

Changes to legislation: Higher Education and Research Act 2017, SCHEDULE 1 is up to date with all changes known to be in force on or before 11 March 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

SCHEDULES

SCHEDULE 1

Section 1

THE OFFICE FOR STUDENTS

Status

- 1 (1) The OfS is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The OfS's property is not to be regarded—
 - (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Commencement Information

II Sch. 1 para. 1 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Membership

- 2 (1) The OfS is to consist of the following members appointed by the Secretary of State—
 - (a) a chair (“the chair”),
 - (b) the Chief Executive Officer,
 - (c) the Director for Fair Access and Participation, ^{F1}...
 - [^{F2}(ca) the Director for Freedom of Speech and Academic Freedom, and]
 - (d) at least seven and not more than twelve other members (“the ordinary members”).
- (2) The Secretary of State must, in appointing the chair and the ordinary members, have regard to the desirability of the OfS's members (between them) having experience of—
 - (a) representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers,
 - (b) providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider,
 - (c) employing graduates of higher education courses provided by higher education providers covering a range of academic and practical disciplines,
 - (d) promoting choice for consumers or other service users, and encouraging competition, in industry or another sector of society,
 - (e) creating, reviewing, implementing or managing a regulatory system in industry or another sector of society,

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- (f) managing or auditing the financial affairs of an organisation, and
 - (g) a broad range of the different types of English higher education providers.
- (3) But at least one of the ordinary members must have experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.
- (4) A person may not be appointed as a member of the OfS if the person is a civil servant.
- (5) In this Schedule, “civil servant” means a person employed in the civil service of the State.

Textual Amendments

- F1** Word in Sch. 1 para. 2(1)(c) omitted (14.8.2023) by virtue of Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), Sch. para. 12(2)(a); S.I. 2023/809, reg. 2(d)
- F2** Sch. 1 para. 2(1)(ca) inserted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), Sch. para. 12(2)(b); S.I. 2023/809, reg. 2(d)

Commencement Information

- I2** Sch. 1 para. 2 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

The Director for Fair Access and Participation

- 3 (1) The Director for Fair Access and Participation [^{F3} (“the Access and Participation Director”)] is responsible for—
- (a) overseeing the performance of the OfS's access and participation functions,
 - (b) performing, in accordance with paragraph 11, any of those functions, or other functions, of the OfS which are delegated to the [^{F4} Access and Participation Director] under that paragraph, and
 - (c) reporting to the other members of the OfS on the performance of the OfS's access and participation functions.
- (2) The [^{F5} Access and Participation Director] may also report to the other members of the OfS on the measures taken by the OfS to comply with its duty under section 2(1)(e) (duty to have regard to the need to promote equality of opportunity etc) in performing a particular function of the OfS.
- (3) For the purposes of this Schedule, the OfS's “access and participation functions” are the functions conferred on it by or under—
- (a) section 21 (refusal to renew an access and participation plan),
 - (b) sections 29 to 34 (access and participation plans),
 - (c) section 35 (advice on good practice),
 - (d) section 36 (duty to protect [^{F6} institutional autonomy] in performing certain access and participation functions), and
 - (e) section 37 (power of the Secretary of State to require a report).

Textual Amendments

- F3** Words in Sch. 1 para. 3(1) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), Sch. para. 12(3)(a); S.I. 2023/809, reg. 2(d)

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- F4** Words in Sch. 1 para. 3(1)(b) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), **Sch. para. 12(3)(b)**; S.I. 2023/809, reg. 2(d)
- F5** Words in Sch. 1 para. 3(2) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), **Sch. para. 12(3)(b)**; S.I. 2023/809, reg. 2(d)
- F6** Words in Sch. 1 para. 3(3)(d) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), **Sch. para. 12(3)(c)**; S.I. 2023/809, reg. 2(d)

