(b) disseminate the results of research in the arts and humanities,
(c) further the practical application of the results of research in the arts and humanities,
(d) establish advisory bodies for the purpose of assisting the Secretary of State in matters connected with research in the arts and humanities, and
(e) if the Secretary of State establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.

(2) The National Assembly for Wales (in this Act referred to as “the Assembly”) may, in relation to Wales,—
(a) carry out or support research in the arts and humanities,
(b) disseminate the results of research in the arts and humanities,
(c) further the practical application of the results of research in the arts and humanities,
(d) establish advisory bodies for the purpose of assisting the Assembly in matters connected with research in the arts and humanities, and
(e) if the Assembly establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.

(3) The Scottish Ministers may, in relation to Scotland,—
(a) carry out or support research in the arts and humanities,
(b) disseminate the results of research in the arts and humanities,
(c) further the practical application of the results of research in the arts and humanities,
(d) establish advisory bodies for the purpose of assisting the Scottish Ministers in matters connected with research in the arts and humanities, and
(e) if the Scottish Ministers establish such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.

(4) The Northern Ireland Department having responsibility for higher education may, in relation to Northern Ireland,—
(a) carry out or support research in the arts and humanities,
(b) disseminate the results of research in the arts and humanities,
(c) further the practical application of the results of research in the arts and humanities,
(d) establish advisory bodies for the purpose of assisting the Department in matters connected with research in the arts and humanities, and

(e) if the Department establishes such a body, appoint its members on terms which include the payment of remuneration, allowances or pension benefits to or in respect of them.

Part 2

Review of student complaints

11 Qualifying institutions

In this Part “qualifying institution” means any of the following institutions in England or Wales—

Higher Education Bill

Part 2 — Review of student complaints

(a) a university (whether or not receiving financial support under section 65 of the 1992 Act) whose entitlement to grant awards is conferred or confirmed by—

(i) an Act of Parliament,

(ii) a Royal Charter, or

(iii) an order under section 76 of the 1992 Act;

(b) a constituent college, school or hall or other institution of a university falling within paragraph (a);

(c) an institution conducted by a higher education corporation;

(d) a designated institution, as defined by section 72(3) of the 1992 Act.

12 Qualifying complaints

(1) In this Part “qualifying complaint” means, subject to subsection (2), a complaint about an act or omission of a qualifying institution which is made by a person—

(a) as a student or former student at that institution, or

(b) as a student or former student at another institution (whether or not a qualifying institution) undertaking a course of study, or programme of research, leading to the grant of one of the qualifying institution’s awards.

(2) A complaint which falls within subsection (1) is not a qualifying complaint to the extent that it relates to matters of academic judgment.

13 Designation of operator of student complaints scheme
(1) The Secretary of State may, for the purposes of this Part, designate a body corporate as the designated operator for England as from a date specified in the designation.

(2) The Assembly may, for the purposes of this Part, designate a body corporate as the designated operator for Wales as from a date specified in the designation.

(3) The Secretary of State or the Assembly may not designate a body under subsection (1) or (2) unless he or the Assembly is satisfied that the body—
   (a) meets all of the conditions set out in Schedule 1,
   (b) is providing a scheme for the review of qualifying complaints that meets all of the conditions set out in Schedule 2, or is proposing to provide such a scheme from a date not later than the effective date,
   (c) has consulted interested parties about the provisions of that scheme, and
   (d) consents to the designation.

(4) If a body is designated under subsection (1) or (2) the Secretary of State or the Assembly must, before the effective date,—
   (a) give the body notice of the designation, and
   (b) publish notice of the designation in such manner as he or the Assembly thinks fit.

(5) In this Part—
   (a) “the effective date”, in relation to the designation of a body corporate under this section, means the date specified in the designation as the date from which the body is designated as designated operator, and
   (b) any reference to the designated operator is—
      (i) in relation to an institution in England, a reference to the body designated under subsection (1), and
      (ii) in relation to an institution in Wales, a reference to the body designated under subsection (2).

14 Duties of designated operator
The designated operator must comply with the duties set out in Schedule 3 during the period specified in that Schedule.

15 Duties of qualifying institutions

(1) The governing body of every qualifying institution in England and Wales must
comply with any obligation imposed upon it by a scheme for the review of qualifying complaints that is provided by the designated operator.

(2) The duty imposed by subsection (1) applies from the effective date of the designation and ceases to apply only if the designation is terminated.

