

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2009
2009 No. 1555

1. This Explanatory Memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 These Regulations (“the Regulations”) provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2010 and make amendments to the Education (Student Support) (No. 2) Regulations 2008 (S.I. 2008/1582) as amended by the Education (Student Support) (Amendment)(No.2) Regulations 2008 (S.I.2008/2094) and the Education (Student Support) (Amendment) (No.3) Regulations 2008 (S.I.2008/2939) (“the 2008 (No.2) Regulations”).

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

3.1 None.

4. Legislative Context

4.1 Regulations are made annually by the Secretary of State to make provision for the payment of grants and loans to eligible students in connection with their undertaking and/or attendance on designated higher education courses.

4.2 The Regulations have been made to give effect to the student support arrangements for the 2010/11 academic year and also make amendments to the 2008 (No.2) Regulations which apply to student support arrangements for the 2009/10 academic year. The Regulations implement some policy changes and increase the amounts of grants for tuition fees (for those students who are still eligible for such grants), student loans for tuition fees and part-time fee and course grants in line with inflation.

5. Territorial Extent and Application

5.1 The Regulations apply 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

Section 22 of the Teaching and Higher Education Act 1998 makes provision for the Secretary of State to provide financial support for students in Higher Education. Such financial support is to be provided in accordance with regulations made by the Secretary of State. The Regulations make provision for support available in relation to an academic year beginning on or after 1st September 2010 in relation to England and amend some of the provisions in the 2008 (No.2) Regulations.

The policy changes effected by these Regulations are set out below:

7.1 Support for students on courses of initial teacher training.

From 1st September 2010, new students starting full-time postgraduate or equivalent initial teacher training (ITT) courses will be eligible for the same maintenance support package as full-time undergraduate students. All new students on postgraduate ITT courses will be eligible to apply for a fully means tested maintenance grant or special support grant of up to £2,906. New students on incomes above £34,000 will no longer be eligible for a guaranteed minimum grant of £1,106; however most students will receive an equivalent amount of support as a loan.

From 1st September 2010, new students starting part-time ITT courses will no longer be eligible for the full-time fee and maintenance support package. However, they will be eligible to apply for a part-time means-tested fee grant of up to £1,230 (the maximum will depend on the intensity of study on the course) and a means-tested course grant of up to £265.

New students starting flexible postgraduate ITT courses of a year or more in length in the 2010/11 academic year, will also be eligible for the part-time fee grant and course grant. However, flexible postgraduate ITT courses of less than one academic year in length will no longer attract support.

Students who started their ITT course before 1st September 2010, who are continuing their course in 2010/11, will be eligible for the same package of support that they were receiving in 2009/10.

These changes will align support arrangements for students starting full-time and part-time postgraduate ITT courses with those on other full-time and part-time courses. They will ensure that support will be targeted at students on the lowest incomes.

A technical change is made to the calculation of the maximum amount of loan for living costs to which certain teacher training students are entitled for clarity.

7.2 Support for part-time and full-time distance learning students who wish to 'top-up' their existing qualification to a higher level qualification.

From 1st September 2010, all new students starting a part-time or full-time distance learning course who already hold a lower level qualification such as a foundation degree will be eligible to apply for support to 'top-up' their qualification to a higher level (e.g. to an honours degree), regardless of where they are studying, the subject they are taking and whether or not there is a break in study.

This change aligns more closely the rules for part-time students and full-time distance learning students who wish to 'top-up' to a higher level qualification with those for full-time students. It removes a restriction in the Regulations which prevents students holding a first degree (such as a foundation degree) from a UK University or College from 'topping-up' their qualification to an honours degree, unless the second qualification is taken in the same subject at the same institution immediately after the first qualification. An amendment is made for the 2008 (No.2) Regulations to ensure that the restriction remains in place for the 2009/10 academic year.

7.3 Changes to loan and grant thresholds and maximum amounts

As set out in the Minister of State's statement of 1st July 2009, the maximum fee loan, fee contribution loan and fee grant for eligible full-time students will be increased by 2.04% from 1st September 2010. The maximum fee and course grants available for eligible part-time and full-time distance learning students will also be increased by 2.04% from 1st September 2010. The same increase will apply to household income thresholds that determine how much fee and course support is available for part-time and full-time distance learning students.

