council” substitute “the HEFCW”, and
- (b) for “the council”, in each place, substitute “the HEFCW”.
- 15 (1) Section 66 (administration of funds: supplementary) is amended as follows. 20
- (2) In subsection (1) –
- (a) for “a council” substitute “the HEFCW”, and
- (b) for “the council”, in each place, substitute “the HEFCW”.
- (3) In subsections (2) and (3), for “a council” substitute “the HEFCW”.
- (4) In subsection (4), for “the council” substitute “the HEFCW”. 25
- 16 (1) Section 68 (grants to councils) is amended as follows.
- (2) In the heading, for “councils” substitute “the HEFCW”.
- (3) In subsection (1), for “each of the councils” substitute “the HEFCW”.
- (4) In subsection (2) –
- (a) for “either of the councils” substitute “the HEFCW”, and 30
- (b) for “the council”, in each place, substitute “the HEFCW”.
- 17 (1) Section 69 (supplementary functions) is amended as follows.
- (2) In subsection (1), for “Each council” substitute “The HEFCW”.
- (3) Omit subsections (1A) and (1B).
- (4) In subsection (2), for “Each council” substitute “The HEFCW”. 35
- (5) In subsection (3), for “A council” substitute “The HEFCW”.
- (6) In subsection (4) –

- (a) in paragraph (a), for “an institution” substitute “an institution in Wales”, and
(b) for “the council” substitute “the HEFCW”.
- (7) In subsections (5) and (6), for “a council” substitute “the HEFCW”.
- 18 Omit section 70 (England: assessment of quality of education provided by institutions). 5
- 19 (1) Section 79 (duty to give information to funding councils) is amended as follows.
- (2) In the heading, for “the funding councils” substitute “the HEFCW”.
- (3) For “a council” substitute “the HEFCW”. 10
- 20 Omit section 79A (Higher Education Funding Council for England’s power to request information from institutions that are exempt charities).
- 21 (1) Section 81 (directions) is amended as follows.
- (2) In subsection (1), for “each council” substitute “the HEFCW”.
- (3) In subsection (2), for “a council” substitute “the HEFCW”. 15
- (4) In subsection (3), for “the council”, in each place, substitute “the HEFCW”.
- 22 (1) Section 82 (joint exercise of functions) is amended as follows.
- (2) Omit subsections (1) to (1B).
- (3) In subsection (2), for “Great Britain” substitute “Wales and Scotland”.
- (4) In subsection (2A), after “Scottish” insert “Further and”. 20
- (5) In subsection (3)(a) –
- (a) for “a higher education funding council” substitute “the HEFCW”,
(b) for “the National Assembly of Wales” substitute “the Welsh Ministers”,
(c) or “it is discharging its” substitute “they are discharging their”, and 25
(d) after “Scottish” insert “Further and”.
- 23 In section 83 (efficiency studies), in subsection (1B), for “A higher education funding council” substitute “The HEFCW”.
- 24 In section 91(4) (interpretation of Education Acts), for the words from “a council established under section 62” to the end substitute “the Higher Education Funding Council for Wales.” 30
- 25 (1) Section 92 (index) is amended as follows.
- (2) Omit the entry for “council (in Part 2), or higher education funding council”.
- (3) After the entry for “governing body” insert –
- “the HEFCW | section 62(1)” 35

- (4) For “institution in England or in Wales (in relation to higher education funding councils)” substitute “institution in Wales (in relation to the HEFCW)”.

Education Act 1994

- 26 (1) Section 18 of the Education Act 1994 (power to reimburse certain payments to persons formerly employed in teacher training) is amended as follows. 5
- (2) In subsection (1), for “A higher education funding council” substitute “The Office for Students or the Higher Education Funding Council for Wales”.
- (3) In subsection (4) –
- (a) for “a higher education funding council” substitute “the Office for Students or (as the case may be) the Higher Education Funding Council for Wales”, and 10
- (b) for “the council” substitute “they”.

Education Act 1996

- 27 In section 13 of the Education Act 1996 (local authorities’ general responsibility for education), for subsection (2)(b) substitute – 15
- “(b) the Higher Education Funding Council for Wales, or
- (c) the Office for Students.”

