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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 1 of the Higher Education and Research Act 2017 (c. 29) (“the 2017 Act”) establishes the Office for Students (“the OfS”) and a system of registration for English higher education providers.

Sections 56 and 57 of the 2017 Act come into force on 1st April 2019 (see: the Higher Education and Research Act 2017 (Commencement No. 5) Regulations 2018 (S.I. 2018/1226)). This instrument makes transitional and saving provision in consequence of the commencement of these sections. Section 56 amends section 77 of the Further and Higher Education Act 1992 (c. 13) (“the 1992 Act”) and section 57 amends section 39 of the Teaching and Higher Education Act 1998 (c. 30) (“the 1998 Act”). Sections 77 of the 1992 Act and 39 of the 1998 Act are concerned with authority to use “university” in the title of an educational institution, or person or body running such an institution.

Prior to the commencement of sections 56 and 57 of the 2017 Act, in relation to both institutions in England and institutions in Wales, the power to give consent (under section 77 of the 1992 Act) or approval (under section 39 of the 1998 Act) regarding the use of “university” in a title was conferred on the Privy Council. Following the amendments made by sections 56 and 57 of the 2017 Act, for (English) registered higher education providers, the power to give consent or approval under sections 77 of the 1992 Act and 39 of the 1998 Act is transferred to the OfS (from the Privy Council). The position in relation to institutions in Wales remains unchanged.

Regulation 2 makes provision so that applications for Privy Council consent under section 77 of the 1992 Act in relation to institutions in England that are made before the commencement of section 56 of the 2017 Act can continue under the ‘old’ regime, as if section 56 had not been commenced.

Regulation 3 makes provision so that applications for Privy Council approval under section 39 of the 1998 Act in relation to institutions in England that are made before the commencement of section 57 of the 2017 Act can continue under the ‘old’ regime, as if section 57 had not been commenced.

A full impact assessment on the effect the higher education reforms will have on the costs of business and the voluntary sector was published on 7 June 2016 alongside the Higher Education and Research Bill (available electronically at [www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment](http://www.gov.uk/government/publications/higher-education-and-research-bill-impact-assessment)). That impact assessment has been updated and the updated version is available electronically at [www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments](http://www.gov.uk/government/publications/higher-education-and-research-act-impact-assessments), with hard copies available on request from the Department for Education, Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT.