



# Higher Education and Research Act 2017

## 2017 CHAPTER 29

### PART 2

#### OTHER EDUCATION MEASURES

##### *Student complaints scheme*

#### **89 Qualifying institutions for purposes of student complaints scheme**

- (1) Part 2 of the Higher Education Act 2004 (review of student complaints) is amended in accordance with subsections (2) to (5).
- (2) In section 11 (qualifying institutions for purposes of student complaints scheme)—
  - (a) in the words before paragraph (a), omit “in England or Wales”,
  - (b) in the opening words of paragraph (a)—
    - (i) after “university” insert “ in England or Wales ”, and
    - (ii) after “the 1992 Act” insert “ or section 39 or 93 of the Higher Education and Research Act 2017 (“the 2017 Act”) ”,
  - (c) in paragraph (a)(iii), after “the 1992 Act” insert “ or section 42 or 45 of the 2017 Act ”,
  - (d) in paragraph (b), after “institution” insert “ in England or Wales ”,
  - (e) in paragraph (c), after “institution” insert “ in England or Wales ”,
  - (f) in paragraph (d), at beginning insert “ an institution in Wales which is ”,
  - (g) after paragraph (d), insert—
    - “(da) an institution in England which is a registered higher education provider as defined by section 85 of the 2017 Act (other than one within paragraph (a), (b), (c) or (d) of this section);”
  - (h) in paragraph (e)—
    - (i) after “institution” insert “ in England or Wales ”, and
    - (ii) for “another paragraph” substitute “ any of the preceding paragraphs ”,

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- (i) after paragraph (e), insert—
  - “(ea) an institution in England (other than one within any of the preceding paragraphs of this section) which provides higher education courses leading to the grant of an award by or on behalf of—
    - (i) another institution in England within another paragraph of this section, or
    - (ii) the Office for Students where the grant is authorised by regulations under section 51(1) of the 2017 Act;”, and
- (j) in paragraph (f)—
  - (i) after “institution” insert “ in England or Wales ”, and
  - (ii) after “the 1992 Act” insert “ or section 42 or 45 of the 2017 Act ”.
- (3) In section 12(3) (qualifying complaints), for “paragraph (e)” substitute “ paragraph (da), (e), (ea) ”.
- (4) After section 20 insert—

**“20A Institutions that cease to be qualifying institutions**

- (1) An institution that ceases to be a qualifying institution is a “transitional institution” during the shorter of—
  - (a) the period of 12 months beginning with the day on which it ceases to be a qualifying institution, and
  - (b) the period beginning with that day and ending when it becomes a qualifying institution again,
 (and the shorter period is referred to in this section as “the transitional period”).
- (2) For the purposes of this Part, a transitional institution is to be treated as continuing to be a qualifying institution during the transitional period, subject to subsection (3).
- (3) A complaint is not a qualifying complaint to the extent that it is about an act or omission of a transitional institution which occurred on or after the day on which the transitional period began.
- (4) In section 12(3) (power of designated operator to determine when certain complaints are qualifying complaints), the reference to a qualifying institution within paragraph (da), (e), (ea) or (f) of section 11 includes a transitional institution that was a qualifying institution within the paragraph in question immediately before the beginning of the transitional period.”
- (5) In section 21 (interpretation of Part 2)—
  - (a) number the existing text as subsection (1),
  - (b) in that subsection, omit the definition of “governing body”,
  - (c) in that subsection, after the definition of “higher education corporation” insert—
    - ““institution” includes a training provider in England who would not otherwise be regarded as an institution;”,
  - (d) in that subsection, at the end insert—

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““training provider” means a person who provides training for members of the school workforce within the meaning of Part 3 of the Education Act 2005 (see section 100 of that Act).”, and

(e) after that subsection, insert—

“(2) In this Part “governing body”—

- (a) in relation to a training provider in England who, but for the definition of “institution” in subsection (1), would not be regarded as an institution, means any persons responsible for the provider's management;
  - (b) in relation to a provider of higher education designated under section 84 of the Higher Education and Research Act 2017, means any persons responsible for the provider's management;
  - (c) in relation to any other 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.”
- (6) In section 118(8) of the Equality Act 2010 (time limits), in the definition of “qualifying institution”, at the end insert “, and includes an institution which is treated as continuing to be a qualifying institution for the purposes of Part 2 of that Act (see section 20A(2) of that Act) ”.
- (7) In section 32(1) of the Counter-Terrorism and Security Act 2015 (monitoring of performance: further and higher education bodies), in paragraph (a) of the definition of “relevant higher education body”, after “2004” insert “, disregarding paragraphs (da) and (ea) of that section and the definition of “institution” in section 21(1) of that Act ”.

#### Commencement Information

- I1** S. 89(1)(2)(a)-(g)(i)(j) in force at 1.4.2018 by [S.I. 2018/241](#), **reg. 2(l)**
- I2** S. 89(2)(h)(i) in force at 1.4.2018 by [S.I. 2018/241](#), **reg. 2(l)**
- I3** S. 89(2)(h)(ii)(4) in force at 1.4.2018 for W. by [S.I. 2018/415](#), **reg. 2(b)**
- I4** S. 89(2)(h)(ii)(4) in force at 1.4.2018 for E. by [S.I. 2018/241](#), **reg. 2(l)**
- I5** S. 89(3)(5)-(7) in force at 1.4.2018 by [S.I. 2018/241](#), **reg. 2(l)**

**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\(6\)](#)