Freedom of Information Act 2000

- 28 (1) Schedule 1 to the Freedom of Information Act 2000 (public authorities to which Act applies) is amended as follows. 20
- (2) In Part 4 (educational institutions), in paragraph 53(1) –
- (a) after paragraph (a) insert –
- “(aa) a registered higher education provider of a description prescribed by regulations made by the Secretary of State for the purposes of section 37(1) of the Higher Education and Research Act 2016;”, 25
- (b) in paragraph (c), after “institution” insert “in Wales”, and
- (c) in paragraph (e), after “institution of” insert “a registered higher education provider which falls within paragraph (aa) or”. 30
- (3) In Part 4, in paragraph 53(2) –
- (a) after paragraph (a) insert –
- “(aa) “registered higher education provider” has the meaning given by section 3(10) of the Higher Education and Research Act 2016;”, and 35
- (b) in paragraph (c), after “paragraph (c),” insert “the reference to an institution in Wales is to be construed in accordance with section 62(7) of that Act, and”.
- (4) In Part 6 (other public bodies), omit the references to –
- (a) the Director of Fair Access to Higher Education, and 40
- (b) the Higher Education Funding Council for England.

Higher Education Act 2004

- 29 (1) The Higher Education Act 2004 is amended as follows.
- (2) Omit sections 22 to 41 and Schedule 5 (student fees and fair access).
- (3) In section 47 (orders and regulations) –
- (a) in subsection (3), omit paragraphs (a) and (c), and 5
 - (b) omit subsection (4).
- (4) In section 48 (general interpretation) omit the definition of “the 2005 Act”.
- (5) In Schedule 6 (consequential amendments) –
- (a) omit paragraph 1 (amendment to the Public Records Act 1958),
 - (b) in paragraph 4 (amendment to the House of Commons Disqualification Act 1975), omit ““Director of Fair Access to Higher Education.””, and 10
 - (c) in paragraph 10 (amendment to the Freedom of Information Act 2000), omit ““The Director of Fair Access to Higher Education.””

Education Act 2005 15

- 30 In Schedule 14 to the Education Act 2005, omit paragraphs 26 to 35 (which amend provisions of Part 3 of the Higher Education Act 2004 which are repealed by this Schedule).

Equality Act 2010

- 31 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to public sector equality duty), omit “The Higher Education Funding Council for England”. 20

Education Act 2011

- 32 In the Education Act 2011, omit the following (which amend provisions of Part 3 of the Higher Education Act 2004 which are repealed by this Schedule) – 25
- (a) section 77;
 - (b) paragraphs 18 to 29 of Schedule 5;
 - (c) paragraph 22 of Schedule 16.

Charities Act 2011 30

- 33 In Schedule 7 to the Charities Act 2011, omit paragraph 97 (which amends section 40 of the Higher Education Act 2004 which is repealed by this Schedule).

Counter-Terrorism and Security Act 2015

- 34 In section 32(5)(b) of the Counter-Terrorism and Security Act 2015 (monitoring of performance: further and higher education bodies) for “Higher Education Funding Council for England” substitute “Office for Students”. 35

SCHEDULE 12

Section 115

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 3

Geological Survey Act 1845

- 1 In section 1 of the Geological Survey Act 1845 (power of persons employed in geological survey to enter land) for “the Natural Environment Research Council”, in both places, substitute “United Kingdom Research and Innovation”. 5

Mining Industry Act 1926

- 2 In section 23 of the Mining Industry Act 1926 (facilities to be given when shafts or boreholes are sunk) – 10
- (a) in the heading, for “Department of Scientific and Industrial Research” substitute “United Kingdom Research and Innovation”,
 - (b) in subsection (1), for “the National Environment Research Council” substitute “United Kingdom Research and Innovation”, and
 - (c) in subsections (1) to (3) and (5), for “the Council”, in each place, substitute “UKRI”. 15

Public Records Act 1958

- 3 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), omit the following entries – 20
- “Arts and Humanities Research Council.”
 - “Economic and Social Research Council.”
 - “Engineering and Physical Sciences Research Council.”
 - “Medical Research Council.”
 - “Natural Environment Research Council.”
 - “Technology Strategy Board.” 25

