

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT SUPPORT) (No.2) REGULATIONS 2008**  
**2008 No. 1582**

1. This Explanatory Memorandum has been prepared by the Department for Innovation, Universities 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 1st September 2009 and make amendments to the Education (Student Support) Regulations 2008 (S.I. 2008/529) (“the 2008 Regulations”).

**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 and/or attendance on designated higher education courses.

4.2 These Regulations have been made to give effect to the student support arrangements for the 2009/10 academic year and also make amendments to the 2008 Regulations which apply to student support arrangements for the 2008/09 academic year. These Regulations increase 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 and implement some policy changes.

**5. Territorial Extent and Application**

5.1 These Regulations apply to England. A provision on the treatment of student loans in bankruptcy applies also 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

Section 22 of the Teaching and Higher Education Act 1988 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 make provision for support available in relation to an academic year beginning on or after 1st September 2009.

In accepting the recommendations in July 2006 of the Department's End to End Review on student finance, the Secretary of State agreed that students should be able to apply for their finance at the same time as they applied for university places. Hence these Regulations are being laid earlier than usual so that they are in place in time for the start of the applications process in September 2008 for entry into Higher Education at the start of the 2009 academic year.

The policy changes effected by these Regulations are set out below:

### 7.1 Earlier Application Date

Students applying in the autumn of 2008 for full-time courses that start on or after 1<sup>st</sup> September 2009 will be able to apply for their student finance at the same time. When assessing financial eligibility this means that instead of looking at the household income of the financial year immediately before entering higher education, it will be necessary to look at the information for the year before that i.e. the financial year ending April 2008 for students starting their courses in September 2009 (the prior financial year).

The impact on the Regulations of the above is that:

- 1) Household income thresholds for assessing financial entitlement will be held at the 2008 rate so that students will generally receive the same package of support in real terms as they had in 2008/09;
- 2) All students studying from 1<sup>st</sup> September 2009, whether or not they started their course before that, will have their income assessed on the financial year ending in April 2008 for their support for the academic year starting in September 2009;
- 3) In order to avoid hardship, if the student's circumstances change resulting in a drop in household income to 95% or less of the income on which their support was assessed, the student can ask for a reassessment. The previous threshold for reassessment was set at 85%.

### 7.2 Support for Students who have studied on a previous Higher Education Course

From 1<sup>st</sup> September 2009, most new students applying for student support for a second higher education course that is equivalent or lower in level than their first HE course will be excluded from further fee and maintenance (grant and loan) support. This will apply if a student has a degree from a UK institution or, for the first time, from an overseas institution.

New students taking courses of medicine, veterinary science, architecture, social work and undergraduate Initial Teacher Training will however continue to be eligible for maintenance loan support, though not fee loan or maintenance grant support, even if they already hold an equivalent or higher level qualification. Students taking postgraduate courses of Initial Teacher Training will continue to be eligible to apply for the full package of fee and maintenance (grant and loan) support.

From 1<sup>st</sup> September 2009, new students with a lower level higher education qualification will be eligible for fee and maintenance support to 'top-up' to a higher level qualification only.

New students who have studied on a previous full-time, full-time distance learning or compressed degree course, but who did not achieve a qualification, will have years of previous study deducted from their fee and maintenance grant entitlement if their previous course was taken at a publicly funded UK or overseas institution. (Study on a previous part-time HE course or a self-funded course will continue not be taken into account if that study did not lead to a qualification).

These changes will apply to students starting their course on or after 1<sup>st</sup> September 2009. Students continuing on their course from 1<sup>st</sup> September 2009 (i.e. those who have undertaken study on the course during previous academic years) will be subject to the support arrangements that applied in previous years (i.e. before 1<sup>st</sup> September 2009).

### 7.3 Social work students

These Regulations also ensure that from 1st September 2008, graduates studying a second undergraduate degree in social work are included in the definition of 2008 cohort student. Although previously excluded in error from the definition social work students will be eligible for the correct amount of support from the above date.

### 7.4 To remove subjects from the list of courses eligible for support for second undergraduate degrees

From 1<sup>st</sup> September 2009 new full-time students who already hold a degree will no longer be eligible for maintenance loan support for courses leading to qualifications in landscape architecture, landscape design, landscape management, town planning or town and country planning. Students who started studying these courses before 1<sup>st</sup> September 2009 will continue to be eligible for support.

This is because postgraduate courses now exist as entry into these professions for graduates.

### 7.5 Ensuring that undergraduate courses which include a postgraduate professional qualification are excluded from eligibility.

It is the Government's policy that student support arrangements should not fund study on courses leading to a professional qualification where the entry requirement would ordinarily be a degree. The only exception to this remains initial teacher training. An amendment has therefore been made to prohibit support for students following courses that include as an integrated part of the course a professional qualification normally only available to a graduate.

#### 7.6 Extending the definition of a designated course

A change has been made so that students who have had eligibility conferred on them by virtue of undertaking a full-time distance learning course can now have that status converted or transferred when they move to a part-time or full-time course. This change comes into effect from 1<sup>st</sup> September 2008 and affects both the 2008 and 2009 academic years. This is because full-time distance learning courses only became designated courses in 2007 so 2008 is the first year that a student could move from a full-time distance learning course onto a full- or part-time designated course.