Commencement Information

- I3** Sch. 1 para. 3 in force at 1.1.2018 by S.I. 2017/788, **reg. 2(b)**

f⁷The Director for Freedom of Speech and Academic Freedom

Textual Amendments

- F7** Sch. 1 para. 3A and cross-heading inserted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), **ss. 10, 13(3)**; S.I. 2023/809, **reg. 2(a)**

- 3A** (1) The Director for Freedom of Speech and Academic Freedom (“the Free Speech Director”) is responsible for—
- overseeing the performance of the OfS’s free speech functions,
 - performing, in accordance with paragraph 11, any of those functions, or other functions, of the OfS which are delegated to the Free Speech Director under that paragraph, and
 - reporting to the other members of the OfS on the performance of the OfS’s free speech functions.
- (2) For the purposes of this Schedule, the OfS’s “free speech functions” are—
- its functions relating to monitoring and enforcing the registration conditions of registered higher education providers under section 8A, and
 - its functions under sections 69A to 69E and Schedule 6A.]

Terms of appointment and tenure of members

- 4** (1) A person holds and vacates office as a member of the OfS in accordance with the terms of his or her appointment.
- (2) The terms and conditions of a person's appointment as a member of the OfS are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.
- (3) The matters with which the terms and conditions of a member's appointment may deal include, in particular—
- the period for which the member is to hold office;
 - the member's eligibility for re-appointment;
 - circumstances in which membership may be suspended.

Commencement Information

- I4** Sch. 1 para. 4 in force at 1.1.2018 by S.I. 2017/788, **reg. 2(b)**

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- 5 (1) A person may resign from office as a member of the OfS by notifying the Secretary of State.
- (2) The Secretary of State may remove a person from office as a member of the OfS on any of the following grounds—
- (a) absence from the OfS's meetings for a continuous period of more than six months without the OfS's permission,
 - (b) inability or unfitness to carry out the functions of the office, or
 - (c) such other grounds as the Secretary of State considers appropriate.
- (3) If a person appointed as a member of the OfS becomes a civil servant, the person ceases to be a member.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Remuneration etc of members

- 6 (1) The OfS must pay to members of the OfS such remuneration as the Secretary of State may determine.
- (2) The OfS must pay, or make provision for paying, to or in respect of a person who is or has been a member of the OfS such sums as the Secretary of State may determine in respect of pension, allowances, expenses or gratuities.
- (3) If, where a person ceases to be a member of the OfS, the Secretary of State determines that he or she should be compensated because of special circumstances, the OfS must pay him or her compensation of such amount as the Secretary of State may determine.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Staffing of the OfS

- 7 (1) The OfS may—
- (a) appoint employees, and
 - (b) make such other arrangements for the staffing of the OfS as it considers appropriate.
- (2) The terms and conditions of appointment as employees are to be determined by the OfS with the approval of the Secretary of State.
- (3) The OfS must pay its employees such remuneration as the OfS may determine with the approval of the Secretary of State.
- (4) The OfS must pay, or make provision for paying, to or in respect of a person who is an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (5) The OfS may pay, or make provision for paying—

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- (a) to or in respect of a person who is or has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of pensions or gratuities, and
 - (b) to or in respect of a person who has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.
- (6) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ Office for Students. ”
- (7) The OfS must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (6) in the sums payable out of money provided by Parliament under the 1972 Act.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Committees

- 8
- (1) The OfS may establish committees, and any committee so established may establish sub-committees.
 - (2) A committee or sub-committee so established is referred to in this Schedule as an “OfS committee”.
 - (3) An OfS committee may consist of or include persons who are neither members, nor employees, of the OfS.
 - (4) The OfS must pay such allowances as the Secretary of State may determine to any person who—
 - (a) is a member of an OfS committee, but
 - (b) is neither a member, nor an employee, of the OfS.
 - (5) The OfS must keep under review—
 - (a) the structure of the OfS committees, and
 - (b) the scope of each committee's activities.

