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WELSH STATUTORY INSTRUMENTS

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**2011 No. 297 (W.50) (C.13)**

**EDUCATION, WALES**

**The Higher Education Act 2004  
(Commencement No. 3) (Wales) Order 2011**

Made - - - - 9 February 2011

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by sections 47(1), 52(3) and 52(6) of the Higher Education Act 2004<sup>(1)</sup> and now exercisable by them<sup>(2)</sup> make the following Order:

**Title and interpretation**

1.—(1) The title of this Order is the Higher Education Act 2004 (Commencement No. 3) (Wales) Order 2011.

(2) In this Order:

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998<sup>(3)</sup>;

“the 2004 Act” (“*Deddf 2004*”) means the Higher Education Act 2004.

**Provisions coming into force**

2. The following provisions of the 2004 Act come into force on 11 February 2011—

- (a) section 22 in relation to Wales;
- (b) section 28(6) so far as enabling regulations to be made;
- (c) sections 33 to 36 in relation to Wales so far as enabling regulations to be made;
- (d) section 38 so far as enabling regulations to be made;
- (e) section 39 in relation to Wales so far as enabling regulations to be made;
- (f) section 41 in relation to Wales.

3. The following provisions of the 2004 Act come into force on 31 March 2011—

- (a) section 27;
- (b) section 28(1) to (5);

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(1) 2004 c. 8.

(2) The functions of the National Assembly for Wales under sections 47(1), 52(3) and 52(6) were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) 1998 c. 30.

- (c) section 28(6) in so far as not commenced by article 2(b);
- (d) section 30(2) and (3);
- (e) section 32(4);
- (f) section 38 in so far as not commenced by article 2(b).

4. The following provisions of the 2004 Act come into force on 31 March 2011 in relation to Wales—

- (a) section 29;
- (b) section 30(1);
- (c) sections 33 to 36 in so far as not commenced by article 2(c);
- (d) section 39 in so far as not commenced by article 2(e);
- (e) section 49 so far as it relates to the provisions of Schedule 6 set out in paragraphs (g) and (h);
- (f) section 50 in so far as it relates to the provisions of Schedule 7 set out in paragraphs (i) and (j);
- (g) in Schedule 6, paragraph 7, the omission of section 26(3), (4) and (6) to (11) of the 1998 Act;
- (h) in Schedule 6, paragraph 8;
- (i) in Schedule 7, the repeal of section 26(3), (4) and (6) to (11) of the 1998 Act;
- (j) in Schedule 7, the repeal in section 28(1) of the 1998 Act of the definitions of “fees” and “publicly-funded institution”.

9 February 2011

*Leighton Andrews*  
Minister for Children, Education and Lifelong  
Learning, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This is the third commencement order made by the Welsh Ministers under the Higher Education Act 2004 (“the 2004 Act”). The Order brings into force provisions concerning the imposition by the Welsh Ministers of conditions to control fees at institutions in Wales which receive grants from the Higher Education Funding Council for Wales.

The provisions of Part 3 of the 2004 Act brought into force by this Order (where applicable in relation to Wales) are as follows:

- section 22, which explains the meaning of a Welsh approved plan;
- section 27, which allows the Welsh Ministers to impose conditions in relation to grants made to a funding body requiring the funding body to impose a condition in relation to grants and loans it makes to relevant institutions;
- section 28, which sets out what the condition imposed by a funding body on relevant institutions requires;
- section 29, which contains supplementary provisions;
- section 30, which explains the meaning of “relevant authority” and confers power on the Welsh Ministers to designate a person to be the relevant authority in relation to Wales;
- section 32(4), which requires the relevant authority in relation to Wales to have regard to guidance given by the Welsh Ministers;
- sections 33 to 36, which make provision for the contents of fee plans, their approval, duration and variation;
- section 38, which makes provision for the enforcement of fee plans;
- section 39, which makes provision for the review of decisions made by the relevant authority in relation to fee plans;
- section 41, which explains the meaning of certain terms used in Part 3 of the 2004 Act.

Article 2 brings relevant provisions into force on 11 February 2011 to enable regulations to be made by the Welsh Ministers.

Articles 3 and 4 bring the remaining provisions of Part 3 of the 2004 Act into force on 31 March 2011 for remaining purposes and where applicable, in relation to Wales.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the 2004 Act have been brought into force in relation to Wales by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 10(2)	7 July 2005	<a href="#">2005/1833 (W. 149)</a>
Section 11	1 December 2004	<a href="#">2004/3144 (W. 272)</a>
Section 12	1 December 2004	<a href="#">2004/3144 (W.</a>

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 13	1 December 2004 272)	2004/3144 (W.
Section 14	1 December 2004 272)	2004/3144 (W.
Section 15	1 December 2004 272)	2004/3144 (W.
Section 16	1 December 2004 272)	2004/3144 (W.
Section 17	1 December 2004 272)	2004/3144 (W.
Section 18	1 December 2004 272)	2004/3144 (W.
Section 20	1 January 2005 272)	2004/3144 (W.
Section 21	1 December 2004 272)	2004/3144 (W.
Section 44(1) and (2)	7 July 2005	2005/1833 (W. 149)
Section 44(3)	1 September 2006 149)	2005/1833 (W.
Section 44(4)	23 June 2006 149)	2005/1833 (W.
Section 44(5) and (6)	7 July 2005	2005/1833 (W. 149)
Section 46	1 January 2005 272)	2004/3144 (W.
Section 49 in so far as it relates to the provisions of Schedule 6, paragraph 7, which omits section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
Section 50 in so far as it relates to the provisions of Schedule 7 which repeal section 206 of the Education Reform Act 1988 and in section 207(1), paragraph (c) and the word “or” immediately preceding it	1 January 2005	2004/3144 (W. 272)
Section 50 in so far as it relates to the provisions of Schedule 7 which repeal section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
Schedule 1	1 December 2004 272)	2004/3144 (W.
Schedule 2	1 December 2004 272)	2004/3144 (W.
Schedule 3	1 December 2004 272)	2004/3144 (W.
Schedule 4	1 December 2004 272)	2004/3144 (W.
Schedule 6, paragraph 7, the omission of section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
In Schedule 7, the repeals in the Education Reform Act	1 January 2005	2004/3144 (W. 272)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
1988 of section 206 and in section 207(1), paragraph (c) and the word “or” immediately preceding it		
In Schedule 7, the repeal of section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	<a href="#">2005/1833 (W. 149)</a>

Various provisions of the 2004 Act have been brought into force in relation to England by the following Statutory Instruments: [S.I 2004/2781](#), [S.I 2004/3255](#), [S.I. 2005/767](#) and [S.I. 2006/51](#). Various provisions of the 2004 Act have been brought into force in relation to Scotland by [S.S.I. 2005/33](#).

See also section 52(1) for the provisions which came into force on the passing of the 2004 Act.