



# Higher Education and Research Act 2017

## 2017 CHAPTER 29

### PART 1

#### THE OFFICE FOR STUDENTS

##### *Powers to give financial support*

### **39 Financial support for registered higher education providers**

- (1) The OfS may make grants, loans or other payments to the governing body of an eligible higher education provider in respect of expenditure incurred, or to be incurred, by the provider or a qualifying connected institution, for the purposes of either or both of the following—
  - (a) the provision of education by the provider;
  - (b) the provision of facilities, and the carrying on of other activities, by the provider, which its governing body considers it is necessary or desirable to provide or carry on for the purposes of, or in connection with, education.
- (2) The OfS may make grants, loans or other payments to any person in respect of expenditure incurred, or to be incurred, by the person for the purposes of the provision by any person of services for the purposes of, or in connection with, the provision of education by eligible higher education providers receiving financial support under subsection (1).
- (3) “Eligible higher education provider” means a registered higher education provider of a description prescribed by regulations made by the Secretary of State for the purposes of subsection (1).
- (4) “Qualifying connected institution”, in relation to an eligible higher education provider, means a college, school, hall or other institution—
  - (a) to which the provider's governing body proposes to pay, with the consent of the OfS, all or some of the payments made to it under subsection (1), and
  - (b) which the OfS is satisfied has a sufficient connection with the provider for the purposes of that subsection.

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**Changes to legislation:** Higher Education and Research Act 2017, Cross Heading: Powers to give financial support is up to date with all changes known to be in force on or before 05 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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- (5) “School” has the same meaning as in the Education Act 1996 (see section 4 of that Act) but also includes a 16 to 19 Academy (as defined in section 1B(3) of the Academies Act 2010).
- (6) See section 41 regarding the terms and conditions of financial support under this section.

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**Commencement Information**

**II** [S. 39](#) in force at 1.1.2019 by [S.I. 2018/1226, reg. 2\(a\)](#)

**40 Financial support for certain institutions**

- (1) The OfS may make grants, loans or other payments to any person in respect of expenditure incurred, or to be incurred, by the person for the purposes of the provision of eligible higher education courses by—
- (a) institutions in England maintained or assisted by local authorities in England or Wales, or
  - (b) English further education providers.
- (2) “Eligible higher education course” means a higher education course prescribed by regulations made by the Secretary of State for the purposes of subsection (1).
- (3) In subsection (1)(a)—
- (a) an institution “assisted” by a local authority has the same meaning as in the Education Act 1996 (see section 579(5) to (7) of that Act), and
  - (b) the reference to a local authority in England or Wales has the same meaning as in that Act (see section 579(1) of that Act).
- (4) See section 41 regarding the terms and conditions of financial support under this section.

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**Commencement Information**

**I2** [S. 40](#) in force at 1.1.2019 by [S.I. 2018/1226, reg. 2\(a\)](#)

**41 Financial support: terms and conditions**

- (1) A grant, loan or other payment under section 39 or 40 may be made on such terms and conditions as the OfS considers appropriate.
- (2) The terms and conditions may, in particular—
- (a) enable the OfS to require the repayment, in whole or in part, of sums paid by the OfS 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 during which a sum due to the OfS in accordance with any of the terms and conditions remains unpaid, and
  - (c) require a person to whom sums are paid by the OfS to provide the OfS with any information it requests for the purpose of the exercise of any of its functions.

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- (3) But the terms and conditions must not relate to the application of sums which are not derived from the OfS by the provider or any other person to whom the grant, loan or other payment is made.
- (4) Before determining the terms and conditions to be imposed on a grant, loan or other payment, the OfS must consult such persons as it considers appropriate.

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**Commencement Information**

**I3** [S. 41](#) in force at 1.1.2019 by [S.I. 2018/1226](#), [reg. 2\(a\)](#)

**Changes to legislation:**

Higher Education and Research Act 2017, Cross Heading: Powers to give financial support is up to date with all changes known to be in force on or before 05 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. A1 inserted by [2023 c. 16 s. 1](#)
- s. A4 and cross-heading inserted by [2023 c. 16 s. 2](#)
- s. A5A6 and cross-heading inserted by [2023 c. 16 s. 3](#)
- s. A7 and cross-heading inserted by [2023 c. 16 s. 4](#)
- s. 2(1)(aa)(ab) inserted by [2023 c. 16 s. 5\(1\)](#)
- s. 2(7A) inserted by [2023 c. 16 Sch. para. 2\(3\)](#)
- s. 8A inserted by [2023 c. 16 s. 6](#)
- s. 9(3A) inserted by [2022 c. 21 s. 16\(2\)](#)
- s. 10(3A) inserted by [2023 c. 40 s. 2\(2\)\(a\)](#)
- s. 10(6A) inserted by [2023 c. 40 s. 2\(2\)\(b\)](#)
- s. 10(7A) inserted by [2023 c. 40 s. 2\(2\)\(c\)](#)
- s. 10(7B)(7C) inserted by [2023 c. 40 s. 1\(2\)\(b\)](#)
- s. 11(1A)(1B) inserted by [2023 c. 40 s. 2\(3\)\(b\)](#)
- s. 11(2)(2A) substituted for s. 11(2) by [2023 c. 40 s. 2\(3\)\(c\)](#)
- s. 31(1)(1A) substituted for s. 31(1) by [2023 c. 40 s. 2\(4\)\(a\)](#)
- s. 31(2A)(2B) inserted by [2023 c. 40 s. 2\(4\)\(c\)](#)
- s. 31(4) inserted by [2023 c. 40 s. 4\(4\)\(e\)](#)
- s. 67B(3A) inserted by [2023 c. 16 Sch. para. 5\(3\)](#)
- s. 67C(3) inserted by [2023 c. 16 Sch. para. 6](#)
- s. 69A and cross-heading inserted by [2023 c. 16 s. 5\(2\)](#)
- s. 69C inserted by [2023 c. 16 s. 8\(1\)](#)
- s. 73(1A) inserted by [2023 c. 16 Sch. para. 7\(3\)](#)
- s. 73(4A) inserted by [2023 c. 16 Sch. para. 7\(6\)](#)
- s. 85(1A) inserted by [2022 c. 21 s. 16\(4\)\(b\)](#)
- s. 119(2)(ha)(hb) inserted by [2023 c. 40 s. 2\(6\)](#)
- Sch. 2 para. 5(4) inserted by [2023 c. 40 s. 2\(7\)](#)
- Sch. 2 para. 1-1I substituted for Sch. 2 para. 1 by [2023 c. 40 s. 1\(4\)](#)
- Sch. 6A inserted by [2023 c. 16 s. 8\(2\)](#)
- Sch. 7 para. 4(5) inserted by [2023 c. 16 Sch. para. 13\(6\)](#)