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Federal Act on Funding and Coordination of the Swiss Higher Education Sector (Higher Education Act, HEdA)

of 30 September 2011 (Status on 1 February 2017)

*The Federal Assembly of the Swiss Confederation,
based on Article 63a, 64 paragraph 2, 66 paragraph 1 and 95 paragraph 1
of the Federal Constitution¹,
and having considered the Federal Council Dispatch of 29 May 2009²,
decrees:*

Chapter 1 General Provisions

Art. 1 Purpose and object

¹ The Confederation works with the Cantons to coordinate, maintain the quality and ensure the competitiveness of the entire higher education sector in Switzerland.

² For this purpose, the present Act establishes the basic principles applying to the following:

- a. coordination of the entire Swiss higher education sector, particularly through the specification of joint bodies;
- b. quality control and accreditation;
- c. funding of higher education institutions and other institutions within the higher education sector;
- d. allocation of tasks in particularly costly areas;
- e. granting of federal contributions.

Art. 2 Scope

¹ This Act applies to higher education institutions and other institutions within the higher education sector of the Confederation and the Cantons.

AS 2014 4103

¹ SR 101

² BBl 2009 4561

² Higher education institutions under the terms of this Act are:

- a. tier-one universities: cantonal universities and federal institutes of technology (FITs);
- b. universities of applied sciences (UAS) and universities of teacher education (UTES).

³ With the exception of the provisions on basic contributions and contributions to cover expenditure for construction and use of buildings, this Act applies to all FITs and other federal higher education institutions.

⁴ The provisions of Chapter 5 and Chapter 9 of this Act shall apply for the accreditation of private universities, universities of applied sciences, universities of teacher education and other private institutions within the higher education sector. Article 19 paragraph 2 applies to the participation of these higher education institutions in the Swiss Conference of Rectors of Higher Education Institutions.

Art. 3 Objectives

As part of its cooperation activities within the higher education sector, the Confederation shall pursue the following objectives in particular:

- a. establishing general conditions that favour high-quality teaching and research;
- b. fostering a higher education sector comprised of different but equivalent types of higher education institutions;
- c. working to raise the profile of higher education institutions and encourage competition, particularly with regards to research;
- d. crafting a coherent Swiss higher education policy that is aligned with the federal policy to encourage research and innovation;
- e. achieving permeability and mobility between higher education institutions;
- f. creating uniform study structures, study levels and transitions and ensuring mutual recognition of qualifications;
- g. providing funding to higher education institutions on the basis of uniform and performance-based principles;
- h. ensuring coordination of the entire Swiss higher education sector and allocating tasks in particularly costly areas;
- i. avoiding competitive distortions between higher education institutions and professional education institutions with regard to the provision of services and continuing education and training courses.

Art. 4 Federal tasks and authority within the higher education sector

¹ The Confederation is responsible for leading coordination of the joint activities of the Confederation and the Cantons within the higher education sector.

² It shall provide contributions under the terms of this Act.

³ It shall manage and fund FITs under the terms of the FIT Act of 4 October 1991³ as well as other federal higher education institutions by virtue of their respective legal basis.

⁴ The Federal Assembly may issue decrees enabling the Confederation to fully or partially take over higher education institutions, with the consent of the sponsor, if the said institutions are particularly important for federal activities. Before taking such action, the Confederation shall hear the Higher Education Council.

⁵ Under the terms of special legislation, the Confederation shall make contributions to the Swiss National Science Foundation, to the Commission for Technology and Innovation as well as to national and international education and research programmes.

Art. 5 Principles of fulfilment of tasks

¹ The Confederation shall respect the autonomy granted by sponsors to higher education institutions as well as the principles of freedom and the unity of teaching and research.

² When performing its tasks, it shall consider the specific characteristics of tier-one universities, universities of applied sciences, universities of teacher education and other institutions within the higher education sector.

Chapter 2 Cooperation Agreement

Art. 6

¹ Basing themselves on this Act and on the Intercantonal Agreement on Cooperation in Higher Education, the Confederation and the Cantons shall enter into a Cooperation Agreement on fulfilment of their respective tasks.

² This Cooperation Agreement shall create the joint bodies required under this Act.

³ It may transfer the powers established in this Act to the joint bodies.

⁴ Unless already established in corresponding provisions in this Act, the Cooperation Agreement shall regulate the following:

- a. clarification and implementation of shared objectives;
- b. responsibilities, structure and procedures of joint bodies.

⁵ If the Cooperation Agreement contradicts a provision contained in this Act, the Act shall take precedence.

⁶ This Cooperation Agreement shall be signed by the Federal Council on behalf of the Confederation.

Chapter 3 Joint Bodies

Section 1 General Provisions

Art. 7 Bodies

The joint bodies are:

- a. the Swiss Conference of Higher Education Institutions in its composition as the Plenary Assembly or as the Higher Education Council;
- b. the Swiss Conference of Rectors of Higher Education Institutions;
- c. the Swiss Accreditation Council.

Art. 8 Applicable legislation

¹ The Federal Personnel Act and federal liability law apply to employees of joint bodies and the Swiss Accreditation Agency. The Higher Education Council may depart from the provisions of the Federal Personnel Act under the Cooperation Agreement when this is required for the purposes of fulfilling the mandate.

² The joint bodies and the Swiss Accreditation Agency are subject to federal data protection and public procurement legislation.

Art. 9 Bearing of costs

¹ The Confederation shall pay the costs of managing the affairs of the Swiss Conference of Higher Education Institutions under Article 14.

² Remaining costs of the Swiss Conference of Higher Education Institutions shall be equally shared by the Confederation and the Cantons.

³ The Plenary Assembly shall decide on the basis of the Cooperation Agreement who will pay the costs of the other joint bodies and the Swiss Accreditation Agency.