(3) The obligations referred to in subsection (1) include any obligation to pay fees to the designated operator.

16 Termination of designation

(1) The designation of a body under section 13 continues until it is terminated in accordance with Schedule 4.

(2) If the designation of a body is terminated, the Secretary of State or the Assembly must publish notice of the termination in such manner as he or it thinks fit.

17 Privilege in relation to law of defamation

(1) For the purposes of the law of defamation, any proceedings relating to the review under the scheme of a qualifying complaint are to be treated as if they were proceedings before a court.

(2) For those purposes, absolute privilege attaches to the publication of—
   (a) any decision or recommendation made under the scheme by a person responsible for reviewing a qualifying complaint, and
   (b) any report under paragraph 6 or 7 of Schedule 3.

(3) In this section “the scheme” means the scheme for the review of qualifying complaints provided by the designated operator.

18 Provision where designation of operator to cease

(1) Where—
   (a) an agreement to terminate a designation has been made under paragraph 2 of Schedule 4,
   (b) notice to terminate a designation has been given under paragraph 4 or 6 of Schedule 4, or
   (c) the designated operator has ceased to exist,

the Secretary of State (in relation to England) or, as the case requires, the Assembly (in relation to Wales) may by order make such provision as he or it thinks fit for, or in connection with, the review of qualifying complaints.
(2) The provision that may be made under this section includes any one or more of the following—

(a) provision requiring the designated operator to provide the scheme in accordance with specified requirements;
(b) provision modifying, or requiring the designated operator to modify, the provisions of the scheme;
(c) provision about the fees payable under the scheme, including provision requiring the repayment of fees already paid;
(d) provision for a specified person to take over provision of the scheme;
(e) provision for any provision of this Part that applies in relation to a scheme provided by the designated operator to apply (with or without modifications) in relation to a scheme provided by a person specified by virtue of paragraph (d);
(f) provision for a specified person to review qualifying complaints, or specified descriptions of qualifying complaints, otherwise than under the scheme;
(g) provision requiring the payment of fees by the governing bodies of qualifying institutions to a person specified by virtue of paragraph (f);
(h) provision requiring the designated operator to provide such information and assistance as the Secretary of State or the Assembly considers necessary—

(i) for the Secretary of State or the Assembly to make provision under this section; or

(ii) for any person to comply with, or act under or in accordance with, provision made under this section.

(3) The Secretary of State or the Assembly may be specified by virtue of subsection (2)(d), but not by virtue of subsection (2)(f).

(4) In this section—

“the scheme” means the scheme for the review of qualifying complaints that the designated operator provides or has been providing;
“specified” means specified in an order under this section.

19 Exclusion of visitor’s jurisdiction

(1) The visitor of a qualifying institution has no jurisdiction in respect of any complaint which falls within subsection (2) or (3).
(2) A complaint falls within this subsection if it is made in respect of an application for admission to the qualifying institution as a student.
(3) A complaint falls within this subsection if it is made by a person—

(a) as a student or former student at the qualifying institution, or
(b) as a student or former student at another institution (whether or not a qualifying institution) undertaking a course of study, or programme of research, leading to the grant of one of the qualifying institution’s awards.

20 Interpretation of Part 2
In this Part—

“award” means any degree, diploma, certificate or other academic award or distinction;
“designated operator” has the meaning given by section 13(5)(b);
“the effective date” has the meaning given by section 13(5)(a);
“governing body” has the meaning given by section 90(1) of the 1992 Act, but subject to any provision made by virtue of section 90(2) of that Act;
“higher education corporation” has the meaning given by section 90(1) of the 1992 Act;
“interested parties”, in relation to a scheme for the review of qualifying complaints provided or to be provided by a body corporate, means—
(a) qualifying institutions in England or Wales (as the case may be), and
(b) persons selected by the body corporate from amongst those it considers to represent the interests of students at qualifying institutions in England or Wales (as the case may be);
“qualifying complaint” has the meaning given by section 12;
“qualifying institution” has the meaning given by section 11.

Part 3

Student fees in higher education

Introductory

21 Meaning of “plan” etc.
In this Part—

(a) any reference to a plan is a reference to a plan complying with section 31, and
(b) any reference to an English approved plan or a Welsh approved plan is a reference to a plan approved under section 32 in relation to England,
or as the case may be, in relation to Wales.

