

2016 No. 223 (W. 87)

EDUCATION, WALES

**The Higher Education (Fee and
Access Plans) (Notices, Procedure
and Publication) (Wales)
Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of notices under sections 37, 38 and 39 of the Higher Education (Wales) Act 2015 (“the 2015 Act”) and how and when the Higher Education Funding Council for Wales (“HEFCW”) are to comply with their duties under section 40(1) of the 2015 Act.

Regulation 2 provides that the maximum period that may be specified in notice under section 37 of the 2015 Act (notice of refusal to approve a new fee and access plan) is one year.

Regulations 3 and 4 provide for the procedure to be followed by HEFCW in connection with the withdrawal of notice under section 37 of the 2015 Act. Where HEFCW withdraw such a notice, they must immediately give a copy of the notice of withdrawal to the Welsh Ministers.

Regulations 5 and 6 provide for the procedure to be followed in connection with giving notice under section 38 of the 2015 Act (HEFCW’s duty to withdraw approval). The effect of regulation 5(a) is that sections 42 to 44 of the 2015 Act, which concern the warning and review procedure for certain notices and directions under that Act, apply in connection with HEFCW giving notice under section 38. The effect of regulations 5(b) and 6 is that regulations 2 to 10 of the Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015 also apply, with modifications, to the giving of such notices.

Regulations 7 to 10 make provision about how and when HEFCW are to comply with their duties under section 40(1) of the 2015 Act. That section requires HEFCW, when they give a notice under section 37, 38

or 39 of the 2015 Act, to give a copy of the notice to the Welsh Ministers and to publish the notice. Where HEFCW give notice under any of those sections, regulation 7 requires them to immediately give a copy of the notice to the Welsh Ministers and publish a copy of the notice on their website within seven days of the day on which the notice is given.

Regulation 8 provides for when such a notice is to be treated as given by HEFCW for the purposes of regulation 7 and regulations 9 and 10 set out the length of time that such notices should be published on HEFCW's website.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Cathays Park, Cardiff, CF10 3NQ.

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EDUCATION, WALES

**The Higher Education (Fee and
Access Plans) (Notices, Procedure
and Publication) (Wales)
Regulations 2016**

Made 23 February 2016

Laid before the National Assembly for Wales
25 February 2016

Coming into force 28 March 2016

The Welsh Ministers, in exercise of the powers conferred on them by sections 37(7)(a), 37(7)(c), 38(2)(b), 38(3) and 40(2) of the Higher Education (Wales) Act 2015(1), make the following Regulations:

Title, commencement, interpretation and application

1.—(1) The title of these Regulations is the Higher Education (Fee and Access Plans) (Notices, Procedure and Publication) (Wales) Regulations 2016 and they come into force on 28 March 2016.

(2) In these Regulations—

- (a) “the 2015 Act” (“*Deddf 2015*”) means the Higher Education (Wales) Act 2015 and references to sections are references to sections of that Act; and
- (b) “the 2015 Regulations” (“*Rheoliadau 2015*”) means the Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015(2).

(3) These Regulations apply in relation to Wales.

(1) 2015 anaw 1.
(2) S.I. 2015/1485 (W. 164).

Maximum period that may be specified in notice under section 37 of the 2015 Act

2. The maximum period that may be specified in notice under section 37 is one year.

Procedure to be followed in connection with the withdrawal of notice under section 37 of the 2015 Act

3.—(1) HEFCW may withdraw notice given under section 37 by notice of withdrawal to the governing body of the institution.

(2) Notice of withdrawal under paragraph (1) must—

- (a) be in writing;
- (b) be dated; and
- (c) inform the governing body of the institution of the reasons for the withdrawal of notice under section 37.

(3) The date on which notice under section 37 is withdrawn is the date of notice of withdrawal.

4. If HEFCW have given notice of withdrawal under regulation 3, they must immediately give a copy of the notice of withdrawal to the Welsh Ministers.

Procedure to be followed in connection with giving notice under section 38 of the 2015 Act

5. Subject to regulation 6, the following provisions apply in connection with giving notice under section 38—

- (a) sections 42 to 44; and
- (b) regulations 2 to 10 of the 2015 Regulations.

6. Regulation 4 of the 2015 Regulations is to be read as if—

- (a) for “notice or direction specified in section 41(1) of the 2015 Act”, there were substituted “notice under section 38 of the 2015 Act”; and
- (b) the words “or direction” in paragraphs (a) to (c) were omitted.

Compliance by HEFCW with section 40(1) of the 2015 Act

7. If HEFCW give notice under section 37, 38 or 39, they must—

- (a) immediately give a copy of the notice to the Welsh Ministers; and
- (b) publish a copy of the notice on their website within the period of seven days beginning with the day on which the notice is given to the governing body of the institution.

8. For the purposes of regulation 7—

- (a) notice under section 37 or 39 is to be treated as given by HEFCW in accordance with regulation 4 of the 2015 Regulations; and
- (b) notice under section 38 is to be treated as given by HEFCW in accordance with regulation 4 of the 2015 Regulations as applied, with modifications, by regulations 5(b) and 6 of these Regulations.

9. A copy of a notice under section 37 which is published on HEFCW's website under regulation 7(b) is to remain on that website until the earlier of—

- (a) the end of the period specified in the notice under section 37(2); or
- (b) the date of notice of withdrawal given by HEFCW under regulation 3 to the governing body of the institution in connection with that notice.

10. A copy of a notice under section 38 or 39 which is published on HEFCW's website under regulation 7(b) is to remain on that website until the date on which the period to which the relevant fee and access plan related would have, but for the notice, expired.

Huw Lewis

Minister for Education and Skills, one of the Welsh Ministers

23 February 2016