

*Status: This version of this provision is prospective.*

*Changes to legislation: Higher Education and Research Act 2017, Section 86 is up to date with all changes known to be in force on or before 18 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*



# Higher Education and Research Act 2017

## 2017 CHAPTER 29

### PART 2

#### OTHER EDUCATION MEASURES

##### *Financial support for students*

PROSPECTIVE

#### **86 Power to make alternative payments**

- (1) Section 22 of the Teaching and Higher Education Act 1998 (power to give financial support to students) is amended in accordance with subsections (2) to (7).
- (2) In subsection (1), for “or loans” substitute “, loans or alternative payments”.
- (3) In subsection (2)—
  - (a) in paragraphs (a), (b) and (c), for “or loan” substitute “, loan or alternative payment”;
  - (b) in paragraph (g)—
    - (i) after “repayment” insert “, the making of contributions”, and
    - (ii) after “loans”, in each place, insert “ or alternative payments”;
  - (c) in paragraph (i), after “loans” insert “ or as part of alternative payments”, and
  - (d) in paragraph (j), for “or loans”, in each place, substitute “, loans or alternative payments”.
- (4) After subsection (4) insert—
  - “(4A) Regulations under this section may not provide for alternative payments to bear any interest.
  - (4B) The provision which may be made by virtue of subsection (2)(g) in relation to alternative payments under this section includes provision—

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- (a) for a recipient of an alternative payment (an “AP recipient”) to be required to make, in such manner, at such times, and to such person or body as may be prescribed from time to time, contributions which together are equal to the aggregate of—
  - (i) the amount of the alternative payment, and
  - (ii) the amounts which would be required to be paid by virtue of subsection (3)(a) if the alternative payment were a loan;
- (b) for the payment, in respect of amounts overpaid by an AP recipient, of amounts which are the same as the amounts which would be required to be paid by virtue of subsection (3)(c) if the alternative payment were a loan;
- (c) for an AP recipient not to be liable to make any contribution in respect of an alternative payment—
  - (i) during such period as may be prescribed from time to time, or
  - (ii) in such circumstances as may be so prescribed,
 including provision for the cancellation of any further such liability of the recipient in any such circumstances;
- (d) in the case of alternative payments in connection with a higher education course, for the cancellation of the entitlement of an AP recipient to receive a sum as part of an alternative payment in such circumstances as may be prescribed by, or determined by the person making the regulations under, the regulations, where the payment of the sum has been suspended;
- (e) with respect to sums which an AP recipient receives, or is entitled to receive, as part of an alternative payment after the commencement of the recipient's bankruptcy or the date of the sequestration of the recipient's estate;
- (f) with respect to the effect of bankruptcy upon an AP recipient's liability to make contributions in respect of an alternative payment (whether the contributions relate to sums which the recipient receives, or is entitled to receive, before or after the commencement of the bankruptcy);
- (g) with respect to sums which an AP recipient receives, or is entitled to receive, as part of an alternative payment before or after a voluntary arrangement under Part 8 of the Insolvency Act 1986 or Part 8 of the Insolvency (Northern Ireland) Order 1989 (individual voluntary arrangements) takes effect in respect of the recipient;
- (h) excluding or modifying the application of Part 8 of that Act, or Part 8 of that Order, in relation to liability to make contributions in respect of an alternative payment (whether the contributions relate to sums which the AP recipient receives, or is entitled to receive, before or after a voluntary arrangement takes effect in respect of the recipient);
- (i) in relation to England, for contributions made in respect of an alternative payment to be dealt with, with the consent of the Treasury, otherwise than by payment into the Consolidated Fund;
- (j) in relation to Wales, for contributions made in respect of an alternative payment to be dealt with otherwise than by payment into the Consolidated Fund.”

(5) In subsection (5)—

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- (a) in the opening words, after “loans” insert “ or from AP recipients in respect of alternative payments ”,
  - (b) in paragraphs (a)(i) and (c), after “borrowers” insert “ or AP recipients ”,
  - (c) in paragraph (d)(ii), at the end insert “ or, in the case of requirements imposed on AP recipients, additional contributions in respect of such periods of the same amounts as the payments which would be required by virtue of this paragraph if the AP recipient were a borrower ”,
  - (d) after paragraph (e) insert—
    - “(ea) requiring the making by AP recipients, in respect of periods when any contributions due in respect of their alternative payments have not been made, of—
      - (i) additional contributions of the same amounts as the payments which would be required by virtue of paragraph (e)(i) if the alternative payments were loans, or
      - (ii) both such additional contributions and one or more surcharges (together with further additional contributions in respect of periods when such surcharges are due but unpaid);”
  - (e) in paragraph (f)—
    - (i) after “borrowers” insert “ or AP recipients ”, and
    - (ii) at the end insert “ or contributions ”, and
  - (f) in paragraph (h), after “borrowers” insert “ or AP recipients ”.
- (6) In subsection (10), after “Interest” insert “ or contributions ”.
- (7) After subsection (10), insert—
- “(11) In this section—
- (a) references to an alternative payment are to a payment which, in the opinion of the person making the regulations concerned, achieves a similar effect to a loan under this section without including provision for the payment of interest, and
  - (b) references to a borrower are to a person to whom a loan is made.”
- (8) In section 46 of the Teaching and Higher Education Act 1998 (extent etc)—
- (a) in subsection (7), in the entry relating to section 22, after “(3)(e)” insert “ , (4B)(e) ”, and
  - (b) in subsection (8), in the entry relating to section 22, after “or (h)” insert “ , (4B)(e), (f), (g) or (h) ”.
- (9) The functions of making any provision authorised by the new subsection (4B)(e) to (h) of section 22 of the Teaching and Higher Education Act 1998 (as inserted by subsection (4)) are exercisable in relation to Wales by the Secretary of State (rather than by the Welsh Ministers).

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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\(6\)](#)