

EXPLANATORY MEMORANDUM TO

THE EDUCATION (STUDENT SUPPORT) (AMENDMENT) (NO. 2) REGULATIONS 2018

2018 No. 443

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 (S.I. 2011/1986) (“the Student Support Regulations”) to ensure that eligible students may receive support in connection with certain postgraduate pre-registration courses and undergraduate pre-registration courses in dental profession subjects.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Education (Student Support) (Amendment) Regulations 2018 (S.I. 2018/136) were made on 5 February 2018 and laid before Parliament on 6 February 2018. The Regulations came into force on 27 February 2018. The instrument was subject to the negative resolution procedure and subject to annulment in pursuance of a resolution of either House of Parliament if prayed against within 40 days after laying. The 40 day praying period for this instrument expired on 28 March 2018.
- 3.2 A prayer motion to annul the Regulations was tabled by the Opposition in the House of Commons on 8 February 2018. Notice for a regret motion tabled by the Opposition in the House of Lords was made on 27 February 2018.
- 3.3 It is a matter of Parliamentary convention that where a reasonable request for a debate has been made, time should be allowed for debate. It was not possible for the Government to accommodate time within the instrument’s praying period. On 26 March 2018, during a Point of Order, the Speaker indicated that “it is possible for the Government to withdraw a particular statutory instrument while wishing to preserve the intention to give effect to the policy contained therein, and to table another statutory instrument” (HC Deb (2018) 638, c548).
- 3.4 The Education (Student Support) (Revocation, Amendment And Saving Provision) Regulations 2018 (S.I. 2018/434) were made and laid on 27 March and came into force on 28 March as part of arrangements made to give effect to the request from the Official Opposition for a debate in Government time. Those regulations revoked S.I. 2018/136, subject to a saving provision which ensured that students whose applications for the relevant loans had already been submitted and received were unaffected by the revocation.
- 3.5 Following the revocation, this instrument will reinstate, with near-immediate effect, the original policy intention of S.I. 2018/136. Laying this instrument in this way will re-start the 40 day praying period to enable a debate, if requested, to be facilitated on the changes to the loan system as they originally appeared in S.I. 2018/136. This

instrument therefore comes into force less than 21 days after it is laid because we wish to preserve the continuity of the policy intent and the offer to students, as originally given effect by the S.I. 2018/136.

Other matters of interest to the House of Commons

- 3.6 This entire instrument applies only to England.
- 3.7 The instrument applies only to England because it applies only to the provision of student support for higher education students domiciled in England. The instrument does not have minor or consequential effects outside England.
- 3.8 In the view of the Department, for the purposes of House of Commons Standing Order No.83P the subject-matter of this instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament and the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.
- 3.9 The Department has reached this view because it considers that the primary purpose of the instrument relates to education which is within the devolved legislative competence of each of the three devolved legislatures: the primary purpose of the subject matter of the instrument is not within Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act); the primary purpose of the subject matter of the instrument is not within Schedules 2 or 3 to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of the Act); the primary purpose of the subject matter of the instrument is within paragraph 5 of Schedule 7 to the Government of Wales Act 2006 and is not within one of the exceptions listed therein nor is it otherwise outside the legislative competence of the National Assembly for Wales (see section 108 of that Act).

4. Legislative Context

- 4.1 This instrument amends the Education (Student Support) Regulations 2011 (the “Student Support Regulations”). The Student Support Regulations are made under section 22 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 Student Support 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 contains provisions relating to student support for eligible students starting postgraduate pre-registration courses in nursing, midwifery, and the allied health professions from 1 August 2018 onwards, and eligible students starting undergraduate pre-registration courses in dental profession subjects from 1 August 2018 onwards.

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 set out in Section 3 under “Other matters of interest to the House of Commons”.

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

What is being done and why

7.1 We are making this instrument as part of arrangements made by the Government to give effect to the request from the Official Opposition for a debate in Government time. By laying this Instrument on 28 March, it reinstates with near-immediate effect, the original policy intention of S.I. 2018/136 and re-starts the 40 day praying period to enable a debate, if requested, to be facilitated on the changes to the loan system as they originally appeared in S.I. 2018/136.

