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STATUTORY INSTRUMENTS

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**2005 No. 1116**

**The Higher Education (Northern Ireland) Order 2005**

**PART II**

**STUDENT FEES IN HIGHER EDUCATION**

*Plans authorising fees of more than basic amount*

**Content of plans**

**6.—**(1) A plan under this Article relating to an institution must, in relation to each qualifying course in connection with which fees are to be payable to the institution by qualifying persons, specify or provide for the determination of a limit (not exceeding the higher amount) which those fees are not permitted to exceed.

(2) A plan under this Article—

- (a) must also include such provisions relating to the promotion of equality of opportunity in connection with access to higher education as are required by regulations to be included in the plan, and
- (b) may also include further provisions relating to the promotion of equality of opportunity in connection with access to higher education.

(3) In this Part any reference to the “general provisions” of a plan under this Article is a reference to the provisions included in the plan by virtue of paragraph (2).

(4) The general provisions that may be required by regulations made by virtue of paragraph (2) include, in particular, provisions—

- (a) requiring the governing body to take, or secure the taking of, measures to attract applications from prospective students who are members of groups which, at the time when the plan is approved, are under-represented in higher education,
- (b) requiring the governing body to provide, or secure the provision of, financial assistance to students,
- (c) requiring the governing body to make available to students and prospective students information about financial assistance available to students from any source,
- (d) setting out objectives relating to the promotion of equality of opportunity in connection with access to higher education,
- (e) relating to the monitoring by the governing body of—
  - (i) its compliance with the provisions of the plan, and
  - (ii) its progress in achieving any objectives set out in the plan by virtue of sub-paragraph (d), and
- (f) requiring the provision of information to the Department.

(5) Regulations made under paragraph (2) may not require a plan—

- (a) to include among the general provisions of the plan any provision referring to particular courses or to the manner in which courses are taught, supervised or assessed, or
- (b) to include any provision relating to the criteria for the admission of students.

### **Approval of plans**

7.—(1) The governing body of any institution which is or may become eligible to receive grants under Article 66 of the 1986 Order, Article 30 of the 1993 Order or Article 5 of the [Further Education \(Northern Ireland\) Order 1997 \(NI 15\)](#) may apply to the Department for approval of a proposed plan relating to the institution.

(2) The Department may, if it thinks fit, approve the plan.

(3) The Department may issue guidance to institutions falling within paragraph (1) as to the matters to which the Department will have regard in deciding whether to approve plans.

(4) Regulations may—

- (a) specify matters to which the Department is, or is not, to have regard in making any determination relating to approval;
- (b) require the institution to which any plan approved under this Article relates to publish the plan in the prescribed manner.

### **Duration and variation of plans**

8.—(1) A plan must specify the period during which it is to be in force.

(2) The length of that period must not exceed such maximum as may be prescribed.

(3) Paragraphs (1) and (2) do not prevent the approval of a new plan to take effect on the expiry of a previous plan.

(4) Regulations may make provision enabling an approved plan to be varied with the approval of the Department.

### **Enforcement of plans**

9.—(1) If the Department is satisfied that the governing body of an institution which by virtue of a condition under Article 4 is required to comply with the requirement specified in Article 4(2)(a) or (c) has failed to comply with that requirement, the Department may notify the governing body that on the expiry of the existing plan the Department will refuse to approve a new plan under Article 7 during a specified period.

(2) The governing body of an institution is not to be regarded for the purposes of paragraph (1) as having failed to comply with the requirement specified in Article 4(2)(c) by reason of its failure to comply with any of the general provisions of an approved plan if the governing body shows that it has taken all reasonable steps to comply with that provision.

(3) Regulations may make provision—

- (a) as to the matters to which the Department must, or may not, have regard in exercising its powers under paragraph (1),
- (b) as to the procedure to be followed in connection with the imposing of any requirement or the giving of any notification under paragraph (1),
- (c) as to the effect of such a notification.

(4) Nothing in this Article affects the power of the Department to enforce the conditions imposed under Article 4 by imposing financial requirements on the governing body in pursuance of any condition imposed by virtue of Article 4(4).

### **Review of decisions made by Department**

- 10.** Regulations made by virtue of Article 7, 8(4) or 9(3)(b) must include provision—
- (a) requiring any decision of the Department under Article 7, 8(4) or 9 affecting the governing body of an institution to have effect in the first instance as a provisional decision;
  - (b) enabling the governing body of the institution to apply for a review of the provisional decision to a person, or panel of persons, appointed in accordance with the regulations by the Department;
  - (c) enabling the Department to pay remuneration and allowances to any person so appointed;
  - (d) prescribing the grounds on which an application for the review of a provisional decision may be made; and
  - (e) requiring the Department to reconsider its provisional decision having regard to any recommendation of the person or panel.