Section 2 Swiss Conference of Higher Education Institutions

Art. 10 Role and function

¹ The Swiss Conference of Higher Education Institutions is the highest policymaking body within the Swiss higher education sector. It is responsible for Swiss-wide coordination of the activities of the Confederation and the Cantons within the higher education sector.

² It convenes either as the Plenary Assembly or as the Higher Education Council.

³ It has its own budget and its own accounting.

⁴ Its Organisational Regulations are issued by the Higher Education Council.

Art. 11 Plenary Assembly

¹ As the Plenary Assembly, the Swiss Conference of Higher Education Institutions has the following composition:

- a. the designated member of the Federal Council;
- b. one member of each cantonal government.

² Within the framework of this Act, the Plenary Assembly handles matters pertaining to the rights and obligations of the Confederation and all cantons. The following areas of responsibility may be transferred to it under the terms of the Cooperation Agreement:

- a. determination of the general financial conditions for coordination of the entire Swiss higher education sector by the Confederation and the Cantons subject to their respective financial authority;
- b. determination of reference costs and contribution categories;
- c. formulation of recommendations on payment of scholarships and issuance of loans by the Cantons;
- d. other areas of responsibility arising from this Act.

Art. 12 Higher Education Council

¹ As the Higher Education Council, the Swiss Conference of Higher Education Institutions has the following composition:

- a. the designated member of the Federal Council;
- b. fourteen members of the governments of cantons that subsidise cantonal universities, universities of applied sciences and universities of teacher education.

² Each Canton has only one seat on the Higher Education Council. The Intercantonal Agreement on Cooperation in Higher Education determines how subsidising cantons are represented on the Higher Education Council.

³ Within the framework of this Act, the Higher Education Council shall handle matters pertaining to the tasks performed by Cantons that subsidise higher education institutions. The following areas of responsibility may be transferred to it under the terms of the Cooperation Agreement:

- a. enactment of regulations on:
 1. study levels and transitions between levels, uniform names of titles as well as permeability and mobility between and within tier-one universities, universities of applied sciences and universities of teacher education,
 2. the handling of quality control and accreditation at the request of the Swiss Accreditation Council,
 3. recognition of qualifications and procedures for the recognition of prior learning,

4. continuing education and training in the form of uniform general regulations;
- b. determination of the characteristics of different types of higher education institution;
- c. formulation of recommendations on the participation rights of members of higher education institutions, particularly students, as well as on tuition and fees;
- d. formulation of recommendations on the use of reserved designations under Article 29;
- e. issuance of a resolution on coordination of the entire Swiss higher education sector and the allocation of tasks in particularly costly areas;
- f. decisions on the granting of federal project contributions;
- g. coordination of any necessary restrictions on access to individual study programmes;
- h. overarching supervision of the bodies chosen by it;
- i. other areas of responsibility arising from this Act.

Art. 13 Participation in an advisory capacity

Acting in an advisory capacity, the following individuals shall take part in the meetings of the Swiss Conference of Higher Education Institutions:

- a. the head of the State Secretariat for Education and Research⁴;
- b.⁵ ...
- c. the General Secretary of the Swiss Conference of Cantonal Ministers of Education (EDK);
- d. the President and Vice President of the Swiss Conference of Rectors of Higher Education Institutions;
- e. the President of the Federal Institutes of Technology Board;
- f. the President of the National Research Council of the Swiss National Science Foundation;
- g. the President of the Commission for Technology and Innovation;
- h.⁶ the President of the Swiss Science and Technology Council;
- i. one delegate representing the interests of students, one delegate representing the interests of mid-level faculty and one delegate representing the interests of professors at Swiss higher education institutions;

⁴ The name of the organisational unit was changed in application of Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (AS **2004** 4937).

⁵ Inapplicable.

⁶ Amended by Art. 57 para. 3 of the Federal Act of 14 Dec. 2012 on the Promotion of Research and Innovation (AS **2013** 4425; BBl **2011** 8827).

- j. the chairpersons of standing committees, provided that they are not a member of the Swiss Conference of Higher Education Institutions; the standing committee under Article 15 paragraph 1 let. b shall take part with two delegates representing the interests of trade unions and two delegates representing the interests of employer unions;
- k. other representatives of organisations as well as individuals who have been invited for the purpose of discussing specific items on the agenda.

Art. 14 Presidium and Secretariat

¹ The Presidium of the Swiss Conference of Higher Education Institutions comprises a President and two Vice-Presidents.

² The President is the designated member of the Federal Council. This person serves as head of the Swiss Conference of Higher Education Institutions. The Federal Council decides who shall act as deputy.

³ The Vice-Presidents are representatives of cantons that subsidise higher education institutions. They take part in the management of the Swiss Conference of Higher Education Institutions.

⁴ The Federal Council shall assign one Federal Department to manage the affairs of the Swiss Conference of Higher Education Institutions.

⁵ When preparing important resolutions, the Presidium shall ask interested parties to submit their stances.

Art. 15 Committees

¹ The Higher Education Council shall create the following bodies for the purpose of preparing decisions:

- a. one standing committee responsible for matters pertaining to medical research and study programmes at higher education institutions;
- b. one standing committee comprised of representatives of professional organisations;
- c. other standing and non-standing committees as needs require.

² These committees may also comprise persons who are not members of the Swiss Conference of Higher Education Institutions.

³ The standing committee comprising representatives of professional organisations shall take a stance on the affairs of the Swiss Conference of Higher Education Institutions under Article 11 paragraph 2 and Article 12 paragraph 3.

⁴ The standing committees mentioned in Article 15 paragraph 1 letters a and b above may, at their own initiative or on behalf of the Swiss Conference of Higher Education Institutions, take a stance on individual developments affecting national higher education policy and may submit proposals.

