

## **EXPLANATORY MEMORANDUM TO**

### **THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2007**

**2007 No. 176**

1. This Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

#### **2. Description**

2.1 These Regulations provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1 September 2007. They also amend the Education (Student Support) Regulations 2006 (“2006 Regulations”) which make provision for support for students taking designated higher education courses in respect of an academic year beginning on or after 1 September 2006.

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

3.1 None.

#### **4. Legislative Background**

4.1 Regulations are made annually by the Secretary of State to make provision for the payment of grants and loans to eligible students in connection with their undertaking designated higher education courses.

4.2 These Regulations have been made to give effect to the student support arrangements for the 2007/08 academic year. They uprate the amounts of grants for tuition fees (for those students who are still eligible for such grants), student loans for tuition fees and living costs and some grants for living costs in line with inflation. They also introduce a number of policy changes, the most significant of which are set out in more detail in paragraph 7. Paragraph 7 also deals with the amendments being made to the 2006 Regulations.

#### **5. Extent**

5.1 These Regulations apply to England. A provision on the treatment of student loans in bankruptcy also applies to Wales and extends to Northern Ireland.

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

6.1 As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## 7. Policy Background

In 1997, the Government outlined its broad plans for student funding in the report 'Higher Education for the 21st Century'. A year later, the Teaching and Higher Education Act 1998 was given Royal Assent. Section 22 of this Act makes provision for the Secretary of State to provide financial support for students in Higher Education. Such financial support is to be provided in accordance with regulations made by the Secretary of State. These Regulations ensure that such support is in place for an academic year beginning on or after 1st September 2007.

The intention is:

### 7.1 To align the method of awarding the overseas rate of loan for living costs with that for other rates of loan for living costs.

From 1<sup>st</sup> September 2007, the criteria for awarding the overseas rate of loan for living costs where a student's circumstances change during the course of an academic quarter will be aligned with those for awarding other rates of loans for living costs. Students will no longer be required to attend the overseas institution for at least eight consecutive weeks in an academic year in order to receive the overseas rate of loan. This will mean that students who qualify for a loan for living costs and are attending an overseas institution as part of their UK course for at least 50% of an academic quarter (a quarter is normally equivalent to a term) will receive the overseas rate of loan for living costs for that quarter.

This change is a further step in the process of simplifying the student support system for students and administrators. It will ensure that all full-time students who qualify for a loan for living costs at the start of the academic year, regardless of where they are studying, will be assessed in the same way for the purpose of awarding that loan.

### 7.2 To revise the criteria for awarding the Travel Grant in order to simplify the Student Support System

From 1<sup>st</sup> September 2007, students who are attending an overseas institution or the University of London Institute in Paris (formerly known as the British Institute in Paris) as part of their UK course for at least 50% of an academic quarter (a quarter is normally equivalent to a term) will potentially qualify for the Travel Grant in respect of that quarter. Students will no longer be required to attend the overseas institution or the University of London Institute in Paris for eight weeks in the academic year before they can qualify for a Travel Grant.

This change will simplify the student support system and the application process for students wishing to apply for financial support.

### 7.3 To extend the categories of qualifying childcare for the Childcare Grant

From 1<sup>st</sup> September 2007, an eligible student who incurs charges for childcare will potentially qualify for the Childcare Grant if those charges are incurred in respect of childcare which is currently qualifying childcare, as well as:

- a. additional forms of childcare provided in England or Wales that are qualifying childcare for the Working Tax Credit (WTC) childcare element but not currently recognised as qualifying childcare for the Childcare Grant; and
- b. childcare provided for an English-domiciled student studying in Scotland or Northern Ireland that are qualifying childcare for the WTC childcare element but not currently recognised as qualifying childcare for the Childcare Grant.

This change will result in greater consistency in the treatment of the HE Childcare Grant and the WTC Childcare element.

From 1<sup>st</sup> September 2007, the childcare charges in respect of which an eligible student may qualify for the Childcare Grant will not include:

- a. charges incurred in respect of childcare provided by a relative of the child wholly or mainly in the child's home;
- b. charges incurred in respect of certain childcare provided by a relative of the child wholly or mainly in the relative's home where the care is usually provided solely or mainly in respect of one or more child to whom the provider is a parent or relative;
- c. charges paid by the student to his partner in respect of childcare for his child or a child of his partner;
- d. compulsory education charges.

