



Skills and Post-16 Education Act 2022

2022 CHAPTER 21

PART 4

MISCELLANEOUS AND GENERAL

CHAPTER 1

CHEATING SERVICES PROVIDED FOR POST-16 STUDENTS AT ENGLISH INSTITUTIONS

26 Meaning of “relevant service” and other key expressions

- (1) [This section](#) applies for the purposes of [this Chapter](#).
- (2) “Relevant service” means a service of completing all or part of an assignment on behalf of a student where the assignment completed in that way could not reasonably be considered to have been completed personally by the student.
- (3) References to completing all or part of an assignment on behalf of a student include references to providing material to the student in connection with the assignment where—
 - (a) the student could use the material in completing the assignment or part, and
 - (b) the material—
 - (i) is prepared in connection with the assignment, or
 - (ii) has not been published generally.
- (4) For this purpose—
 - (a) where, in connection with an assignment, a student seeks the provision of a relevant service, any material provided as a result is to be regarded as provided in connection with the assignment;
 - (b) material is published generally if it—
 - (i) is available generally without payment, or

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- (ii) is included in a publication that contains other educational or training material and is available generally (such as a text book or study guide).
- (5) A person who provides, or arranges the provision of, a relevant service does so “in commercial circumstances” if—
 - (a) the person is acting in the course of business, or
 - (b) in the case of a person who provides a relevant service, its provision was arranged by another person acting in the course of business, whether the person’s own business or that of the person’s employer.
- (6) “Student” means—
 - (a) a person who is undertaking a relevant course at a post-16 institution or sixth form in England, or
 - (b) any other person over compulsory school age who has been entered to take an examination relating to a regulated qualification at a place in England.
- (7) A “relevant assignment”, in relation to a student, is an assignment (which may have been chosen by the student) which the student is required to complete personally—
 - (a) as part of the relevant course which the student is undertaking, or
 - (b) in order to obtain the qualification to which the course leads or for which the student has been entered.
- (8) In relation to an assignment that is a relevant assignment—
 - (a) “personally” includes with any assistance permitted as part of the requirement (whether or not the assignment, if completed with that assistance, would otherwise be considered to be completed personally), and
 - (b) that assistance is “permitted assistance”.
- (9) Section 30 sets out the meanings of other terms used in [this Chapter](#) (including in [this section](#)).

Commencement Information

II [S. 26](#) in force at 28.6.2022, see [s. 36\(2\)](#)

27 Offence of providing or arranging a relevant service

- (1) It is an offence for a person to provide, or arrange for another person to provide, in commercial circumstances, a relevant service for a student in relation to a relevant assignment.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (3) In proceedings for an offence under subsection (1) it is a defence for the defendant to prove, in relation to any of the matters mentioned in subsection (4), that the defendant did not know, and could not with reasonable diligence have known, the matter.
- (4) Those matters are—
 - (a) if material is provided to the student as a result of the relevant service, that the student would or might use the material in completing all or part of the assignment;

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- (b) that the student was required to complete the assignment personally;
 - (c) that the relevant service was not permitted assistance.
- (5) A statement in the form of a written standard term of the contract or arrangement under which the relevant service was provided or arranged—
- (a) that the student would not use any material provided as a result of the relevant service in completing all or part of the assignment,
 - (b) that the student was not required to complete the assignment personally, or
 - (c) that the relevant service was permitted assistance,
- is not, of itself, to be taken as sufficient evidence of a matter to be proved under subsection (3).
- (6) A student does not commit either of the following merely by making use of a relevant service to complete all or part of an assignment—
- (a) an offence under Part 2 of the Serious Crime Act 2007 where the offence that the student intended or believed would be committed is an offence under this section;
 - (b) an offence under this section committed by aiding, abetting, counselling or procuring the commission of an offence under this section.

