

Changes to legislation: Higher Education and Research Act 2017, SCHEDULE 2 is up to date with all changes known to be in force on or before 16 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) View outstanding changes

SCHEDULES

SCHEDULE 2

Section 10

THE FEE LIMIT

Introduction

- 1 (1) This Schedule is about determining the amount of “the fee limit” where a fee limit condition is an ongoing registration condition of a registered higher education provider.
- (2) The amount of “the fee limit” for the purposes of applying that condition to fees in connection with a qualifying course and in respect of an academic year is determined in the case of each provider and each qualifying course as follows.
- (3) References to “the relevant course” and “the relevant academic year” are to that course and year.

Commencement Information

II Sch. 2 para. 1 in force at 1.4.2018 by S.I. 2018/241, reg. 2(p)

The fee limit where the provider has an access and participation plan

- 2 (1) This paragraph applies if an access and participation plan approved by the OfS under section 29 in relation to the provider is in force, or comes into force, when the relevant academic year begins.
- (2) If the provider—
 - (a) had a high level quality rating at the relevant time, the fee limit is such limit, not exceeding the higher amount, as is provided by the plan for the relevant course and for the relevant academic year, and
 - (b) in any other case, the fee limit is such limit, not exceeding the sub-level amount, as is provided by the plan for the relevant course and for the relevant academic year.
- (3) “A high level quality rating” means such rating or ratings given in accordance with arrangements made under section 25 (rating the quality of, and the standards applied to, higher education) as the Secretary of State determines to be a high level quality rating for the purposes of this paragraph.
- (4) “The relevant time” means at the time when the access and participation plan is approved.
- (5) “The higher amount” means such amount as may be prescribed for the purposes of sub-paragraph (2)(a) as the higher amount.

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- (6) “The sub-level amount” means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—
- (a) as the sub-level amount in respect of the higher amount, or
 - (b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 119(5)(a), as the sub-level amount in respect of each higher amount.
- (7) Different amounts may be determined under sub-paragraph (6) for different descriptions of provider.
- (8) Those descriptions of provider may be by reference only to—
- (a) whether a provider has or has not a rating given to it in accordance with arrangements under section 25, and
 - (b) where it has such a rating, the level, type or other description of the rating.
- (9) Any amount determined as “the sub-level amount”—
- (a) must not exceed the higher amount, and
 - (b) must be equal to or greater than the floor amount.
- (10) But any amount determined as “the sub-level amount” for a description of provider by virtue of sub-paragraph (7) must be equal to the higher amount where—
- (a) the description is of providers who have a rating given to them in accordance with arrangements under section 25, and
 - (b) the amount is in respect of an academic year which begins before 1 August 2020.
- (11) “The floor amount” means such amount as may be prescribed for the purposes of this paragraph—
- (a) as the floor amount in respect of the higher amount, or
 - (b) where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 119(5)(a), as the floor amount in respect of each higher amount.
- (12) Where different amounts are prescribed as the higher amount for different cases or purposes by virtue of section 119(5)(a)—
- (a) the reference in sub-paragraph (9)(a) to the higher amount is to the higher amount in respect of which the sub-level amount is determined, and
 - (b) the reference in sub-paragraph (9)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (11) in respect of that higher amount.
- (13) “Prescribed” means prescribed by regulations made by the Secretary of State.

Commencement Information

I2 Sch. 2 para. 2 in force at 1.4.2018 by S.I. 2018/241, reg. 2(p)

The fee limit where the provider has no access and participation plan

- 3 (1) This paragraph applies if an access and participation plan approved by the OfS under section 29 in relation to the provider is not in force, and does not come into force, when the relevant academic year begins.

