

**EXPLANATORY MEMORANDUM TO**  
**THE FURTHER AND HIGHER EDUCATION (STUDENT SUPPORT)**  
**(AMENDMENT) REGULATIONS 2014**

**2014 No. 1766**

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 purpose of the instrument is:

- To enable a wider range of suitable qualifications to be eligible for 24+ Advanced Learning Loan funding from 1 August 2014, while simplifying the process for determining which courses are designated for loans funding.
- To amend the Education (Student Support) Regulations 2011 which prescribe the amount of support for tuition and living costs for students taking designated higher education courses.

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

3.1 None.

**4. Legislative Context**

4.1 This instrument amends the Further Education Loans Regulations 2012 (S.I. 2012/1818) (“the 2012 Regulations”). The Further Education Loans Regulations 2012 introduced, for the first time, income-contingent loans for students who are 24 years old or over beginning Further Education courses at Level 3 or above from 1 August 2013. The enhanced amendments will come into force for the 2014/15 academic year.

4.2 This instrument also amends the Education (Student Support) Regulations 2011(S.I. 2011/1986) (“the 2011 Regulations”) (S.I. 2011/ 1986)). It makes an amendment to the 2011 Regulations to clarify that taxable income in the household income assessment and the dependants’ grants income assessment means the total income upon which a person is charged to income tax as determined under HMRC legislation.

4.3 In addition, this instrument amends the 2011 Regulations to make clear that redundancy payments which are not treated as taxable income by HMRC are included as taxable income in the household income assessment and the dependants’ grants income assessment for higher education student support. Both changes will apply to student support arrangements for the 2014/15 academic year.

## **5. Territorial Extent and Application**

5.1 The instrument applies to England only.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 Section 22 of the Teaching and Higher Education Act 1998 enables the Secretary of State to make regulations to provide financial support for students undertaking higher or further education courses. Such financial support is to be provided in accordance with regulations made by the Secretary of State. Paragraphs 7.2 to 7.4 set out the changes to the 2012 Regulations and paragraphs 7.5 and 7.6 set out the changes to the 2011 Regulations made by these amendment regulations:

### *Changes to the 2012 Regulations*

7.2 In 2014/15 Dance and Drama Awards-contracted private institutions will no longer be able to award grant funding to new students aged 24+.

7.3 Dance and Drama Awards recognise the high quality provision that is delivered in the arts sector, which is a substantial contributor to the UK economy. The progression of grant-funded learners into employment is exceptionally high, not least in the arts hub that is London. The qualifications (Trinity College London HVQs) are not eligible for higher education support and could not be funded appropriately through Apprenticeships. Government has prioritised its skills grant spending on younger adults. To maintain access for the exceptional talent seen in older students, and maintain the return to the economy the schools bring, it was recognised that loan funding for those aged 24+ should be made available for these qualifications.

7.4 The institutions demonstrate year-on-year their capability of managing central funding. They are still subject to passing the required Register of Training Organisations checks to receive a loans facility. In addition, the definition of a designated course has been amended so that a simpler process can be followed in determining which courses are designated for loans funding i.e. qualifications approved by the Skills Funding Agency.

### *Changes to the 2011 Regulations*

7.5 Amendment to clarify the definition of taxable income in the financial assessment for student support.

For most students attending full-time courses, the household income assessment for means-tested grants and loans for living and other costs is based on the taxable income of a student's parents.

This instrument amends the definition of taxable income in the Student Support Regulations 2011 to make it explicit that this definition is the same as the definition of ‘total income’ in the Income Tax Act 2007 i.e. the sum of the amounts of income on which the taxpayer is charged to income tax for the relevant tax year. This makes it clear that most deductions and exemptions such as personal allowances and trade losses which are deducted from ‘total income’ by HMRC to calculate liability for income tax for a tax year are not deducted from ‘taxable income’ which is used to calculate household income for student support.

The same change is made to the definition of taxable income which is used to calculate a dependant’s income when determining a student’s entitlement to dependants’ grants (adult dependants’ grant, childcare grant and parents’ learning allowance). This change will apply to student support arrangements for the 2014/15 academic year.

#### 7.6 Technical amendment to include the whole amount of a redundancy payment as taxable income in the financial assessment for student support.

Most deductions and exemptions from taxable income which are taken into account by HMRC for tax purposes are not made when calculating household income for student support purposes. In line with this, the whole amount of a redundancy payment (including the first £30,000 that is not taxed) is taken into account in the household income assessment for student support.

This instrument amends the definition of taxable income in the 2011 Regulations so that it includes the whole amount of a redundancy payment in the financial assessment for student support. The same change is made to the definition of taxable income which is used to calculate a dependant’s income when determining a student’s entitlement to dependants’ grants.

This change will apply to student support arrangements for the 2014/15 academic year on or after the date that these Amendment Regulations come into force.

### **8. Consultation outcome**

8.1 We have not conducted any formal consultation about these further education changes, although Dance and Drama schools have been made aware that they will come within scope of the loans system from August 2014.

8.2 The drafting of the amendments to the higher education student support regulations was reviewed by the Higher Education Funding Council for England (HEFCE) and HMRC to check that the Regulations met policy intent.

### **9. Guidance**

9.1 The Department is working with the Skills Funding Agency to support the relevant institutions acclimatise to 24+ Advanced Learning Loans administration.

9.2 Guidance materials on the household income assessment and dependants' grants income assessment for higher education student support in 2014/15 are available on Student Finance England's student and practitioners websites. These will be updated to reflect these changes.

## **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 There is large capacity within the 24+ Advanced Learning Loans programme to accommodate an expansion of providers. No adverse impact has been identified.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The current consultation on 24+ Advanced Learning Loans includes proposals for higher vocational qualifications to be funded by Loans. We will monitor how these Trinity College London HVQs are being delivered through Loans.

12.2 The Regulations will be kept under review and in particular we will be monitoring the views of stakeholders.

## **13. Contact**

13.1 Paul Wilson at the Department for Business, Innovation and Skills (Tel: 0207 215 5145) can answer any queries regarding further education 24+ Advanced Learning Loans.

13.2 Mark Williams at the Department for Business, Innovation and Skills (Tel: 0207 215 1546) can answer any queries regarding the higher education provisions in this instrument.