Commencement Information

I2 [S. 27](#) in force at 28.6.2022, see [s. 36\(2\)](#)

28 Offence of advertising a relevant service

- (1) A person who advertises a relevant service to students commits an offence.
- (2) It does not matter for the purposes of subsection (1) whether the persons to whom the relevant service is advertised are only students, or only a particular category of students, or include persons other than students.
- (3) For this purpose a person advertises a relevant service if, and only if, the person makes arrangements for an advertisement in which the person—
- (a) offers, or
 - (b) is described or presented as available or competent,
- to provide or arrange for another person to provide a relevant service.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine.

Commencement Information

I3 [S. 28](#) in force at 28.6.2022, see [s. 36\(2\)](#)

29 Offences: bodies corporate and unincorporated associations

- (1) If an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—

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- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person who was purporting to act in any such capacity,
- that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to a director of the body corporate.
 - (3) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in the name of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
 - (4) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.
 - (5) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 apply as they apply in relation to a body corporate.
 - (6) Where an offence under this Chapter committed by an unincorporated body other than a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any officer of the body or any member of its governing body, that person (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.
 - (7) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, that partner (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.

Commencement Information

I4 [S. 29](#) in force at 28.6.2022, see [s. 36\(2\)](#)

30 Interpretation of Chapter

In this Chapter, the following terms have the following meanings—

- “assignment” includes an examination and any piece of work;
- “examination” includes any form of assessment;
- “permitted assistance”, in relation to a relevant assignment, has the meaning given by [section 26\(8\)](#);
- “personally”, in relation to an assignment that is a relevant assignment, has the extended meaning given by [section 26\(8\)](#);
- “post-16 institution” means—
 - (a) a higher education provider, within the meaning of Part 1 of the Higher Education and Research Act 2017 (see section 83(1) of that Act);
 - (b) an institution within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act);
 - (c) a 16 to 19 Academy;

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- (d) any other institution or person, other than a school, that is principally concerned with the provision of education or training suitable to the requirements of pupils who are over compulsory school age;
- “regulated qualification” means a qualification regulated by the Office of Qualifications and Examinations Regulation;
- “relevant assignment” has the meaning given by [section 26\(7\)](#);
- “relevant course” means—
- (a) a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or
- (b) a course—
- (i) providing education or training in preparation for an examination relating to a regulated qualification, or
- (ii) which a person is required to complete in order to obtain a regulated qualification;
- “relevant service” has the meaning given by [section 26\(2\)](#);
- “school” has the same meaning as in the Education Act 1996;
- “sixth form” means a school, or part of a school, that is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age;
- “student” has the meaning given by [section 26\(6\)](#).

Commencement Information

I5 [S. 30](#) in force at 28.6.2022, see [s. 36\(2\)](#)

CHAPTER 2

MISCELLANEOUS PROVISIONS

16 to 19 Academies: designation as having a religious character

31 16 to 19 Academy: designation as having a religious character

After section 8 of the Academies Act 2010 insert—

“16 to 19 Academies designated as having a religious character

8A Designation of 16 to 19 Academy as having a religious character

- (1) The Secretary of State may by order designate a 16 to 19 Academy as having a religious character.
- (2) The Secretary of State may designate an Academy under this section only if the proprietor of the Academy is a qualifying Academy proprietor within the meaning given by section 12(2).
- (3) The order must specify the religion or religious denomination in relation to which the Academy is designated.

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- (4) The Secretary of State may make regulations about the procedure to be followed in connection with—
 - (a) the designation of an Academy in an order under this section, and
 - (b) the inclusion in such an order of the specification required by subsection (3).
- (5) Despite section 568(3) of EA 1996 (orders to be made by statutory instrument subject to the negative procedure), as applied by section 17(4) of this Act, a statutory instrument containing an order under this section is not subject to annulment in pursuance of a resolution of either House of Parliament.

