



Higher Education and Research Act 2017

2017 CHAPTER 29

PART 4

GENERAL

118 Pre-commencement consultation

- (1) Subsections (2) and (3) apply in relation to a provision of this Act under or by virtue of which the OfS has a function of consulting another person.
- (2) At any time before the provision comes into force (and whether before or after the passing of this Act), the Secretary of State, the DFA or HEFCE or any of them acting jointly—
 - (a) may carry out any consultation that the OfS would have power or a duty to carry out after the provision comes into force, and
 - (b) for that purpose, may prepare drafts of any documents to which the consultation relates.
- (3) At any time after the provision comes into force, the OfS may elect to treat any consultation carried out or other thing done under subsection (2) by the Secretary of State, the DFA or HEFCE (or any of them acting jointly) as carried out or done by the OfS.
- (4) Where the OfS has a consultation function involving registered higher education providers, references to registered higher education providers in the provisions describing the consultees are to be read as references to English higher education providers—
 - (a) for the purposes of applying subsection (2) at any time when there are no registered higher education providers, and
 - (b) for the purposes of applying subsection (3) in relation to any thing done under subsection (2) in reliance upon paragraph (a) of this subsection.
- (5) For the purposes of subsection (4), “a consultation function involving registered higher education providers” is a function of consulting—

Changes to legislation: Higher Education and Research Act 2017, Section 118 is up to date with all changes known to be in force on or before 21 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](#)

- (a) registered higher education providers (whether generally or a description of such providers), or
 - (b) persons with a connection (however described) to such providers.
- (6) In subsections (4) and (5), “English higher education provider” and “registered higher education provider” have the same meaning as in Part 1 (see sections 83 and 85).
- (7) Subsections (8) and (9) apply in relation to a provision of this Act under or by virtue of which UKRI has a function of consulting another person.
- (8) At any time before the provision comes into force (and whether before or after the passing of this Act), the Secretary of State or HEFCE or the Secretary of State and HEFCE acting jointly—
- (a) may carry out any consultation that UKRI would have power or a duty to carry out after the provision comes into force, and
 - (b) for that purpose, may prepare drafts of any documents to which the consultation relates.
- (9) At any time after the provision comes into force, UKRI may elect to treat any consultation carried out or other thing done under subsection (8) by the Secretary of State or HEFCE (or the Secretary of State and HEFCE acting jointly) as carried out or done by UKRI.
- (10) In this section—
- “the DFA” means the Director of Fair Access to Higher Education;
 - “HEFCE” means the Higher Education Funding Council for England.

Commencement Information

II S. 118 in force at 1.1.2018 by S.I. 2017/1146, reg. 2(o)

Changes to legislation:

Higher Education and Research Act 2017, Section 118 is up to date with all changes known to be in force on or before 21 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.

[View outstanding changes](#)

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\(6\)](#)