Imposition of conditions as to fees

22 Power of Secretary of State to impose condition as to student fees, etc.

(1) The power of the Secretary of State to impose conditions under section 68(1) of the 1992 Act or section 7(1) of the 1994 Act in relation to grants paid to a funding body includes power to impose a condition requiring that body to impose a condition under section 23 in relation to any grants, loans or other payments made by that body under section 65 of the 1992 Act, or (as the case may be) section 5 of the 1994 Act, to the governing body of a relevant institution.

(2) In this section—

“funding body” means—

(a) the Higher Education Funding Council for England, or

(b) the Teacher Training Agency;
Schedules
Schedule 1
Section 13
Conditions to be met by operator of student complaints scheme

Introduction

1 This Schedule sets out the conditions referred to in section 13(3)(a) (and other provisions of Part 2 of this Act).

Suitability

2 Condition A is that the body corporate is a suitable person to be the designated operator.

Capability

3 Condition B is that the body corporate is capable of providing in an effective manner, on and after the effective date, a scheme for the review of qualifying complaints which meets all of the conditions set out in Schedule 2.

Schedule 2

Section 13
Conditions to be met by student complaints scheme

Introduction

1 This Schedule sets out the conditions referred to in section 13(3)(b) (and other provisions of Part 2 of this Act).

Qualifying institutions

2 Condition A is that at any given time the scheme relates (as the case may be)—

(a) to every institution in England,
(b) to every institution in Wales, or
(c) to every institution in England and Wales,

that is a qualifying institution at that time.
Referral of qualifying complaints

3 (1) Condition B is that the scheme provides that every qualifying complaint made about the qualifying institutions to which it relates is capable of being referred under the scheme.

(2) A scheme does not fail to meet condition B only because it contains some or all of the following—

(a) provision that qualifying complaints are to be referred under the scheme within a time limit specified in, or determined in accordance with, the scheme;

(b) provision that, where a qualifying complaint is made about a qualifying institution which provides an internal procedure for the review of complaints, the complaint is not to be referred under the scheme until the complainant has exhausted the internal procedure;

(c) provision that a qualifying complaint is not to be referred under the scheme if—

(i) relevant proceedings have been concluded, or

(ii) relevant proceedings that have not been concluded have not been stayed.

(3) In sub-paragraph (2)(c) “relevant proceedings” means proceedings relating to the subject matter of the qualifying complaint that have been brought at first instance before a court or tribunal.

Individuals to review complaints

4 Condition C is that the scheme requires every qualifying complaint referred under the scheme to be reviewed by an individual who—

(a) is independent of the parties, and

(b) is suitable to review that complaint.

Review of complaint

5 (1) Condition D is that the scheme requires a reviewer—

(a) to make a decision as to the extent to which a qualifying complaint is justified; and

(b) to make that decision as soon as reasonably practicable.

(2) A scheme does not fail to meet condition D only because it contains provision that a reviewer may dismiss a qualifying complaint without consideration of the merits if the reviewer considers the complaint to be
frivolous or vexatious.

Recommendation of reviewer if complaint justified

6 Condition E is that the scheme provides that, in a case where a reviewer decides that a qualifying complaint is to any extent justified, the reviewer—
   (a) may recommend the governing body of the institution to which the complaint relates—
      (i) to do anything specified in the recommendation (which may include the payment of sums so specified), and
      (ii) to refrain from doing anything so specified, but
   (b) may not require any person to do, or refrain from doing, anything.

Reviewers to notify parties of decisions, recommendations etc.

7 Condition F is that the scheme requires a reviewer to notify the parties to a qualifying complaint in writing of—
   (a) the decision the reviewer has made,
   (b) the reviewer’s reasons for making that decision, and
   (c) if the reviewer makes a recommendation—
      (i) that recommendation, and
      (ii) the reviewer’s reasons for making that recommendation.

Fees

8 Condition G is that the scheme does not require complainants to pay any fees in connection with the operation of the scheme.

9 Condition H is that any fees payable under the scheme by the qualifying institutions to which it relates do not exceed the amount incurred by the operator, taking one year with another, in providing the scheme in relation to those institutions.

Scheme also applying to bodies that are not qualifying institutions

10 (1) A scheme does not fail to meet the conditions in this Schedule only because it also relates to bodies that are not qualifying institutions.
    (2) A scheme which relates to such bodies does not fail to meet the conditions in this Schedule only because the provisions of the scheme that apply to such bodies do not meet those conditions.

