
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Higher Education and Research Act 2017
(Further Implementation etc.) Regulations 2019**

PART 2

Consequential amendments to primary legislation

Employment and Training Act 1973

2.—(1) Section 8(4) of the Employment and Training Act 1973⁽¹⁾ (duty of Secretary of State to ensure provision of careers services for school and college students) is amended as follows.

(2) Before paragraph (a), insert—

“(za) as respects England, as references to a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, other than a provider which is also an institution within the further education sector within the meaning given by section 91(3) of the Further and Higher Education Act 1992,”.

(3) In paragraph (a), omit “England and”.

Education Reform Act 1988

3.—(1) Section 135 of the Education Reform Act 1988⁽²⁾ (inspection of accounts) is amended as follows.

(2) In subsection (1)⁽³⁾—

(a) in paragraph (b), at the end, omit “or”;

(b) at the end of paragraph (c), insert—

“or

(d) any registered higher education provider of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017;”.

(3) In subsection (2)⁽⁴⁾—

(a) for “subsection (1)(a) or (c)”, substitute “subsection (1)(a), (c) or (d)”;

(b) after “Further and Higher Education Act 1992”, insert “or section 39 or 97 of the Higher Education and Research Act 2017”.

(1) 1973 c. 50. Section 8 was substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 45.

(2) 1988 c. 40.

(3) There is an amendment to section 135(1), but it is not relevant to these Regulations.

(4) Section 135(2) was amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 36(b). By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999/672, article 2 and Schedule 1, the power in section 135 is exercisable only in relation to England.

Further and Higher Education Act 1992

4. In section 91 of the Further and Higher Education Act 1992⁽⁵⁾ (interpretation of Education Acts)—

(a) in subsection (5)⁽⁶⁾ —

(i) before paragraph (a), insert—

“(za) registered higher education providers of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017;”;

(ii) in paragraph (b), after “institutions”, insert “in Wales”;

(b) after subsection (5), insert—

“(5ZA) For the purposes of subsection (5)(b), the reference to institutions in Wales is to be read in accordance with section 62(7).”.

Value Added Tax Act 1994

5. In Schedule 9 to the Value Added Tax Act 1994⁽⁷⁾ (exemptions), in Part 2 (the groups), in Group 6 (education), under the heading “Notes”, in note (1)(c)(i)⁽⁸⁾, after “section 91(5)”, insert “(za), ”.

Education Act 1994

6.—(1) Section 21 of the Education Act 1994⁽⁹⁾ (establishments to which Part II applies) is amended as follows.

(2) In subsection (1)—

(a) before paragraph (a), insert—

“(za) any registered higher education provider of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017;”;

(b) in paragraph (b), after “institution”, insert “in Wales”.

(3) After subsection (2), insert—

“(2A) For the purposes of subsection (1)(b), institution in Wales has the meaning given by section 62(7) of the Further and Higher Education Act 1992.”.

Education Act 1996

7.—(1) The Education Act 1996⁽¹⁰⁾ is amended as follows.

(2) In section 4 (schools: general)⁽¹¹⁾—

(a) in subsection (1), after “and the”, insert “wider”;

(b) for subsection (4), substitute—

“(4) For the purposes of this Act an institution is outside the wider higher education sector if —

⁽⁵⁾ 1992 c. 13.

⁽⁶⁾ Section 91(5)(aa) was inserted by the Higher Education (Wales) Act 2015 (anaw 1), Schedule, Part 1, paragraph 4(1) and (2).

⁽⁷⁾ 1994 c. 23.

⁽⁸⁾ Note (1)(c)(i) was amended by S.I. 2010/1080, Schedule 1, Part 2, paragraph 94.

⁽⁹⁾ 1994 c. 30. There are amendments to section 21 but these are not relevant to these Regulations.

⁽¹⁰⁾ 1996 c. 56.

⁽¹¹⁾ Section 4(4)(d) was inserted by the Higher Education (Wales) Act 2015 (anaw 1), Schedule, paragraph 5.

- (a) in relation to England, it is not a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, or
- (b) in relation to Wales, it is not an institution within the higher education sector within the meaning given by section 91(5) of the Further and Higher Education Act 1992;

and references to institutions within the wider higher education sector are to be construed accordingly.”.

(3) In section 508F (local authorities in England: provision of transport etc for adult learners)(12)—

- (a) in subsection (3)(13), for “and higher education sectors”, substitute “education sector and the wider higher education sector”;
- (b) in subsection (7), for “and higher education sectors”, substitute “education sector and the wider higher education sector”.

(4) In section 580 (index)(14), in the entry “institution outside (or within) the higher education sector”, before “higher”, insert “wider”.

Education Act 2002

8.—(1) The Education Act 2002(15) is amended as follows.

(2) In section 14 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or children etc), in subsection (3), for the definition of “teacher”, substitute—

““teacher” does not include a teacher at an institution within the wider higher education sector, unless, in relation to a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, the institution is also an institution within the further education sector.”.