Science and Technology Act 1965

- 4 (1) The Science and Technology Act 1965 is amended as follows.
- (2) In section 1 (the research councils) – 30
- (a) in subsection (1), omit paragraphs (a) and (b) (and the “and” after paragraph (b)),
 - (b) also in subsection (1), in paragraph (c) omit “other”, and
 - (c) omit subsections (2) and (3).
- (3) In section 2 (expenses and accounts of research councils) – 35
- (a) omit subsection (4), and
 - (b) in subsection (5) –
 - (i) for the words from “, in the case” to “expenses of the Council” substitute “the expenses of a Research Council”, and
 - (ii) omit “in section 1(2) or (3) above or”.
- (4) In section 3 (re-allocation of activities connected with scientific research) – 40
- (a) omit subsections (1) to (3), and

(b) in subsection (5), omit the words from “; and the provisions” to the end.

(5) Omit Schedule 3 (transitional provisions).

Parliamentary Commissioner Act 1967

- 5 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) omit the following entries – 5
- “Arts and Humanities Research Council.”
 - “Biotechnology and Biological Sciences Research Council.”
 - “Economic and Social Research Council.”
 - “Engineering and Physical Sciences Research Council.” 10
 - “Medical Research Council.”
 - “Natural Environment Research Council.”
 - “Science and Technology Facilities Council.”
 - “Technology Strategy Board.”

Agriculture Act 1967 15

- 6 In section 50(3) of the Agriculture Act 1967 (provisions on control of sale not to apply to transfers to and from persons listed) for paragraph (f) substitute –
- “(f) United Kingdom Research and Innovation.”.

Conservation of Seals Act 1970 20

- 7 (1) The Conservation of Seals Act 1970 is amended as follows.
- (2) In each of the following provisions, for “the Council” substitute “UKRI” –
- (a) section 3(1) (consultation before orders prohibiting killing seals),
 - (b) section 10(3)(a) (consultation before granting licence to kill etc),
 - (c) section 11(1) (consultation before entry onto land), and 25
 - (d) section 13 (duty to give advice on management of seal populations).
- (3) In section 15 (interpretation) –
- (a) omit the definition of “the Council”, and
 - (b) at the end insert – 30
- ““UKRI” means United Kingdom Research and Innovation.”

Chronically Sick and Disabled Persons Act 1970

- 8 In section 24 of the Chronically Sick and Disabled Persons Act 1970 (institute of hearing research) for “the Medical Research Council” substitute “United Kingdom Research and Innovation”. 35

Mineral Exploration and Investment Grants Act 1972

- 9 In section 1(3) of the Mineral Exploration and Investment Grants Act 1972 (conditions for making contributions in respect of mineral exploration) for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation”. 40

Supply Powers Act 1975

- 10 In section 7 of the Supply Powers Act 1975 (interpretation) in paragraph (a) of the definition of “articles required for the public service”, after “Civil Aviation Authority” insert “, United Kingdom Research and Innovation”.

House of Commons Disqualification Act 1975

5

- 11 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), omit the following entries –

“Chair or Chief Executive of the Science and Technology Facilities Council.”

“Chair, Deputy Chair or Chief Executive of the Technology Strategy Board.”

10

“Chairman, Deputy Chairman or Chief Executive of the Arts and Humanities Research Council.”

“Chairman, Deputy Chairman, or Chief Executive of the Biotechnology and Biological Sciences Research Council.”

15

“Chairman, Deputy Chairman or Chief Executive of the Economic and Social Research Council.”

“Chairman, Deputy Chairman or Chief Executive of the Engineering and Physical Sciences Research Council.”

“Chairman, Deputy Chairman or Chief Executive of the Medical Research Council.”

20

“Chairman, Deputy Chairman or Chief Executive of the Natural Environment Research Council.”

Northern Ireland Assembly Disqualification Act 1975

- 12 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) omit the following entry –

25

“The Advisory Board for the Research Councils.”

