



# Higher Education and Research Act 2017

## 2017 CHAPTER 29

### PART 1

#### THE OFFICE FOR STUDENTS

##### *Funding of the OfS*

#### **70 Registration fees**

- (1) The OfS may, in accordance with regulations made by the Secretary of State, charge an institution either or both of the following—
  - (a) a fee for its initial registration in the register;
  - (b) a fee for its ongoing registration in the register for each period of twelve months.
- (2) The regulations may, in particular, make provision—
  - (a) about the amounts which may be charged, including different amounts for different institutions;
  - (b) about the charging of proportions of those amounts in certain circumstances;
  - (c) about when a fee is payable, including about payment by instalments;
  - (d) about the consequences of non-payment;
  - (e) about notification of institutions of the fees payable, when they are payable and the consequences of non-payment;
  - (f) about the recovery of fees and of costs in recovering those fees;
  - (g) about the imposition of financial penalties for late payment of fees;
  - (h) about rights of appeal in respect of the imposition of such penalties;
  - (i) about the charging of interest;
  - (j) about the waiving or refunding of fees.
- (3) The regulations may provide for the amounts of fees to be calculated by reference to costs incurred, or to be incurred, by the OfS in the performance of any of its functions

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(including costs unconnected with maintaining the register or with the institution in question).

(4) Regulations under this section may be made only with the consent of the Treasury.

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**Commencement Information**

**II** S. 70 in force at 1.1.2019 by S.I. 2018/1226, reg. 2(c)

**71 Other fees**

(1) The OfS may, in accordance with regulations made by the Secretary of State, charge a fee for—

- (a) any activity undertaken by the OfS in the performance of its functions which is specified in the regulations;
- (b) any service provided by it in the performance of its functions which is specified in the regulations.

(2) The regulations may, in particular, make provision—

- (a) about the persons required to pay the fees (“payees”);
- (b) about the amounts which may be charged, including different amounts for different payees;
- (c) about the charging of proportions of those amounts in certain circumstances;
- (d) about when a fee is payable, including about payment by instalments;
- (e) about the consequences of non-payment;
- (f) about notification of payees of the fees payable, when they are payable and the consequences of non-payment;
- (g) about the recovery of fees and of costs in recovering those fees;
- (h) about the imposition of financial penalties for late payment of fees;
- (i) about rights of appeal in respect of the imposition of such penalties;
- (j) about the charging of interest;
- (k) about the waiving or refunding of fees.

(3) The regulations may provide for the amounts of fees to be calculated by reference to costs incurred by the OfS in the performance of the activity or service in question in relation to a person other than the payee.

(4) If costs incurred by the OfS are costs by reference to which fees under section 70 are calculated as a result of regulations made under that section, fees calculated by reference to those costs may not be charged under this section.

(5) Regulations under this section may be made only with the consent of the Treasury.

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**Commencement Information**

**I2** S. 71 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(h)

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## 72 Retention of fee related income

- (1) The OfS must pay its fee income to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
- (2) “Fee income” means the sums received by the OfS by way of—
  - (a) fees charged under section 70 (registration fees) or 71 (other fees), or
  - (b) costs recovered by virtue of regulations made under section 70(2)(f) or 71(2)(g).
- (3) The OfS must pay its other fee related income to the Secretary of State.
- (4) “Other fee related income” means the sums received by the OfS by way of—
  - (a) penalties imposed by virtue of regulations made under section 70(2)(g) or 71(2)(h), or
  - (b) interest charged by virtue of regulations made under section 70(2)(i) or 71(2)(j).

### Commencement Information

- I3** S. 72 in force at 1.1.2019 for specified purposes by S.I. 2018/1226, reg. 2(d)  
**I4** S. 72 in force at 1.8.2019 in so far as not already in force by S.I. 2018/1226, reg. 4(i)

## 73 Costs recovery

- (1) The OfS may, by notice, require the governing body of a provider in relation to which a sanction has been imposed to pay the costs incurred by the OfS in relation to imposing the sanction up to the date of notification.
- (2) The references in subsection (1) to imposing a sanction are to—
  - (a) imposing a monetary penalty under section 15;
  - (b) suspending a provider's registration under section 16;
  - (c) removing a provider from the register under section 18.
- (3) “Costs” includes, in particular, investigation costs, administration costs and costs of obtaining expert advice (including legal advice).
- (4) “The date of notification” means the date on which the OfS notified the provider of its decision—
  - (a) in the case of a monetary penalty, under paragraph 2(5) of Schedule 3;
  - (b) in the case of suspension, under section 17(5);
  - (c) in the case of removal, under section 19(5).
- (5) Schedule 7 contains provision about—
  - (a) the procedure for imposing a requirement to pay costs,
  - (b) rights of appeal,
  - (c) the recovery of the amount required to be paid and interest, and
  - (d) the retention of sums received.

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#### Commencement Information

**I5** S. 73 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(j)

### 74 Grants from the Secretary of State

- (1) The Secretary of State may make grants to the OfS of such amounts, and subject to such terms and conditions, as the Secretary of State considers appropriate.
- (2) The terms and conditions under subsection (1) may, in particular, be framed by reference to particular courses of study.
- (3) But in determining the terms and conditions under subsection (1), the Secretary of State must have regard to the need to protect the institutional autonomy of English higher education providers.
- (4) The terms and conditions under subsection (1) must not relate to—
  - (a) particular parts of courses of study,
  - (b) the content of such courses,
  - (c) the manner in which they are taught, supervised or assessed,
  - (d) the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
  - (e) the criteria for the admission of students, or how they are applied.
- (5) Terms and conditions under subsection (1) framed by reference to a particular course of study must not require the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.
- (6) Terms and conditions under subsection (1) relating to the provision of financial support by the OfS under section 39 or 40 (financial support for providers) may be imposed only if—
  - (a) they are requirements to be met before financial support of a specified amount or of a specified description is given by the OfS in respect of activities carried on by an institution, and
  - (b) they apply to every institution, or every institution within a specified description, in respect of whose activities that support may be provided.
- (7) The terms and conditions under subsection (1) may, in particular—
  - (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by the Secretary of State if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.
- (8) In this section “specified” means specified in the terms and conditions.

#### Commencement Information

**I6** S. 74 in force at 1.1.2019 by S.I. 2018/1226, reg. 2(e)

**Changes to legislation:**

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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\(6\)](#)