

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2011**

**2011 No. 1986**

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 The Education (Student Support) Regulations 2011 (S.I. 2011/xxxx) (“the Regulations”) provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2012.

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

3.1 None

**4. Legislative Context**

4.1 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. Student Support Regulations are made annually by the Secretary of State to provide this support to eligible students in connection with their undertaking designated higher education courses.

4.2 These Regulations apply in respect of an academic year beginning on or after 1<sup>st</sup> September 2012. This period is defined in the Regulations as including courses where the year begins on or after 1st August 2012. The Regulations are largely based on the Education (Student Support) Regulations 2009 (as amended) but make substantial changes to the support available for new students starting courses on or after 1st September 2012. New full-time students will be eligible to apply for increased loans to meet the costs of their tuition at higher education institutions (HEIs) subject to the revised tuition caps under the Higher Education (Higher Amount) (England) Regulations 2010 (SI 2010/3020) and the Higher Education (Basic Amount) (England) Regulations 2010 (SI 2010/3021) which were passed by Parliament in December 2010. New full-time students will also be eligible to apply for increased maintenance grants and loans for living costs.

4.3 The Regulations also introduce, for the first time, tuition loans for students beginning part-time courses and full-time distance learning courses on or after 1st September 2012. The Government plans to introduce part-time tuition caps for the first time through changes to legislation in the Education Bill and subsequent regulations.

**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**

The changes to support arrangements for students starting courses on or after 1st September 2012 implement policies announced by the Government in response to Lord Browne's review of Higher Education. The Regulations also make changes to uprate by inflation parts of the support package for students who are continuing their courses on or after 1st August 2012, and to whom the new support arrangements do not apply.

### 7.1 Tuition loans for new students starting full-time courses from September 2012.

For full-time courses starting on or after 1st September 2012, publicly funded higher education institutions (HEIs) in England will be able to charge up to £6,000 for tuition. HEIs that wish to charge above £6,000 and up to £9,000 must submit an access agreement to the Office for Fair Access (OFFA) setting out how they will safeguard and promote fair access, in particular for students from low income backgrounds.

Students starting their studies on or after 1st September 2012 on full-time courses provided by or on behalf of publicly funded institutions, will be eligible for loans to cover their tuition costs up to a maximum of £9,000. Those students starting on or after 1st September 2012 whose final course year is normally required to be completed after less than 15 weeks' attendance can only be charged up to half the maximum amounts for tuition. They will be eligible for loans to cover their tuition costs up to a maximum of £4,500. These reduced amounts will also apply to students undertaking a sandwich course that starts on or after 1st September 2012, where any periods of full-time study are in aggregate less than 10 weeks.

Students starting full-time courses on or after 1st September 2012 on a distance learning basis will, for the first time, also be eligible to apply for tuition loans of up to £9,000 to meet the costs of tuition.

### 7.2 Tuition loans for new students starting part-time courses from September 2012.

Subject to parliamentary approval of primary legislation, a tuition charge cap of £4,500 will, for the first time, be applied to publicly funded HEIs offering part-time courses starting on or after 1st September 2012. The intention is that HEIs wishing to charge above £4,500 up to £6,750 must submit an access agreement to the Office for Fair Access (OFFA) setting out how they will safeguard and promote fair access, in particular for students from low income backgrounds. The part-time tuition charge caps are set at 75% of the full-time caps.

Students starting their studies on or after 1st September 2012 on part-time courses provided by or on behalf of publicly funded institutions will be eligible for loans to cover tuition charges up to a maximum of £6,750 in 2012/13, provided that:

- the part-time course can be completed in not more than four times the period it would normally take for a student to complete the equivalent full-time course, and
- to qualify for support in any academic year, the student has agreed to study at a minimum 25% intensity rate in that year compared with an equivalent full-time course.

Students starting their courses on or after 1st September 2012 cannot receive part-time support for more than 16 years in aggregate and this takes into account any previous years of part-time study for which they received or were eligible to receive student support.

### 7.3 Tuition loans for new students starting full and part-time courses from September 2012 that are provided by private institutions

Privately funded HEIs (i.e. those that are not in receipt of either HEFCE or TDA funding) will not be subject to the tuition charge caps that will apply to publicly funded HEIs in 2012/13, nor will they have to submit access plans to OFFA in order to charge more than £6,000 for a full-time course, or £4,500 for a part-time course.