⁵ The Presidium of the Swiss Conference of Higher Education Institutions shall maintain ties with the standing committees mentioned in Article 15 paragraph 1

letters a and b above. It shall periodically organise gatherings with these two committees.

Art. 16 Decision-making within the Plenary Assembly

¹ Each member of the Plenary Assembly has one vote.

² Decisions of the Plenary Assembly require:

- a. a qualified majority of two-thirds of the votes of the members present; and
- b. approval by the Confederation.

³ Instead of the rule established in paragraph 2, the Cooperation Agreement may provide for a simple majority of the members present in the case of elections, procedural decisions and official stances.

Art. 17 Decision-making within the Swiss Higher Education Council

¹ Each member of the Swiss Higher Education Council has one vote. In addition, representatives of the Cantons have a specific number of points determined on the basis of the number of students. The allocation of points is decided in the Inter-cantonal Agreement on Cooperation in Higher Education.

² The decisions of the Swiss Higher Education Council require:

- a. a qualified majority of two-thirds of the votes of the members present;
- b. approval by the Confederation; and
- c. the simple majority of points.

³ Instead of the rule established in paragraph 2, the Cooperation Agreement may provide for a simple majority of the members present in the case of procedural decisions and official stances.

Art. 18 Involvement of the Federal Assembly

The Federal Council shall inform the parliamentary committees responsible for education and research of important developments in Swiss higher education policy as well as on the allocation of tasks in particularly costly areas.

Section 3
Swiss Conference of Rectors of Higher Education Institutions

Art. 19 Composition and structure

¹ The Swiss Conference of Rectors of Higher Education Institutions comprises the rectors or presidents of Swiss higher education institutions.

² It constitutes itself. It shall establish its own Organisational Regulations. This document also governs the participation of rectors or presidents of accredited private

higher education institutions under this Act. These Organisational Regulations require approval by the Higher Education Council.

³ The Swiss Conference of Rectors of Higher Education Institutions has its own budget and shall maintain its own accounting records.

Art. 20 Tasks and responsibilities

The Swiss Conference of Rectors of Higher Education Institutions has the tasks and responsibilities transferred to it under the Cooperation Agreement.

Section 4

Swiss Accreditation Council and Swiss Agency of Accreditation and Quality Assurance in Higher Education

Art. 21 Swiss Accreditation Council

¹ The Swiss Accreditation Council comprises 15–20 independent members; these members represent in particular higher education institutions, professional organisations, students, mid-level faculty as well as professors and lecturers. Teaching and research fields at higher education institutions as well as gender must be adequately represented. A minority of at least five members must be mainly involved in activities abroad.

² On the basis of the Cooperation Agreement, the Higher Education Council elects Accreditation Council members for a four-year term of office. Each member may only be re-elected once.

³ On the basis of the Cooperation Agreement, the Accreditation Council decides on accreditation in accordance with this Act.

⁴ It is independent.

⁵ It organises itself. It issues its own Organisational Regulations; these Organisational Regulations require approval by the Higher Education Council.

⁶ The Swiss Accreditation Council manages its own budget and the budget of the Swiss Accreditation Agency; each maintain their own accounting records.

⁷ It may recognise other Swiss or foreign accreditation agencies.

⁸ At the request of the Director of the Swiss Accreditation Agency, it issues Organisational Regulations for the Swiss Accreditation Agency; these Organisational Regulations require approval by the Higher Education Council.

Art. 22 Swiss Accreditation Agency

¹ The Swiss Agency of Accreditation and Quality Assurance in Higher Education (Swiss Accreditation Agency) is a legally dependent entity.

² It is under the authority of the Swiss Accreditation Council.

Chapter 4

Admission to Higher Education Institutions and Structure of Studies at Universities of Applied Sciences

Art. 23 Admission to tier-one universities

¹ Admission to the first level of studies at tier-one universities is open to holders of a baccalaureate.

² They may grant admission to the first level of studies on the basis of equivalent prior education and training. For quality control purposes, the Higher Education Council issues guidelines on equivalency under the terms of the Cooperation Agreement.

Art. 24 Admission to universities of teacher education

¹ Admission to the first level of studies at universities of teacher education is open to holders of a baccalaureate.

² Admission to the first level of studies for those wishing to teach at pre-school and primary school level is open to holders of a baccalaureate or a specialised baccalaureate in pedagogy or, under certain conditions, a Federal VET Diploma; the Higher Education Council establishes the requirements.

³ They may grant admission to the first level of studies on the basis of equivalent prior education and training. For quality control purposes, the Higher Education Council issues guidelines on equivalency under the terms of the Cooperation Agreement.

Art. 25 Admission to universities of applied sciences

¹ Admission to the first level of studies at universities of applied sciences is open to holders of:

- a. a Federal VET Diploma issued upon completion of a VET programme in an occupation related to the desired field of study;
- b. a baccalaureate and at least one year of work experience that has enabled the holder to gain practical know-how and knowledge in an occupation related to the desired field of study; or
- c. a specialised baccalaureate in an occupation related to the desired field of study.

² In the Cooperation Agreement, the Higher Education Council establishes specific admission requirements for individual fields of study. It may also decide that additional admission requirements are needed.

Art. 26 Structure of studies at universities of applied sciences

¹ Through a blend of practical studies and applied research and development, universities of applied sciences prepare students to carry out activities associated with

specific professions that require the use of research findings and methods as well as, depending on the field of study, creative and artistic talents.

² On completion of the first level of studies, students normally obtain a qualification that enables them to work in a given profession.

Chapter 5 Quality Control and Accreditation

Art. 27 Quality control and development of quality

At regular intervals, higher education institutions and other institutions within the higher education sector review the quality of their teaching, research and services and pursue long-term quality control and development of quality.

