

Draft Regulations laid before Parliament under section 119(2)(i) of the Higher Education and Research Act 2017 and section 42(5) of the Teaching and Higher Education Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EDUCATION, ENGLAND

The Higher Education (Fee Limits and Student Support) (England) (Coronavirus) Regulations 2020

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) in relation to Parts 1 and 2, section 119(5)(a) and (b) of, and paragraphs 2(5) and (11), 3(4) and (10) and 4 of Schedule 2 to, the Higher Education and Research Act 2017(1), and
- (b) in relation to Parts 1 and 3, sections 22(1), (2)(b) and 42(6) of the Teaching and Higher Education Act 1998(2).

In accordance with section 119(2)(i) of the Higher Education and Research Act 2017 and section 42(5) of the Teaching and Higher Education Act 1998(3), a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Higher Education (Fee Limits and Student Support) (England) (Coronavirus) Regulations 2020 and come into force the day after the day on which they are made.

(1) [2017 c.29](#); paragraphs 2(13) and 3(12) of Schedule 2 define “prescribed” as prescribed by regulations made by the Secretary of State.

(2) [1998 c.30](#); section 22(2)(b) was amended by section 86(3)(a) of the Higher Education and Research Act 2017 from a date to be appointed. Section 43(1) defines “prescribed” as prescribed by regulations.

(3) Section 42(5) was substituted by paragraph 9 of Schedule 6 to the Higher Education Act [2004 \(c.8\)](#).

PART 2

Amendment of Fee Limits

Amendment of the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018

2.—(1) The Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018(4) are amended as follows.

(2) In regulation 3, after the definition of “the Act”, insert—

““AY 2020/21” means an academic year commencing on or after 1st August 2020 and before 1st August 2021;”.

(3) In regulation 4(1)—

(a) in sub-paragraph (a), for “and 11” substitute “, 11 and 11A”;

(b) in sub-paragraphs (b) and (c), for “11” substitute “11A”;

(c) in sub-paragraph (d), for “regulation 11 applies” substitute “regulations 11 and 11A apply”.

(4) In regulation 5, in the words before paragraph (a), for “7 and 11” substitute “6A, 7, 11 and 11A”.

(5) After regulation 6 insert—

“Reduced higher and floor amounts in the academic year commencing on or after 1st August 2021 and before 1st August 2022

6A.—(1) The higher and floor amounts set out in regulations 5 and 6 are reduced in relation to a higher education provider in accordance with paragraph (2) in respect of an academic year which commences on or after 1st August 2021 and before 1st August 2022 where—

(a) on or before the date on which these Regulations are made, the Secretary of State has notified to that higher education provider a level for the number of students starting the first year of courses at that higher education provider in respect of AY 2020/21, and

(b) the number of students to which that level applies is exceeded by that higher education provider in AY 2020/21.

(2) The reduction of higher and floor amounts referred to in paragraph (1) is—

(a) 3% where the level is exceeded but not by more than 6%;

(b) 9% where the level is exceeded by more than 6% but not more than 12%;

(c) 15% where the level is exceeded by more than 12%.”.

(6) In regulation 8, in the words before paragraph (a), for “11” substitute “11A”.

(7) After regulation 9 insert—

“Reduced basic and floor amounts in the academic year commencing on or after 1st August 2021 and before 1st August 2022

9A.—(1) The basic and floor amounts set out in regulations 8 and 9 are reduced in relation to a higher education provider in accordance with paragraph (2) in respect of an academic year which commences on or after 1st August 2021 and before 1st August 2022 where—

- (a) on or before the date on which these Regulations are made, the Secretary of State has notified to that higher education provider a level for the number of students starting the first year of courses at that higher education provider in respect of AY 2020/21, and
 - (b) the number of students to which that level applies is exceeded by that higher education provider in AY 2020/21.
- (2) The reduction of basic and floor amounts referred to in paragraph (1) is—
- (a) 3% where the level is exceeded but not by more than 6%;
 - (b) 9% where the level is exceeded by more than 6% but not more than 12%;
 - (c) 15% where the level is exceeded by more than 12%.”.
- (8) After regulation 11 insert—

“Reduced higher, basic and floor amounts in the academic year commencing on or after 1st August 2021 and before 1st August 2022

11A.—(1) The higher, basic and floor amounts set out in regulation 11 are reduced in relation to a higher education provider in accordance with paragraph (2) in respect of an academic year which commences on or after 1st August 2021 and before 1st August 2022 where—

- (a) on or before the date on which these Regulations are made, the Secretary of State has notified to that higher education provider a level for the number of students starting the first year of courses at that higher education provider in respect of AY 2020/21, and
 - (b) the number of students to which that level applies is exceeded by that higher education provider in AY 2020/21.
- (2) The reduction of higher, basic and floor amounts referred to in paragraph (1) is—
- (a) 3% where the level is exceeded but not by more than 6%;
 - (b) 9% where the level is exceeded by more than 6% but not more than 12%;
 - (c) 15% where the level is exceeded by more than 12%.”.

Amendment of the Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019

3.—(1) The Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019(5) are amended as follows.