Proposals are being developed to reform the regulatory framework with a view to creating a single regulatory regime for all providers of higher education. However, as this will not be ready for 2012/13, transitional arrangements are being put in place to allow students starting courses at privately funded institutions from September 2012 onwards to apply for tuition loans of up to £6,000 for full-time courses and up to £4,500 for part-time courses.

### 7.4 Tuition loans for English domiciled students starting full-time and part-time courses at institutions in Scotland, Wales and Northern Ireland from September 2012.

Students who normally live in England who are starting their courses at publicly funded HEIs in Scotland, Wales and Northern Ireland from September 2012 onwards will be eligible for loans to cover tuition charges up to a maximum of £9,000 for full-time courses or up to £6,750 for part-time courses.

### 7.5 Maintenance Grants for new students starting full-time courses from September 2012.

Full-time students entering higher education from 1st September 2012 ("2012 cohort students") will be eligible for an increased full maintenance grant of up to £3,250 if their household income is £25,000 or less. 2012 cohort students will qualify for a partial maintenance grant if their annual household income is £42,600 or less. Above

this income level, the student will not qualify for a grant. Equivalent changes have also been made to the provisions relating to the special support grant.

For every £1 of maintenance grant awarded, the amount of loan for living costs is reduced by £0.50. Students eligible for the special support grant do not experience this substitution and will not have their loan for living costs reduced.

Eligibility for maintenance grants and special support grants will depend upon students attending their course at their university or college. Students starting full-time distance learning courses from September 2012 onwards will not be eligible for maintenance or special support grants.

#### 7.6 Loans for living costs for new students starting full-time courses from September 2012.

All 2012 cohort students attending their studies at their HEI will be eligible to apply for increased loans for living costs, the rates of loan depending on where the student lives while studying. Students living in the parental home whilst studying will be able to apply for a loan of up to £4,375 and those living away from home and studying outside London, up to £5,500. Students living away from home and studying in London will be able to apply for up to £7,675 and those studying at an overseas institution as part of a UK course, up to £6,535.

All 2012 cohort students with household incomes exceeding £42,600 but not exceeding £42,875 will qualify for a full loan. Those with household incomes above £42,875 will have their loan reduced depending on their household income, but subject to a minimum loan which is 65% of the maximum amount. New students starting full-time distance learning courses from September 2012 onwards will not be eligible to apply for loans for living costs.

#### 7.7 Support for new students with caring responsibilities and those with disabilities starting courses from September 2012.

New full-time students with caring responsibilities who are starting their courses from September 2012 will be eligible to apply for income assessed adult dependants' grants, childcare grants and parents' learning allowances. Thresholds and maximum amounts for these grants will be maintained at 2011/12 levels in 2012/13 and the same grants will be available for full-time students with caring responsibilities who are continuing their courses in 2012/13.

New full-time, full-time distance learning and part-time students incurring extra costs whilst they are studying as a result of a disability will be eligible to apply for the same disabled students' allowances (DSAs) available for students continuing their courses in 2012/13. Maximum amounts will be maintained at 2011/12 levels in 2012/13.

#### 7.8 Defining the circumstances in which students will be eligible for the tuition and living costs support package available for students continuing their courses.

The tuition and living costs support packages described above are available to students whose studies begin on or after 1st September 2012. Students who started their courses in 2011/12 or earlier and who are continuing their studies in 2012/13

will be eligible for support under the student finance arrangements that applied in 2011/12.

Certain students transferring courses in 2012/13 or starting courses immediately after completing a lower level course will be treated as continuing students and continue to be eligible for support under the existing student finance arrangements.

The two categories are:

- Students who start an Honours Degree higher level course on or after 1st September 2012, immediately after completing a lower level CertHE, DipHE, HNC, HND, Foundation Degree or Ordinary Degree which started before 1st September 2012, where the mode of study remains the same for both courses. The Regulations categorise these Honours Degree courses as 'end-on' courses.
- Students who started a course before 1st September 2012 and who transfer to a second course on or after 1st September 2012, where the mode of study remains the same for both courses.

The definition of an 'end-on' course for students starting those courses on or after 1 September 2012, has been changed to apply only where the mode of study on the 'end-on' course remains the same as on the lower level course. Students taking a higher level course where the mode of study changes (e.g. from full-time to part-time) will be subject to the student finance arrangements applying to new students from September 2012 onwards.

Students transferring courses from September 2012 onwards, where the mode of study changes, will also be subject to the new tuition charge and student support arrangements when they start their second course.

