

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT FEES, AWARDS AND SUPPORT) (AMENDMENT)
REGULATIONS 2018

2018 No. 137

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Education (Student Support) Regulations 2011 which prescribe the amount of support for tuition, living and other costs for students taking designated higher education courses.

2.2 It also makes amendments to (i) the Education (Postgraduate Master's Degree Loans) Regulations 2016 that provide for the payment and repayment of postgraduate master's degree loans (ii) the Education (Fees and Awards) (England) Regulations 2007 which determine that persons who do not have a specified connection with the UK can be charged higher fees than those who do (iii) the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007 which set out the persons and courses to whom maximum fee caps apply and (iv) the Education (Student Support)(European University Institute) Regulations 2010 which provide support for a small number of students taking designated postgraduate courses at the European University Institute in Florence, Italy.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument amends the Education (Student Support) Regulations 2011 ("the 2011 Regulations" (S.I. 2011/1986)). The 2011 Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998, which provides for the Secretary of State to make regulations to provide financial support for students in Higher Education. Amendments to the 2011 Regulations are made annually by the Secretary of State to provide support to eligible students in connection with their undertaking designated higher education courses.

4.2 This instrument also amends the Education (Postgraduate Master's Degree Loans) Regulations 2016 ("the 2016 PM Regulations" (SI 2016/606)). The 2016 PM

Regulations are also made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998.

- 4.3 This instrument amends the Education (Fees and Awards) (England) Regulations 2007 (“the 2007 FA Regulations” (S.I. 2007/779)). The 2007 FA Regulations are made under sections 1 and 2 of the Education (Fees and Awards) Act 1983 and determine that persons who do not have a specified connection with the UK can be charged higher tuition fees than those who do.
- 4.4 This instrument amends the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007 (“the 2007 QCP Regulations” (S.I. 2007/778)). The 2007 QCP Regulations are made under sections 24(6) and 47 of the Higher Education Act 2004 (“the HE Act 2004”), and set out the persons and courses that the fee controls in sections 24 of the HE Act 2004 apply to.
- 4.5 This instrument also amends the Education (Student Support)(European University Institute) Regulations 2010 (“the 2010 EUI Regulations” (S.I. 2010/447)). The 2010 EUI Regulations are made under sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998 and set out the financial support available for students taking designated postgraduate courses at the European University Institute in Florence, Italy.
- 4.6 This instrument introduces an updated Schedule of private institutions with a Teaching Excellence and Student Outcomes Framework (TEF) award for the 2018/19 academic year. It also introduces a revised living costs support package for new and continuing students in respect of an academic year beginning on or after 1 August 2018. It increases the maximum loan for living costs and long courses loan for new and continuing full-time students attending their courses in 2018/19. It also increases maximum maintenance grants and special support grants in 2018/19 for full-time students who started attending their courses before 1 August 2016.
- 4.7 This instrument increases maximum grants in 2018/19 for new and continuing full-time students with dependants and maximum disabled students’ allowance for new and continuing full-time, part-time and postgraduate students with disabilities in 2018/19. This instrument also increases maximum fee grants and course grants in 2018/19 for part-time students who started their courses before 1 September 2012.
- 4.8 This instrument increases maximum loans in 2018/19 for students starting postgraduate master’s courses from 1 August 2018. This instrument also contains provisions relating to the eligibility for student support of stateless persons and to student support for members of the UK armed forces serving in Scotland, Wales and Northern Ireland and their families undertaking distance learning courses.
- 4.9 This instrument removes obsolete provisions relating to support for students undertaking full-time distance learning courses starting before 1 September 2012. It also makes technical amendments to the 2011 Regulations which allow support for students who have been incorrectly assessed for support by the Student Loans Company (SLC) and to the 2016 PM Regulations in relation to the eligibility for student support of students who have been granted humanitarian protection.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

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

Introducing a revised Schedule of Private Institutions with a Teaching Excellence and Student Outcomes Framework (TEF) Award for 2018/19

- 7.1 The Government has introduced the Teaching Excellence and Student Outcomes Framework (TEF) to provide clear information to students about where the best provision can be found and to drive up the standard of teaching in higher education institutions. The list of institutions with a TEF award for 2018/19 (Year Two) was published on the Higher Education Funding Council for England's website on 22 June 2017. This instrument amends the 2011 Regulations by updating the Schedule of private institutions with a TEF award for 2018/19. Students undertaking full-time or part-time courses at private institutions with a TEF award can apply for a higher fee loan than students undertaking full-time or part-time courses at private institutions without a TEF award. However maximum fee loans remain unchanged for the 2018/19 academic year as compared to 2017/18.

