



# Higher Education Act 2004

## 2004 CHAPTER 8

### PART 4

#### STUDENT SUPPORT

#### **44 Transfer of certain functions to National Assembly for Wales**

- (1) In relation to Wales, the functions of the Secretary of State under section 22 of the 1998 Act (arrangements for giving financial support to students) are hereby transferred to the Assembly, except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of that section.
- (2) The functions of the Secretary of State under section 22 of the 1998 Act are to be exercisable concurrently with the Assembly so far as they relate to the making in relation to Wales of any provision authorised by subsection (2)(a), (c) or (k) of that section.
- (3) Regulations made under section 22 of the 1998 Act by the Secretary of State must provide that no provision made by virtue of subsection (5) of that section is to apply in relation to any loan made under that section by the Assembly unless the Assembly—
  - (a) has determined, in relation to any loan or description of loan, that repayments are to be collected by the Commissioners of Inland Revenue, and
  - (b) has given notice of that determination to the Secretary of State and to the person liable to make the repayments.
- (4) The functions of the Secretary of State under section 23 of the 1998 Act (transfer or delegation of functions relating to student support) are hereby transferred to the Assembly so far as they relate to functions which are exercisable by the Assembly under regulations under section 22 of that Act.
- (5) Until the commencement of subsection (4), the functions of the Secretary of State under subsections (7) and (8) of section 23 of the 1998 Act (power to make payments to body or person by whom function is exercisable by virtue of subsection (1) or (4) of that section) are to be exercisable concurrently with the Assembly so far as they relate

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**Changes to legislation:** Higher Education Act 2004, Section 44 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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to payments to any body or person by whom there is exercisable any function that will after the commencement of subsections (1) and (2) be exercisable by the Assembly.

- (6) For the purposes of the Government of Wales Act 1998 (c. 38)—
- (a) any function that is transferred to the Assembly by subsection (1) or (4) or made exercisable by the Assembly by subsection (2) or (5) is to be taken to have been transferred to, or made exercisable by, the Assembly by an Order in Council under section 22 of that Act, and
  - (b) in relation to any function which is taken by virtue of paragraph (a) to have been transferred to the Assembly by such an Order in Council, any reference to the coming into force of the Order in Council transferring it is to be read as a reference to the commencement of the provision of this section by which the function is transferred.

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**Commencement Information**

- I1** S. 44(1)(2)(5)(6) in force for W. at 7.7.2005 by S.I. 2005/1833, **art. 4(b)** (with **art. 6**)
- I2** S. 44(3) in force at 1.9.2006 for W. by S.I. 2005/1833, **art. 5A**
- I3** S. 44(4) in force at 23.6.2006 for W. by S.I. 2005/1833, **art. 5**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11(1) s. 11 renumbered as s. 11(1) by [2022 asc 1 s. 128\(2\)\(a\)](#)
- s. 11(1)(a) words substituted by [2022 asc 1 Sch. 4 para. 16\(2\)](#)
- s. 11(2)-(5) inserted by [2022 asc 1 s. 128\(2\)\(b\)](#)
- s. 12(2A) inserted by [2022 asc 1 s. 128\(3\)\(a\)](#)
- Sch. 2 para. 3(2)(d) inserted by [2023 c. 16 Sch. para. 19](#)