Students starting their courses in England in August 2012 will be eligible to apply for the same tuition and living costs support as students continuing their courses in 2012/13. Students who normally live in England who are starting full-time courses at Scottish, Welsh or Northern Irish HEIs in August 2012 will also be eligible to apply for living costs grants and loans available to students continuing their courses in 2011/12. They will also be eligible to apply for loans of up to £9,000 to meet the costs of their tuition. HEIs in Scotland, Wales and Northern Ireland are not subject to the existing lower tuition charge caps that apply to English HEIs whose full-time courses start before 1 September 2012. Latest estimates for 2011/12 indicate that only small numbers of students normally living in England will be starting their courses in August 2012.

#### 7.9 Uprating elements of the tuition and living costs support packages for students continuing courses in 2012/13

The maximum tuition loan for full-time students continuing their courses in 2012/13 (and those starting courses at English HEIs in August 2012) will be increased by 2.69%<sup>1</sup> for 2012/13 to £3,465 to meet the full costs of their tuition. This is to reflect the concomitant uplift in the tuition charge cap. Those students continuing their

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<sup>1</sup> This figure is based on the All Items Retail Prices Index Excluding Mortgage Interest Repayments (known as RPIX) as forecast by the Office for Budget Responsibility.

courses in 2012/13 whose final course year is normally required to be completed after less than 15 weeks' attendance, are charged a reduced rate for tuition. They will be eligible for loans to cover their tuition costs up to a maximum of £1,725. These reduced amounts will also apply to students continuing a sandwich course in 2012/13, where any periods of full-time study are in aggregate less than 10 weeks.

The maintenance grant and special support grant for full-time students continuing their courses (and students starting courses at UK HEIs in August 2012) will also be increased by 2.69% to £2,984 for 2012/13.

Maximum amounts and household income thresholds for loans for living costs, and targeted grants for students with caring responsibilities (adult dependants' grants, childcare grants and parents' learning allowances) will be maintained at 2011/12 levels for full-time students continuing their courses in 2012/13.

Fee and course grants for full-time distance learning and part-time students continuing their courses in 2012/13 will also be maintained at 2011/12 levels, as will DSAs for full-time, full-time distance learning, part-time and postgraduate students continuing their courses in 2012/13.

#### 7.10 To make changes to the Secretary of State's responsibilities to make tuition loan payments to higher education institutions.

For new and continuing full-time students in 2012/13, the Regulations make provision for tuition loan payments to be made in instalments to HEIs. Instalment payments will be made once the Secretary of State has received a request for payment and an HEI has confirmed that the student is attending (or in the case of new distance learning students starting their courses on or after 2012, undertaking) their courses. The Regulations remove the current requirement for the Secretary of State not to pay tuition loans for full-time courses until a period of three months has elapsed from the first day of the academic year.

For new part-time students starting their courses from September 2012 who will be eligible to apply for tuition loans, an HEI will be required to confirm that the student is attending their course two weeks after the start of the academic year. This confirmation will trigger the first instalment payment of tuition loan to the HEI. Subsequent payments of loan for the academic year will not require HEIs to confirm that the student is attending or undertaking a part-time course but the institution must inform the Secretary of State (whose functions are mostly carried out by the Student Loans Company) when a student ceases to attend or undertake their course.

#### 7.11 To allow prisoners to be eligible for tuition loans for part-time study.

Currently prisoners may only receive assistance through the student support package for tuition loans for full-time study at an institution. Prisoners who are undertaking full-time distance learning or part-time courses are not eligible for support through the student support system.

From September 2012, new students who are prisoners may be eligible to apply for tuition loans for all modes of study. A definition of an eligible prisoner has been

added to the Regulations. Eligible prisoners will be those who fulfil the general eligibility criteria for student support, who hold authorisation from the appropriate authority within the institution of detention to study the course, and who are serving a custodial sentence with a release date that falls within 6 years of the first day of the first academic year of the course. Eligible prisoners starting their courses from September 2012 onwards will not be entitled to apply for grants and loans for living costs (including disabled students' allowances).

#### 7.12 To allow overpayments of tuition loan to be recovered from students.

Currently, the Regulations only permit an overpayment of tuition loan to be recovered from HEIs. This provision is extended from 2012/13 to allow the Secretary of State to recover loans from a former student directly where the HEI cannot be involved in the recovery process. The agreed changes will reduce the number of cases where overpayments of tuition loans have to be written off because they cannot be recovered from the HEI or it is not appropriate to recover from them.

