

EXPLANATORY MEMORANDUM TO THE
EDUCATION (STUDENT SUPPORT) REGULATIONS 2005
2005 No.52

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations provide for support for students taking designated higher education courses in respect of the academic year beginning on or after 1 September 2005.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 These Regulations are made under section 22 of the Teaching and Higher Education Act 1998 which gives the Secretary of State the power to make provision for grants and loans to eligible students in connection with their undertaking designated higher education courses and further education courses.

4.2 The Student Support Regulations are laid annually to uprate grants for tuition fees, student loans and some grants for living costs in line with inflation. They also introduce a number of policy changes, the most significant of which are set out in more detail in paragraph 7. These regulations revoke the arrangements for previous years and set out support arrangements for 2005/06.

5. Extent

5.1 This instrument applies to England and Wales. Regulation 28(2) extends to Northern Ireland.

6. European Convention on Human Rights

The Minister for Higher Education, Kim Howells, has made the following statement regarding Human Rights:

“In my view the provisions of The Education (Student Support) Regulations 2005 are compatible with the Convention rights.”

7. Policy background

The intention is:

7.1 to make the Regulations more user friendly

To this end, relevant amendments to the student support arrangements made via amending regulations have been brought together in a single instrument. The provisions of the Education (Grants for Disabled Postgraduate Students) Regulations 2000 have also been incorporated into the Regulations. The Regulations have been put into a more logical order. Long complex paragraphs have been broken down into smaller easier to understand paragraphs and formulae have been introduced to calculate levels of support, removing the need for lengthy explanations. Transitional provisions which are now spent have been removed.

7.2 to put in place provisions for the recognition and equal treatment of civil partners

Provisions have been put in place so that civil partners will be treated in the same way as spouses under the Regulations when section 1 of the Civil Partnership Act 2004 comes into force. The main area where this will have an impact is the assessment of the student's household income. The level of student support available to a student is linked to his household income. Provisions for the income of a student's spouse or the income of the spouse of a student's parent to be included in the assessment of household income have been amended so that the civil partner of a student and the civil partner of a student's parent will be treated in the same way as a spouse. The Regulations have also been amended so that in the case of students starting courses in the academic year 2005/06, co-habiting same sex partners who are not civil partners will be treated under the Regulations in the same way as co-habiting opposite sex partners who are not married. The main area where this will have an impact is the assessment of the student's household income.

7.3 to simplify and align the method of calculating income more closely with that used by other Government Departments

From 05/06, maintenance payments paid out by a student for the benefit of his child will no longer be disregarded in calculating the household income. Maintenance payments received by the parents of a student for the benefit of their children will no longer be taken into account in calculating the household income.

This reflects the way that maintenance payments are treated by the Inland Revenue in assessing Child Tax Credits

7.4 to make the Disabled Students' Allowance (DSAs) available to full-time

distance learners

Currently a full-time student must attend a course in order to be eligible for student support. From 05/06 there will no longer be an attendance requirement in respect of DSAs. Therefore students with disabilities on full-time distance learning courses will be eligible for DSAs on the same basis as attending full-time students. This change has no effect on the attendance requirement for other elements of student support.

7.5 to introduce greater flexibility in the arrangements for the recovery of overpayments of grants and loans

Any overpayment of grant for living costs or course costs may be deducted from any other grant, whether in respect of full-time, part-time study, undergraduate or postgraduate study.

7.6 to introduce changes in support for part-time students

- Changes to fee support so that the maximum amount of fee grant available to a student better reflects the intensity of the student's course. A banding system will apply. This change will apply to both new and existing students.
 - The fee grant for those studying less than 60% of full-time will be updated to take account of inflation to a maximum of £590. For those studying 60% or more, but less than 75% of full-time, the maximum fee grant available will be £710. For those studying at 75% of full-time or more, the maximum fee grant available will be £885.
 - As in 2004/05, entitlement to an award will be tapered, as income increases past the threshold, until eventually entitlement is exhausted. The point at which entitlement to fee support is extinguished will be the same whichever of the three fee grant maxima apply. This means that there will be three different fee grant taper rates in operation. These are £1 in £9.50 (for students studying at 50-59%); £1 in £7.63 (for students studying at 60-74% intensity) and £1 in £5.93 (for students studying at an intensity of 75%+).
- The level of support for part-time students depends on the income of the student and his partner, if he has one. At present, a partner's income is only taken into account if the student is aged 25 or over. From 2005/06, a partner's income will be taken into account regardless of the age of the student. This change will apply to new students only.

7.7 Consultation

DfES informally consulted key stakeholders in student finance, including the National Union of Students, the Student Loans Company and Local Education Authorities, and their concerns were addressed in the process of quality reviewing the regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal.

9. Contact

Neil Loughnane at the Department for Education and Skills Tel: 020 7925 5257 or e-mail: neil.loughnane@dfes.gsi.gov.uk can answer any queries regarding the instrument.