Art. 28 Institutional accreditation and programme accreditation

¹ The following are accredited:

- a. higher education institutions and other institutions within the higher education sector (institutional accreditation);
- b. study programmes of higher education institutions and other institutions within the higher education sector (programme accreditation).

² Institutional accreditation is a prerequisite for:

- a. right to use titles;
- b. granting of federal contributions;
- c. programme accreditation.

³ Programme accreditation is voluntary.

Art. 29 Right to use reserved designations

¹ With institutional accreditation, higher education institutions and other institutions within the higher education sector have the right to use the reserved designation «university», «university of applied sciences» or «university of teacher education» or derived designations such as «tier-one college» or «UAS college».

² The right to use reserved designations also applies to equivalent terms in languages that are not national languages of Switzerland.

Art. 30 Requirements for institutional accreditation

¹ For institutional accreditation, the following requirements must be met:

- a. higher education institutions and other institutions within the higher education sector have a quality control system in place to ensure that:
 1. teaching, research and services are of high quality and staff are qualified in their positions,

2. admission requirements under Articles 23, 24 or 25 and, where applicable, also the general principles on the structure of studies at universities of applied sciences under Article 26 are met,
 3. the higher education institution is structured and managed efficiently,
 4. the members of the higher education institution have an adequate role in decision-making,
 5. tasks are carried out in a manner that encourages equal opportunities and true gender equality,
 6. tasks further the aims of economic, social and environmental sustainability,
 7. it is possible to verify that the institution fulfils its mandate.
- b. Tier-one universities and universities of applied sciences shall provide teaching, research and services in several disciplines or fields of study.
 - c. Higher education institutions and other institutions within the higher education sector and their sponsors shall take steps to ensure that the institution can be sustainably managed.

² The Swiss Higher Education Council establishes the specific requirements in accreditation guidelines. When doing so, it shall consider the specific characteristics and autonomy of tier-one universities, universities of applied sciences, universities of teacher education and other institutions within the higher education sector.

Art. 31 Requirements for programme accreditation

The following requirements must be met for programme accreditation:

- a. Higher education institutions and other institutions within the higher education sector shall take steps to ensure high-quality teaching.
- b. Higher education institutions and other institutions within the higher education sector and their sponsors shall take steps to ensure that study programmes may be completed.

Art. 32 Accreditation procedure

The Swiss Accreditation Agency and other accreditation agencies recognised by the Swiss Accreditation Council shall carry out the accreditation procedure according to this Act and under the terms of the Cooperation Agreement. The accreditation procedure must meet international standards.

Art. 33 Decision-making

Referring to the request submitted by the Swiss Accreditation Agency or by another Swiss or foreign accreditation agency recognised by the Swiss Accreditation Agency, the Swiss Accreditation Council shall decide on institutional accreditation and programme accreditation.

Art. 34 Duration of accreditation

The Swiss Higher Education Council shall decide on the duration of accreditation.

Art. 35 Fees

¹ The Swiss Accreditation Council and the Swiss Accreditation Agency shall charge general cost-covering fees for its decisions and services.

² The Swiss Accreditation Council issues a regulation on fees; this document requires approval by the Higher Education Council.

Chapter 6

Coordination of the Entire Swiss Higher Education Sector and Allocation of Tasks

Art. 36 Basic principles

¹ Through the Swiss Conference of Higher Education Institutions, the Confederation and the Cantons shall work together to ensure coordination of the entire Swiss higher education sector and decide on the allocation of tasks in particularly costly areas; this shall be done respecting the autonomy of higher education institutions and in consideration of the different remits of tier-one universities, universities of applied sciences and universities of teacher education.

² Coordination shall include:

- a. establishing priorities in relation to common objectives under Article 3 letters a-g and the required measures to be taken throughout the higher education sector;
- b. establishing the financial plan at the national level, namely with regards to coordination of federal and cantonal contributions as well as funding of subsidising cantons.

³ The allocation of tasks in particularly costly areas is intended to ensure that education and research priorities receive effective and adequate attention within the higher education sector.

Art. 37 At the level of individual higher education institutions

¹ Higher education institutions and other institutions within the higher education sector shall prepare a multi-annual development and financial plan. This document shall include multi-annual objectives and priorities as well as funding requirements.

² Higher education institutions and other institutions within the higher education sector and their sponsors shall comply with the requirements of the Swiss Conference of Higher Education Institutions and heed the recommendations made by the Swiss Conference of Rectors of Higher Education Institutions.

Art. 38 At the level of the Swiss Conference of Rectors of Higher Education Institutions

¹ The Swiss Conference of Rectors of Higher Education Institutions shall provide the Swiss Conference of Higher Education Institutions with a proposal on national coordination of higher education policy as well as on the allocation of tasks in particularly costly areas.

² When doing so, it shall base itself on the development and financial plans prepared by higher education institutions and other institutions within the higher education sector and shall consider:

- a. the requirements of the Swiss Conference of Higher Education Institutions;
- b. the financial plans of the Confederation and the Cantons.

³ For each planning period, it shall highlight coordination needs among the various higher education institutions and shall take corresponding measures to address these needs.

Art. 39 At the level of the Swiss Conference of Higher Education Institutions

¹ The Higher Education Council shall decide on coordination of the entire Swiss higher education sector and the allocation of tasks in particularly costly areas. It shall determine the corresponding priorities as well as the measures that must be taken throughout the higher education sector in order to reach common objectives.

² It shall periodically provide the corresponding federal and cantonal authorities with an update on the amount of funding needed to reach these objectives.

³ It may provide for measures to be taken to expand study options that serve the interests of the whole of Switzerland but which are not yet adequately offered by individual higher education institutions.