Patents Act 1977

- 13 In section 41(3) of the Patents Act 1977 (assignment of right in patent) –
- (a) after “Where the Crown” insert “, United Kingdom Research and Innovation”,
- (b) for “or, as the case may be, Research Council” substitute “, United Kingdom Research and Innovation or the Research Council (as the case may be)”, and
- (c) omit the words from “or the Arts” to the end.

30

35

Further Education Act 1985

- 14 In section 2(4)(a) of the Further Education Act 1985 (cases in which requirement that goods or services supplied at open market value disapplied) for the words from “the Arts” to “2004” substitute “United Kingdom Research and Innovation”.

40

Water Resources Act 1991

- 15 (1) The Water Resources Act 1991 is amended as follows.
- (2) In section 198 (information about underground water) –
- (a) in subsection (1), for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation (“UKRI”)”, 5
 - (b) in subsection (2)(a), for “the Natural Environment Research Council” substitute “UKRI”,
 - (c) in subsection (2)(b) and (c), for “that Council” substitute “UKRI”, and
 - (d) in subsection (4), for “the Natural Environment Research Council” substitute “UKRI”. 10
- (3) In section 205 (confidentiality of information about underground water) –
- (a) in subsection (1) –
 - (i) for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation (“UKRI”)”, and
 - (ii) for “that Council” substitute “UKRI”, and 15
 - (b) in subsections (2) and (4) –
 - (i) for “the Natural Environment Research Council” substitute “UKRI”, and
 - (ii) for “that Council” substitute “UKRI”. 20

Scotland Act 1998 20

- 16 (1) In Part 2 of Schedule 5 to the Scotland Act 1998 (specific reservations) section C12 is amended as follows.
- (2) In the heading, at the beginning insert “United Kingdom Research and Innovation and”.
- (3) After the heading insert the following entry – 25
“United Kingdom Research and Innovation.”
- (4) In the entry beginning “The subject-matter of section 5”, after “relating to” insert “United Kingdom Research and Innovation and”.
- (5) Omit the entry relating to the Arts and Humanities Research Council.
- (6) In the entry beginning “The subject-matter of section 10” – 30
 - (a) for “that Act” substitute “the Higher Education Act 2004”, and
 - (b) for “that Council” substitute “United Kingdom Research and Innovation”.

Northern Ireland Act 1998

- 17 In Schedule 3 to the Northern Ireland Act 1998 (reserved matters) for paragraph 35A substitute – 35
“35A United Kingdom Research and Innovation.”

Freedom of Information Act 2000

- 18 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public

authorities to which that Act applies), omit the following entries –	
“The Arts and Humanities Research Council.”	
“The Biotechnology and Biological Sciences Research Council.”	
“The Economic and Social Research Council.”	5
“The Engineering and Physical Sciences Research Council.”	
“The Medical Research Council.”	
“The Natural Environment Research Council.”	
“The Science and Technology Facilities Council.”	
“The Technology Strategy Board.”	10

Higher Education Act 2004

- 19 Omit sections 1 to 9 of the Higher Education Act 2004 (which establish and make provision in relation to the Arts and Humanities Research Council).

Natural Environment and Rural Communities Act 2006

- 20 In paragraph 9(a) of Schedule 5 to the Natural Environment and Rural Communities Act 2006 (application of enforcement provisions for the purposes of the Conservation of Seals Act 1970) for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation”.
- 15

Government of Wales Act 2006

20

- 21 The Government of Wales Act 2006 is amended as follows.
- 22 (1) Schedule 3A (functions exercisable concurrently or jointly with the Welsh Ministers) (which is inserted by the Wales Act 2016) is amended as follows.
- (2) In the Table in paragraph 1(2), in the entry relating to the Science and Technology Act 1965, in the column headed “Functions”, after “relating to” insert “United Kingdom Research and Innovation and”.
- 25
- 23 In paragraph 5 of Part 1 of Schedule 7 (Acts of the National Assembly for Wales: subject of education and training) before “Research Councils” insert “United Kingdom Research and Innovation and”.
- 24 (1) In Part 2 of Schedule 7A (specific reservations) (which is inserted by the Wales Act 2016), Section C11 (Research Councils) is amended as follows.
- (2) In the heading, at the beginning insert “United Kingdom Research and Innovation and”.
- (3) In paragraph 85 –
- (a) at the beginning insert “United Kingdom Research and Innovation (“UKRI”), and”, and
- (b) after “relating to” insert “UKRI and”.
- 35
- (4) In paragraph 86 –
- (a) omit “Arts and Humanities Research Council within the meaning of Part 1 of the Higher Education Act 2004, and the”,
- (b) for “that Act” substitute “the Higher Education Act 2004”, and
- (c) for “that Council” substitute “UKRI”.
- 40