Interpretation

11 In this Schedule—
“complainant” means the person making a qualifying complaint;
“parties”, in relation to a qualifying complaint, means—
(a) the complainant, and
(b) the governing body of the institution about which the
complaint is made;
“reviewer”, in relation to the review of a qualifying complaint under a
scheme, means the individual who is reviewing the complaint.

Power to amend this Schedule

12 (1) Regulations may amend the preceding provisions of this Schedule.

(2) In sub-paragraph (1) “regulations” means regulations made—
(a) in relation to schemes relating to qualifying institutions in England,
by the Secretary of State, or
(b) in relation to schemes relating to qualifying institutions in Wales, by
the Assembly.

(3) No regulations may be made by the Secretary of State under this paragraph
unless a draft of the regulations has been laid before, and approved by a
resolution of, each House of Parliament.

Higher Education Bill
Schedule 3 — Duties of designated operator of student complaints scheme

Schedule 3
Section 14
Duties of designated operator of student complaints scheme

Introduction

1 This Schedule sets out the duties referred to in section 14 and the period
during which those duties must be complied with.

Provision of scheme

2 The designated operator must provide a scheme for the review of qualifying
complaints which meets all of the conditions set out in Schedule 2.

Publication of scheme

3 The designated operator must publish the latest version of the scheme in
such manner as it thinks fit.

Changes to scheme

4 The designated operator must not make any change to a provision of the
scheme to which a condition set out in Schedule 2 relates unless the operator
has first—
(a) consulted interested parties about the proposed change, and
(b) notified the Secretary of State or the Assembly (as the case requires) of the proposed change.

Compliance with scheme

5 The designated operator must comply with any requirements that the scheme imposes on it.

Annual report

6 (1) The designated operator must—
   (a) produce an annual report on the scheme and its operation, and
   (b) publish the report in such manner as it thinks fit.

   (2) The report must include information about—
   (a) complaints referred under the scheme,
   (b) the decisions and recommendations made by reviewers,
   (c) the extent to which recommendations made by reviewers have been followed, and
   (d) the way in which the operator has used the fees (if any) paid in connection with the scheme.

Review

7 (1) This paragraph applies if the Secretary of State or the Assembly requests the designated body to—

   (a) conduct a review of the scheme or its operation (or any aspect of either of those matters), and

   (b) report the results of the review to the Secretary of State or Assembly.

   (2) The designated body must comply with the request within such time as may be specified by the Secretary of State or the Assembly.

   (3) In conducting the review, the designated body must comply with any particular requirements imposed by the Secretary of State or the Assembly.

Supply of information

8 The designated operator must provide the Secretary of State or the Assembly with such information about itself, and the scheme and its operation, as the Secretary of State or the Assembly may reasonably require for the purposes of his or the Assembly’s functions under Part 2 of this Act.

Period during which the designated operator must comply with duties
9 (1) The duties set out in this Schedule apply from the relevant date and cease to apply only if the designation is terminated.

(2) The “relevant date” means—

(a) in relation to the duties set out in paragraphs 3, 4, 5 and 8, the date on which notice of designation is received in accordance with section 13(4)(a), and

(b) in relation to the duties set out in the other paragraphs, the effective date of the designation.

Duties to publish information: further provision

10 Where by virtue of this Schedule the designated operator is under a duty to publish information, it must, in choosing the manner in which the information is to be published, have regard to the object of making that information available to interested parties.

Schedule 4

Section 16
Termination of designation of operator of student complaints scheme

Part 1
Circumstances in which designation terminated

Introduction

1 This Part of this Schedule sets out the circumstances in which the designation of a body corporate under section 13 is terminated.

Agreement

2 The designation is terminated if the designated operator and the Secretary of State or the Assembly (as the case may be) make an agreement which specifies a date when the designation is to terminate.

Higher Education Bill

Schedule 4 — Termination of designation of operator of student complaints scheme

Part 2 — Agreement made or notice given under Part 1: supplementary provision

3 In this case the designation is terminated on the date specified in the agreement.

Notice given by the designated operator

4 (1) The designation is terminated if the designated operator gives the Secretary
of State or the Assembly (as the case may be) notice which specifies a date when the designation is to terminate.

(2) Notice under this paragraph is valid only if the period between—
   (a) the date when the notice is given, and
   (b) the date specified in the notice,
   is one year or longer.