Art. 40 Allocation of tasks in particularly costly areas

¹ At the request of the Swiss Conference of Rectors of Higher Education Institutions, the Higher Education Council shall determine particularly cost-intensive areas and decide how tasks should be allocated in these areas.

² When determining particularly cost-intensive areas, expenditure in a given field of study or discipline shall be compared with overall expenditure within the higher education sector. Expenditure for a particularly cost-intensive area must comprise a significant share of overall expenditure within the Swiss higher education sector.

³ If a sponsor is unable to comply with the decisions reached under paragraph 1, then the federal contributions under this Act may be reduced or denied.

Chapter 7 Funding

Section 1 Basic Principles

Art. 41

¹ The Confederation and the Cantons shall see to it that public funding of the higher education sector is enough to ensure high-quality teaching and research.

² The Confederation and the Cantons shall co-fund higher education institutions and other institutions within the higher education sector and shall do so on the basis of uniform funding principles.

³ The Confederation and the Cantons shall see to it that public contributions are used in a prudent and effective manner.

⁴ Higher education institutions and other institutions within the higher education sector shall seek to secure adequate third-party funding.

Section 2 Determination of Public Funding Requirements

Art. 42 Procedure

¹ For each funding period, the Higher Education Council shall determine the public funding requirements of higher education institutions and other institutions within the higher education sector.

² When doing so, it shall consider the following in particular:

- a. the relevant statistical findings of the Federal Statistical Office;
- b. the cost accounting of higher education institutions and other institutions within the higher education sector;
- c. the development and financial plans of higher education institutions and other institutions within the higher education sector;
- d. the reference costs;
- e. the expected number of students;
- f. Coordination of the entire Swiss higher education sector.

Art. 43 General financial conditions

On the basis of financial plans prepared by the Confederation and the Cantons, the Plenary Assembly shall establish the general financial conditions for the given funding period; before reaching its decision, it shall first hear the Swiss Conference of Rectors of Higher Education Institutions.

Art. 44 Reference costs

¹ Reference costs are the expenses required in order to provide high-quality teaching to each student.

² Output values used to establish reference costs shall reflect the average costs of teaching according to cost accounting records of higher education institutions.

³ Output values shall be adjusted so that public funding is enough to ensure high-quality teaching and the research required for this. Here, consideration shall be given to the specific characteristics of tier-one universities and universities of applied sciences as well as their specific fields of study and disciplines.

⁴ The Plenary Assembly shall determine reference costs and review these periodically.

Chapter 8 Federal Funding Contributions

Section 1 Entitlement to Receive Funding Contributions

Art. 45 Requirements

¹ A higher education institution may be recognised by the Confederation as entitled to receive funding if it:

- a. is institutionally accredited;
- b. offers public education services; and
- c. is a meaningful addition, expansion or alternative to existing institutions.

² Other institutions within the higher education sector may be recognised by the Confederation as qualifying for funding if they:

- a. are institutionally accredited;
- b. offer public education services;
- c. cannot be included as part of an already existing higher education institution; and
- d. carries out tasks that further higher education policy interests and may be included in coordination of the entire Swiss higher education sector decided by the Higher Education Council.

³ Public education services are education services:

- a. that satisfy a public need;
- b. that are provided within the framework of a public and legally established mandate; and
- c. where the curricula or qualifications issued are aligned with public education policy.

Art. 46 Decision-making

¹ The Federal Council decides on the eligibility of funding of higher education institutions and other institutions within the higher education sector.

² It shall first hear the Plenary Assembly.

Section 2 Types of Contribution and Funding

Art. 47 Types of contribution

¹ Within the framework of approved budget appropriations, the Confederation provides financial support to eligible cantonal universities, universities of applied sciences and other institutions within the higher education sector. This financial support shall be provided in the form of:

- a. basic contributions;
- b. contributions to cover expenditure for construction and use of buildings;
- c. project contributions.

² Universities of teacher education may only receive project contributions.

³ The Confederation may provide financial support in the form of contributions to shared infrastructure facilities of higher education institutions and other institutions within the higher education sector if the said infrastructure facilities are used to carry out tasks of importance to the whole of Switzerland. These contributions may not exceed 50 per cent of the total operational costs.

Art. 48 Authorisation of budget

¹ The Federal Assembly shall determine the financial resources to be set aside for federal contributions. It shall establish multi-annual budget appropriations and funding commitments.

² It shall issue simple decrees for each budget appropriation:

- a. for basic contributions for cantonal universities and other institutions within the higher education sector;
- b. for basic contributions for universities of applied sciences and other institutions within the higher education sector.

³ Budget appropriations must be established in such a way as to ensure that corresponding annual payment budgets match contribution rates.

⁴ The Federal Assembly shall issue simple decrees for each funding commitment for:

- a. contributions to cover expenditure for construction and use of buildings as well as contributions to shared infrastructure facilities available to higher education institutions and other institutions within the higher education sector;
- b. project contributions.

Section 3 Basic Contributions

Art. 49 Intended purpose

Basic contributions shall be used to cover operational costs.

Art. 50⁷

Art. 51 Assessment basis

¹ The total annual amount is determined mainly on the basis of teaching and research performance achieved by institutions that are deemed eligible for funding.

² The proportion of teaching shall be determined on the basis of reference costs. When doing so, the following criteria shall be considered:

- a. the number of students enrolled;
- b. the number of students who successfully complete their studies;
- c. the average duration of studies;
- d. teacher-student ratios;
- e. the number of students enrolled in specific disciplines or fields of study;
- f. the quality of education and training.

³ The proportion of research is determined on the following basis:

- a. research performance;
- b. acquisition of third-party funding, particularly funding from the Swiss National Science Foundation, EU research framework programmes, the Commission for Technology and Innovation as well as from other public and private sources.

