



# Teaching and Higher Education Act 1998

## 1998 CHAPTER 30

### PART II

#### FINANCIAL PROVISION FOR HIGHER AND FURTHER EDUCATION

### CHAPTER II

#### SCOTLAND

### **31 Imposition of conditions as to fees at further and higher education institutions in Scotland.**

(1) In section 10 of the <sup>M1</sup>Further and Higher Education (Scotland) Act 1992 (payment of grants to Funding Council), after subsection (2) there shall be inserted—

“(2A) The power of the Secretary of State under subsection (2) above to impose conditions shall include power to impose a condition requiring the Funding Council to impose, in such cases as may be specified in the condition, a condition under subsection (2B) below in relation to any grant, loan or other payment made by the Funding Council in the exercise of any function prescribed by an order under section 7(2) of this Act.

(2B) A condition under this subsection shall require—

- (a) the board of management of any college of further education; or
- (b) any other person to whom any such grant, loan or other payment as is mentioned in subsection (2A) above is made,

to secure that no fees are payable to the board of management or, as the case may be, person by any specified class of persons in respect of any specified matters in connection with their attending courses of any specified description.

(2C) No condition under subsection (2B) above shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the <sup>M2</sup>Education (Fees and Awards) Act 1983 (fees at universities and

*Status: Point in time view as at 16/07/1998.*

*Changes to legislation: Teaching and Higher Education Act 1998, Section 31 is up to date with all changes known to be in force on or before 11 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)*

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.).

- (2D) A condition under subsection (2B) above shall impose, in the event of a failure by a board of management mentioned in paragraph (a) of that subsection or, as the case may be, of such other person as is mentioned in paragraph (b) of that subsection to comply with the requirement specified in that subsection, such further financial requirements on that board or person as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or any part of any sums received by that board or person in respect of the grant, loan or other payment in question.
- (2E) Where the functions of the Secretary of State under section 4 of this Act are exercised by the Funding Council, the prohibition contained in subsection (3) of that section shall not apply in relation to conditions imposed under subsection (2B) above.”
- (2) In section 42 of that Act (grants in relation to higher education), after subsection (3) there shall be inserted—
- “(3A) The power of the Secretary of State under subsection (1) above to impose conditions shall include power to impose a condition requiring the Council to impose, in such cases as may be specified in the condition, a condition under subsection (3B) below in relation to any grants, loans or other payments made by the Council under section 40(3) of this Act in respect of activities eligible for funding under that section.
- (3B) A condition under this subsection shall require the recipient of a grant, loan or other payment made under section 40(3) of this Act to secure that the fees payable to the recipient by any class of persons prescribed by regulations in connection with their attending courses of any description so prescribed are equal to such maximum amount as may, in relation to any such class of persons attending courses of any such description, be determined by the Secretary of State under section 73D(2) of the <sup>M3</sup>Education (Scotland) Act 1980.
- (3C) No condition under subsection (3B) above shall apply in relation to any fees which are payable, in accordance with regulations under section 1 of the <sup>M4</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.).
- (3D) The Secretary of State shall not exercise the power to prescribe descriptions of courses under subsection (3B) above in such a way as to discriminate—
- (a) in relation to courses for the training of persons preparing to be teachers which are open only to persons holding a degree, between different courses on the basis of the subject in which such training is given; or
  - (b) in relation to other courses, between courses at the same or a comparable level on the basis of the particular areas of study or research to which they relate.

---

**Status:** Point in time view as at 16/07/1998.

**Changes to legislation:** Teaching and Higher Education Act 1998, Section 31 is up to date with all changes known to be in force on or before 11 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)

---

- (3E) A condition under subsection (3B) above shall impose, in the event of a failure by the recipient of a grant, loan or other payment made under section 40(3) of this Act to comply with the requirement specified in that subsection, such further financial requirements on that recipient as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or any part of any sums received by that recipient in respect of the grant, loan or other payment in question.
- (3F) Subsection (3) above shall not apply in relation to conditions imposed under subsection (1) above by virtue of subsection (3A) above.
- (3G) The prohibition contained in section 40(4) of this Act and the duty imposed by section 41(2) of this Act shall not apply in relation to conditions imposed under subsection (3B) above.”

---

**Marginal Citations**

- M1** 1992 c. 37.  
**M2** 1983 c. 40.  
**M3** 1980 c. 44.  
**M4** 1983 c. 40.

**Status:**

Point in time view as at 16/07/1998.

**Changes to legislation:**

Teaching and Higher Education Act 1998, Section 31 is up to date with all changes known to be in force on or before 11 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.