5 In this case the designation is terminated on the date specified in the notice.

Notice given by Secretary of State or Assembly

6 (1) The designation is terminated if the Secretary of State or the Assembly (as the case may be) gives the designated operator notice which specifies a date when the designation is to terminate.

   (2) Notice under this paragraph may not be given unless the Secretary of State or the Assembly—
       (a) is no longer satisfied that the designated operator meets all of the conditions in Schedule 1, or
       (b) is satisfied that the designated operator has failed to comply with section 14.

   (3) Notice under this paragraph is valid only if the period between—
       (a) the date when the notice is given, and
       (b) the date specified in the notice,
       is such as the Secretary of State or the Assembly considers reasonable.

7 In this case the designation is terminated on the date specified in the notice.

Operator ceases to exist

8 The designation is terminated if the designated operator ceases to exist.

9 In this case the designation is terminated on the date when the operator ceases to exist.

Part 2
Agreement made or notice given under Part 1: supplementary provision

Introduction

10 (1) This Part of this Schedule applies where—

   (a) the designated operator and the Secretary of State or the Assembly have made an agreement under paragraph 2,

   (b) the designated operator has given notice under paragraph 4, or

   (c) the Secretary of State or the Assembly has given notice under paragraph 6.
(2) In this Part—

"original instrument of termination" means the agreement or notice referred to in sub-paragraph (1);

"termination date" means the date specified in an agreement under paragraph 2, or notice under paragraph 4 or 6, as the date when the designation in question is to terminate.

Effect of agreement or notice on provisions of Part 1 of Schedule

11 (1) Where this Part of this Schedule applies—

(a) the designated operator and the Secretary of State or the Assembly may not make an agreement, or a new agreement, under paragraph 2,

(b) the designated operator may not give a notice, or a new notice, under paragraph 4, and

(c) the Secretary of State or the Assembly may not—

(i) give a notice under paragraph 6 except in accordance with sub-paragraph (2) below, or

(ii) give a new notice under paragraph 6.

(2) The Secretary of State or the Assembly may give a notice under paragraph 6 if—

(a) the original instrument of termination is—

(i) an agreement under paragraph 2, or

(ii) a notice under paragraph 4, and

(b) the termination date specified in the notice under paragraph 6 falls before the termination date specified in the original instrument of termination.

Circumstances in which agreement or notice superseded

12 The original instrument of termination is superseded only if—

(a) notice under paragraph 6 is given in accordance with paragraph 11(2), or

(b) the designation in question is terminated in accordance with paragraph 8 (operator ceases to exist).

Agreement or notice not capable of variation or cancellation or revocation

13 (1) An agreement made under paragraph 2 may not be varied or cancelled.

(2) Accordingly such an agreement continues in force until—

(a) the designation is terminated in accordance with the agreement, or

(b) the agreement is superseded in accordance with paragraph 12.
(1) Notice given under paragraph 4 or 6 may not be varied or revoked.
(2) Accordingly such notice continues in force until—
   (a) the designation is terminated in accordance with the notice, or
   (b) the notice is superseded in accordance with paragraph 12.
prescribed by such regulations for the purposes of subsection (1) or (2) of that section (persons connected with the United Kingdom, etc.).

(2) The power to prescribe descriptions of course by virtue of the definition of “qualifying course” in section 23(6) or 26(6) may not be exercised in such a way as to discriminate—

(a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given, and

(b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.

(3) Nothing in the 1992 Act or the 1994 Act, so far as it imposes any prohibition or other requirement in relation to the imposition of conditions by the Secretary of State, the Assembly, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Teacher Training Agency applies to—

(a) any condition under section 22 imposed by the Secretary of State,

(b) any condition under section 25 imposed by the Assembly, or

(c) any condition under section 23 or 26 imposed by either of those Councils or that Agency.

Plans authorising fees of more than basic amount

28 Meaning of “the relevant authority”

(1) In this Part “the relevant authority” means—

(a) in relation to England, the Director (as defined by section 29(1)), and

(b) in relation to Wales, such person as may be designated for the purposes of this section by regulations made by the Assembly.

(2) The power conferred by subsection (1)(b) includes power to designate the Higher Education Funding Council for Wales.

(3) Regulations under subsection (1)(b) designating a person as the relevant authority in relation to Wales may make such amendments of any enactment (including any enactment contained in this Act) as appear to the Assembly to be necessary or expedient in connection with the designation of that person.
(2) The Director is to be appointed by the Secretary of State.

