

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT SUPPORT) (AMENDMENT) (No. 3) REGULATIONS
2018

2018 No. 472

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the Education (Student Support) Regulations 2011. The amendments introduce loans for living costs for students undertaking designated part-time courses of higher education on or after 1 August 2018.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument corrects an error in the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447). This error in S.I. 2010/447 (made by S.I.2018/137) was brought to the Department's attention by the JCSI¹.
- 3.2 In accordance with SIP paragraph 3.4.13, the Department has discussed whether to use the free issue procedure with the SI Registrar. The SI Registrar is content that the free issue procedure is not applied in this instance given the nature of the correcting provisions and the proportion that they represent of the whole instrument.

Other matters of interest to the House of Commons

- 3.3 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 (S.I. 2011/1986) ("the 2011 Regulations"). 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. 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 Part 11 of the 2011 Regulations enables eligible part-time students undertaking designated part-time courses to receive financial support by way of fee loans, grants or allowances. These Regulations amend the 2011 Regulations so that eligible part-time

¹ <https://publications.parliament.uk/pa/jt201719/jtselect/jtstatin/89/89.pdf>

students who begin designated part-time courses on or after 1st August 2018 may also receive loans for living costs.

- 4.3 Regulations 2 to 5 and 7 to 15 of these Regulations amend Part 11 of the 2011 Regulations. Part 11 now contains provisions dealing with the eligibility of part-time students for fee support, grants, allowances (all of which are existing student finance products) and the new living costs loans. “Designated part-time courses”, described in regulation 139, are given a more restricted meaning in relation to loans for living costs, to deliver the policy intent of making these loans available in respect of courses at degree level (with some exceptions).
- 4.4 Regulations 139A to 139D replace, with a few modifications, regulations 151 and 152 of the 2011 Regulations which govern a student’s eligibility where that student transfers between part-time courses or converts from part-time to full time, or vice versa. The modifications support the policy intent by ensuring that the loan for living cost is pro-rated when a student converts their status during a term, and by enabling students to apply for the loan for living costs that they may have been eligible for prior to their switching from full to part-time or vice versa.
- 4.5 Regulations 16 to 23 creates a new Part 11A in the 2011 Regulations. New Part 11A retains existing provisions in respect of fee support, grants and allowances in connection with designated part-time courses. The new structure accommodates the broader changes made to support in connection with part-time courses.
- 4.6 Regulation 24 inserts a new Part 11B into the 2011 Regulations. Part 11B makes provision governing the loan for living costs in connection with part-time courses. It largely mirrors Part 6 of the 2011 Regulations which makes provision for loans for living costs in respect of full-time courses.
- 4.7 Chapter 1 of Part 11B makes provision in respect of qualifying and applying for the loan for living costs (see regulation 157B and 157C). Regulation 157D requires academic authorities to provide a declaration containing information about the student’s intensity of study. Regulation 157E requires students to provide information to the Secretary of State as set out in Schedule 3 to the 2011 Regulations.
- 4.8 Chapter 2 of Part 11B sets out the maximum amount of loan for living costs which students with full or reduced entitlement may receive, and how the living costs loan is made up of maintenance and/or a special support element. Regulation 157I introduces a new Schedule 6 into the 2011 Regulations, which sets out how a part-time student’s household income is to be calculated. Chapter 4 specifies how to calculate the minimum amount of loan for living costs which may be available for a student with full entitlement.
- 4.9 Chapter 3 of Part 11B makes provision for a range of miscellaneous aspects the loan for living costs, including where a student may apply to borrow additional amounts.
- 4.10 Chapter 4 makes provision in respect of the payment of loans for living costs to eligible part-time students. This allows the Secretary of State: to request a national insurance number before any loan under Part 11B is paid; to request information which the Secretary of State considers is required to recover a loan for living costs; and to require eligible part-time students to enter into agreements to repay loans for living costs by a particular method. It also provides for how payments are to be made to eligible part-time students and how any overpayments in respect of such loans may be recovered.

- 4.11 Regulation 27 of these Regulations amends the Education (Student Support) (European University Institute) Regulations 2010 to rectify a minor error.

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

What is being done and why

Introduction of the new part-time loan for living costs product.

- 7.1 The numbers of students participating in part-time higher education have been in steady decline since 2008. There are a number of contributory reasons for this decline in numbers, as a range of pressures have come together to disincentivise students from participating in part-time higher education study. Government research suggests that individuals see access to finance as a barrier to part-time undergraduate study². The introduction of the part-time loan for living costs is designed to arrest the decline in part time study, realise the economic benefits from increased numbers of graduates, and help these graduates enter the workforce more quickly.
- 7.2 This instrument matches the standard full-time maximum loan amounts for 2016 cohort students. In 2018/19, students will be eligible for up to £8,700 if they are living away from home and studying outside London; £11,354 if they are living away from home and studying in London; £7,324 if they are living in the parental home; and £9,963 if they are studying overseas as part of their course.
- 7.3 The loan will be available to eligible students, aged 19 or under on the first day of the first academic year of their course. The loan is income assessed and then adjusted by intensity of study. Intensity of study is worked out by comparing the number of credits etc. completed by the part-time student in an academic year, against the normal full-time equivalent. Intensity of study is adjusted into 7 bands with corresponding loan entitlement adjustments, with the maximum being 100% of the full-time maximum entitlement amount.

Consolidation

- 7.4 The Department is currently considering the feasibility of consolidating the relevant legislation for future academic years.

8. Consultation outcome

- 8.1 There is no statutory requirement to consult on these amendment regulations. However, a public consultation was carried out to gather views on the final policy

² Perceptions of Part-time Higher Education (BIS/Yougov) – September 2015

specification of the new loan product. The consultation ran from the 4th of November to the 16th of December 2016³.

- 8.2 An Equality Analysis (EA) covering the introduction of the loan living costs for 2018/19 was published on the .GOV.UK website on March 2017, following consultation⁴.

9. Guidance

- 9.1 The Minister announced proposed changes to student support for the 2018/19 academic year in a Written Ministerial Statement to Parliament on 06 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 student and practitioners' websites. Guidance materials are also being produced by Student Finance England for students intending to apply for 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 There is no impact on the public sector.
- 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 will be kept under review and the number of students who receive loans will be monitored. This information is published in the Student Loans Company's Statistical First Releases.
- 12.2 In the government response to the consultation, the government stated it's intention to review this product within 5 years.

13. Contact

- 13.1 Miles Simpson at the Department for Education Telephone: 07388 372579 or email: miles.simpson@education.gov.uk can answer any queries regarding the instrument.

³ <https://www.gov.uk/government/consultations/part-time-undergraduate-maintenance-loan>

⁴ <https://www.gov.uk/government/publications/part-time-maintenance-loans-policy-equality-analysis>