Marine (Scotland) Act 2010 (asp 5)

- 25 In sections 116(1), 117, 118(2), 120(1), 121(1), 125 and 129(2)(b) of the Marine (Scotland) Act 2010 (duties on Scottish Ministers to consult) for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation”. 5

Welsh Language (Wales) Measure 2011 (nawm 1)

- 26 (1) The table in Schedule 6 to the Welsh Language (Wales) Measure 2011 (public bodies etc: standards) is amended as follows.
- (2) In the English language text, omit the entries relating to –
- (a) the Arts and Humanities Research Council, 10
 - (b) the Biotechnology and Biological Sciences Research Council,
 - (c) the Economic and Social Research Council,
 - (d) the Engineering and Physical Sciences Research Council,
 - (e) the Medical Research Council,
 - (f) the Natural Environment Research Council, and 15
 - (g) the Science and Technology Facilities Council.
- (3) In the Welsh language text, omit the entries relating to –
- (a) Cyngor Cyfleusterau Gwyddoniaeth a Thechnoleg,
 - (b) Cyngor Ymchwil Biotechnoleg a Gwyddorau Biolegol,
 - (c) Y Cyngor Ymchwil Economaidd a Chymdeithasol, 20
 - (d) Y Cyngor Ymchwil Meddygol,
 - (e) Cyngor Ymchwil Peirianeg a Gwyddorau Ffisegol,
 - (f) Cyngor Ymchwil yr Amgylchedd Naturiol, and
 - (g) Y Cyngor Ymchwil i'r Celfyddydau a'r Dyniaethau.
- (4) In the English language text, insert at the appropriate place under the heading “general” – 25

“United Kingdom Research and Innovation (“Ymchwil ac Arloesedd y Deyrnas Unedig”)	Service delivery standards	
	Policy making standards	30
	Operational Standards	
	Record keeping standards”	

- (5) In the Welsh language text, insert at the appropriate place under the heading “cyffredinol” –

“Ymchwil ac Arloesedd y Deyrnas Unedig (“United Kingdom Research and Innovation”)	Safonau cyflenwi gwasanaethau	35
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Safonau llunio polisi
Safonau gweithredu
Safonau cadw cofnodion”

Antarctic Act 2013

- 27 (1) In section 10(4) of the Antarctic Act 2013 (the Crown), in paragraph (a), for “the Natural Environment Research Council” substitute “United Kingdom Research and Innovation”. 5
- (2) Subsections (2) and (3) of section 34 of the Antarctic Act 1994 (power to extend to the Channel Islands, Isle of Man and British overseas territories) apply in relation to section 10 of the Antarctic Act 2013 as amended by subparagraph (1). 10

Public Service Pensions Act 2013

- 28 (1) Schedule 10 to the Public Service Pensions Act 2013 (public bodies whose pension schemes must be restricted) is amended as follows.
- (2) After paragraph 14 insert – 15
- “15 United Kingdom Research and Innovation.”

Psychoactive Substances Act 2016

- 29 In paragraph 4 of Schedule 2 to the Psychoactive Substances Act 2016 (exempted activities) in paragraph (b)(iii) of the definition of “relevant ethics review body”, at the beginning insert “United Kingdom Research and Innovation or”. 20

Higher Education and Research Bill

A

B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

To make provision about higher education and research; and to make provision about alternative payments to students in higher or further education.

*Presented by Secretary Sajid Javid,
supported by
the Prime Minister,
Mr Chancellor of the Exchequer,
Secretary Theresa May,
Secretary Nicky Morgan,
Secretary Greg Clark,
Matthew Hancock and
Joseph Johnson.*

*Ordered, by The House of Commons,
to be Printed, 18 October 2016.*

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