



# Teaching and Higher Education Act 1998

## 1998 CHAPTER 30

### PART II

#### FINANCIAL PROVISION FOR HIGHER AND FURTHER EDUCATION

### CHAPTER I

#### ENGLAND AND WALES

#### *Student fees*

#### **26 Imposition of conditions as to fees at further or higher education institutions.**

<sup>F1</sup>[<sup>F2</sup>(1).....

<sup>F1</sup>(2).....

(3) The power of the Secretary of State to impose conditions under section 68(1) of the 1992 Act or [<sup>F3</sup>section 81(1), 82(1) or 88(1) of the 2005 Act] in relation to grants paid to one of the following bodies, namely—

- (a) the Higher Education Funding Council for England,
- (b) the Higher Education Funding Council for Wales, or
- (c) the [<sup>F4</sup>Training and Development Agency for Schools],

as the case may be, shall include power to impose a condition requiring the body to whom he is making any such grant to impose a condition under subsection (4) below in relation to any grants, loans or other payments made by that body under section 65 of the 1992 Act, or (as the case may be) [<sup>F5</sup>section 78 or 86 of the 2005 Act], to the governing body of a relevant institution.

(4) A condition under this subsection shall require the governing body of any such institution to secure that, in respect of the relevant academic year, the fees payable to the institution by any prescribed class of persons in connection with their

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[<sup>F6</sup>undertaking] courses of any prescribed description are equal to the prescribed amount.

- (5) In subsection (4) “the prescribed amount”, in relation to any such class of persons [<sup>F6</sup>undertaking] courses of any such description, means such amount as may be prescribed for the time being by virtue of section 22(2)(b) as the maximum amount of any grant available for the relevant academic year in respect of fees payable by such persons in connection with their [<sup>F6</sup>undertaking] such courses.
- (6) A condition under [<sup>F7</sup>subsection (4)] shall impose, in the event of a failure by the governing body to comply with the requirement specified in that subsection, such further financial requirements on that body as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or part of any sums received by them in respect of the grant, loan or other payment in question.
- (7) No condition under [<sup>F7</sup>subsection (4)] shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the <sup>M1</sup>Education (Fees and Awards) Act 1983 (fees at universities and further education establishments), by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section (persons connected with the United Kingdom, etc.).
- (8) The Secretary of State shall not exercise the power to prescribe descriptions of courses under subsection (4) in such a way as to discriminate—
- (a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given, or
  - (b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.
- (9) In this section—
- the 1992 Act” means the <sup>M2</sup>Further and Higher Education Act 1992;
- [<sup>F8</sup>“the 2005 Act” means the Education Act 2005;]
- “course”, where it appears in subsection (4) or (5), does not include any part-time or postgraduate course other than a course of initial teacher training;
- [<sup>F9</sup>“governing body” in relation to a training provider within the meaning of Part 3 of the 2005 Act who would not apart from this subsection be regarded as an institution, means the training provider;
- “institution” includes any training provider within the meaning of Part 3 of the 2005 Act (whether or not the training provider would apart from this subsection be regarded as an institution);]
- “the relevant academic year”, in relation to a course, means the academic year applicable to the course which begins at the same time as, or during, the period in respect of which the grants, loans or other payments to which the relevant condition under [<sup>F10</sup>subsection (4)] relates are made;
- “relevant institution” means a specified institution or an institution of a specified class; and
- “specified” means specified by the Secretary of State in a condition imposed by him under [<sup>F11</sup>subsection (3)].

- (10) Where—

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- (a) a condition is imposed under [F7 subsection (4)] in connection with any grants, loans or other payments made to the governing body of a relevant institution, and
- (b) those payments are to any extent so made in respect of persons [F6 undertaking] a course which is provided in whole or part by any other institution,
- then, for the purposes of this section, fees payable by such persons to the other institution shall be regarded as fees payable by them to the relevant institution.
- (11) Nothing in the 1992 Act or [F12 the 2005 Act], so far as it imposes any prohibition or other requirement in relation to the imposition of conditions by the Secretary of State or by any of the Councils mentioned in [F13 subsection (3)] or the [F14 Training and Development Agency for Schools] shall apply to—
- (a) any condition under [F13 subsection (3)] imposed by the Secretary of State; or
- (b) any condition under [F7 subsection (4)] imposed by any of those Councils or that Agency.]

#### Textual Amendments

- F1** S. 26(1)(2) repealed (28.7.2000 for specified purposes, 1.4.2001 otherwise) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 74(2), Sch. 11; S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I
- F2** S. 26 repealed (7.7.2005 for W. for the repeal of s. 26(5) and 14.1.2006 for E.) by Higher Education Act 2004 (c. 8), s. 52(6), Sch. 6 para. 7, Sch. 7; S.I. 2005/1833, art. 4(e); S.I. 2006/51, art. 2
- F3** Words in s. 26(3) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(2)(a)
- F4** Words in s. 26(3)(c) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(2)(b)
- F5** Words in s. 26(3) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(2)(c)
- F6** Words in s. 26(4)(5)(10)(b) substituted (1.10.2000) by 2000 c. 21, s. 146(4); S.I. 2000/2559, art. 2(1), Sch. Pt. I
- F7** Words in s. 26(6)(7)(10)(a)(11)(b) substituted (28.7.2000 for specified purposes, 1.4.2001 otherwise) by 2000 c. 21, s. 149, Sch. 9 para. 74(3); S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I
- F8** Words in s. 26(9) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(3)(a)
- F9** Words in s. 26(9) inserted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(3)(b)
- F10** S. 26(9): words in the definition of “the relevant academic year” substituted (28.7.2000 for specified purposes, 1.4.2001 otherwise) by 2000 c. 21, s. 149, Sch. 9 para. 74(4)(a); S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I
- F11** S. 26(9): words in the definition of “specified” substituted (28.7.2000 for specified purposes, 1.4.2001 otherwise) by 2000 c. 21, s. 149, Sch. 9 para. 74(4)(b); S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I
- F12** Words in s. 26(11) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(4)(a)
- F13** Words in s. 26(11)(a) substituted (28.7.2000 for specified purposes, 1.4.2001 otherwise) by 2000 c. 21, s. 149, Sch. 9 para. 74(5); S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I
- F14** Words in s. 26(11) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), Sch. 14 para. 19(4)(b)

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#### Marginal Citations

**M1** 1983 c. 40.

**M2** 1992 c. 13.

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