### 7.4 To amend the eligibility criteria for refugees or persons with "leave to enter or remain" in the UK and their family members

In respect of an academic year beginning on or after 1st September 2007, for new students, there are changes to the eligibility criteria for family members of refugees and of persons with leave to enter or remain. Only a person who was the spouse, civil partner, child or step-child of a refugee or person with leave to enter or remain at the time of the application for asylum to the Home Office will potentially be eligible for support. Additionally, if the student is claiming student support as the child of such a person, the student must have been under 18 at the time of the parent's asylum application. Family members of those with refugee status must have remained resident in the UK and Islands since their leave to remain was granted.

From 1st September 2007, for new students referred to above, whose

immigration status expires within the lifetime of their course, support may cease at the end of the academic year in which the relevant status expires

#### 7.5 To require students to provide a National Insurance Number before they can receive payments of loans for fees and living costs

The recent 'Report of the Review of Higher Education Student Finance Delivery in England' which was published by the DfES in January, specifically recommended that the payment of loan instalments should not be made without a national insurance number.

From 1<sup>st</sup> September 2007, the Secretary of State will have an express power to make it a condition of entitlement to payment of any loan payable under the Regulations that a student first provides him with his UK national insurance number. The Department for Work and Pensions (DWP) has agreed in principle to issue National Insurance numbers (NINOs) to applicants who do not have one but who qualify for a loan under the Education (Student Support) Regulations 2007 and subsequent student support regulations.

Under the Education (Student Support) Regulations 2006, the Secretary of State has the power to request information from applicants to ensure they can be moved into repayment after they leave their course and can withhold loan instalments if necessary. Students are currently asked to provide NINOs or a reason for not having one. The changes in respect of NINOs which will come into force in March 2007 under the Social Security (National Insurance Numbers) Amendment Regulations 2006, are based on our requirement for a prospective student to provide a NINO. It is therefore now more appropriate to have a provision in the Education (Student Support) Regulations 2007 which mirrors the DWP regulatory change and specifically enables the Secretary of State to require production of a NINO rather than continuing to use the general information provisions for this purpose.

These changes mean that in most circumstances there will no longer be a valid reason for not providing a NINO and thus that loan payments will not be released without a number being provided. However, specific provision has been made in the Regulations to enable the Secretary of State to make loan payments in exceptional circumstances where the student has not provided a NINO. This will avoid hardship in the event that there are delays for students obtaining a NINO which are outside their control.

#### 7.6 To change the way in which intensity of study is calculated for part-time students

The amount of support that is payable to part-time students under the regulations is determined by reference to their intensity of study. Currently, intensity of study is calculated by reference to the overall length of the part-time course and of the equivalent full-time course. This means fee support is averaged over the whole length of the course. From 1<sup>st</sup> September 2007,

intensity of study for part-time students will continue to be calculated annually but will instead be calculated by reference to the actual intensity of study undertaken by students in each academic year. That is, by reference to the number of modules, credits or other similar units that the part-time student will complete in the academic year for which he is applying for support compared to the number of modules, credits or other similar units that the student would be required to complete in an academic year in order to complete a course leading to the same qualification on a full-time basis.

The new calculation method will improve the situation both for students who vary their intensity of study throughout their course and for those who need to repeat study, by ensuring that the level of fee support matches their level of study in each year. Students will no longer need to specify how long they will take to complete their course in order for an intensity of study calculation to be made.

Additional changes have been made to clarify that part-time students will, as now, only remain eligible for support for as long as it is possible for them to complete their course in no more than twice the length of time normally required to complete a full-time course leading to same qualification.

7.7 To enable certain students who are completing specified “compressed degree courses” to be treated as “in attendance” on those courses for the purposes of tuition fee and maintenance support.

Starting in the 2006/07 and 2007/08 academic years, certain Higher Education Institutions, with support from the Department for Education and Skills and the Higher Education Funding Council for England, are offering pilot “compressed degree courses”. These pilot compressed degrees require students to attend the relevant institution but also include 4-12 weeks distance learning, including e-learning in the third term, resulting in an academic year of around 42 weeks. This enables students to complete an honours degree which would conventionally be delivered over three academic years, in 24 months.