(3) Schedule 5 makes further provision about the Director.

General duties of relevant authority

(1) The Director must—
   (a) perform his functions under this Part in such a way as to promote and safeguard fair access to higher education, and
   (b) in the performance of those functions, have regard to any guidance given to him by the Secretary of State.

Higher Education Bill
Part 3 — Student fees in higher education

(2) The relevant authority in relation to Wales must, in the performance of the functions that are conferred on it by this Part as the relevant authority, have regard to any guidance given to it by the Assembly.

Contents of plans

(1) A plan under this section relating to an institution must, in relation to each qualifying course in connection with which fees are to be payable to the institution by qualifying persons, specify or provide for the determination of a limit (not exceeding the higher amount) which those fees are not permitted to exceed.

(2) A plan under this section relating to any institution must also include such provisions relating to—
   (a) the promotion of higher education, or
   (b) the promotion of equality of opportunity in connection with access to higher education,

   as are required by regulations to be included in the plan, and may also include further provisions relating to either of those matters.

(3) In this Part any reference to the “general provisions” of a plan under this section is a reference to the provisions included in the plan by virtue of subsection (2).

(4) The general provisions that may be required by regulations made by virtue of subsection (2) include, in particular, provisions—
   (a) requiring the governing body to take, or secure the taking of, measures to attract applications from prospective students who are members of groups which, at the time when the plan is approved, are under-
represented in higher education,
   (b) requiring the governing body to provide, or secure the provision of,
financial assistance to students,
   (c) requiring the governing body to make available to students and
   prospective students information about financial assistance available to
   students from any source,
   (d) setting out objectives in relation to the matters mentioned in subsection
   (2)(a) and (b),
   (e) relating to the monitoring by the governing body of—
       (i) its compliance with the provisions of the plan, and
       (ii) its progress in achieving any objectives set out in the plan by
virtue of paragraph (d), and
   (f) requiring the provision of information to the relevant authority.
(5) In this section—
   “the higher amount” means—
       (a) in relation to England, the amount from time to time prescribed
as the higher amount under section 23(6), and
       (b) in relation to Wales, the amount from time to time prescribed as
the higher amount under section 26(6);
   “qualifying course” and “qualifying person”—
       (a) in relation to England, have the same meaning as in section 23,
and
       (b) in relation to Wales, have the same meaning as in section 26;

Higher Education Bill 15
Part 3 — Student fees in higher education

   “regulations” means regulations made—
       (a) in relation to England, by the Secretary of State, and
       (b) in relation to Wales, by the Assembly.

32 Approval of plans

   (1) The governing body of any institution which is or may become eligible to
receive grants under section 65 of the 1992 Act or section 5 of the 1994 Act may
apply to the relevant authority for approval of a proposed plan relating to the
institution.

   (2) The relevant authority may, if it thinks fit, approve the plan.

   (3) The relevant authority may issue guidance to institutions falling within
subsection (1) as to the matters to which the relevant authority will have regard
in deciding whether to approve plans.

(4) The relevant authority’s functions under this section are to be exercised in accordance with regulations.

(5) Regulations may, in particular—

(a) prescribe cases in which the relevant authority must, or may not, approve a plan, and

(b) specify matters to which the relevant authority is, or is not, to have regard in making any determination relating to approval.

(6) Regulations may require the institution to which any plan approved under this section relates to publish the plan in the prescribed manner.

(7) In this section “regulations” means regulations made—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the Assembly.

### 33 Duration of plans

(1) A plan must specify the period during which it is to be in force.

(2) The length of that period must not exceed such maximum as may be prescribed by regulations made—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the Assembly.

(3) Subsections (1) and (2) do not prevent the approval of a new plan to take effect on the expiry of a previous plan.

### 34 Variation of plans

(1) Regulations may make provision enabling an English approved plan or a Welsh approved plan to be varied with the approval of the relevant authority.

(2) In this section “regulations” means regulations made—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the Assembly.

---

Higher Education Bill
Part 3 — Student fees in higher education

### 35 Enforcement of plans: England

(1) If the Director is satisfied that the governing body of an institution which by virtue of a condition under section 23 is required to comply with the requirement specified in section 23(1)(a) or (c) has failed to comply with that
requirement, the Director may do either or both of the following—

(a) direct the Higher Education Funding Council for England or the Teacher Training Agency (or both) to impose specified financial requirements on the governing body under section 23(3), or

(b) notify the governing body that on the expiry of the existing plan he will refuse to approve a new plan under section 32 during a specified period.