Commencement Information

I8 Sch. 1 para. 8 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Procedure

- 9
- (1) The OfS may determine—
 - (a) its own procedure, and
 - (b) the procedure of any OfS committee;but that is subject to the rest of this paragraph.
 - (2) The quorum for a meeting of the OfS is half the number of its members.

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- (3) A representative of the Secretary of State is entitled—
- (a) to attend any meeting of the OfS or of any OfS committee, and
 - (b) to take part in any deliberations (but not in decisions) at such meetings.
- (4) The OfS must provide the Secretary of State, or a representative of the Secretary of State, with such copies of documents distributed to its members or to any OfS committee as the Secretary of State or representative may require it to provide.

Commencement Information

I9 Sch. 1 para. 9 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

- 10 The validity of any proceedings of the OfS, or of any OfS committee, is not affected by a vacancy or a defective appointment.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Delegation of functions

- 11 (1) The OfS may delegate any of its functions to—
- (a) a member of the OfS,
 - (b) an employee of the OfS authorised for that purpose, or
 - (c) an OfS committee.
- (2) But a function which is one of the OfS's access and participation functions may only be delegated to the [^{F8}Access and Participation Director].
- (3) A function is delegated under this paragraph to the extent, and on the terms that, the OfS determines.

Textual Amendments

F8 Words in Sch. 1 para. 11(2) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), Sch. para. 12(4); S.I. 2023/809, reg. 2(d)

Commencement Information

I11 Sch. 1 para. 11 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Accounts and audit

- 12 (1) The OfS must—
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) its content and form;
 - (b) the methods and principles to be applied in preparing it;

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- (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The OfS must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.
- (6) In this Schedule “financial year” means—
 - (a) the period beginning with the date on which the OfS is established and ending with the second 31 March following that date, and
 - (b) each successive period of 12 months.

Commencement Information

112 Sch. 1 para. 12 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Annual report

- 13 (1) The OfS must prepare a report on the performance of its functions during each financial year.
- (2) The report must include the statement of accounts in respect of that year.
- (3) The report must include a statement regarding how the OfS has cooperated with UKRI during that year.
- [^{F9}(3A) The report must include—
- (a) a summary of information received by the OfS pursuant to sections 69D and 69E for that year, and
 - (b) a summary of conclusions drawn by the OfS for that year, from its monitoring under sections 69D(1) and 69E(1), regarding relevant patterns, trends or other matters which it has identified and which are of concern to the OfS.]
- (4) If, at any time in the financial year to which the report relates, all of the OfS's access and participation functions were not delegated to the [^{F10}Access and Participation Director] under paragraph 11, the report must include a statement specifying—
- (a) the period or periods in that year during which those functions were not delegated to the [^{F10}Access and Participation Director], and
 - (b) the reasons why they were not so delegated.
- (5) The report relating to a financial year must be prepared as soon as possible after the end of the financial year.
- (6) The OfS must send the report to the Secretary of State.
- (7) The Secretary of State must lay the report before Parliament.

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Textual Amendments

- F9** Sch. 1 para. 13(3A) inserted (11.5.2023 for specified purposes) by Higher Education (Freedom of Speech) Act 2023 (c. 16), ss. 9(3), 13(1)(b)(3)
- F10** Words in Sch. 1 para. 13(4) substituted (14.8.2023) by Higher Education (Freedom of Speech) Act 2023 (c. 16), s. 13(3), Sch. para. 12(5); S.I. 2023/809, reg. 2(d)

Commencement Information

- I13** Sch. 1 para. 13 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Seal and evidence

- 14 (1) The application of the OfS's seal must be authenticated by the signature of—
- (a) the chair or some other person authorised for that purpose by the OfS, and
 - (b) one other member of the OfS.
- (2) A document purporting to be duly executed under the OfS's seal or signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.

Commencement Information

- I14** Sch. 1 para. 14 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Supplementary powers

- 15 (1) The OfS may do anything (except borrow money) which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) In particular, the OfS may—
- (a) acquire and dispose of land and other property,
 - (b) enter into contracts,
 - (c) invest sums, and
 - (d) accept gifts of money, land or other property.

Commencement Information

- I15** Sch. 1 para. 15 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Public records

- 16 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert— “ Office for Students.
”

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Commencement Information

I16 Sch. 1 para. 16 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Investigation by the Parliamentary Commissioner

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert— “ Office for Students. ”

Commencement Information

I17 Sch. 1 para. 17 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

House of Commons disqualification

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I18 Sch. 1 para. 18 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Northern Ireland Assembly disqualification

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I19 Sch. 1 para. 19 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Freedom of information

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place insert— “ The Office for Students. ”

Commencement Information

I20 Sch. 1 para. 20 in force at 1.1.2018 by S.I. 2017/788, reg. 2(b)

Public sector equality duty

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Other educational bodies”, at the appropriate place insert— “ The Office for Students. ”

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Commencement Information

I21 Sch. 1 para. 21 in force at 1.1.2018 by S.I. 2017/788, **reg. 2(b)**

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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):

- Pt. A1 inserted by [2023 c. 16 s. 1](#)
- s. A4 and cross-heading inserted by [2023 c. 16 s. 2](#)
- s. A5A6 and cross-heading inserted by [2023 c. 16 s. 3](#)
- s. A7 and cross-heading inserted by [2023 c. 16 s. 4](#)
- s. 2(1)(aa)(ab) inserted by [2023 c. 16 s. 5\(1\)](#)
- s. 2(7A) inserted by [2023 c. 16 Sch. para. 2\(3\)](#)
- s. 8A inserted by [2023 c. 16 s. 6](#)
- s. 9(3A) inserted by [2022 c. 21 s. 16\(2\)](#)
- s. 10(3A) inserted by [2023 c. 40 s. 2\(2\)\(a\)](#)
- s. 10(6A) inserted by [2023 c. 40 s. 2\(2\)\(b\)](#)
- s. 10(7A) inserted by [2023 c. 40 s. 2\(2\)\(c\)](#)
- s. 10(7B)(7C) inserted by [2023 c. 40 s. 1\(2\)\(b\)](#)
- s. 11(1A)(1B) inserted by [2023 c. 40 s. 2\(3\)\(b\)](#)
- s. 11(2)(2A) substituted for s. 11(2) by [2023 c. 40 s. 2\(3\)\(c\)](#)
- s. 31(1)(1A) substituted for s. 31(1) by [2023 c. 40 s. 2\(4\)\(a\)](#)
- s. 31(2A)(2B) inserted by [2023 c. 40 s. 2\(4\)\(c\)](#)
- s. 31(4) inserted by [2023 c. 40 s. 4\(4\)\(e\)](#)
- s. 67B(3A) inserted by [2023 c. 16 Sch. para. 5\(3\)](#)
- s. 67C(3) inserted by [2023 c. 16 Sch. para. 6](#)
- s. 69A and cross-heading inserted by [2023 c. 16 s. 5\(2\)](#)
- s. 69C inserted by [2023 c. 16 s. 8\(1\)](#)
- s. 73(1A) inserted by [2023 c. 16 Sch. para. 7\(3\)](#)
- s. 73(4A) inserted by [2023 c. 16 Sch. para. 7\(6\)](#)
- s. 85(1A) inserted by [2022 c. 21 s. 16\(4\)\(b\)](#)
- s. 119(2)(ha)(hb) inserted by [2023 c. 40 s. 2\(6\)](#)
- Sch. 2 para. 5(4) inserted by [2023 c. 40 s. 2\(7\)](#)
- Sch. 2 para. 1-1I substituted for Sch. 2 para. 1 by [2023 c. 40 s. 1\(4\)](#)
- Sch. 6A inserted by [2023 c. 16 s. 8\(2\)](#)
- Sch. 7 para. 4(5) inserted by [2023 c. 16 Sch. para. 13\(6\)](#)