⁴ No more than 10 per cent of the total annual amount shall be paid to eligible institutions on the basis of the proportion of their foreign students to the total number of foreign students enrolled in Swiss higher education institutions.

⁵ The Federal Council shall establish the proportions under paragraphs 2–4 as well as the combination and weighting of assessment criteria. It shall establish these proportions in such a way as to ensure that they further the objectives set out in Article 3. When doing so, it shall consider the following:

- a. the categories of disciplines and fields of study established by the Plenary Assembly by virtue of the Cooperation Agreement as well as their corresponding weights and maximum durations of study;
- b. the special characteristics of tier-one universities and universities of applied sciences as well as of their fields of study.

⁶ It shall review these proportions periodically.

⁷ In force from 1 Jan. 2020.

⁷ It shall issue implementing provisions required for assessment.

⁸ It shall first hear the Plenary Assembly.

Art. 52 Decision-making

¹ The competent Department shall decide on basic contributions.

² It may delegate this decision to the corresponding Federal Office.

Art. 53 Fixed contributions to higher education institutions

¹ The competent Federal Office may issue mandates to or sign performance agreements with other institutions within the higher education sector that are eligible for contributions and may pay fixed contributions to cover operational costs instead of paying the basic contributions set forth in Article 50–52.

² Such contributions may not exceed 45 per cent of operational costs.

³ Under the terms of the Cooperation Agreement, the Swiss Higher Education Council shall issue basic principles on the payment of fixed contributions.

Section 4

Contributions to Cover Expenditure for Construction and Use of Buildings

Art. 54 Intended purpose and exceptions

¹ Contributions to cover expenditure for construction and use of buildings are intended for the acquisition, long-term use, creation and transformation of buildings for teaching, research or other higher education purposes.

² No contributions are paid to cover:

- a. costs associated with the purchase of land and land development;
- b. costs associated with building maintenance;
- c. public fees, depreciation and interest expenses.

³ For university clinics, no contributions are provided to cover expenditure for construction and use of buildings.

Art. 55 Requirements

¹ Contributions are paid for building construction if the building project:

- a. costs more than CHF 5 million;
- b. is cost-effective;
- c. satisfies the requirements for the allocation of tasks and cooperation among higher education institutions;
- d. meets stringent environmental and energy efficiency standards; and

- e. includes facilitated access for the disabled.
- ² Contributions for building usage are paid if:
- a. usage entails recurring costs exceeding CHF 300,000;
 - b. usage has been agreed for a period of at least five years;
 - c. usage is cost-effective;
 - d. usage satisfies the requirements for the allocation of tasks and cooperation among higher education institutions;
 - e. the building used meets stringent environmental and energy efficiency standards; and
 - f. the building used includes facilitated access for the disabled.

Art. 56 Maximum contribution threshold

The Confederation provides a maximum contribution of 30 per cent of eligible costs.

Art. 57 Calculation

¹ The Federal Council decides on the calculation of eligible costs. It shall first hear the Higher Education Council.

² It may provide for a lump-sum calculation method, namely maximum threshold values per square metre of useable area.

Art. 58 Decisions

¹ The competent Department decides whether to approve or deny applications for contributions to cover expenditure for construction and use of buildings.

² It may delegate this decision to the corresponding Federal Office.

Section 5 Project Contributions

Art. 59 Intended purpose and requirements

¹ Multi-annual project contributions may be paid for expenditures that serve national higher education policy interests.

² Tasks that serve national higher education policy interests include the following in particular:

- a. creation of national or regional competence centres jointly supported by several higher education institutions or other institutions within the higher education sector;
- b. establishment of internationally prominent programmes;
- c. development of profiles and allocation of tasks among higher education institutions;

- d. measures to encourage multilingualism in Swiss national languages;
- e. measures to encourage equal opportunities and true gender parity;
- f. measures to encourage sustainable development for the benefit of current and future generations;
- g. measures to encourage student participation in decision-making processes.

³ The Cantons as well as higher education institutions and other institutions within the higher education sector involved in the project must contribute their own resources to an adequate degree.

⁴ Project funding for universities of teacher education requires the involvement of several universities of applied sciences or tier-one universities.

Art. 60 Assessment basis and time limits

¹ Project contributions are determined on the basis of costs for planning, development and implementation of a given project.

² They are provided for a limited period of time.

Art. 61 Decision and performance level agreement

¹ The Higher Education Council decides on the awarding of project contributions.

² Based on the decision reached by the Higher Education Council, the competent Department shall enter into a performance level agreement with the recipient. This agreement covers the following:

- a. the objectives to be reached;
- b. the manner in which results will be monitored;
- c. consequences of failure to reach established objectives.

Chapter 9 **Protection of Reserved Designations and Titles, Sanctions and Legal Safeguards**

Art. 62 Protection of reserved designations

¹ The reserved designations «university», «university of applied sciences», «university of teacher education» and derived designations (e.g. «tier-one college» or «UAS college»), whether expressed in a national language of Switzerland or in any other language, may only be used by institutions that have been accredited under this Act.

² The titles given to graduates of tier-one universities, universities of applied sciences, universities of teacher education and other institutions within the higher education sector subject to this Act shall be protected under the corresponding legal basis.

Art. 63 Criminal provisions

¹ If an institution lacking accreditation under this Act uses the title «university», «university of applied sciences», «university of teacher education» or a related title, whether expressed in a national language of Switzerland or in any other language, the managers of that institution are liable to the following penalties:

- a. a fine not exceeding CHF 200,000 in cases of wilful conduct;
- b. a fine not exceeding CHF 100,000 in cases of negligent conduct.

² The Canton in which the institution is established is responsible for prosecuting such cases.

Art. 64 Administrative measures

¹ If the requirements for accreditation are no longer met or if certain conditions have not been satisfied within the established timeframe, then the Swiss Accreditation Council shall take the necessary administrative measures.

