

HIGHER EDUCATION (WALES) ACT 2015

EXPLANATORY NOTES

BACKGROUND

2. In 2011, the Welsh Ministers brought provisions in Part 3 of the Higher Education Act 2004 into force in relation to Wales. That Part enables the Welsh Ministers, when making grants to the Higher Education Funding Council for Wales (HEFCW), to impose a condition that, in providing financial support to an institution in Wales, HEFCW in turn are to impose a condition concerning the fees charged by the institution. These fee arrangements apply in relation to courses beginning on or after 1 September 2012.
3. For an institution without an approved plan (namely a plan approved by HEFCW), the condition imposed by HEFCW is that the fees charged are not to exceed a basic amount which is specified in regulations. For an institution with an approved plan, the condition is that the fees charged are not to exceed the amounts specified in the plan and that the institution is to comply with the general provisions of its approved plan concerning the promotion of equality of opportunity in connection with access to higher education and the promotion of higher education. The fees set out in the plan are not to exceed the higher amount which is specified in regulations.
4. In conjunction with those new fee arrangements, changes were introduced by the Welsh Ministers to the tuition fee support available from the Welsh Ministers to students undertaking courses of higher education. Funding that was previously provided to HEFCW by the Welsh Ministers and allocated by HEFCW to institutions in Wales under Part 2 of the Further and Higher Education Act 1992 and Part 3 of the Education Act 2005 has been redirected towards support available from the Welsh Ministers to students.
5. The redirection of funding means that the amount of financial support provided by HEFCW to institutions in Wales has reduced. As a consequence the current regulatory framework, which comprises the fee arrangements established by the Higher Education Act 2004, HEFCW's functions of assessing the quality of education provided by institutions (under Part 2 of the Further and Higher Education Act 1992) and the annual financial memorandum between HEFCW and institutions in Wales, no longer operates in the way that it used to. Specifically, as HEFCW are providing a reduced amount of financial support to institutions in Wales, there is less financial support in respect of which HEFCW can impose conditions for the purposes of the current fee arrangements and quality assessment regime and the annual financial memorandum.
6. The Act establishes a new regulatory framework for higher education institutions and other providers of higher education in Wales that have a fee and access plan in force, approved by HEFCW (regulated institutions). The new regulatory framework will not rely on HEFCW providing financial support to those institutions and providers under Part 2 of the Further and Higher Education Act 1992 or Part 3 of the Education Act 2005.
7. Regulated institutions will be able to set their own fees, up to a maximum amount specified in regulations. The Act provides for HEFCW to enforce compliance with those

*These notes refer to the Higher Education (Wales) Act
2015 (c.1) which received Royal Assent on 12 March 2015*

fees. The Act also provides for HEFCW to assess the quality of education provided in Wales by and on behalf of regulated institutions. The Act provides for a financial management Code to apply to those institutions. It is intended that courses of higher education offered by regulated institutions will be designated for the purposes of tuition fee and maintenance support available to eligible students from the Welsh Ministers (specifically, designated by student support regulations made by the Welsh Ministers under section 22 of the Teaching and Higher Education Act 1998).

8. A White Paper setting out the Welsh Government's initial policy proposals was published on 2 July 2012 and a summary of the responses received to the White Paper was published in March 2013. A subsequent technical consultation was published in May 2013. A summary of the responses received to the technical consultation was published April 2014.