Changes to support for students undertaking postgraduate pre-registration courses in nursing, midwifery, and the allied health professions, and undergraduate pre-registration courses in dental profession subjects

7.2 The Department of Health and Social Care (DHSC) changed the funding system and financial support offered to eligible undergraduate students in starting pre-registration courses in nursing, nursing and social work, midwifery, operating department practice and the allied health professions from 1 August 2017 onwards. These students are now funded through the standard student support system administered by the Student Loans Company rather than through the NHS Bursary scheme. They typically receive around a 25% increase in the financial resource they receive whilst studying than under the former NHS bursary system.

7.3 This instrument makes a corresponding change for eligible students starting (i) full-time postgraduate pre-registration courses in nursing, midwifery, and the allied health professions; and (ii) full-time and part-time undergraduate pre-registration courses in dental hygiene, dental therapy or dental hygiene and dental therapy (“dental profession subjects”) from the 2018/19 academic year from 1 August 2018 onwards. Eligible students will be funded through the standard student support system administered by the Student Loans Company rather than through the NHS Bursary scheme.

7.4 This instrument amends the Student Support Regulations so that eligible full-time students starting postgraduate pre-registration courses in nursing, midwifery, and the allied health professions from 1 August 2018 onwards will qualify for the same fee loan and living costs support as undergraduate students starting full-time higher education courses in 2018/19.

7.5 This instrument also amends the Student Support Regulations so that eligible full-time students starting undergraduate pre-registration courses in dental profession subjects from 1 August 2018 onwards will qualify for the same fee loan and living costs support as other undergraduate students starting higher education courses in 2018/19.

7.6 Eligible part-time students starting undergraduate pre-registration courses in dental profession subjects from 1 August 2018 will qualify for the same fee loan as other undergraduate students starting part-time courses in 2018/19. It is intended that this

group of students will also qualify for part-time loans for living costs when these are introduced through a separate instrument later in 2018. Some dental profession students will remain on bursaries where their courses are not designated for student support.

- 7.7 This instrument amends the Student Support Regulations so that students already holding an equivalent or higher level qualification who want to start a postgraduate pre-registration course in nursing, midwifery and the allied health professions on a full-time basis from 1 August 2018 onwards will be able to apply for a fee loan and living costs support. Students who are obliged to incur essential additional expenditure while undertaking a course of higher education as a result of a disability will qualify for disabled students' allowances.
- 7.8 This instrument also amends the Student Support Regulations so that students already holding an equivalent or higher level qualification who want to start a diploma, foundation degree, ordinary degree or honours degree in a dental profession subject on a full-time or part-time basis from 1 August 2018 onwards, will be able to apply for a fee loan and, for a full-time course, living costs support. Students who are obliged to incur essential additional expenditure while undertaking a course of higher education as a result of a disability will qualify for disabled students' allowances.
- 7.9 Students who are already registered¹ in nursing, midwifery, or an allied health profession will not be eligible for support for a second full-time or part-time pre-registration course or a second full-time postgraduate pre-registration course leading to registration in the same profession. Students who are registered in operating department practice or a dental profession subject will not be eligible for support for a second full-time or part-time pre-registration course leading to registration in the same profession.
- 7.10 This instrument amends the Student Support Regulations so that students who have received tuition fee loans, grants and loans for living and other costs under the Student Support Regulations for any postgraduate pre-registration course starting on or after 1 August 2018 will not be eligible for further tuition fee loans and living costs support for a second full-time postgraduate pre-registration course if they have received a qualification. However, this category of students will qualify for postgraduate disabled students' allowances for their second postgraduate pre-registration course if they are obliged to incur essential additional expenditure while undertaking a course of higher education as a result of a disability.
- 7.11 These changes will apply to eligible new students starting courses in the 2018/19 academic year from 1 August 2018 onwards.

Consolidation

- 7.12 The Department for Education is currently considering the feasibility of consolidating the relevant legislation.

8. Consultation outcome

- 8.1 There is no statutory requirement to consult on these amendment regulations, however we spoke to the Department of Health and Social Care and the Student Loans

¹ Individuals who wish to access the Registers can do so at the following addresses: Health and Care Professions Council (HCPC): Park House, 184 Kennington Park Road, London, SE11 4BU Tel: 0300 500 6184; General Dental Council (GDC): 37 Wimpole Street, London, W1G 8DQ Tel: 020 7167 6000; Nursing and Midwifery Council (NMC): 23 Portland Place, London, W8 1PZ Tel: 020 7333 9333.