² The following administrative measures shall be considered:

- a. reminder letter;
- b. imposition of conditions;
- c. revocation of accreditation.

³ The administrative measures taken by federal subsidising authorities are based on the Federal Act of 5 October 1990⁸ on Financial Assistance and Subsidies, those taken by the Cantons are based on the Intercantonal Agreement on Cooperation in Higher Education.

Art. 65 Legal safeguards

¹ Decisions reached on the basis of this Act, its implementing provisions or the Cooperation Agreement may be contested by appeal to the Federal Administrative Court.

² Decisions of the Federal Council on funding entitlements and decisions by the Accreditation Council on accreditation are not appealable.

³ Furthermore, the general provisions on the administration of federal justice apply.

Chapter 10

Authority of the Federal Council to Enter into International Agreements

Art. 66

¹ The Federal Council may sign international agreements on behalf of the higher education sector for:

- a. international cooperation, particularly the structuring of studies as well as recognition of studies, qualifications and equivalencies within the higher education sector;
- b. measures to encourage international mobility;
- c. participation in international support programmes and projects.

² In the international agreements mentioned in paragraph 1, the Federal Council may also agree on:

- a. financial controls and audits;
- b. personal safety inspections;
- c. the protection and assignment of intellectual property arising from or required for scientific cooperation;
- d. federal participation in legal entities established under public law or private law;
- e. membership with international organisations.

³ Under the terms of the Cooperation Agreement, the Higher Education Council and the Swiss Conference of Rectors of Higher Education Institutions shall take part in preparations for such agreements. The Cooperation Agreement shall establish the conditions for participation in this process.

Chapter 11 Final Provisions

Section 1 Implementation

Art. 67 Implementing provisions

The Federal Council shall issue implementing provisions if implementation of this Act falls under its area of authority.

Art. 68 Declaration on the generally binding nature of intercantonal agreements relating to the higher education sector

The declaration on the generally binding nature of intercantonal agreements relating to the higher education sector is based on Article 14 of the Federal Act of 3 October 2003⁹. on Fiscal Equalisation and Cost Compensation

Art. 69 Evaluation

¹ Every four years, the Federal Council shall provide the Federal Assembly with a report on:

- a. the effectiveness of public expenditure;
- b. the effects of the funding system on the finances of the Confederation and the Cantons, on their higher education institutions, on disciplines and on other higher education institutions referred to in this Act;
- c. the competitiveness of higher education institutions;
- d. the employability and activities of graduates after completion of their higher education studies.

² It shall first hear the Higher Education Council.

Art. 70¹⁰ Recognition of foreign qualifications

¹ On request, the competent Federal Office shall decide whether to recognise a foreign higher education qualification as being valid for work in a regulated profession.

² The recognition of equivalence may be delegated to a third party; the third party may charge a fee for its services.

³ The authority of the cantons over recognition of foreign qualifications relating to professions regulated at intercantonal level shall remain reserved.

Section 2 Repeal and Amendment of Current Legislation

Art. 71

The repeal and amendment of current legislation are regulated in the Annex.

⁹ SR 613.2

¹⁰ Amended by No I of the Federal Act of 30 Sept. 2016, in force since 1 Feb. 2017 (AS 2017 159; BBl 2016 3089).

Section 3 Transitional Provisions

Art. 72 Adjustment of contribution rates

¹ If the level of average annual basic contributions determined by the Confederation for the first time under this Act is considerably different from the level effectively paid on average to cantonal universities and universities of applied sciences within a four-year period under previous legislation, then the Federal Council shall request an adjustment of the contribution rates under Article 50 when it submits the first budget appropriation request for basic contributions under this Act.

² The Federal Council shall establish the four-year funding period and the relevance criteria under paragraph 1.

³ It shall first hear the Plenary Assembly.

Art. 73 Admission to universities of applied sciences

¹ Until decided by the Higher Education Council, admission to universities of applied sciences is subject to the conditions set forth in paragraphs 2–4.

² Examination-free admission to Bachelor's degree programmes in the fields of engineering and information technology, architecture, construction and planning, chemistry and life sciences, agriculture and forestry, business and services and design at universities of applied sciences shall require:

- a. a Federal Vocational Baccalaureate issued on completion of a VET programme for an occupation relating to the desired field of study;
- b. a Federal Baccalaureate or federally recognised baccalaureate and at least one year of work experience that has enabled the prospective student to gain practical know-how and knowledge in an occupation relating to the desired field of study.

³ The following relevant decrees adopted on 31 August 2004¹¹ apply for admission to Bachelor's degree programmes in the fields of health, social work, music, theatre and other arts, applied psychology and applied linguistics at universities of applied sciences:

- a. Resolutions adopted by the Plenary Assembly of the Swiss Conference of Cantonal Ministers of Health in relation to study programmes in health care at universities of applied sciences;
- b. Resolutions adopted by the Plenary Assembly of the Swiss Conference of Cantonal Ministers of Education in relation to study programmes in social work at universities of applied sciences;
- c. Resolutions adopted by the Plenary Assembly of the Swiss Conference of Cantonal Ministers of Education in relation to higher education institutions specialised in music, theatre, art and design as well as in relation to study

¹¹ Not published in the Official Compilation of Federal Legislation. The text of these decrees may be consulted at the State Secretariat for Education, Research and Innovation (SERI), Einsteinstrasse 2, 3003 Bern or viewed online at www.sbf.admin.ch.

programmes in applied psychology and applied linguistics at universities of applied sciences.

⁴ The corresponding Department shall decide:

- a. what additional admission requirements may be included;
- b. what admission requirements shall apply to graduates of other education and training programmes;
- c. the learning objectives for one-year traineeships in individual fields of study.