#### 7.13 Applying the 25% annual intensity of study criterion to part-time and postgraduate disabled students' allowances.

New rules relating to intensity of study that will apply to new students applying for part-time tuition loans on or after 1<sup>st</sup> September 2012, will also apply to part-time DSAs. New part-time students will be eligible to apply for DSAs if their course can normally be completed in not more than four times that required to complete a full-time equivalent course. In addition, new part-time students will also be required to study at a minimum 25% intensity in each academic year compared with an equivalent full-time course in order to be eligible for DSAs.

The same changes are being made to the Regulations in relation to DSAs for new part-time postgraduate students starting their courses from September 2012.

#### 7.14 Clarifying the conditions for course designation

A new designation condition is being introduced to ensure all designated courses should, on successful completion, lead to a qualification awarded or validated by a body that is recognised to grant UK Degrees (i.e. the body has UK degree awarding powers.)

There will be two exceptions to this. Higher National Diploma or Higher National Certificates which are awarded by BTEC or the Scottish Qualifications Authority and Initial Teacher Training (ITT) Courses which are subject to their own approval processes managed by the Department for Business, Innovation and Skills or the Department for Education.

This condition will apply to all full and part-time undergraduate courses starting on or after 1 September 2012.

### 7.15 Tuition loans for graduate-entry courses in Medicine and Dentistry

Changes are being made to the Regulations to ensure that graduates starting a four year accelerated undergraduate degree course in medicine or three year course in dentistry on or after 1 September 2012 will be able to apply for a tuition loan for each year of their course.

Students starting a course on or after 1 September 2012 will be expected to self-fund the first £3,465 towards their tuition costs in year 1 and will be able to access a tuition loan to cover any remaining amount up to a total maximum tuition charge of £9,000. In years 2 - 4 the Department of Health will contribute £3,465 towards the tuition charge and graduates can apply for a tuition loan to make up the full cost of their tuition as in year one.

This change will mean that this group of students will have to find no more up-front tuition charges than those starting their courses in 2011/12.

### 7.16 Removing References relating to Support for Dance and Drama Courses

A minor change is being made to the Regulations to remove references to the Education (Student Support) (Dance and Drama) Regulations (D&D Regulations). These were introduced in 1998 to provide grants for fees and maintenance and loans for maintenance for eligible students attending specified dance and drama courses for the duration of their course. Dance and drama students starting their courses since 2004 have been eligible to apply for student support under the Student Support Regulations and there are now no longer any students receiving support under the D & D Regulations, which are revoked.

## **8. Consultation outcome**

8.1 There is no statutory requirement to consult on these Regulations.

However, as part of a quality review process in Spring 2011, the draft Regulations were sent to stakeholders in the HE sector such as the National Union of Students (NUS), the National Association of Student Money Advisers (NASMA), Higher Education Institutions (HEIs), the Student Loans Company (SLC) and the Higher Education Funding Council (HEFCE) to check that the Regulations met policy intent.

Extensive stakeholder engagement was carried out with the HE Sector on the introduction of new attendance confirmation procedures for tuition loans from 2012/13. HEFCE were involved in this process from an early stage and delivery partners at the SLC consulted HEIs through one of their stakeholder groups which included the Association of Managers of Student Services in Higher Education (AMOSSHE), the Office for Fair Access (OFFA), UCAS and the British Universities Finance Directors Group (BUFDG). Feedback from this group led to attendance

confirmation procedures being tailored to reflect the more diverse nature of the part-time mode of study (see paragraph 7.10 above).

Changes to the provision of support for prisoners have been decided following discussions with the National Offender Management Service.

## **9. Guidance**

9.1 The Minister of State announced the broad changes to student support in an Oral Statement to Parliament on 3 November 2010. The Secretary of State provided further details on support for part-time study in a Written Statement on 8 December 2010. Since then, students, prospective students, institutions and others have been given detailed information about the 2012/13 student support package through a media campaign and also through information provided on the DirectGov website. Further guidance materials will be produced for those intending to apply for full-time and part-time financial support for 2012/13 and these will be available in both hard copy and electronic formats.

## **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 & 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**

13.1 Mark Williams at the Department for Business, Innovation and Skills Tel: 020 7215 1546 or email: [mark.williams@bis.gsi.gov.uk](mailto:mark.williams@bis.gsi.gov.uk) can answer any queries regarding the instrument.