(2) The Secretary of State may by regulations make provision—

(a) as to the matters to which the Director must, or may not, have regard in exercising his powers under subsection (1),

(b) as to the procedure to be followed in connection with the giving of any direction or notification under subsection (1),

(c) as to the financial requirements that may be specified by virtue of subsection (1)(a), and

(d) as to the effect of a notification under subsection (1)(b).

36 Enforcement of plans: Wales

(1) If the relevant authority is satisfied that the governing body of an institution which by virtue of a condition imposed under section 26 is required to comply with the requirement specified in section 26(1)(a) or (c) has failed to comply with that requirement, the relevant authority may notify the governing body that on the expiry of the existing plan it will refuse to approve a new plan under section 32 during a specified period.

(2) The period specified under subsection (1) must not exceed any maximum period prescribed by regulations made by the Assembly.

(3) The Assembly may by regulations make provision—

(a) as to the matters to which the relevant authority must, or may not, have regard in exercising its powers under subsection (1),

(b) as to the procedure to be followed in connection with the giving of any notification under that subsection, and

(c) as to the effect of such a notification.

(4) The exercise of the power conferred by subsection (1) (whether or not by the Higher Education Funding Council for Wales) does not prevent the Council from enforcing the condition imposed under section 26 by imposing financial requirements on the governing body in pursuance of any condition imposed by virtue of section 26(3).

Supplementary

37 Provision of information
(1) If so requested by the Director, the Higher Education Funding Council for
England and the Teacher Training Agency must provide the Director with any
information which is in its possession and is reasonably required by the
Director for the purposes of his functions.

(2) If so requested by the Higher Education Funding Council for England or the
Teacher Training Agency, the Director must provide the Council or the Agency
with any information which is in his possession and is reasonably required by
either of those bodies for the purposes of its functions.

38 Interpretation of Part 3

(1) In this Part—

“course” does not include any part-time or postgraduate course other
than a course of initial teacher training;

“the Director” has the meaning given by section 29(1);

“English approved plan” has the meaning given by section 21(b);

“fees”, in relation to undertaking a course, means fees in respect of, or
otherwise in connection with, undertaking the course, including
admission, registration, tuition and graduation fees but excluding—

(a) fees payable to an institution for awarding or accrediting any
qualification where the institution does not provide the whole
or part of the course and is not a publicly-funded institution (as
defined by subsection (2)),

(b) fees payable for board or lodging,

(c) fees payable for field trips (including any tuition element of
such fees),

(d) fees payable for attending any graduation or other ceremony,
and

(e) such other fees as may be prescribed—

(i) in relation to England, by regulations made by the
Secretary of State, or
(ii) in relation to Wales, by regulations made by the Assembly;

“governing body”, in relation to an institution, has the meaning given by
section 90(1) of the 1992 Act, but subject to any provision made by
virtue of section 90(2) of that Act;
“general provisions”, in relation to a plan, has the meaning given by section 31(3);
“plan” has the meaning given by section 21(a);
“the relevant authority” has the meaning given by section 28(1);
“Welsh approved plan” has the meaning given by section 21(b).

(2) In subsection (1) “publicly-funded institution” means—

(a) any university or other institution receiving grants, loans or other payments under section 65 of the 1992 Act, or under section 5 of the 1994 Act, any institution maintained by a local education authority in the exercise of their further and higher education functions, any institution receiving a recurrent grant towards its costs under regulations made under section 485 of the Education Act 1996 (c. 56) or any institution receiving financial resources under section 5 or 34 of the Learning and Skills Act 2000 (c. 21);

(b) any institution within the higher education sector for the purposes of the Further and Higher Education (Scotland) Act 1992 (c. 37), any college of further education within the meaning of section 36(1) of that Act or any central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980 (c. 44);

(c) the Queen’s University of Belfast, the University of Ulster, 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 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)).

Part 4

Student support

39 Effect of bankruptcy

(1) In section 22 of the 1998 Act (arrangements for giving financial support to students), after subsection (3)(e) insert—

“(f) with respect to the effect of bankruptcy upon a borrower’s
liability to make repayments in respect of such a loan (whether
the repayments relate to sums which the borrower receives, or
is entitled to receive, before or after the commencement of the
bankruptcy).”

