



# Higher Education (Wales) Act 2015

## 2015 anaw 1

### PART 5

#### FEE AND ACCESS PLANS: WITHDRAWAL OF APPROVAL ETC

##### *Refusal to approve new fee and access plan*

#### **37 Notice of refusal to approve new fee and access plan**

- (1) If HEFCW are satisfied that a condition in subsection (3) is met in respect of a regulated institution, they may give notice under this section to the institution's governing body.
- (2) Notice under this section is notice that HEFCW will not approve a new fee and access plan relating to the institution before the end of a period specified in the notice.
- (3) The conditions are that the governing body of the institution has failed to comply with —
  - (a) section 10(1) (duty to ensure that regulated course fees do not exceed applicable fee limit),
  - (b) a general requirement of the institution's approved plan,
  - (c) a direction under section 13 (directions in respect of failure to comply with general requirements of approved plan),
  - (d) a direction under section 19 (directions in respect of inadequate quality), or
  - (e) a direction under section 33 (directions in respect of failure to comply with the Code).
- (4) A governing body is not to be treated for the purposes of subsection (3)(b) as having failed to comply with a general requirement of an approved plan if HEFCW are satisfied that the governing body has taken all reasonable steps to comply with the requirement.

*Changes to legislation: There are currently no known outstanding effects for the Higher Education (Wales) Act 2015, PART 5. (See end of Document for details)*

- (5) If HEFCW give notice under this section to the governing body of an institution, HEFCW must not approve a proposed fee and access plan relating to the institution before the end of the period specified in the notice.
- (6) Where HEFCW have given notice under this section—
- (a) they may withdraw the notice, and
  - (b) if they do so, the restriction in subsection (5) ceases to apply.
- (7) Regulations may make provision about—
- (a) the period that may be specified in notice under this section;
  - (b) matters to be taken into account by HEFCW in deciding whether to give or withdraw notice under this section;
  - (c) the procedure to be followed in connection with the withdrawal of notice.
- (8) If the governing body of an institution that is not a regulated institution fails to comply with a direction under section 13, this section applies in relation to that institution as it applies in relation to a regulated institution.
- (9) For procedural provision about notice under this section, see sections 41 to 44.

**Annotations:**

**Commencement Information**

- I1** S. 37(1)-(6)(8)(9) in force at 1.8.2017 by [S.I. 2017/239](#), [art. 2](#)
- I2** S. 37(7) in force at 20.5.2015 for specified purposes by [S.I. 2015/1327](#), [art. 2\(k\)](#)

*Withdrawal of approval of existing fee and access plan*

**38 Duty to withdraw approval**

- (1) If HEFCW are satisfied that a regulated institution is no longer within section 2(3), they must withdraw their approval of the fee and access plan relating to the institution by giving notice under this section to the institution's governing body.
- (2) Regulations may make provision about—
- (a) matters to be taken into account by HEFCW in making a determination for the purposes of this section;
  - (b) the procedure to be followed in connection with giving notice under this section.
- (3) Regulations making provision as described in subsection (2)(b) may (among other things) amend or apply, with or without modifications, any provision made by or under sections 41 to 44.

**Annotations:**

**Commencement Information**

- I3** S. 38(1) in force at 1.8.2016 by [S.I. 2016/110](#), [art. 3\(a\)](#)
- I4** S. 38(2) in force at 20.5.2015 for specified purposes by [S.I. 2015/1327](#), [art. 2\(l\)](#)
- I5** S. 38(3) in force at 3.2.2016 by [S.I. 2016/110](#), [art. 2\(a\)](#)

*Changes to legislation:* There are currently no known outstanding effects for the Higher Education (Wales) Act 2015, PART 5. (See end of Document for details)

### 39 Power to withdraw approval

- (1) If HEFCW are satisfied that a condition in subsection (2) is met in respect of a regulated institution, they may withdraw their approval of the fee and access plan relating to the institution by giving notice under this section to the institution's governing body.
- (2) The conditions are that—
  - (a) the governing body of the institution has persistently failed to comply with section 10(1) (duty to ensure that regulated course fees do not exceed applicable fee limit) or has failed to comply with a compliance and reimbursement direction,
  - (b) the governing body has persistently failed to comply with the general requirements of the institution's approved plan or has failed to comply with a direction under section 13 (directions in respect of failure to comply with general requirements of approved plan),
  - (c) the quality of education provided by or on behalf of the institution is seriously inadequate, or
  - (d) there has been serious failure by the governing body of the institution to comply with the Code.
- (3) A governing body is not to be treated for the purposes of subsection (2)(b) as having failed to comply with a general requirement of an approved plan if HEFCW are satisfied that the governing body has taken all reasonable steps to comply with the requirement.
- (4) Regulations may make provision about matters to be taken into account by HEFCW in deciding whether to give notice under this section.
- (5) For procedural provision about notice under this section, see sections 41 to 44.

#### Annotations:

##### Commencement Information

- I6** S. 39(1)-(3)(5) in force at 1.8.2017 by [S.I. 2017/239](#), [art. 2](#)  
**I7** S. 39(4) in force at 20.5.2015 for specified purposes by [S.I. 2015/1327](#), [art. 2\(m\)](#)

*Publication etc of notice under this Part*

### 40 Publication etc of notice under this Part

- (1) If HEFCW give notice under section 37, 38 or 39, they must—
  - (a) give a copy of the notice to the Welsh Ministers, and
  - (b) publish the notice.
- (2) Regulations may make provision about how and when HEFCW are to comply with subsection (1).

#### Annotations:

##### Commencement Information

- I8** S. 40(1) in force at 1.8.2016 by [S.I. 2016/110](#), [art. 3\(b\)](#)

**Changes to legislation:** There are currently no known outstanding effects for the Higher Education (Wales) Act 2015, PART 5 . (See end of Document for details)

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| <p><b>I9</b> S. 40(2) in force at 20.5.2015 for specified purposes by <a href="#">S.I. 2015/1327</a>, <b>art. 2(n)</b></p> <p><b>I10</b> S. 40(2) in force at 1.8.2016 in so far as not already in force by <a href="#">S.I. 2016/110</a>, <b>art. 3(b)</b></p> |
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**Changes to legislation:**

There are currently no known outstanding effects for the Higher Education (Wales) Act 2015,  
PART 5 .