



Higher Education and Research Act 2017

2017 CHAPTER 29

PART 1

THE OFFICE FOR STUDENTS

Efficiency studies etc

69 Studies for improving economy, efficiency and effectiveness

- (1) The OfS may arrange for studies designed to improve economy, efficiency and effectiveness in the management or operations of a registered higher education provider to be promoted or carried out by a person.
- (2) A person promoting or carrying out such studies at the request of the OfS (“a researcher”) may require the governing body of the provider concerned—
 - (a) to provide the researcher or an authorised person with such information as the researcher may reasonably require for that purpose, and
 - (b) to make available for inspection, to the researcher or an authorised person, their accounts and such other documents as the researcher may reasonably require for that purpose.
- (3) “Authorised person” means a person authorised by the researcher.

Commencement Information

II S. 69 in force at 1.8.2019 by S.I. 2018/1226, reg. 4(g)

[^{F1}69B Functions of the OfS in relation to students’ unions

- (1) The OfS must monitor whether students’ unions to which sections [A5](#) and [A6](#) apply are complying with their duties under those sections.

Changes to legislation: Higher Education and Research Act 2017, Cross Heading: Efficiency studies etc is up to date with all changes known to be in force on or before 03 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

- (2) The OfS may impose a monetary penalty on a students' union if it appears to the OfS that it is failing or has failed to comply with any of its duties under those sections.
- (3) A "monetary penalty" is a requirement to pay the OfS a penalty of an amount determined by the OfS in accordance with regulations made by the Secretary of State.
- (4) The Secretary of State may by regulations make provision about matters to which the OfS must, or must not, have regard in exercising its power under subsection (2).
- (5) Schedule 3 (monetary penalties: procedure etc) applies in relation to the imposition of a penalty on a students' union under subsection (2), but as if—
 - (a) references to a registered higher education provider or the governing body of such a provider were references to the students' union, and
 - (b) references to section 15 were references to subsection (2).
- (6) The OfS must maintain a list of the students' unions to which, according to the information held by the OfS, sections A5 and A6 apply.
- (7) The OfS must make the list maintained under subsection (6) publicly available by such means as it considers appropriate.
- (8) A students' union to which sections A5 and A6 apply must provide the OfS, or a person nominated by the OfS, with such information for the purposes of the performance of the OfS's functions under this section as the OfS may require it to provide.
- (9) If a students' union fails to comply with a requirement under subsection (8) and does not satisfy the OfS that it is unable to provide the information, the OfS may enforce the duty to comply with the requirement in civil proceedings for an injunction.]

Textual Amendments

- F1** S. 69B inserted (11.5.2023 for specified purposes) by [Higher Education \(Freedom of Speech\) Act 2023 \(c. 16\)](#), **ss. 7(1)**, 13(1)(a)(3)

[^{F2}69D Overseas funding: registered higher education providers

- (1) The OfS must monitor the overseas funding of registered higher education providers and their constituent institutions with a view to assessing the extent to which the funding presents a risk to the matters in subsection (2).
- (2) The matters are—
 - (a) freedom of speech within the law, and
 - (b) the academic freedom of academic staff of registered higher education providers and their constituent institutions,
 in the provision of higher education by registered higher education providers and their constituent institutions.
- (3) The duty in subsection (1) includes a duty to consider, in a case where the OfS has found that a registered higher education provider or any constituent institution of a registered higher education provider is in breach of its duty under section A1, whether overseas funding was relevant to the breach.

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- (4) The information which the governing body of a registered higher education provider may be required to provide under the condition under section 8(1)(b), in relation to the function of the OfS under subsection (1), is—
- (a) information as to relevant funding from a relevant overseas person, where the funding from that person exceeds the threshold in any period of 12 months specified by the OfS, and
 - (b) if the OfS considers it appropriate in any circumstances, such other information as the OfS may reasonably require.
- (5) In this section “relevant funding” from a relevant overseas person, in relation to a registered higher education provider, means amounts which are received by the provider or a connected person—
- (a) by way of endowment, gift or donation from the relevant overseas person,
 - (b) by way of research grant from the relevant overseas person,
 - (c) pursuant to a research contract with the relevant overseas person, or
 - (d) pursuant to an educational or commercial partnership with the relevant overseas person.
- (6) In subsection (5) “connected person”, in relation to a registered higher education provider, means—
- (a) the governing body of the provider,
 - (b) a constituent institution of the provider, or
 - (c) a member or member of staff of the provider or of a constituent institution, in their capacity as such.
- (7) For the purposes of subsection (5), treat receipt of anything that is not money as receipt of an amount equal to the value of the thing to the recipient at the time of receipt.
- (8) In this section “relevant overseas person” means—
- (a) the government of an overseas country, other than a prescribed country,
 - (b) a body which is incorporated or registered in, or has its headquarters in, an overseas country other than a prescribed country, or
 - (c) an individual who is a politically exposed person in relation to an overseas country other than a prescribed country.
- (9) In this section—
- “overseas country” means any country or territory outside the United Kingdom, but not including the Channel Islands, the Isle of Man and any British overseas territory;
- “politically exposed person” has the meaning given by regulation 35 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692);
- “prescribed country” means a country or territory specified in regulations made by the Secretary of State.
- (10) For the purposes of subsection (4)(a), “the threshold” means an amount specified in regulations made by the Secretary of State.
- (11) Regulations under subsection (10) may include provision—
- (a) as to how the amount specified is to be calculated;
 - (b) to treat amounts received from a person other than a relevant overseas person as received from the relevant overseas person.

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Textual Amendments

F2 Ss. 69D, 69E inserted (11.5.2023 for specified purposes) by [Higher Education \(Freedom of Speech\) Act 2023 \(c. 16\)](#), **ss. 9(2)**, 13(1)(b)(3)

69E Overseas funding: students' unions

- (1) The OfS must monitor the overseas funding of students' unions at registered higher education providers that are eligible for financial support with a view to assessing the extent to which the funding presents a risk to the matter in subsection (2).
- (2) The matter is freedom of speech within the law for—
 - (a) members of the students' unions,
 - (b) students of the providers,
 - (c) staff of the students' unions,
 - (d) staff and members of the providers and of their constituent institutions, and
 - (e) visiting speakers.
- (3) The duty in subsection (1) includes a duty to consider, in a case where the OfS has found that a students' union is in breach of its duty under section A5, whether overseas funding was relevant to the breach.
- (4) For the purpose of the function of the OfS under subsection (1), a students' union referred to in that subsection must provide to the OfS at such times, and in respect of such periods, as the OfS may reasonably request—
 - (a) information as to any amounts received from a relevant overseas person, where the amounts exceed the threshold in any period of 12 months specified by the OfS, and
 - (b) if the OfS considers it appropriate in any circumstances, such other information as the OfS may reasonably require.
- (5) If a students' union fails to comply with its duty under subsection (4), the OfS may enforce the duty in civil proceedings for an injunction.
- (6) The following provisions of section 69D apply for the purposes of this section—
 - (a) subsection (7) (things other than money);
 - (b) subsections (8) and (9) (meaning of “relevant overseas person”);
 - (c) subsections (10) and (11) (meaning of “threshold”).]

Textual Amendments

F2 Ss. 69D, 69E inserted (11.5.2023 for specified purposes) by [Higher Education \(Freedom of Speech\) Act 2023 \(c. 16\)](#), **ss. 9(2)**, 13(1)(b)(3)

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\(6\)](#)