Maximum amounts and household income thresholds for loans and grants for living costs that are available for eligible full-time students, will be frozen at 2009/10 levels from 1st September 2010.

7.4 Removal of Provisions on Interest and Insolvency

Provisions relating to the interest chargeable on the loans (in relation to England) and the consequences of the insolvency of a borrower (in relation to England and Wales and Northern Ireland) have previously been contained in the 2008 (No.2) Regulations. As these provisions sit more logically within Regulations that deal with repayment of student loans, they have been removed from these Regulations and the 2008 (No.2) Regulations and inserted within the Education (Student Loans) (Repayments) Regulations 2009 (S.I. 2009/470) taking effect from 1st September 2009. This is intended to increase clarity and simplicity.

7.5 Technical Amendment to ensure that full-time students who transfer courses or who wish to 'top up' their previous qualification to a higher level qualification will retain the package of support they received on their first course.

Currently, most students who started their course in the 2008/09 Academic Year, known as 2008 cohort students, are eligible for the same package of maintenance grant and loan support throughout their course. However, 2008 cohort students who started a course in 2008/09 and who are transferring to another course in 2010/11, or who started a course in 2008/09 and who wish to 'top up' their first course to a higher level (e.g. to an honours degree) in 2010/11, will be eligible for the different package of maintenance support available for students starting their courses in 2010/11. This fails to meet the policy intention that transferring students or students going 'end-on' to a higher level course should retain the same support package as they had when they started their original course.

The definition of a 2008 cohort student in Regulation 2(1) is therefore being changed to ensure that 2008 cohort students transferring courses in 2010/11 or starting a higher level course in 2010/11 immediately after completing a preliminary course (such as a Foundation Degree) will remain as 2008 cohort students on their second course and will continue to be eligible for the same package of maintenance support as they had when they started their first course. The same change is being made to the definition of a 2008 Cohort Student in the 2008 (No.2) Regulations.

A similar change is also being made to the definition of a 2009 cohort student in Regulation 2(1), which covers most students who started their course in the 2009/10 Academic Year, to take account of students transferring their courses in 2010/11 or starting a higher level course in 2010/11 immediately after completing a preliminary course.

7.6 Technical Amendment to ensure that the Regulations reflect the policy intention for transferring students

When a student transfers from one course to another, that student retains his or her entitlement to the same package of student support that was available when he or she started the original course. In 2009, new rules were introduced preventing a student holding an equivalent or higher level qualification from the UK or abroad from receiving support for a further course. An amendment is being made to Regulation 14(1) to ensure that students transferring to a course on or after 1st September 2009 from a course beginning before 1st September 2009 continue to be eligible for the same support arrangements which were in place when they started their original course. The same change is being made to Regulation 14(1) of the 2008 (No.2) Regulations with consequential amendments.

8. Consultation Outcome

8.1 The highly compressed timetable for finalising policy decisions and laying these Regulations has prevented an external review of these Regulations by stakeholders in the Higher Education sector.

9. Guidance

9.1 The Minister of State announced these changes in a statement to Parliament on 1st July 2009. Policy changes for 2010/11 will be notified through Departmental and partner bodies' publications and websites. For example, students will be informed of changes through the respective guides to full-time and part-time financial support. These will be available in hard copy and electronic formats from Autumn 2009. In addition, on-line guidance chapters for Local Authorities will be updated to reflect policy changes for 2010/11.

10. Impact

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

10.2 The impact on the public sector is minimal.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Regulations will be kept under review and in particular we will be monitoring the views of stakeholders. We will also be monitoring the number of students who receive grants and loans. This information is published in the Student Loans Company's Statistical First Releases.

13. Contact

Mark Williams at the Department for Business, Innovation and Skills (Tel: 0203 300 8430 or email: mark.williams@bis.gsi.gov.uk) can answer any queries regarding the instrument.