

EXPLANATORY MEMORANDUM TO THE
STUDENT FEES (QUALIFYING COURSES AND PERSONS) (ENGLAND)
REGULATIONS 2007

2007 No. 778

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 the courses and students to whom the fee controls of the Higher Education Act 2004 (“the HE Act 2004”) should apply for the academic year 2007/08.

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 sections 24(6) and 47 of the HE Act 2004, and set out the persons and courses that the fee controls in sections 24 and 25 of the HE Act 2004 apply to.

4.2 Section 23 of the HE Act 2004 imposes a duty on the Secretary of State for Education & Skills to set a condition of grant paid to the two funding bodies for Higher Education in England: the Higher Education Funding Council for England and the Training and Development Agency for Schools. The condition must require the funding bodies to in turn set a condition on the grant they pay to English Higher Education Institutions (HEIs) relating to the fees to be paid by full time undergraduates (and part-time and postgraduate trainee teachers).

4.3 Section 24 sets out the way these conditions work in relation to whether the higher amount of tuition fee (£3,070 for academic year 2007/08) or the basic amount of tuition fee (£1,535 for 2007/08) should apply in relation to qualifying persons on qualifying courses. Section 25 of the HE Act 2004 sets out the transitional arrangements where HEIs cannot charge more than the basic amount to qualifying persons on qualifying courses who meet the requirements of that section.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1. The HE Act 2004 introduced variable fees (of up to £3,070 in 2007/08 – “the higher amount”) which apply to students studying at HEIs with an approved access agreement in force. It also set out the conditions where HEIs cannot charge more than £1,535 (“the basic amount” in 2007/08). Students who are not defined as qualifying persons, or who are but are not studying on qualifying courses, are not subject to regulated fees and can be charged a fee of any amount. These Regulations set out who are qualifying persons and courses. The qualifying persons are those people falling within the Schedule.

7.2 The fee controls of the HE Act 2004 will, in the majority of cases, apply to students who are eligible for student support and who are studying on courses designated for student support purposes under the Education (Student Support) Regulations 2007 (SI 2007/176).

7.3 The Student Fees (Qualifying Courses and Persons) Regulations 2006 (SI 2006/482), which applied in the academic year 2006/07, set out the qualifying courses and persons for that academic year by reference to the Education (Student Support) Regulations 2006 (SI 2006/119). The 2007 Regulations largely replicate the 2006 Regulations, with certain exceptions, set out in paragraphs 7.4 to 7.6 below, and by reference to a Schedule. The 2006 Regulations are revoked.

7.4 The definition of family members of students who are granted refugee status or leave to enter or remain in the UK as a result of an asylum application to the Home Office has been narrowed to include only the family members who were such at the time of the principal’s asylum application to the Home Office. This change is in line with the policy on student support, as reflected by the Education (Student Support) Regulations 2007.

7.5 Students who are EC nationals on the first day of an academic year, and who have been ordinarily resident in the area comprising specified overseas territories, EEA and Switzerland throughout the three year period preceding the first day of the first academic year of the course have been made qualifying persons from 1 September 2007. The overseas territories are those of the UK, France, the Netherlands and Denmark.

7.6 A student who is the child of a Turkish worker, who is ordinarily resident in the United Kingdom and Islands with his parent, and who has been resident in the

EEA, Switzerland and Turkey throughout the three years prior to the first day of the first academic year of the course, will be a qualifying person.

8. Impact

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

8.2 The impact on the public sector is minimal.

8.3 A full Regulatory Impact Assessment for the Higher Education Act 2004 was produced and can be viewed at
<http://www.dfes.gov.uk/ria/index.cfm?action=assessments.archive>

9. Contact

Kathryn Symms at the Department for Education and Skills Tel: 01325 391187 or email: kathryn.symms@dfes.gsi.gov.uk who can answer any queries regarding the Instrument.