Changes to living costs support for 2016 cohort full-time students in 2018/19

- 7.2 The maximum loan for living costs for new full-time students and continuing full-time students who started their courses on or after 1 August 2016, '2016 cohort students', will be increased by forecast inflation (3.2%) in 2018/19.
- 7.3 This instrument amends the 2011 Regulations so that the maximum loan for living costs for most 2016 cohort students living away from home and studying outside London will be £8,700 in 2018/19; for students living away from home and studying in London, £11,354; for students living in the parental home, £7,324 and for students studying overseas as part of a UK course, £9,963.
- 7.4 Different rates of loan for living costs apply to full-time students eligible for benefits. This instrument amends the 2011 Regulations so that the maximum loan for living costs for 2016 cohort students who are eligible for benefits and are living away from home and studying outside London will be £9,916 in 2018/19; for students living away from home and studying in London, £12,382; for students living in the parental home, £8,640 and for students studying overseas as part of a UK course, £11,090.
- 7.5 2016 cohort students aged 60 or over on the first day of the first academic year of their course qualify for a separate rate of loan for living costs. This instrument amends the 2011 Regulations so that the maximum loan for living costs for 2016 cohort students aged 60 or over on the first day of the first academic year of their course will be £3,680 in 2018/19.

Changes to living costs support for 2009 and 2012 cohort full-time students in 2018/19

- 7.6 The maximum loan for living costs for full-time students who entered higher education on or after 1 September 2012 but before 1 August 2016, '2012 cohort students', will be increased by forecast inflation (3.2%) in 2018/19.
- 7.7 This instrument amends the 2011 Regulations so that the maximum loan for living costs for 2012 cohort students living away from home and studying outside London

will be £6,236 in 2018/19; for students living away from home and studying in London, £8,702; for students living in the parental home, £4,960 and for students studying overseas as part of a UK course, £7,410.

- 7.8 2012 cohort students on lower incomes qualify for an income assessed maintenance grant, or for 2012 cohort students who are eligible for benefits, an income assessed special support grant. This instrument amends the 2011 Regulations so that the maximum maintenance grant and special support grant for 2012 cohort students will be increased by forecast inflation (3.2%) to £3,593 in 2018/19.
- 7.9 The maximum loan for living costs for eligible full-time students who entered higher education on or after 1 September 2009 but before 1 September 2012, '2009 cohort students', will be increased by forecast inflation (3.2%) in 2018/19.
- 7.10 This instrument amends the 2011 Regulations so that the maximum loan for living costs for 2009 cohort students living away from home and studying outside London will be £5,614 in 2018/19; for students living away from home and studying in London, £7,855; for students living in the parental home £4,352 and for students studying overseas as part of a UK course, £6,682.
- 7.11 2009 cohort students on lower incomes qualify for an income assessed maintenance grant, or for 2009 cohort students who are eligible for benefits, an income assessed special support grant. This instrument amends the 2011 Regulations so that the maximum maintenance grant and special support grant for 2009 cohort students will be increased by forecast inflation (3.2%) to £3,299 in 2018/19.

Changes to elements of the living costs support package for new and continuing full-time students in 2018/19

- 7.12 Full-time students attending courses that are longer than 30 weeks and three days in length during the academic year qualify for an income assessed long courses loan for each week or part week above 30 weeks and 3 days. Students attending their courses for 45 weeks or more in the academic year qualify for the same amount of long courses loan as students attending for 52 weeks.
- 7.13 This instrument amends the 2011 Regulations to increase the maximum long courses loan by forecast inflation (3.2%) for new and continuing students in 2018/19. For students living away from home and studying outside London, the maximum long courses loan will be £93 a week; for students living away from home and studying in London, £120 a week; for students living in the parental home £61 a week and for students studying overseas as part of a UK course, £129 a week.
- 7.14 Full-time students undertaking a work placement year of a sandwich course do not qualify for the full living costs support package unless they are undertaking an unpaid placement in the public sector, as defined in the 2011 Regulations. Instead, most students undertaking work placement years qualify for a reduced rate, non-income assessed loan for living costs.
- 7.15 This instrument amends the 2011 Regulations to increase the maximum reduced rate loan for living costs for full-time students undertaking a work placement year by forecast inflation (3.2%) in 2018/19. For students living away from home and studying outside London, the maximum reduced rate of loan for living costs will be £2,635, for students living away from home and studying in London, £3,700 and for students living in the parental home, £1,976. Students studying overseas as part of a

UK course, qualify for the reduced rate of loan that applies to students living away from home and studying outside London.

