

# HIGHER EDUCATION (WALES) ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS OF THE ACT

#### **Part 6 – Notices and directions given by HEFCW**

##### *Section 41 – Application of sections 42 to 44*

119. *Sections 42 to 44* are concerned with the giving of warning notices by HEFCW before they give certain notices and directions to the governing body of an institution, the information that HEFCW are to supply with those notices and directions and the process of review that is available in respect of those notices and directions.
120. By way of comparison, existing provisions under the Higher Education Act 2004 provide for HEFCW to give notice to the governing body of an institution where they are minded to refuse to approve the institution's proposed plan or to refuse to approve a new plan during a specified period on the expiry of the institution's existing plan. Those existing provisions allow for the governing body to make representations to HEFCW and require HEFCW to consider any such representations before they make a decision. The existing provisions also allow for the governing body to apply to a person or panel of persons appointed by the Welsh Ministers for a review of HEFCW's decision (which has effect, in the first instance, as a provisional decision).
121. The notices and directions to which sections 42 to 44 apply are described in section 41(1). Those notices and directions do not include a notice under section 38 (HEFCW's duty to withdraw approval) nor do they include directions under sections 16, 19 or 35 (directions concerning a failure to co-operate). Sections 42 to 44 do not apply to a direction given by HEFCW where that direction only revokes an earlier HEFCW direction.