

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT SUPPORT) (AMENDMENT) REGULATIONS**  
**2008**

**2008 No. 235**

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 make amendments to existing legislation to exclude students who are prisoners from receiving maintenance support and supplementary grants for designated full-time higher education courses. Students who are prisoners will continue to be eligible for Disabled Students Allowances for designated full-time higher education courses.

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

3.1 None.

**4. Legislative Background**

4.1 These Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998.

4.2 They amend the Education (Student Support) Regulations 2007 (the “Student Support Regulations”), which provide for financial support for students taking designated higher education courses in respect of an academic year beginning on or after 1<sup>st</sup> September 2007.

**5. Extent**

5.1 These Regulations apply to England.

**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**

7.1 The Student Support Regulations provide for the Secretary of State to pay financial support to students in the 2007/08 academic year. Students who are attending designated full-time higher education courses can apply for fee and living costs support for their studies. Most full-time students who started

their course on or after 1<sup>st</sup> September 2006 are eligible to apply for loans to pay their tuition fees, loans for living costs and grants for living and other costs (i.e. the Maintenance Grant or Special Support Grant). Full-time students who started their course before September 2006 are eligible to apply for grants to pay their tuition fees. They can also apply for fee contribution loans to meet any fee costs not covered by the fee grant, loans for living costs and a Higher Education Grant. All students on full-time higher education courses can also apply for Childcare Grants, Parents Learning Allowances, Adult Dependents Grants and Disabled Students Allowances.

7.2 A small number of students who are prisoners have received loans and grants for living costs for their higher education courses. As prisoners are already maintained at public expense they should not be eligible for living costs support under the Student Support Regulations. These Regulations will ensure that from the date these amendments come into force, students who are prisoners during any part of the academic year will no longer be eligible for living costs support for the academic year. They will also ensure that prisoners who received living costs support under the Regulations whilst in prison and who are released before the end of their academic year, will not be eligible for living costs support for the remainder of the academic year as they have already received living costs support which they did not need. However, the Secretary of State intends to exercise his discretion under regulation 108 of the Student Support Regulations not to recover as overpayments living costs loans and grants paid to students before they went into prison during the academic year.

7.3 Students who have spent any part of an academic year as a prisoner will continue to be eligible for Disabled Students Allowances whilst they are in prison and once they are released. This will ensure that students will not be prevented from studying because of extra costs resulting from their disability or specific learning difficulty.

7.4 For future academic years, we intend that students who spend part of an academic year in prison will be able to receive pro-rated living costs support for that part of the academic year when they are not in prison.

7.5 These Regulations do not change eligibility for tuition fee support for prisoners, who will continue to be eligible for tuition fee loans and grants.

#### 7.6 Guidance

Prison Governors will be informed of these changes by HM Prison Service. An examination of student support for prisoners will be carried out in conjunction with HM Prison Service. Amendments to current procedures and Departmental guidance will be issued after the examination has been completed.

## 7.7 Consultation

These changes have been made to ensure that the Student Support Regulations fully reflect our existing policy intention. We therefore do not consider that consultation is necessary. There is no statutory requirement to consult on these Regulations.

## 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

Karen Duncan at the Department for Innovation, Universities and Skills (Tel: 01325 391092. Email: [Karen.Duncan@dius.gsi.gov.uk](mailto:Karen.Duncan@dius.gsi.gov.uk)) can answer any queries regarding these Regulations.