
EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations except certain fees from the meaning of “fees” in Chapter 1 of Part II of the Teaching and Higher Education Act 1998 (“The 1998 Act”).

Section 28 of the 1998 Act provides a definition of “fees” for the purposes of Chapter 1 of Part II of that Act, excluding certain categories of fees and “such other fees as may be prescribed”.

These Regulations are made under section 28 of the 1998 Act and prescribe further categories of excepted fees. These are set out in the Schedule.

Higher education institutions are prohibited from charging “top up” fees. The prohibition is made under powers granted by Section 26 of the Teaching and Higher Education Act 1998: a condition is imposed on the Higher Education Funding Council for Wales requiring it to place a condition on the funding it allocates to institutions providing higher education.

Under the Government’s arrangements for funding higher education, students eligible for support make an income-assessed personal contribution to their fees. This may not exceed £1,025 for the year beginning in autumn 1999.

However universities and colleges have in the past and need to continue to charge for goods and services not forming part of the “core provision” of a course. The prohibition on top up fees would prevent this, so these Regulations exclude certain such charges from the definition of fees covered by the condition which has been imposed. The purpose of these Regulations is to allow universities and colleges to continue to charge for goods or services as they have traditionally done. The Regulations therefore give a legal basis for continuing an existing practice.

The Regulations define “core provision” to mean the provision of goods or services related to a course which is intended, by enabling the student to acquire skills or knowledge, to afford the student the opportunity to attain up to the highest grade or qualification for the course (or, where more than one grade or qualification is comprised in a course, the highest of all the grades or qualifications for the course).

The Regulations will allow charges to be made for goods which do not form part of the core provision or where the goods become the property of the student; for services which are not part of the core provision; any fee which represents a reimbursement of any fee or charge which the institution pays to some other person in connection with the student’s attendance on, or completion of the course; any fee in respect of any additional administrative expenses incurred by the institution as a result of any negligence or default by the student; any fee in respect of travel facilities provided by the institution.