Company (SLC) to understand the impact and feasibility of laying S.I. 2018/434 which revoked S.I. 2018/136 and laying this instrument in its place. The SLC agreed to this approach and confirmed there will be negligible impact, as explained in further detail in the Impact section below.

- 8.2 Ahead of laying the Education (Student Support) (Amendment) Regulations 2018 (S.I. 2018/136) (the policy intent of those regulations is reinstated with near-immediate effect, in this instrument), the Department of Health and Social Care (DHSC) published a consultation on their website in April 2016: ‘Reforming healthcare education funding: creating a sustainable future workforce’ on how the proposed reforms on funding and financial support for nursing, nursing and social work, midwifery and allied health professionals could be successfully implemented in England. This explained that while there would be a delay in moving postgraduate pre-registration courses in nursing, midwifery, and the allied health professions, and undergraduate pre-registration dental profession courses onto the standard student support system, this was a transitional measure taken for one year only.
- 8.3 As part of a quality review process of the Education (Student Support) (Amendment) Regulations 2018 (S.I. 2018/136) 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.
- 8.4 An Equality Analysis (EA) covering changes to student support for 2018/19 was published on the .GOV.UK website² and remains applicable. The DHSC has also published a revised EA for the Education (Student Support) (Amendment) Regulations 2018 (S.I. 2018/136) and this too remains applicable³.

9. Guidance

- 9.1 Students, universities, colleges and others have been given information on changes to student support for 2018/19 on .GOV.UK, Student Finance England’s practitioners’ website and the NHS Business Service Authority’s website. Guidance materials have also been 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.
- 9.2 The Student Loans Company will continue to provide information to any individual applicants for student support who make enquiries directly in light of the Education (Student Support) (Revocation, Amendment And Saving Provision) Regulations 2018 (S.I. 2018/434) laid on 27 March and this Statutory Instrument being laid on 28 March.

10. Impact

- 10.1 The impact of laying S.I. 2018/434 was considered to impact about 100 students who had already applied for the standard student loan package from the Student Loans

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/680707/Equality_Analysis_Higher_Education_Student_Finance_for_the_2018_to_2019_Academic_Year_.pdf

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/680681/Equality_Analysis_healthcare_education_funding.pdf A hard copy of this EA is available from Claire Young at NHS Workforce – Education, Modernisation and Funding: Tel: 0113 254 6624 Email: Claire.Young@dh.gsi.gov.uk

Company, and the estimated fewer than five students who may have applied between midnight of 27 March and midnight 28 March when this instrument comes into force. We have ensured that all eligible students are able to apply for the standard student loan package under either S.I 2018/136 or this instrument.

- 10.2 The impact on business, charities or voluntary bodies is as follows: for eligible students starting (i) postgraduate pre-registration courses in nursing, midwifery and the allied health professions or (ii) undergraduate pre-registration courses in dental profession subjects in 2018/19, replacing NHS bursaries with the standard student finance arrangements may increase funding to Higher Education providers as tuition fee payments and teaching grant funding will, on average, be higher under the new system.
- 10.3 The impact on the public sector is minimal.
- 10.4 An Impact Assessment has not been prepared for this instrument. However, an Impact Assessment on changes to support for students undertaking nursing, nursing and social work, midwifery, allied health profession and operating department practice courses was published by DHSC in July 2016 and can be found on .GOV.UK.⁴

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 Student Support Regulations will be kept under review and we will be monitoring the number of students who receive student support. This information is published in the Student Loans Company's Statistical First Releases.
- 12.2 The Department of Health and Social Care is working with relevant bodies across the health and education sectors to monitor the effects of the broader healthcare funding reforms and, as part of this, plans to publish an update, in autumn 2018, following the closure of the 2017/18 application cycle.
- 12.3 Furthermore, the Office for Students is funding a programme of strategic interventions in a number of health education disciplines. This aims to increase awareness from students, increase demand, diversify delivery and develop a better understanding of the mature student market.

13. Contact

- 13.1 Kate Svedang at the Department for Education, telephone: 07391 018341 or email: kate.svedang@education.gov.uk can answer any queries regarding the instrument.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/552197/NHS_Bursary_EIA.pdf