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STATUTORY INSTRUMENTS

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**2018 No. 1226 (C. 87)**

**EDUCATION**

**The Higher Education and Research Act 2017  
(Commencement No. 5) Regulations 2018**

*Made - - - - 25th November 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 124(5) and (6) of the Higher Education and Research Act 2017<sup>(1)</sup>.

**Citation and interpretation**

1.—(1) These Regulations may be cited as the Higher Education and Research Act 2017 (Commencement No. 5) Regulations 2018.

(2) In these Regulations “the Act” means the Higher Education and Research Act 2017.

**Provisions coming into force on 1st January 2019**

2. The following provisions of the Act come into force on 1st January 2019—

- (a) sections 39 to 41;
- (b) section 62 insofar as not already commenced;
- (c) section 70;
- (d) section 72 but not to the extent that it refers to anything in section 71;
- (e) section 74;
- (f) Schedule 6 insofar as not already commenced.

**Provisions coming into force on 1st April 2019**

3. The following provisions<sup>(2)</sup> of the Act come into force on 1st April 2019—

- (a) section 56;
- (b) section 57.

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<sup>(1)</sup> 2017 c. 29.

<sup>(2)</sup> Transitional and saving provisions in relation to these provisions are to be found in the [Higher Education and Research Act 2017 \(Transitional and Saving Provisions\) \(University Title\) Regulations 2018 \(S.I. 20018/1225\)](#).

**Provisions coming into force on 1st August 2019**

4. The following provisions of the Act come into force on 1st August 2019—
- (a) section 15;
  - (b) section 18 insofar as not already commenced;
  - (c) section 21;
  - (d) section 38;
  - (e) section 50;
  - (f) section 51;
  - (g) sections 67 to 69;
  - (h) section 71;
  - (i) section 72 insofar as not already commenced;
  - (j) section 73;
  - (k) section 90;
  - (l) section 122(1) insofar as not already commenced;
  - (m) Schedule 3;
  - (n) Schedule 7;
  - (o) Schedule 8;
  - (p) Schedule 11 insofar as not already commenced.

Signed by the authority of the Secretary of State for Education

25th November 2018

*Sam Gyimah*  
Minister of State  
Department for Education

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## EXPLANATORY NOTE

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

These Regulations are the fifth commencement regulations made under the Higher Education and Research Act 2017 (c. 29) (“the Act”) and commence provisions of the Act relating to the Office for Students (“the OfS”) and higher education in England.

### **1st January 2019 commencement date**

The provisions listed in regulation 2 come into force on 1st January 2019.

Regulation 2(a) commences sections 39 to 41 of the Act which relate to the powers of the OfS to give financial support to certain higher education providers and institutions. Regulation 2(e) commences section 74 of the Act which enables the Secretary of State to make grants to the OfS.

Regulation 2(c) commences section 70 of the Act which makes provision to enable the OfS to charge registration fees. Regulation 2(d) commences section 72, which relates to the retention by OfS of fee related income, but only in so far as it relates to income from registration fees.

Regulation 2(f) commences Part 2 of Schedule 6 which is concerned with the oversight by the OfS of an information body designated under that Schedule.

### **1st April 2019 commencement date**

Regulation 3 commences sections 56 and 57 of the Act on 1st April 2019. These sections amend existing legislation concerning the use of “university” in the title of institutions. Transitional and saving provisions have been made in relation to the commencement of these sections: see the Higher Education and Research Act 2017 (Transitional and Saving Provisions) (University Title) Regulations 2018 ([S.I. 2018/1225](#)).

### **1st August 2019 commencement date**

The provisions listed in regulation 4 come into force on 1st August 2019.

Regulation 4(a) to (c) commence the provisions in the Act relating to the OfS’s powers to enforce registration conditions that have not already been commenced, in particular regarding monetary penalties (section 15) and refusal to renew an access and participation plan (section 21). Regulation 4(m) commences Schedule 3 which makes further provision in relation to monetary penalties.

Regulation 4(d) commences section 38 which confers functions on the OfS in relation to monitoring and reporting on student transfer arrangements, as well as in relation to facilitating, encouraging or promoting awareness of such arrangements.

Regulation 4(e) and (f) commence sections 50 and 51 of the Act which confer functions on the OfS in relation to validation arrangements for taught awards.

Regulation 4(g) commences sections 67 to 69 of the Act. Section 67 makes provision to enable an information body designated under Schedule 6 to charge annual fees. Section 68 imposes a duty on the OfS to monitor and report on the financial sustainability of certain registered higher education providers and section 69 enables the OfS to make arrangements for studies for improving the economy, efficiency and effectiveness of registered higher education providers.

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Regulation 4(h) commences section 71 of the Act which makes provision to enable the OfS to charge fees other than registration fees. Regulation 4(i) commences section 72 in so far as it relates to the retention of fee income other than registration fees.

Regulation 4(j) commences section 73 of the Act and regulation 4(n) commences Schedule 7 to the Act. Section 73 enables the OfS to recover its costs in relation to imposing a sanction on a registered higher education provider and Schedule 7 contains further provision about cost recovery.

Regulation 4(k) and (o) commence section 90 of, and Schedule 8 to, the Act. Schedule 8 contains provision about higher education corporations in England.