- 7.16 These changes aim to maintain the real value of grants and loans for living costs for new and continuing full-time students in the 2018/19 academic year.

Changes to grants for full-time students with dependants in 2018/19

- 7.17 Full-time undergraduate students with adult or child dependants qualify for income assessed dependants' grants. This instrument amends the 2011 Regulations to increase maximum dependants' grants by forecast inflation (3.2%) in 2018/19.
- 7.18 The maximum adult dependants' grant will be £2,925 and the maximum parents' learning allowance, £1,669 in 2018/19. The amount of childcare grant payable in 2018/19 will be based on 85% of actual childcare costs, subject to maximum grants of £164.70 a week for one child only or £282.36 a week for two or more children.

Changes to grants for full-time part-time and postgraduate students with disabilities in 2018/19

- 7.19 Full-time and part-time undergraduate and postgraduate students with disabilities who are obliged to incur essential additional expenditure while undertaking a course of higher education as a result of their disability qualify for disabled students' allowances (DSAs) which are non-income assessed grants. Different rates of DSAs apply for full-time, part-time and postgraduate students. This instrument amends the 2011 Regulations to increase maximum DSAs by forecast inflation (3.2%) in 2018/19.
- 7.20 Maximum DSAs for full-time students in 2018/19 will be £21,987 for a non-medical helper, £5,529 for major items of specialist equipment (for all academic years of a course) and £1,847 for other disability related expenditure. Maximum DSAs for part-time students in 2018/19 will be £16,489 for a non-medical helper, £5,529 for major items of specialist equipment (for all academic years of a course) and £1,385 for other disability related expenditure. The single maximum DSA for postgraduate students in 2018/19 will be £10,993.

Changes to grants for part-time students who started their courses before 1 September 2012

- 7.21 Part-time undergraduate students who started their courses before 1 September 2012, qualify for income assessed fee grants and course grants. Different rates of fee grant apply depending on the intensity of study when compared to a full-time course. This instrument amends the 2011 Regulations to increase maximum fee grants and course grants by forecast inflation (3.2%) in 2018/19.
- 7.22 Maximum fee grants in 2018/19 for part-time students who started their courses before 1 September 2012 will be £907, £1,086 or £1,363 depending on their intensity of study. The maximum course grant in 2018/19 will be £297.

Changes to loans for students starting postgraduate master's degrees in 2018/19

- 7.23 The maximum loan for students starting postgraduate master's degrees on or after 1 August 2018 will be increased by forecast inflation (3.2%) in 2018/19. This instrument amends the 2016 PM Regulations to increase the maximum postgraduate master's loan to £10,609.

Support for students who are members of the UK Armed Forces serving in Northern Ireland, Wales or Scotland or family members living with them who wish to undertake a full-time or part-time distance learning course

- 7.24 The 2011 Regulations were amended for 2017/18 to allow, for the first time, students who are members of the UK Armed Forces serving overseas or family members living with these armed forces personnel to qualify for fee loans and, where applicable, DSAs for their full-time or part-time distance learning course. The 2016 PM Regulations were also amended for 2017/18 to allow, for the first time, students who are members of the UK Armed Forces serving overseas or family members living with these armed forces personnel to qualify for postgraduate master's loans for their full-time or part-time distance learning course.
- 7.25 These changes, which were agreed with the Ministry of Defence, were consistent with the underlying principle of the Armed Forces Covenant that serving members of the armed forces and their families, veterans and bereaved families, should face no disadvantage compared to other citizens in the provision of public and commercial services.
- 7.26 In line with the Armed Forces Covenant, this instrument further amends the 2011 Regulations for 2018/19 to allow students who are members of the UK armed forces serving in Northern Ireland, Scotland or Wales or family members living with these armed forces personnel to qualify for fee loans and, where applicable, DSAs for their full-time or part-time distance learning course. It also amends the 2016 PM Regulations to allow students who are members of the UK armed forces serving in Northern Ireland, Scotland or Wales or family members living with these armed forces personnel to qualify for postgraduate master's loans for their full-time or part-time distance learning course.
- 7.27 These changes will apply to students starting or continuing full-time or part-time distance learning courses in the 2018/19 academic year from 1 August 2018 onwards.

