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WELSH STATUTORY INSTRUMENTS

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**2005 No. 1833 (W.149) (C.79)**

**EDUCATION, WALES**

**The Higher Education Act 2004 (Commencement  
No.2 and Transitional Provision) (Wales) Order 2005**

*Made* - - - -

*6 July 2005*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 47(5), 52(3), (4) and (6) of the Higher Education Act 2004<sup>(1)</sup> with the agreement of the Secretary of State<sup>(2)</sup> hereby makes the following Order:

**Title, application and interpretation**

1. The title of this Order is the Higher Education Act 2004 (Commencement No.2 and Transitional Provision) (Wales) Order 2005.
2. Provisions brought into force by this Order are brought into force in relation to Wales.
3. In this Order, unless otherwise stated, references to sections and Schedules are references to sections of and Schedules to the Higher Education Act 2004.

**Provisions coming into force**

4. The following provisions come into force on 7 July 2005—
  - (a) section 10(2);
  - (b) section 44 (1), (2), (5) and (6);
  - (c) section 49 in so far as it relates to the provisions of Schedule 6 below;
  - (d) section 50 in so far as it relates to the provisions of Schedule 7 below;
  - (e) in Schedule 6, paragraph 7, the omission of section 26(5) of the Teaching and Higher Education Act 1998; and
  - (f) in Schedule 7, the repeal of section 26(5) of the Teaching and Higher Education Act 1998.
5. The following provisions come into force on 1 September 2006—
  - (a) section 44(3); and
  - (b) section 44(4).

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(1) 2004 c. 8.

(2) As required by the Higher Education Act 2004, section 52(4).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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### **Transitional and saving provision**

6. Notwithstanding the coming into force of section 44(1) and (2) by virtue of article 4(b) above, until 1 September 2006, the functions of the Secretary of State under the Education (Student Support) Regulations 2005<sup>(3)</sup> are exercisable in relation to Wales by the Secretary of State solely.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(4)</sup>.

6 July 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(3) S.I. 2005/52.  
(4) 1998 c. 38.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force in Wales on 30 June 2005 the following provisions of the Higher Education Act 2004:

Section 10(2) which gives the National Assembly power to directly fund research in the arts and humanities and related activities.

Section 44(1) which transfers to the National Assembly the Secretary of State's power to make regulations setting out the arrangements for giving financial support to students.

Section 44(2) which gives the National Assembly power (concurrently with the Secretary of State) to make, in relation to Wales, certain provisions in the regulations setting out the arrangements for giving financial support to students

Section 44(5) which gives the National Assembly power (concurrently with the Secretary of State), before the transfer of student support functions, to make payments to a body or person, such as the Student Loans Company, by whom a function of the National Assembly will be exercisable after the transfer of student support powers to the National Assembly.

Section 44(6) which ensures that certain provisions of the Government of Wales Act 1998 apply to the functions transferred, for example, that Parliamentary procedures do not apply to the making of National Assembly legislation.

Section 49 and Schedule 6 which contain consequential amendments.

Section 50 and Schedule 7 which contain repeals.

This Order brings into force in Wales on 1 September 2006, the following provisions of the Higher Education Act 2004:

Section 44(3) which ensures that regulations made by the Secretary of State providing for repayment of student loans through taxation (regulations made under s.22 (5) of the Teaching and Higher Education Act 1998), apply to Wales only if the National Assembly determines to operate a repayment system through collection via taxation and gives notice of that determination to the Secretary of State.

Section 44(4) which transfers to the National Assembly the power to transfer or delegate any of the functions it has by virtue of the regulations setting out the arrangements for giving financial support to students.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Section 1	16 December 2004	<a href="#">2004/3255</a>
Section 2	1 April 2005	<a href="#">2005/767</a>
Sections 3 to 6	16 December 2004	<a href="#">2004/3255</a>
Sections 8 and 9	16 December 2004	<a href="#">2004/3255</a>
Sections 11 to 18	1 December 2004	<a href="#">2004/3144</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Section 19	1 November 2004	<a href="#">2004/2781</a>
Section 20	1 January 2005	<a href="#">2004/3144</a>
Section 21	1 December 2004	<a href="#">2004/3144</a>
Section 46	1 January 2005	<a href="#">2004/3144</a>
Section 49	16 December 2004 1 April 2005	<a href="#">2004/32552005/767</a>
Section 50	1 January 2005 1 April 2005	<a href="#">2004/31442005/767</a>
Schedule 1	1 December 2004	<a href="#">2004/3144</a>
Schedule 2	1 December 2004	<a href="#">2004/3144</a>
Schedule 3	1 December 2004	<a href="#">2004/3144</a>
Schedule 4	1 December 2004	<a href="#">2004/3144</a>
Schedule 6	16 December 2004 1 April 2005	<a href="#">2004/32552005/767</a>
Schedule 7	1 January 2005 1 April 2005	<a href="#">2004/31442005/767</a>

Various provisions of the Higher Education Act 2004 have been brought into force in relation to England and Northern Ireland by the following statutory instruments: S.I. [2004/2781](#) and S.I. [2004/3255](#). Section 10(3) of the Higher Education Act 2004 has been brought into force in relation to Scotland by S.I. [2005/33](#).