Art. 74 Cohesion contributions

¹ In the first years following commencement of this Act, an average of six per cent of funding allocated for basic contributions may be used in support of higher education institutions whose basic contributions fall by more than five per cent as a result of the changes made to funding calculation methods.

² The awarding of cohesion contributions shall be digressive and shall cease no later than eight years following commencement of this Act.

Art. 75 Entitlement to contributions and accreditation

¹ Higher education institutions and other institutions within the higher education sector must seek institutional accreditation no later than eight years following commencement of this Act.

^{1bis} The application for entitlement to contributions must be submitted within a month after institutional accreditation is granted.¹²

² The entitlement to contributions by virtue of the Federal Act of 8 October 1999¹³ on University Funding and Cooperation in the Field of University Education (University Funding Act, UFundA) and the Federal Act of 6 October 1995¹⁴ on the Universities of Applied Sciences (Universities of Applied Sciences Act, UASA) remains in effect until the Federal Council decides on the entitlement to contributions under the present Federal Act.¹⁵ Universities of teacher education, federal institutes of technology and other federal higher education institutions shall retain their entitlement to project contributions until the institutional accreditation decision is made by the Swiss Accreditation Council, no later than eight years following commencement of this Act.

³ Higher education institutions and other institutions within the higher education sector that were accredited after 1 January 2011 under previous legislation remain institutionally accredited for a period of up to eight years following commencement of this Act.

¹² Inserted by No I of the Federal Act of 30 Sept. 2016, in force since 1 Feb. 2017 (AS 2017 159; BBl 2016 3089).

¹³ [AS 2000 948, 2003 187 Annex No. II 3, 2004 2013, 2007 5779 No. II 5, 2008 307 3437 No II 18, 2012 3655 No. I 10]

¹⁴ [AS 1996 2588, 2002 953, 2005 4635, 2006 2197 Annex No. 37, 2012 3655 No. I 11]

¹⁵ Amended by No I of the Federal Act of 30 Sept. 2016, in force since 1 Feb. 2017 (AS 2017 159; BBl 2016 3089).

Art. 76 Right to use reserved designations and sanctions

For higher education institutions and other institutions within the higher education sector that are not institutionally accredited under this Act or are not deemed institutionally accredited under Article 75 paragraph 3, the right to use reserved designations and the corresponding criminal and administrative law penalties shall be based on previous legislation for a period of up to eight years following commencement of this Act.

Art. 77 Pending applications

¹ Applications that were pending at the time of commencement of this Act shall be examined on the basis of the new legislation.

² The Federal Council may make exceptions in justified cases.

Art. 78 Protection of acquired UAS titles

¹ The titles of federally recognised UAS degrees, Bachelor's degrees, Master's degrees or Master of Applied Sciences (MAS) degrees under previous legislation remain protected.

² The Federal Council shall establish the procedure for the transfer of recognised professional education institutions to universities of applied sciences as well as the titles that may be used by alumni of these professional education institutions.¹⁶

³ The competent Federal Office shall see to it that titles awarded under previous legislation are converted accordingly. It may delegate this task to third parties. These parties may charge fees for the services provided.¹⁷

Art. 79 Previous cantonal agreements relating to universities of applied sciences

For a period of five years following commencement of this Act, cantonal governments may issue ordinances for the purpose of making adjustments to their legislation on universities of applied sciences, provided these adjustments are absolutely necessary.

Art. 80 Continued validity of provisions from the University Funding Act and the UAS Act

In the event of commencement under Article 81 paragraph 3, the Federal Council may decide that the following provisions shall remain applicable for no more than five years:

- a. University Funding Act of 8 October 1999¹⁸: the provisions on federal contributions (Art. 13–21) and Article 23;

¹⁶ Amended by No I of the Federal Act of 30 Sept. 2016, in force since 1 Feb. 2017 (AS 2017 159; BBl 2016 3089).

¹⁷ Inserted by No I of the Federal Act of 30 Sept. 2016, in force since 1 Feb. 2017 (AS 2017 159; BBl 2016 3089).

- b. UAS Act of 6 October 1995¹⁹: the provisions on federal contributions (Art. 18–21) and Article 23.

Section 4 Referendum and Commencement

Art. 81

- ¹ This Act is subject to an optional referendum.
- ² The Federal Council shall determine the commencement date.
- ³ It shall establish the provisions on coordination of the entire Swiss higher education sector and the allocation of tasks (Chap. 6; Art. 36–40), on funding (Chap. 7; Art. 41–44) and on federal contributions (Chap. 8; Art. 45–61) no later than five years after the remaining provisions go into effect.

Commencement Date:²⁰
Articles 1–35, 45, 46 and 62–81 on 1 January 2015;
Articles 36–44 and 47–61 on 1 January 2017;
Article 50 on 1 January 2020²¹.

¹⁸ AS **2000** 948, **2003** 187 Annex No. II 3, **2007** 5779, **2012** 3655

¹⁹ AS **1996** 2588, **2005** 4635

²⁰ Federal Council Decree of 12 Nov. 2014

²¹ BRB vom 23. Nov. 2016 (AS **2016** 4855).

Repeal and Amendment of Current Legislation

I

The following Federal Acts shall be repealed:

1. University Funding Act of 8 October 1999²²;
2. UAS Act of 6 October 1995²³.

II

The following Federal Acts shall be modified as follows:

...²⁴

²² [AS 2000 948, 2003 187 Annex No. II 3, 2004 2013, 2007 5779 No. II 5, 2008 307 3437 No. II 18, 2012 3655 No. I 10]

²³ [AS 1996 2588, 2002 953, 2005 4635, 2006 2197 Annex No. 37, 2012 3655 No. I 11]

²⁴ The amendments may be consulted under AS 2014 4103.