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- (2) If the provider—
 - (a) had a high level quality rating within the meaning of paragraph 2 at the relevant time, the fee limit is the basic amount, and
 - (b) in any other case, the fee limit is the sub-level amount.
- (3) “The relevant time” means on 1 January in the calendar year^{F1} ... in which the relevant academic year begins.
- (4) “The basic amount” means such amount as may be prescribed for the purposes of sub-paragraph (2)(a) as the basic amount.
- (5) “The sub-level amount” means such amount as may be determined by the Secretary of State for the purposes of sub-paragraph (2)(b)—
 - (a) as the sub-level amount in respect of the basic amount, or
 - (b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 119(5)(a), as the sub-level amount in respect of each basic amount.
- (6) Different amounts may be determined under sub-paragraph (5) for different descriptions of provider.
- (7) Those descriptions of provider may be by reference only to—
 - (a) whether a provider has or has not a rating given to it in accordance with arrangements under section 25, and
 - (b) where it has such a rating, the level, type or other description of the rating.
- (8) Any amount determined as “the sub-level amount”—
 - (a) must not exceed the basic amount, and
 - (b) must be equal to or greater than the floor amount.
- (9) But any amount determined as “the sub-level amount” for a description of provider by virtue of sub-paragraph (6) must be equal to the basic amount where—
 - (a) the description is of providers who have a rating given to them in accordance with arrangements under section 25, and
 - (b) the amount is in respect of an academic year which begins before 1 August 2020.
- (10) “The floor amount” means such amount as may be prescribed for the purposes of this paragraph—
 - (a) as the floor amount in respect of the basic amount, or
 - (b) where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 119(5)(a), as the floor amount in respect of each basic amount.
- (11) Where different amounts are prescribed as the basic amount for different cases or purposes by virtue of section 119(5)(a)—
 - (a) the reference in sub-paragraph (8)(a) to the basic amount is to the basic amount in respect of which the sub-level amount is determined, and
 - (b) the reference in sub-paragraph (8)(b) to the floor amount is to the floor amount prescribed under sub-paragraph (10) in respect of that basic amount.
- (12) “Prescribed” means prescribed by regulations made by the Secretary of State.

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Textual Amendments

- F1** Words in Sch. 2 para. 3(3) omitted (28.6.2022) by virtue of Skills and Post-16 Education Act 2022 (c. 21), ss. 34, 36(2)

Commencement Information

- I3** Sch. 2 para. 3 in force at 1.4.2018 by S.I. 2018/241, reg. 2(p)

Accelerated courses

- 4 (1) The power for regulations to prescribe different amounts for different cases or purposes by virtue of section 119(5)(a) includes power for regulations under paragraph 2 or 3 to prescribe different amounts as the higher amount, basic amount and floor amount in the case of an accelerated course.
- (2) An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award.

Commencement Information

- I4** Sch. 2 para. 4 in force at 1.4.2018 by S.I. 2018/241, reg. 2(p)

Procedure

- 5 (1) The Secretary of State must—
- (a) notify the OfS of initial and subsequent determinations made under—
 - (i) paragraph 2(3) (meaning of “a high level quality rating” for the purposes of paragraph 2),
 - (ii) paragraph 2(6) (meaning of “the sub-level amount” for the purposes of paragraph 2), or
 - (iii) paragraph 3(5) (meaning of “the sub-level amount” for the purposes of paragraph 3), and
 - (b) publish those determinations.
- (2) No regulations may be made under paragraph 2 increasing the higher amount unless—
- (a) the Secretary of State is satisfied that the increase is no greater than is required to maintain the value of the amount in real terms, or
 - (b) each House of Parliament has passed a resolution that, with effect from a date specified in the resolution, the higher amount should be increased to an amount specified in the resolution, and the increase is an increase to the specified amount with effect from the specified date.
- (3) For the purposes of sub-paragraph (2)(a), the Secretary of State is to have regard to such index of prices as may be specified in, or determined in accordance with, regulations made by the Secretary of State under this sub-paragraph.

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I5 Sch. 2 para. 5 in force at 1.4.2018 by S.I. 2018/241, **reg. 2(p)**

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Changes and effects yet to be applied to :

- Sch. 2 para. 2(1) word substituted by [2023 c. 40 s. 1\(6\)\(a\)](#)
- Sch. 2 para. 2(2)(a) word substituted by [2023 c. 40 s. 1\(6\)\(b\)\(i\)](#)
- Sch. 2 para. 2(2)(b) word substituted by [2023 c. 40 s. 1\(6\)\(b\)\(i\)](#)
- Sch. 2 para. 3(1) word substituted by [2023 c. 40 s. 1\(8\)\(a\)](#)
- Sch. 2 para. 3(2)(a) word substituted by [2023 c. 40 s. 1\(8\)\(b\)](#)
- Sch. 2 para. 3(2)(b) word substituted by [2023 c. 40 s. 1\(8\)\(b\)](#)
- Sch. 2 para. 3(3) word substituted by [2023 c. 40 s. 1\(8\)\(c\)](#)
- Sch. 2 para. 2(2)(a) words omitted by [2023 c. 40 s. 1\(6\)\(b\)\(ii\)](#)
- Sch. 2 para. 2(2)(b) words omitted by [2023 c. 40 s. 1\(6\)\(b\)\(ii\)](#)
- Sch. 2 para. 2 cross-heading word substituted by [2023 c. 40 s. 1\(5\)](#)
- Sch. 2 para. 3 cross-heading word substituted by [2023 c. 40 s. 1\(7\)](#)

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\(6\)](#)