

# HIGHER EDUCATION (WALES) ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS OF THE ACT

#### Part 2 – Fee and Access Plans

##### Section 5 – Fee limit

17. This section requires a fee and access plan to specify, or provide for the determination of, a fee limit in relation to each “qualifying course” and in respect of each academic year of the course which begins during the period to which the plan relates.
18. A “qualifying course” is a course that is wholly or principally provided in Wales and which is described in regulations. Section 5(2)(b) enables the Welsh Ministers to make such regulations and section 5(7) restricts the Welsh Ministers’ ability to discriminate between certain classes of course in prescribing descriptions of “qualifying course”. For these purposes, it is intended that the courses to be prescribed as “qualifying courses” will be those courses of higher education that are currently designated for the purposes of student support by regulations made under section 22 of the Teaching and Higher Education Act 1998 (including first degree courses and courses for the Diploma of Higher Education, the Higher National Diploma, the Higher National Certificate and the Certificate of Higher Education). The only postgraduate courses that are to be capable of being qualifying courses are courses of initial teacher training (section 5(6)).
19. In providing for the determination of a fee limit, rather than specifying a fee limit, a fee and access plan might, for instance, specify that an inflationary increase is to apply to course fees from one academic year to the next. Alternatively, a plan might provide for a fee limit by reference to the maximum fee amount which is prescribed in regulations.
20. “Fees” for these purposes are course fees, including admission, registration and tuition fees (see section 57(1)). The fees that are to be taken into account for the purposes of the fee limit are fees that are payable to the institution by a “qualifying person”, namely a person (excluding international students) who is described in regulations. Section 5(5) enables the Welsh Ministers to prescribe classes of person for these purposes. It is intended that “qualifying persons” will include persons in the following categories who are ordinarily resident in the United Kingdom: persons who are settled in the United Kingdom, refugees and their family members and European Union nationals.
21. A fee limit in a plan must in any event not exceed the maximum amount which is to be prescribed in regulations.
22. [Section 5\(9\)](#) enables regulations to provide for the circumstances in which fees payable to a person other than a regulated institution (such as fees payable to a franchisee providing a course on behalf of a regulated institution under franchise arrangements) by a qualifying person are to be treated for the purposes of the fee limit as payable to the regulated institution.