

## **Executive Note**

### **The Education (Means Testing) (Scotland) Amendment Regulations 2008 SSI/2008/206**

#### **Background**

1. The above Regulations are made in exercise of the powers conferred by sections 73(f) and 74(1) of the Education (Scotland) Act 1980.
2. These Regulations amend the Students' Allowances (Scotland) Regulations 2007 ("the Students' Allowances Regulations"), the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 ("the Nursing Allowances Regulations") and the Education (Student Loans) (Scotland) Regulations 2007 ("the Student Loans Regulations").
3. This instrument is subject to the negative resolution procedure.

#### **Background**

4. The Students' Allowances Regulations and the Nursing Allowances Regulations allow the Scottish Ministers to pay allowances to students studying courses and the Student Loans Regulations allow the Scottish Ministers to make loans to students in higher education to assist with the living costs of such students. The awards of allowances and loans by the Scottish Ministers are "means tested". This means that in making an award of an allowance or a loan to a student, the Scottish Ministers are to take account the amount that the student and associated persons can reasonably be expected contribute towards the student's living expenses. Currently, under the Students' Allowances Regulations and the Student Loans Regulations, the associated persons whose contributions can be taken into account are restricted to the student's parents and the student's spouse or civil partner while under the Nursing Allowances Regulations the associated persons are restricted to the student's spouse or civil partner.

#### **Purpose**

5. The purpose of this instrument is to amend the means test assessments contained in the Students' Allowances Regulations, the Nursing Allowances Regulations and the Student Loans Regulations so that (1) in determining the amount of an allowance under the Students' Allowances Regulations, the Scottish Ministers can also take into account the sums which a person ordinarily living with the student or the student's parent as a spouse or civil partner can reasonably be expected to contribute towards the student's expenses; (2) in the determination of the amount of a nursing or midwifery allowance under the Nursing Allowances Regulations, the Scottish Ministers can also take into account the sums which a person ordinarily living with the student as a spouse or civil partner can reasonably be expected to contribute towards the student's expenses; and (3) in the determination of the amount of a student loan under the Student Loans Regulations, the Scottish Ministers can also take into account the sums which a person ordinarily living with the student or the student's parent as a spouse or civil partner can reasonably be expected to contribute towards the student's expenses.

## **Policy rationale**

6. The Scottish Ministers aim to introduce a fairer system that better recognises the income available to households when assessing entitlement to student support. They have a general concern that current means testing for higher education does not reflect the make-up of modern families and is discriminating against married couples and civil partners, because it does not take into account the contributions to a student's expenses which could be made by a person ordinarily living with that student or that student's parent as if they were that person's spouse or civil partner.

7. Amendments are therefore being made to ensure that such contributions can be taken into account in the higher education sector in the same way that it has been taken into account for many years in the further education sector in Scotland as well as in the higher education sector in England and Wales. By recognising household contributions in higher education, the revised system promotes alignment and fairness ensuring the same means testing assessment is applied for students progressing from a further education course onto a higher education course and that the same means testing assessment is applied regardless of what level of course they are studying.

8. The amendments ensure that students who ordinarily reside with a person as if they were that person's spouse or civil partner will be eligible for the same support as those who have a spouse/civil partner. As well as being easier to understand and administer, the amendments will ensure that higher education support is assessed in line with all other Scottish and UK Government Departments in their assessment for means tested Government support e.g income support, council tax benefit.

## **Changes**

9. The changes being made to the means test assessment by these Regulations do not in any way change the law in relation to obligations of aliment. They are in effect a tool used to calculate the appropriate level of allowance or loan to award. They do not alter any existing, or impose any new, legal obligations of support on a person ordinarily living with someone as a spouse or civil partner.

10. The changes made by these amending Regulations are to the general benefit of eligible students. By changing to a system that recognises all household income, the Scottish Ministers will make the greatest impact with the available Government resources and target them where they are needed most. These amendments ensure that the revised income assessment is fairer and simpler and ensures that everyone is assessed on an equal footing.

11. In order to facilitate the changes to the means test assessments, the Government is taking the following measures:

- Young Students Bursary is being extended to students who are under 25 with children over age 3 and students under 25 who are married or have a partner and have a dependent child – previously these students would have been classed as independent and ineligible for the bursary.
- Students who have partners will be able to apply for Dependant's Grant – previously this was only available to married students.

- Students in receipt of sponsorship or scholarships will benefit as this will no longer be classed as student income.
- Students in HE will have more 'unearned' income disregarded from the income assessment.

As a result of these measures, students in these categories will benefit from the changes being made.

### **Financial implications**

12. The Scottish Ministers recognise that some students may receive less support from the Government than in previous years. However, not all students in the system will be in genuine hardship as a result of the changes. The new means test will mean that some students will be eligible to receive a higher level of support from the household or their partner than they did previously. Scottish Ministers do recognise though, that some students may experience financial difficulties and will minimise the impact of the changes by making funds available to students who are in genuine hardship through their institution's discretionary funds.

13. The Scottish Ministers will monitor the financial impact of the changes very closely along with the Student Awards Agency for Scotland and institutions. Any 'savings' identified by the introduction of these changes will be redistributed within the student support system to ensure that adequate funds are available to those in genuine hardship.

### **THE SCOTTISH GOVERNMENT**

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