- (2) In regulation 3, after the definition of “the Act”, insert—
- ““AY 2020/21” means an academic year commencing on or after 1st August 2020 and before 1st August 2021;”.
- (3) In regulation 4(1)—
- (a) in sub-paragraph (a), for “and 6” substitute “, 6 and 6A”;
 - (b) in sub-paragraph (b), for “and 8” substitute “, 8 and 8A”;
 - (c) in sub-paragraph (c), for “8” substitute “8A”.
- (4) In regulation 5, in the words before paragraph (a), for “regulation 6” substitute “regulations 6 and 6A”.
- (5) After regulation 6, insert—

“Reduced higher and floor amounts in the academic year commencing on or after 1st August 2021 and before 1st August 2022

6A.—(1) The higher and floor amounts set out in regulations 5 and 6 are reduced in relation to a higher education provider in accordance with paragraph (2) in respect of an academic year which commences on or after 1st August 2021 and before 1st August 2022 where—

- (a) on or before the date on which these Regulations are made, the Secretary of State has notified to that higher education provider a level for the number of students starting the first year of courses at that higher education provider in respect of AY 2020/21, and
- (b) the number of students to whom that level applies is exceeded by that higher education provider in AY 2020/21.

(2) The reduction of higher and floor amounts referred to in paragraph (1) is—

- (a) 3% where the level is exceeded but not by more than 6%;
- (b) 9% where the level is exceeded by more than 6% but not more than 12%;
- (c) 15% where the level is exceeded by more than 12%.”.

(6) In regulation 7, in the words before paragraph (a), for “regulation 8” substitute “regulations 8 and 8A”.

(7) After regulation 8 insert—

“Reduced basic and floor amounts in the academic year commencing on or after 1st August 2021 and before 1st August 2022

8A.—(1) The basic and floor amounts set out in regulations 7 and 8 are reduced in relation to a higher education provider in accordance with paragraph (2) in respect of an academic year which commences on or after 1st August 2021 and before 1st August 2022 where—

- (a) on or before the date on which these Regulations are made, the Secretary of State has notified to that higher education provider a level for the number of students starting the first year of courses at that higher education provider in respect of AY 2020/21, and
- (b) the number of students to whom that level applies is exceeded by that higher education provider in AY 2020/21.

(2) The reduction of basic and floor amounts referred to in paragraph (1) is—

- (a) 3% where the level is exceeded but not by more than 6%;
- (b) 9% where the level is exceeded by more than 6% but not more than 12%;
- (c) 15% where the level is exceeded by more than 12%.”.

PART 3

Amendment of Fee Loan Amounts

Amendment of the Education (Student Support) Regulations 2011

4. In regulation 23 of the Education (Student Support) Regulations 2011⁽⁶⁾, after paragraph (8), insert—

⁽⁶⁾ S.I. 2011/1986, amended by S.I. 2012/1653, 2013/1728, 2017/114, 2018/137 and 2019/142; there are other amending instruments but none is relevant.

“(8A) But paragraph (8B) applies where—

- (a) a designated course is provided by or on behalf of a publicly funded institution in Scotland, Northern Ireland or Wales or a regulated institution in Wales, or by an institution in Scotland, Northern Ireland or Wales on behalf of an approved (fee cap) provider;
- (b) on or before the date on which these Regulations are made, the Secretary of State has notified to an institution referred to in sub-paragraph (a) a level for the number of students starting the first year of courses at that institution in respect of an academic year commencing on or after 1st August 2020 and before 1st August 2021 (“AY 2020/21”), and
- (c) the number of students to whom that level applies is exceeded by that institution in AY 2020/21.

(8B) The maximum amounts set out in this regulation are reduced in respect of that institution in relation to the first academic year of a current course where that course commences on or after 1st August 2021 and before 1st August 2022—

- (a) by 3% where the level is exceeded but not by more than 6%;
- (b) by 9% where the level is exceeded by more than 6% but not more than 12%;
- (c) by 15% where the level is exceeded by more than 12%.”.

Date

Name
Minister of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend legislation in relation to England which prescribes tuition fee limits and tuition fee loan amounts in connection with higher education courses.

Regulation 2 amends the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903) to prescribe reduced tuition fee limits applicable to English higher education providers which are required to limit their tuition fees by virtue of section 10 of the Higher Education and Research Act 2017 as a condition of registration with the regulator of higher education providers, the Office for Students. The reduced tuition fee limits apply only to full-time courses, only to undergraduate courses with limited exceptions, only to the fee limits applicable in an academic year commencing on or after 1st August 2021 and before 1st August 2022, and only where a higher education provider has recruited students in excess of a level notified to that provider in respect of an academic year commencing on or after 1st August 2020 and before 1st August 2021 (“AY 2020/21”).

Regulation 3 amends the Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019 (S.I. 2019/214) to make the same provision as in regulation 3 in relation to accelerated courses.

Regulation 4 amends the Education (Student Support) Regulations 2011 (S.I. 2011/1986) to prescribe reduced maximum tuition fee loan amounts available to English-domiciled students undertaking courses at institutions in Scotland, Northern Ireland or Wales. The reduced maximum tuition fee loan amounts apply only to full-time courses, only to undergraduate students with limited exceptions, only to the tuition fee loan amounts applicable in the first academic year of a course commencing on or after 1st August 2021 and before 1st August 2022, and only where an institution in Scotland, Northern Ireland or Wales has recruited English-domiciled students in excess of a level notified to that institution in respect of AY 2020/21.

A full impact assessment has not been produced for this instrument as it makes provision which is to have effect for a period of less than 12 months.