Introducing a new eligibility category in Regulations for stateless persons and their families

- 7.28 A new stateless persons category is being added to Regulations for the 2018/19 academic year so that those recognised by the Home Office as stateless persons, and their families, qualify for support and are subject to home fee status.
- 7.29 This instrument amends the 2011 Regulations to allow those who have a current grant of stateless leave, and their families who are starting courses in the 2018/19 academic year to qualify for the first time for loans for fees and living costs and grants for living and other costs where applicable. It also amends the 2016 PM Regulations to allow stateless persons and their families to qualify for postgraduate master's loans. This instrument amends the 2010 EUI Regulations to allow this group of students undertaking full-time postgraduate courses at the European University Institute to qualify for grants for living and other costs and supplementary grants.
- 7.30 This instrument amends the 2007 FA Regulations so that stateless persons and their families qualify for home fee status. It also amends the 2007 QCP Regulations so that stateless persons and their families are 'qualifying persons' for the purposes of tuition fee caps.

- 7.31 The stateless persons category changes set out above will apply to new students starting courses designated for support in the 2018/19 academic year from 1 August 2018 onwards.

Removing an obsolete category of course from Regulations

- 7.32 Students whose full-time distance learning courses started before 1 September 2012 ('designated distance learning courses') do not qualify for full-time fee loans and grants and loans for living and other costs. They instead qualify for fee grants, course grants and where applicable, full-time disabled students' allowances.
- 7.33 This instrument amends the 2011 Regulations to remove all references to this category of course as there are no students remaining who are undertaking these types of designated distance learning courses. This change will apply from the date this instrument come into force.

Support for certain students who are undertaking a course that is equivalent or lower in level than a previous qualification

- 7.34 Most students who hold a higher education qualification are currently not entitled to apply for fee loans for a second course if that course leads to a qualification that is equivalent or lower in level (ELQ) than their first qualification. ELQ rules also apply for loans for living and other costs.
- 7.35 In certain circumstances, payments of loans for living costs and fee loans can continue to be made to eligible students who would otherwise not be entitled to support under ELQ rules. The policy intent is for support to be provided for the academic year in which the error was discovered and any previous years of the course where the student had received student support. The policy also enables in exceptional circumstances a student to qualify for fee and living costs support for future years of the course. The circumstances where payments would be allowed are where the Student Loans Company (SLC) are solely responsible for errors made in applying ELQ rules when assessing a student for support.
- 7.36 This instrument makes a technical amendment to the 2011 Regulations to ensure that these Regulations fully meet the policy intent. This change will apply from the date this instrument come into force.

Humanitarian protection eligibility category in Regulations

- 7.37 The 2016 PM Regulations current stipulate that persons granted humanitarian protection and their family members must be ordinarily resident in the United Kingdom on the first day of the first academic year of the course to be eligible for student support. However, in line with other eligibility categories, persons granted humanitarian protection should be ordinarily resident in England on the first day of the first academic year of their course to be eligible for the student support package available in England.
- 7.38 This instrument makes a technical amendment to the 2016 PM Regulations from the date that this instrument comes into force to clarify that persons granted humanitarian protection and their family members must be ordinarily resident in England on the first day of the first academic year of their course to be eligible for student support. Those ordinarily resident in Scotland, Wales or Northern Ireland, fall under the student support regimes of the relevant Devolved Administration.

Consolidation

- 7.39 The Department is currently considering the feasibility of consolidating the relevant legislation for the academic year starting in August 2019.

8. Consultation outcome

- 8.1 There is no statutory requirement to consult on these amendment regulations. However, as part of a quality review process in Autumn 2017, the draft amendment regulations were sent to stakeholders in the Higher Education sector such as the Student Loans Company (SLC) and the Higher Education Funding Council for England (HEFCE) to check that the amendment regulations met policy intent.
- 8.2 An Equality Analysis (EA)¹ covering changes to student support for 2018/19 is being published on the .GOV.UK website in February 2018 after these regulations have been laid.

9. Guidance

- 9.1 Minister Jo Johnson announced proposed changes to student support for the 2018/19 academic year in a Written Ministerial Statement to Parliament on 6 December 2017.
- 9.2 Students, universities, colleges and others will be given information on changes to student support for 2018/19 on .GOV.UK and Student Finance England's practitioners' website. Guidance materials are also being produced by Student Finance England for students intending to apply for full-time and part-time financial support for 2018/19 and these will be available in both hard copy and electronic formats.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is minimal.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The 2011 Regulations, the 2007 FA Regulations, the 2007 QCP Regulations, the 2010 EUI Regulations and the 2016 PM Regulations will be kept under review and we will 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 Education telephone: 07391 018340 or email: mark.williams@education.gov.uk can answer any queries regarding the instrument.

¹ A hard copy of this EA is available from Linda Brennan at the Department for Education: Tel: 07391 018296 Email: Linda.Brennan@education.gov.uk