The general rule is that tuition fee and maintenance support is only available to eligible students completing designated full-time courses who are required to be in attendance on the relevant course. Without amendment, this would mean that students completing the pilot compressed degree courses would not qualify for support for the duration of their courses.

In recognition of the pilot character of these courses, it has been decided to make an exception to the general rule for students on the pilot courses to enable them to qualify for support for the duration of these courses. In addition, students in this group who are eligible for a loan for living costs will also potentially have access to the additional amounts payable for additional periods of attendance and the full rate of loan in the final year of their course.

Equivalent amendments have been made to the 2006 Regulations for the 2006/07 academic year for the benefit of students who started a pilot

compressed degree course in that academic year.

## 7.8 Guidance

Policy changes for 2007 will be notified through Departmental and partner bodies' publications and websites. For example, students will be informed of changes through the respective guides to full-time and part-time financial support. These will be available in hard copy and electronic formats from Spring 2007. In addition, on-line guidance chapters for Local Authorities will be updated to reflect policy changes for 2007.

## 7.9 Consultation

There is no statutory requirement to consult on these Regulations.

However, as part of a two stage quality review process in Autumn 2006 for full and part-time policy changes, the draft 2007 Regulations were sent to stakeholders in the HE sector such as the National Union of Students (NUS), the National Association of Student Money Advisers (NASMA), the National Bureau for Students with Disabilities (SKILL), Higher Education Institutions (HEIs), the Student Loans Company (SLC) and Local Authorities (LAs). Stakeholders participating in the quality review process welcomed the likely benefits to students of simplifying policies on the Travel Grant and the Overseas Rate of Loan. The extension of qualifying childcare categories for the Childcare Grant was also welcomed as were changes to Eligibility Criteria in terms of clarifying the Student Support Regulations.

HM Revenue & Customs and the devolved administrations were consulted about the proposed amendment to the HE Childcare Grant in the summer of 2006.

For the eligibility criteria changes, with regard to family members of refugees or those with leave to enter or remain in the UK, details of the policy changes to Schedule 1 were fully discussed with the Home Office whose advice contributed to the implementation of the new policy. Details of the changes were sent to the Council for International Education (UKCOSA) and the Refugee Council for consultation. A draft of Schedule 1 to the Regulations was sent to UKCOSA and as a result of comments received, a small amendment was made to the Regulations with the other comments being dealt with through guidance.

The Review of Higher Education Student Finance Delivery in England from June 2005 to January 2006, which recommended that loan payments should not be made without a national insurance number, included an extensive consultation exercise. A consultation document was sent out to Local Authorities, Higher Education Institutions and bodies representing students, student advisers and employers. A review advisory group was also set up and included representatives from the National Union of Students (NUS) and the National Bureau for Students with Disabilities (SKILL). On publication

stakeholders were consulted on the individual recommendations. No specific comments were received during the consultation exercise about the proposed changes to enable the Secretary of State to make provision of a NINO a condition of payment of a loan.

With reference to the part-time change covering intensity of study, representatives from both Local Authorities and Higher Education Institutions were consulted about this. They welcomed the change.

The main emphasis of the changes to the Overseas Rate of Loan and the Travel Grant for 2007 is to simplify the student support system and the application process for students. As these changes will only affect very small numbers of students, we did not consider that a specific consultation exercise was necessary. Whilst we would not expect students to experience financial hardship as a result of these changes (and some students may benefit), any student experiencing hardship could apply to their University or College for assistance from the Access to Learning Fund.

The change to allow students on the pilot compressed degrees affects only a small number of students, and so consultation was limited to the pilot institutions. However, the HEIs offering the pilot compressed degree courses responded favourably during the consultation and students should benefit from the proposed change.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal.

## **9. Contact**

Mark Williams at the Department for Education and Skills (Tel: 020 7925 6441 or email: [mark.williams@dfes.gsi.gov.uk](mailto:mark.williams@dfes.gsi.gov.uk) ) can answer any queries regarding the Instrument.