(3) In section 16 (terms on which assistance under section 14 is given), in subsection (2A)(16)—

- (a) in paragraph (a)—
 - (i) after “within the”, insert “wider”;
 - (ii) after “sector”, insert “unless the institution is also an institution within the further education sector.”;
- (b) in paragraph (b), for “such an institution”, substitute “an institution within the wider higher education sector, unless, in relation to a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, the institution is also an institution within the further education sector”.

Income Tax (Earnings and Pensions) Act 2003

9. In section 457(1) of the Income Tax (Earnings and Pensions) Act 2003(17) (meaning of research institution), for paragraph (a), substitute—

(12) Section 508F was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 57(2).

(13) Section 508F(3) was amended by S.I. 2010/1158, Schedule 2, paragraph 7.

(14) There are amendments to section 580, but they are not relevant to these Regulations.

(15) 2002 c. 32. There have been amendments to section 14, but they are not relevant to these Regulations.

(16) Section 16(2A) was inserted by the Education Act 2011 (c. 21), section 15(3)(c).

(17) 2003 c. 1. Section 457 as originally enacted was repealed by the Finance Act 2003 (c. 14), Schedule 22, paragraph 9(1), subject to savings. The existing Section 457(1) was inserted by the Finance Act 2005 (c. 7), section 20(1).

- “(a) any university or other institution receiving a grant (including a recurrent grant towards its costs), loan, financial support, financial assistance, financial resources or payment under—
- (i) section 65 of the Further and Higher Education Act 1992,
 - (ii) regulations made under section 485 of the Education Act 1996,
 - (iii) section 34 of the Learning and Skills Act 2000,
 - (iv) section 14 of the Education Act 2002,
 - (v) section 86 of the Education Act 2005,
 - (vi) section 100 of the Apprenticeships, Skills, Children and Learning Act 2009, or
 - (vii) section 39 or 97 of the Higher Education and Research Act 2017,
- (aa) any institution maintained by a local authority in England or Wales in the exercise of their further and higher education functions,
- (ab) any institution within the higher education sector for the purposes of the Further and Higher Education (Scotland) Act 1992,
- (ac) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992,
- (ad) any central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980,
- (ae) the Queen’s University of Belfast or the University of Ulster,
- (af) a college of education in Northern Ireland within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 ([S.I. 1986/594 \(N.I. 3\)](#)), or
- (ag) any institution providing in Northern Ireland further education as defined in Article 3 of the Further Education (Northern Ireland) Order 1997 ([S.I. 1997/1772 \(N.I. 15\)](#)), or”.

Licensing Act 2003

10. In section 16(3) of the Licensing Act 2003(**18**) (applicant for premises licence), in the definition of “educational institution”—

- (a) in paragraph (a)—
 - (i) omit “or higher”;
 - (ii) at the end, omit “or”;
- (b) after paragraph (a), insert—

“(aa) an institution within the higher education sector, within the meaning given by section 91(5) of the Further and Higher Education Act 1992, or”;
- (c) in paragraph (b), at the end, insert “or section 39 or 97 of the Higher Education and Research Act 2017”.

Education and Skills Act 2008

11. In section 132(2) of the Education and Skills Act 2008(**19**) (providers of independent education or training for 16 to 18 year olds)—

- (a) in paragraph (b)(**20**)—

(18) [2003 c. 17](#).

(19) [2008 c. 25](#).

(20) There are amendments to paragraph (b), but they are not relevant to these Regulations.

- (i) in sub-paragraph (iii), at the end, omit “or”;
- (ii) after sub-paragraph (iii), insert—
 - “(iia) an institution solely or principally concerned with the provision of higher education, or”;
- (b) in paragraph (c), for “and higher education sectors”, substitute “sector”.

Equality Act 2010

12. In Schedule 22 to the Equality Act 2010⁽²¹⁾ (statutory provisions), after paragraph 3(6)(c) (educational appointments, etc: religious belief), insert—

- “(ca) a registered higher education provider of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017;”.

Children and Families Act 2014

13. In section 83(2) of the Children and Families Act 2014⁽²²⁾ (interpretation of Part 3), in paragraph (b) of the definition of “post-16 institution”, for “or which provides only”, substitute “and which is solely or principally concerned with the provision of”.

Digital Economy Act 2017

14.—(1) Schedule 8 to the Digital Economy Act 2017⁽²³⁾ (specified persons for the purposes of the fraud provisions) is amended as follows.

(2) In paragraph 27, for “The Higher Education Funding Council for England”, substitute “The Office for Students”⁽²⁴⁾.

(3) After paragraph 32, insert—

“**32A.** United Kingdom Research and Innovation.”⁽²⁵⁾.

(4) Omit paragraphs 33 to 40.

⁽²¹⁾ 2010 c. 15. There are amendments to Schedule 22, but they are not relevant to these Regulations.

⁽²²⁾ 2014 c. 6.

⁽²³⁾ 2017 c. 30.

⁽²⁴⁾ The Office for Students was established by the Higher Education and Research Act 2017, section 1. The Higher Education Funding Council for England ceased to exist as a result of section 81 of that Act.

⁽²⁵⁾ United Kingdom Research and Innovation was established by the Higher Education and Research Act 2017, section 91.