

HIGHER EDUCATION ACT 2004

EXPLANATORY NOTES

SUMMARY

Part 1 – Research in Arts and Humanities

13. This Part enables the existing Arts and Humanities Research Board to be replaced by a research council, to be established by Royal Charter, equivalent to the research councils dealt with in the Science and Technology Act 1965. As with the existing research councils, the new council will operate throughout the UK and will be a reserved matter for the purposes of the Scotland Act 1998 and the Northern Ireland Act 1998. This Part also makes provision for the direct funding of arts and humanities research in addition to that which may be funded through the new council.

Part 2 – Review of Student Complaints

14. This Part allows the Secretary of State or the National Assembly for Wales to designate a body corporate providing a scheme for reviewing student complaints, which higher education institutions in England and Wales will then be required to use. The provisions of this Part set out conditions which must be met by the body corporate and the scheme which it provides, and duties with which a designated body must comply.
15. At present, students in some universities may appeal only to their university's Visitor (a person with a common law role to supervise the domestic affairs of that institution) about unresolved student complaints. The provisions end the jurisdiction of university Visitors over student complaints (there is similar provision in Part 5 ending the Visitor's jurisdiction over staff disputes).

Part 3 – Student Fees and Fair Access

16. **Student fees** – Previously, under section 26 of the Teaching and Higher Education Act 1998, the fee which higher education institutions (HEIs) charge for full-time undergraduate students in a given year was determined by the maximum fee remission grant for that year, as prescribed under section 22 of that Act. This Act enables HEIs to set their own fees, up to a basic amount specified in regulations, which is no longer linked to a grant for fees. Institutions that wish to charge fees above this rate will only be able to do so if they have in force a plan under this Part of the Act, approved by the relevant authority. For England, the relevant authority will be the new Director of Fair Access to Higher Education. For Wales, it will be a body to be designated by the National Assembly for Wales. If institutions have such a plan, they may charge up to a higher amount (within the bounds of their plan), also specified in regulations. It is intended that loans will be made available, on an income-contingent basis and with no real rate of interest, to allow students to defer payment of fees.
17. **Director of Fair Access to Higher Education** – This Part of the Act creates a new office-holder, the Director of Fair Access to Higher Education. His or her office will informally be known as the Office for Fair Access (OFFA). The Director's role will be approving and monitoring plans made by institutions in England that wish to set fees higher than the basic amount. The matters to be covered by these plans – which

will remain in force for up to five years – will be specified in regulations. Should an institution breach its plan, the Director may choose not to renew that plan or, where there is need for more immediate action, may direct the Higher Education Funding Council for England or the Teacher Training Agency to impose financial requirements, including reducing its grant to that institution.

Part 4– Student Support

18. **Transferring functions to the National Assembly for Wales** – Most of the Secretary of State’s functions in relation to education were already transferred prior to this Act, as respects Wales, to the National Assembly. The Act makes provision for the majority of functions related to student support which were previously not transferred, as well as responsibility for policy on tuition fees, to be transferred from the Secretary of State for Education and Skills to the National Assembly for Wales.
19. **Preventing student loan debt forming part of a bankrupt’s estate** - The Act makes it possible to prevent student loan debt being written off on discharge from bankruptcy.
20. **Facilitating the deferral of payment of tuition fees** – The Act contains a measure to support the deferral of the payment of tuition fees, by allowing loan payments to be made directly to institutions, so that they can receive fee payments up front and students can repay later.
21. **Supply of information** – This provision gives the Secretary of State powers to make regulations empowering specified supply of data to higher education institutions or other bodies exercising functions of a public nature.

Part 5 – General

22. This Part contains supplementary provisions.