#### 7.7 Further simplification of the calculation of financial contribution by a student towards student support – split contributions

It remains the Government's policy that households with more than one student in a household should not have to make any greater income-assessed contributions to their children's/dependants' student support than if they had only one student in the household. Changes were made in 2008 to begin the simplification of this process – these are completed in this set of Regulations. The existing provisions in this area are complex. As the introduction of the 2008 cohort adds another potential calculation, a simplification to this aspect of the Regulations has been made for households including one or more students, so that the income-assessed contributions for all full-time students in such a household are simply divided by the number of students.

#### 7.8 Removal of the separate student support arrangement for new students in Houses of Religious Orders

From 1<sup>st</sup> September 2009, separate student support arrangements will no longer apply for new full-time students identifying themselves as living in Houses of Religious Orders. This category of students is currently deemed independent which means that their living costs (grant and loan) support package does not depend on their parental income. This was originally introduced to provide a tailored support package for students attending a number of religious courses abroad. As these are no longer supported, an obsolete provision can now be removed from the Student Support Regulations.

Students who already define themselves as living in Houses of Religious Orders and who are continuing their courses in the 2009/10 academic year will remain eligible for their existing package of support.

#### 7.9 Undergraduate Initial teacher training (ITT) courses

From 1st September 2009, new and continuing students taking undergraduate ITT courses where the periods of full-time attendance during the academic year (including attendance for the purpose of teaching practice) are from 6 weeks up to 10 weeks, will be eligible for a half-rate fully means-tested maintenance grant of £1,453. They will also be eligible for a full-rate loan for living costs (25% of which is means-tested)

This change will ensure that the Student Support Regulations align levels of maintenance grant support for undergraduate ITT courses with attendance on those courses.

#### 7.10 Scottish Healthcare bursaries

Previous Regulations have included a provision stating that part-time students would not be eligible for financial support via fee and course grants if they were in receipt of a Scottish Healthcare Allowance (whether or not the amount of this allowance was calculated with reference to the student's income). Part-time students are no longer offered this type of bursary and thus the wording in the regulations is obsolete and has been removed from the 2009 Regulations.

This change will cover both new and continuing students who are applying for support for courses starting from 1 September 2009 onwards. Both part-time students and full-time distance learning students (who receive the part-time financial support package) are covered by this change.

#### 7.11 Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere:

From 1st September 2008, new students who are settled in the UK, but who have left England and exercised a right of residence in the EEA and Switzerland, and subsequently return to study at an Institution in the UK will be supported. This change will ensure that all students who have exercised a right of residence will be eligible to support on their return.

#### 7.12 Pro-rating the maintenance support available to students who have been prisoners during the academic year

It is the Government's policy not to provide maintenance support for students who are prisoners. Therefore the 2008 Regulations are amended to ensure that students who are prisoners at any time in the 2008/09 academic year will be eligible for maintenance support on a pro-rated daily basis for any periods of time in which they are not in prison from 1<sup>st</sup> September 2008.

#### 7.13 Pensions

From 1 September 2009, all new and continuing students will be allowed to exclude income in the form of benefits under a pension arrangement that is paid to an ex-partner under an order made pursuant either to the Matrimonial

Causes Act 1973 (inserted by the Pensions Acts 1995 and 2004) or the Civil Partnership Act 2004, from the income taken into account for the means test for student support. Conversely those students whose household is in receipt of benefits under a pension arrangement made under an order pursuant to the above legislation will be required to include it in the means test for student support. This is to ensure that pension income that is not available for a household is not included in the means test.

#### 7.14 Adding academies to the list of institutions where courses cannot be designated

A small change is being made to the Regulations to add academies to the list of institutions whose courses are not designated for student finance. Regulations currently exclude any courses run in maintained schools from being designated for student support. Only courses in publicly-funded institutions are designated, so courses at independent schools are automatically excluded from designation. However, academies are a relatively recent addition to secondary education and are more difficult to categorise as they can receive funding from both independent sources and directly from the Secretary of State for Children, Schools and Families. This amendment merely tidies up the Regulations to take account of changes elsewhere and does not make any policy change.

#### 7.15 Taper amount

Students are assessed on their household income for the amount of support they will receive. Once the income exceeds a certain amount of money is netted off the full amount of loan or grant according to a defined taper. These Regulations amend the taper amount from £7.60 to £7.58 with effect from 1<sup>st</sup> September 2008. The figure of £7.60 was the slope for 2007/08 and had not been amended to £7.58 for 2008/09 in all appearances in the Regulations. This change corrects the error and ensures that students are paid correctly from the start of the 2008 academic year.

#### 7.16 Guidance

Policy changes for 2009 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 Autumn 2008. In addition, on-line guidance chapters for Local Authorities will be updated to reflect policy changes for 2009/10.

#### 7.17 Consultation

As part of a two stage quality review process in spring 2008 for full and part-time policy changes, the draft Regulations for the 2009/10 Academic Year were sent to stakeholders in the Higher Education sector such as the National Union of Students, the National Association of Student Money Advisers, the National Bureau for Students with Disabilities (SKILL), Higher Education

Institutions, the Student Loans Company and Local Authorities. Responses were received from many of the groups and their comments taken into consideration in preparing the final draft of the Regulations.

The Scottish, Welsh and Northern Irish administrations were consulted in relation to changes that impact on their policies.

## **8. Impact**

8.1 An 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**

Phillip Hossell at the Department for Innovation, Universities Skills (Tel: 01325 392023 or email: [phillip.hossell@dius.gsi.gov.uk](mailto:phillip.hossell@dius.gsi.gov.uk)) can answer any queries regarding these Regulations.