8B Constitution of Academy proprietor, collective worship and religious education

- (1) The articles of association of the proprietor of an Academy designated under section 8A must provide for a majority of the directors of the proprietor to be persons appointed for the purposes of securing, so far as practicable, that—
 - (a) the character of the designated Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated, and
 - (b) in a case where there is a trust deed affecting the designated Academy, the Academy is conducted in accordance with it.
- (2) The proprietor of an Academy designated under section 8A may (accordingly) conduct the Academy in a way that secures that the character of the Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated (and, in particular, in a way that is in accordance with any trust deed affecting the Academy).
- (3) The proprietor of an Academy designated under section 8A must ensure that at an appropriate time on at least one day in each week during which the Academy is open an act of collective worship is held at the Academy which pupils at the Academy may attend.
- (4) The act of collective worship must—
 - (a) be in such form as to comply with the provisions of any trust deed affecting the Academy, and
 - (b) reflect the traditions and practices of the religion or religious denomination in relation to which the Academy is designated.
- (5) The proprietor of an Academy designated under section 8A must ensure that religious education is provided at the Academy for all pupils who wish to receive it.
- (6) The proprietor of an Academy is to be treated as complying with subsection (5) if religious education is provided at a time or times at which it is convenient for the majority of full-time pupils to attend.
- (7) For the purposes of this section religious education may take the form of a course of lectures or classes, or of single lectures or classes provided on a regular basis, and may include a course of study leading to an examination or the award of a qualification.
- (8) The form and content of religious education provided under this section—

Changes to legislation: There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Part 4. (See end of Document for details)

- (a) must be in accordance with the provisions of any trust deed affecting the Academy, and
 - (b) must not be contrary to the traditions of the religion or religious denomination in relation to which the Academy is designated,
- but is otherwise to be determined from time to time by the proprietor of the Academy.

(9) Notwithstanding section 17(4), in this section—

- (a) “pupil” means a person receiving education at the 16 to 19 Academy;
- (b) “trust deed” includes any instrument (other than the articles or memorandum of association) regulating the constitution of the proprietor of the Academy or the maintenance, management or conduct of the Academy.”

Commencement Information

16 [S. 31](#) in force at 28.6.2022, see [s. 36\(2\)](#)

Institutions within the further education sector: procedure for designation

32 Institutions within the further education sector: designation

(1) The Further and Higher Education Act 1992 is amended in accordance with subsections [\(2\)](#) and [\(3\)](#).

(2) In section 28 (designated institutions)—

- (a) in subsections (1) and (3A), for “The Secretary of State” substitute “The appropriate authority”;
- (b) after subsection (3A) insert—

“(3B) In this section “the appropriate authority”—

- (a) in relation to an educational institution in England, means the Secretary of State;
- (b) in relation to an educational institution in Wales, means the Welsh Ministers.”

(3) In section 89 (orders, regulations and directions)—

- (a) in subsection (2), after “the excepted provisions are” insert “sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and”;
- (b) after subsection (3B) insert—

“(3C) An order made by the Secretary of State under section 28 or 29(1)(b) is to be published in such manner as the Secretary of State considers appropriate.”;

- (c) after subsection (5) insert—

“(6) This section applies in relation to an order made by the Secretary of State under section 28 or 29(1)(b) that revokes or varies an order under those provisions made before the coming into force of section [32\(3\)](#) of the Skills and Post-16 Education Act 2022 as if—

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- (a) in subsection (2), the words “sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and” were omitted, and
- (b) subsection (3C) were omitted.”

Commencement Information

I7 [S. 32](#) in force at 28.6.2022, see [s. 36\(2\)](#)

Publication by the Office for Students

33 Office for Students: publication and protection from defamation

In the Higher Education and Research Act 2017, after section 67 insert—

“Publication

67A Power for the OfS to publish notices, decisions and reports

- (1) The OfS may publish notices, decisions and reports given or made in the performance of its functions.
- (2) Subsection (1) does not affect any other power of the OfS to publish such a matter.
- (3) Publication under this section does not breach—
 - (a) an obligation of confidence owed by the OfS, or
 - (b) any other restriction on the publication or disclosure of information (however imposed).
- (4) But nothing in this section authorises the OfS to publish information where doing so contravenes the data protection legislation.