Regulation 4(l) and (p) commence all of the remaining un-commenced aspects of section 122(1) of, and Schedule 11 to, the Act. This allows for the coming into force of remaining minor and consequential amendments relating to Part 1 of the Act set out in Schedule 11.

### NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

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

The following provisions of the Higher Education and Research Act 2017 have been brought into force by Commencement Regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	1st January 2018	<a href="#">2017/788</a>
Section 2	1st January 2018	<a href="#">2017/1146</a>
Section 3(1), (7) (8) and (10) (partially)	1st January 2018	<a href="#">2017/1146</a>
Section 3 (remainder)	1st April 2018	<a href="#">2018/241</a>
Sections 4 to 12	1st April 2018	<a href="#">2018/241</a>
Section 13(1), (2) and (3) (partially)	1st January 2018	<a href="#">2017/1146</a>
Section 13 (remainder)	1st April 2018	<a href="#">2018/241</a>
Section 14	1st April 2018	<a href="#">2018/241</a>
Sections 16 and 17	1st April 2018	<a href="#">2018/241</a>
Sections 18 (partially)	1st April 2018	<a href="#">2018/241</a>
Sections 19 and 20	1st April 2018	<a href="#">2018/241</a>
Section 22	1st April 2018	<a href="#">2018/241</a>
Section 23 (partially)	1st January 2018	<a href="#">2017/1146</a>
Section 23 (remainder)	1st April 2018	<a href="#">2018/241</a>
Section 24	1st April 2018	<a href="#">2018/241</a>
Section 25	1st January 2018	<a href="#">2017/1146</a>
Section 26	1st January 2018	<a href="#">2017/1146</a>
Section 27	1st January 2018	<a href="#">2017/1146</a>
Section 28	1st April 2018	<a href="#">2018/241</a>
Section 29(2) (partially) and (4)	1st January 2018	<a href="#">2017/1146</a>
Section 29 (remainder)	1st April 2018	<a href="#">2018/241</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 30 (partially)	1st January 2018	2017/1146
Section 30 (remainder)	1st April 2018	2018/241
Section 31 (partially)	1st January 2018	2017/1146
Section 31 (remainder)	1st April 2018	2018/241
Section 32 (partially)	1st January 2018	2017/1146
Section 32 (remainder)	1st April 2018	2018/241
Section 33 to 35	1st April 2018	2018/241
Section 36 (partially)	1st January 2018	2017/1146
Section 36 (remainder)	1st April 2018	2018/241
Section 37	1st April 2018	2018/241
Section 42(1) and (3) (partially)	1st January 2018	2017/1146
Section 42 (remainder)	1st April 2018	2018/241
Section 43	1st April 2018	2018/241
Section 44(5) (partially)	1st January 2018	2017/1146
Section 44 (remainder)	1st April 2018	2018/241
Section 45(1) and (7) (partially)	1st January 2018	2017/1146
Section 45 (remainder)	1st April 2018	2018/241
Section 46 (partially)	1st January 2018	2017/1146
Section 46 (remainder)	1st April 2018	2018/241
Sections 47 to 49	1st April 2018	2018/241
Sections 53 to 55	1st April 2018	2018/241
Sections 58 to 61	1st April 2018	2018/241
Section 62(1) to (4)	1st January 2018	2017/1146
Section 63	1st January 2018	2017/1146
Section 64 (partially)	1st January 2018	2017/1146
Section 64 (remainder)	1st April 2018	2018/241
Section 65 (partially)	1st January 2018	2017/1146
Section 65 (remainder)	1st April 2018	2018/241
Section 66(1) (partially) and (2)(a)	1st January 2018	2017/1146
Section 66 (remainder)	1st April 2018	2018/241
Section 75	1st January 2018	2017/1146
Section 76	1st April 2018	2018/241
Section 77	1st January 2018	2017/1146
Section 78	1st January 2018	2017/1146

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 79 to 82	1st April 2018	2018/241
Section 83	1st January 2018	2017/1146
Section 84	1st April 2018	2018/241
Section 85(1) to (3)	1st January 2018	2017/1146
Section 85 (remainder)	1st April 2018	2018/241
Sections 88 and 89	1st April 2018	2018/241 and 2018/415 (W.73)
Sections 91 to 108	30th March 2018	2018/241
Section 109(3) and (4)	30th March 2018	2018/241
Section 109 (partially)	31st October 2018	2018/1054
Section 111	30th March 2018	2018/241
Sections 112 to 114	1st April 2018	2018/241
Section 118	1st January 2018	2017/1146
Section 122(1) (partially) and (2) (partially)	1st April 2018	2018/241
Section 122(2) (partially)	31st October 2018	2018/1054
Schedule 1	1st January 2018	2017/788
Schedule 2	1st April 2018	2018/241
Schedule 4 Parts 1 and 3	1st January 2018	2017/1146
Schedule 4 Part 2 (partially)	1st January 2018	2017/1146
Schedule 4 Part 2 (remainder)	1st April 2018	2018/241
Schedule 5	1st April 2018	2018/241
Schedule 6 Parts 1 and 3	1st January 2018	2017/1146
Schedule 9	30th March 2018	2018/241
Schedule 10	1st January 2018	2017/1146
Schedule 11 (partially)	1st April 2018	2018/241
Schedule 12 (partially)	1st April 2018	2018/241
Schedule 12 (partially)	31st October 2018	2018/1054