



# Tertiary Education and Research (Wales) Act 2022

2022 asc 1

## PART 3

### SECURING AND FUNDING TERTIARY EDUCATION AND RESEARCH

#### *Further education and training*

#### **99 Financial resources for further education or training: terms and conditions**

- (1) If the Commission itself, or the Welsh Ministers themselves, provide financial resources under section 97, they may impose such terms and conditions as they consider appropriate.
- (2) The terms and conditions may (among other things)—
  - (a) enable the Commission or the Welsh Ministers to require the repayment, in whole or in part, of sums paid by them if any of the terms and conditions subject to which the sums were paid is not complied with;
  - (b) require the payment of interest in respect of any period in which a sum due to the Commission or the Welsh Ministers in accordance with any of the terms and condition remains unpaid;
  - (c) require a person providing or proposing to provide education or training (“the provider”) to make arrangements providing for all or any of the following—
    - (i) for the provider to charge fees by reference to specified criteria;
    - (ii) for the provider to make awards by reference to specified criteria;
    - (iii) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
    - (iv) for amounts to be determined by reference to specified criteria where provision is made under sub-paragraph (iii);
    - (v) for specified exemptions to operate where provision is made under sub-paragraph (iii).

- (3) In subsection (2), “specified” means specified in the terms and conditions.
- (4) The terms and conditions must prohibit a person providing, or proposing to provide, further education or training suitable to the requirements of persons who are over compulsory school age but have not attained the age of 19 from charging persons of that age who are receiving the further education or training.
- (5) The terms and conditions must also prohibit a person providing, or proposing to provide, relevant education and training suitable to the requirements of eligible persons from charging eligible persons who are receiving that education or training; in this subsection “relevant education and training” and “eligible persons” have the same meaning as in section 94.
- (6) The Welsh Ministers may, by regulations, provide for exceptions to the requirement in subsection (4) or (5).
- (7) Terms and conditions imposed by the Commission in relation to financial resources provided under section 97(1)(a) to a person who is not a registered provider, must—
  - (a) require the person, if given notice under section 126(1), to have in place a learner protection plan approved by the Commission (under section 126(3) or (5)) on or before the date specified in the terms and conditions, and to give effect to the plan;
  - (b) require the person, if the person is a tertiary education provider in Wales, to comply with the requirements contained in the Learner Engagement Code published under section 129(1) or any revised code published under section 129(3);
  - (c) require the person to have regard to advice or guidance given by the Commission (either specifically or to persons generally) in exercise of the Commission’s functions in this Act.
- (8) If the Commission has made arrangements under section 97(2)(b) for another person to provide the Commission’s financial resources, the Commission—
  - (a) may require that person to provide the resources subject to such terms and conditions that the Commission considers appropriate (including terms and conditions of a kind that could be imposed under subsection (2)), and
  - (b) must require that person to provide the resources subject to the terms and conditions described in subsections (4) to (7).