For this purpose “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

- (5) In deciding whether to publish a notice, decision or report under subsection (1), the OfS must, in particular, consider—
 - (a) the interests of—
 - (i) students on higher education courses provided by English higher education providers,
 - (ii) people thinking about undertaking, or who have undertaken, such courses, and
 - (iii) English higher education providers,
 - (b) the need for excluding from publication, so far as practicable, any information which relates to the affairs of a particular body or individual, where publication of that information would or might, in the opinion of the OfS, seriously and prejudicially affect the interests of that body or individual, and
 - (c) the public interest.

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- (6) For the purposes of this section and sections 67B and 67C—
- (a) a reference to a decision includes a reference to the reasons for it, and
 - (b) any decision made in the course of exercising, or for the purposes of enabling the OfS to exercise, any of the OfS's functions (including making any other decision) is made “in the performance of its functions”.

67B Publication of decision to conduct or terminate investigation

- (1) This section applies where under section 67A(1) the OfS publishes a decision to conduct an investigation.
- (2) If the publication identifies a higher education provider or other body or individual whose activities are being, or to be, investigated, and—
 - (a) the OfS terminates the investigation without making any finding, or
 - (b) the findings of the investigation, so far as they relate to the higher education provider, body or individual, do not result in the OfS taking any further action,
 the OfS must publish a notice stating that fact.
- (3) Section 67C does not apply to the publication of the decision to conduct the investigation to the extent that it includes information other than—
 - (a) a statement of the OfS's decision to conduct the investigation,
 - (b) a summary of the matter being, or to be, investigated, and
 - (c) a reference to the identity of any higher education provider or other body or individual whose activities are being, or to be, investigated.
- (4) See section 67A(6) for the meaning of references to decisions.

Defamation

67C Protection from defamation claims

- (1) For the purposes of the law of defamation, publication by the OfS of any notice, decision or report given or made in the performance of its functions is privileged unless the publication is shown to have been made with malice.

This is subject to section 67B.

- (2) See section 67A(6) for the meaning of references to decisions.”

Commencement Information

18 [S. 33](#) in force at 28.6.2022, see [s. 36\(2\)](#)

Changes to legislation: There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Part 4. (See end of Document for details)

Higher education course fee limits: administration

34 Relevant date for purposes of fee limit for certain higher education courses

In paragraph 3(3) of Schedule 2 to the Higher Education and Research Act 2017 (the fee limit where the provider has no access and participation plan), omit “before the calendar year”.

Commencement Information

I9 S. 34 in force at 28.6.2022, see s. 36(2)

CHAPTER 3

GENERAL PROVISIONS

35 Extent

- (1) This Act extends to England and Wales.
- (2) The following provisions extend also to Scotland—
 - (a) section 11;
 - (b) section 15, so far as it modifies sections 22 and 23 of the Teaching and Higher Education Act 1998 as those sections extend to Scotland;
 - (c) section 16(3);
 - (d) this Chapter.
- (3) The following provisions extend also to Northern Ireland—
 - (a) section 10;
 - (b) section 11;
 - (c) section 15, so far as it modifies sections 22 and 23 of the Teaching and Higher Education Act 1998 as those sections extend to Northern Ireland;
 - (d) section 16(3);
 - (e) this Chapter.

Commencement Information

I10 S. 35 in force at in force at Royal Assent, see s. 36(1)

36 Commencement

- (1) This Chapter comes into force on the day on which this Act is passed.
- (2) Sections 1 to 5, 18 and 23 to 34 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) Except as provided by subsections (1) and (2), this Act comes into force on such day as the Secretary of State may by regulations appoint.
- (4) Different days may be appointed for different purposes.

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- (5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (6) The power to make regulations under subsection (5) includes power to make different provision for different purposes.
- (7) Regulations under [this section](#) are to be made by statutory instrument.

Commencement Information

111 [S. 36](#) in force at in force at Royal Assent, see [s. 36\(1\)](#)

37 Short title

This Act may be cited as the Skills and Post-16 Education Act 2022.

Commencement Information

112 [S. 37](#) in force at in force at Royal Assent, see [s. 36\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Skills and Post-16 Education Act 2022, Part 4.