(2) In section 46(8) of the 1998 Act (provisions that extend to Northern Ireland), in
the entry relating to section 22 for “(3)(e)” substitute “(3)(e) or (f)”.  

(3) Subsection (4) has effect in relation to the Education (Student Loans) Act 1990
(c. 6) to the extent that it continues in force by virtue of any savings made, in
connection with its repeal by the 1998 Act, by an order under section 46(4) of
the 1998 Act.

(4) Schedule 2 to the Education (Student Loans) Act 1990 (loans for students) is to
have effect as if in paragraph 5(2) (liabilities relating to student loans not to be
included in bankruptcy debts) the reference to “any such sum” were a
reference to “any sums to which this paragraph applies”.

(5) Nothing in this section affects any bankruptcy commencing before this section
comes into force.

40 Other amendments of section 22 of Teaching and Higher Education Act 1998

(1) Section 22 of the 1998 Act (arrangements for giving financial support to
students) is amended as follows.

(2) In subsection (2)(i), for “who have previously made loans of any prescribed
description to those persons” substitute “to whom those persons are liable to
make payments”.

(3) Omit subsection (7) (which provides that regulations made by virtue of
subsection (2)(b) of that section are to be subject to affirmative resolution
procedure in certain circumstances).

41 Transfer of certain functions to National Assembly for Wales

(1) In relation to Wales, the functions of the Secretary of State under section 22 of
the 1998 Act (arrangements for giving financial support to students) are hereby
Schedule 5

Section 29

The Director of Fair Access to Higher Education: supplementary provisions

Status, appointment and remuneration of Director

1 The Director and his staff are not to be regarded as servants or agents of the Crown.

2 (1) The Director is to hold and vacate office in accordance with the terms of his appointment, but—

(a) may not be appointed for a term of more than three years, and

(b) may at any time resign by giving written notice to the Secretary of State.

(2) The previous appointment of a person as Director does not affect his eligibility for re-appointment.

3 There are to be paid to the Director such remuneration and allowances as the Secretary of State may determine.

Staff

4 (1) The Director may appoint such staff as he may determine.

(2) The remuneration and other conditions of service of any person appointed under this paragraph are to be determined by the Director.

Arrangements with Higher Education Funding Council for England

5 The Director and the Higher Education Funding Council for England may enter into arrangements with each other for the provision to the Director by the Council, on such terms as may be agreed, of staff, accommodation or services.

Finance

6 The Secretary of State may make payments to the Director.

Reports

7 (1) The Director must provide to the Secretary of State, as soon as possible after the end of each financial year, a report on how he has performed his functions during that year.

(2) The Secretary of State may by direction require the Director, either in a report under sub-paragraph (1) or in a special report, to report to him on such matters related to access to higher education as may be specified in the
direction.

(3) The Secretary of State must lay before each House of Parliament a copy of each report provided to him under this paragraph; and the Director must publish the report once it has been so laid.

(4) In this paragraph and paragraph 8 “financial year” means—

(a) the period beginning with the date on which the first Director takes office and ending with the next 31st March, and

(b) each subsequent period of twelve months ending with 31st March.

Accounts

8 (1) It is the duty of the Director—

(a) to keep proper accounts and proper records in relation to the accounts,

(b) to prepare in respect of each financial year a statement of the accounts in such form as the Secretary of State may direct, and

(c) to send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

(2) The Comptroller and Auditor General must examine, certify and report on each statement received by him in pursuance of this paragraph, and must lay copies of each statement and of his report before each House of Parliament.

Schedule 6
Section 45
Consequential amendments

Public Records Act 1958 (c. 51)

1 In Schedule 1 to the Public Records Act 1958 (definition of public records) in Part 2 of the Table at the end of paragraph 3 (other establishments and organisations) insert at the appropriate place “Director of Fair Access to Higher Education”.

Parliamentary Commissioner Act 1967 (c. 13)

2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), insert at the appropriate place “The Arts and Humanities Research Council.”.
Superannuation Act 1972 (c. 11)

3 In Schedule 1 to the Superannuation Act 1972 (which lists the kinds of employment etc. to which a scheme under that Act can apply) omit “The Arts and Humanities Research Board”.

House of Commons Disqualification Act 1975 (c. 24)

4 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), in Part 3 (other disqualifying offices) insert at the appropriate places—

“Chairman, Deputy Chairman or Chief Executive of the Arts and Humanities Research Council.”, and

“Director of Fair Access to Higher Education.”