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STATUTORY INSTRUMENTS

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**2004 No. 2781 (C.116)**

**EDUCATION, ENGLAND AND WALES**

**The Higher Education Act 2004 (Commencement  
No. 1 and Transitional Provisions) Order 2004**

*Made - - - - 27th October 2004*

In exercise of the powers conferred by sections 47(5) and 52(2) and (6) of the Higher Education Act 2004<sup>(1)</sup>, the Secretary of State for Education and Skills hereby makes the following Order:

**Citation and Interpretation**

1.—(1) This Order may be cited as the Higher Education Act 2004 (Commencement No. 1 and Transitional Provisions) Order 2004.

(2) In this Order “the 2004 Act” means the Higher Education Act 2004.

**Provisions coming into force**

2. The following provisions of the 2004 Act shall come into force in relation to England on 1<sup>st</sup> November 2004:

Sections 11 to 18;

Section 21;

Section 32(2) and (3);

Sections 35 and 36 to the extent that they are not already in force; and

Schedules 1 to 4.

3. The following provisions of the 2004 Act shall come into force on 1st November 2004:

Section 19; and

Section 37 to the extent that it is not already in force.

4. The following provisions of the 2004 Act shall come into force in relation to England on 1<sup>st</sup> January 2005;

Section 20;

Section 46;

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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Section 50 to the extent that it relates to the provisions of Schedule 7 specified below; and in Schedule 7 —

the repeal of section 206 and in section 207(1), paragraph (c) and the word “or” immediately preceding it of the Education Reform Act 1998.

**Transitional Provision**

5. Notwithstanding the coming into force of Sections 20 and 46, the visitor of a qualifying institution has jurisdiction in respect of—

- (a) any complaint which falls within Section 20(2) or (3) of the 2004 Act if that complaint was submitted to the visitor before 1<sup>st</sup> January 2005; and
- (b) any complaint which falls within Section 46(1) of the 2004 Act if that complaint was submitted to the visitor before 1<sup>st</sup> January 2005.

27th October 2004

*Dr Kim Howells*  
Minister of State,  
Department for Education and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the first Commencement Order made under the Higher Education Act 2004 and brings into force certain provisions of that Act on 1<sup>st</sup> November 2004 and 1<sup>st</sup> January 2005. The provisions are listed in articles 2 to 4.

Article 2 relates to the commencement of provisions concerning the Director of the Office for Fair Access and the designation of the operator for the student complaints scheme. Article 3 relates to the section which amends the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995 and the section dealing with the enforcement of access plans in England. Article 4 relates to the commencement of the sections concerning the jurisdiction of visitors, who will no longer have a role in relation to student complaints against universities and other qualifying institutions.

The provisions listed in articles 2 and 4 are commenced in relation to England only in accordance with the Secretary of State's power in section 52(6) of the 2004 Act. The provisions in article 3 are commenced in accordance with the Secretary of State's power in Section 52(2).

Article 5 contains a transitional provision so that visitors will continue to deal with student and staff complaints that are submitted before 1<sup>st</sup> January 2005.