



Higher Education and Research Act 2017

2017 CHAPTER 29

PART 1

THE OFFICE FOR STUDENTS

Student transfers

38 Duty to monitor etc the provision of arrangements for student transfers

(1) The OfS—

- (a) must monitor the availability of schemes or other arrangements provided by registered higher education providers for student transfers,
- (b) must monitor the extent to which the arrangements monitored under paragraph (a) are utilised by students generally or students of a particular description,
- (c) must include in its annual report a summary of conclusions drawn by it, for the financial year to which the report relates, from its monitoring under paragraphs (a) and (b), and
- (d) may facilitate, encourage, or promote awareness of, the provision of arrangements by registered higher education providers for student transfers.

(2) For the purposes of this section, “a student transfer” is where—

- (a) a student transfers from a higher education course (“course X”) provided by a UK higher education provider (“the transferring provider”) to a different higher education course (“course Y”) provided by the same or a different UK higher education provider (“the receiving provider”),
- (b) the receiving provider recognises, or takes account of, the study undertaken, or a level of achievement attained, by the student—
 - (i) on course X, or
 - (ii) on another higher education course provided by the transferring provider,

Changes to legislation: Higher Education and Research Act 2017, Section 38 is up to date with all changes known to be in force on or before 05 May 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

- when the receiving provider is determining the study to be undertaken, or the level of achievement attained, by the student on course Y, and
- (c) either the transferring provider or the receiving provider is a registered higher education provider, or both are registered higher education providers.
- (3) For the purposes of subsection (2), there may be an interval between the student ceasing to undertake course X and starting to undertake course Y.
- (4) The duty under subsection (1)(a) may be discharged by the OfS monitoring, as described in that provision—
- (a) arrangements for student transfers provided by all registered higher education providers or a particular description of such provider;
- (b) all such arrangements for student transfers or a particular description of such arrangement or student transfer.
- (5) In this section—
- “annual report” means the annual report under paragraph 13 of Schedule 1;
- “financial year” has the same meaning as in that Schedule (see paragraph 12(6));
- “higher education course”—
- (a) in the case of a provider in England or Wales, has the meaning given in section 83(1);
- (b) in the case of a provider in Scotland, means a course falling within section 38 of the Further and Higher Education (Scotland) Act 1992;
- (c) in the case of a provider in Northern Ireland, means a course of any description mentioned in Schedule 1 to the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15));
- “UK higher education provider” means an English higher education provider or a higher education provider in Wales, Scotland or Northern Ireland.
- (6) For the purposes of applying the definition of “higher education provider” in section 83(1) to the reference in the definition of “UK higher education provider” in subsection (5) to a higher education provider in Wales, Scotland or Northern Ireland, the reference to “higher education” in the definition of “higher education provider” in section 83(1)—
- (a) in the case of an institution in Wales, has the meaning given in section 83(1);
- (b) in the case of an institution in Scotland, has the same meaning as in section 38 of the Further and Higher Education (Scotland) Act 1992;
- (c) in the case of an institution in Northern Ireland, has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).

Commencement Information

II S. 38 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(d)

Changes to legislation:

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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\(6\)](#)