

**EXPLANATORY MEMORANDUM TO**  
**THE STUDENT FEES (AMOUNTS) (ENGLAND) (AMENDMENT) REGULATIONS**  
**2008**

**2008 No. 2507**

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**

These Regulations amend the Student Fees (Amounts) (England) Regulations 2004 (S.I.2004/1932) by increasing (in line with forecast inflation) the basic and higher amounts of tuition fees that may be charged to full-time undergraduates in respect of an academic year beginning on or after 1st September 2009.

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

None.

**4. Legislative Background**

4.1. Section 23 of the Higher Education Act 2004 imposes a duty on the Secretary of State for Innovation, Universities and Skills to set a condition on the grant paid to the two funding bodies for Higher Education in England: the Higher Education Funding Council for England and the Training and Development Agency for Schools. The condition requires the funding bodies in turn to impose a condition on the grant they pay to English Higher Education Institutions (HEIs) relating to the tuition fees to be paid by full-time undergraduates.

4.2. Section 24 of the Act sets out the requirements of the condition of grant. It stipulates that an HEI which has an access plan approved by the Director for Fair Access must not charge fees in excess of the limit approved in that plan, which must not be more than the higher amount. An HEI who does not have an access plan must not charge fees in excess of the basic amount. Section 24 also sets out the sanctions which should be imposed on any HEI that breaches the condition; and specifies that the basic and higher amounts should be prescribed in regulations.

4.3. Section 26 of the Act sets out the arrangements for making increases to the basic and higher amounts, and the arrangements for approving regulations under section 24. No regulations may be made by the negative procedure increasing the basic and higher amounts unless the Secretary of State is satisfied that the increase is no greater than required to maintain the value of the amounts in real terms.

4.4. This instrument is made in order to uprate the basic and higher amounts for the 2009/10 academic year, in line with forecast inflation.

**5. Territorial Extent and Application**

This instrument applies to England.

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

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1. HEIs in England which have an access plan approved by the Director for Fair Access are allowed to charge variable fees not exceeding the level approved in their access plan, which cannot exceed the higher amount. HEIs in England which do not have an access plan are only allowed to charge fees up to the level of the basic amount. The higher and basic amounts are set out in regulation 4 of the Student Fees (Amounts)(England) Regulations 2004 (“the 2004 Regulations”).

7.2. In the case of certain prescribed courses, HEIs are only allowed to charge a reduced, or half-rate higher or basic amount. These amounts and courses are set out in regulation 5 of the 2004 Regulations.

7.3 The Student Fees (Amounts)(England)(Amendment) Regulations 2007 (SI 2007 No. 1865), which came into force on 1<sup>st</sup> September 2008, increase the higher amount to £3,145, the basic amount to £1,255, the half-rate higher amount to £1,570 and the half-rate basic amount to £625 for an academic year beginning on or after 1<sup>st</sup> September 2008.

7.4. This instrument now amends regulation 4 of the 2004 Regulations to further increase the higher rate to £3,225 and the basic rate to £1,285 in respect of an academic year beginning on or after 1<sup>st</sup> September 2009. It also amends regulation 5 of those Regulations to increase the half rate higher and basic amounts that apply in respect of specific courses to £1,610 and £640 respectively, also with effect from 1<sup>st</sup> September 2009.

7.5. The increases to the basic and higher rates of tuition fee have been calculated with reference to the All Items Retail Price Index Excluding Mortgage Interest Payments (RPI-X). This is the index of prices set by the Student Fees (Inflation Index) Regulations 2006 (SI. 2006 No. 507), and is the same measure of inflation used to uprate the amount of loans and grants for maintenance that are available to undergraduate students.

7.6. The basic and higher rates have been increased by using a forecast in the rise of the RPI-X to provide the best available match with inflation in the period in question. The forecast used is the Treasury’s mid-February 2008 forecast of the rise in the RPI-X during the calendar years 2009 (2.6%) and 2010 (2.6%). The uprating factor to be applied to the basic and higher rates for the academic year 2009/10 will therefore be 2.6%, as the first four months of the academic year (which begins on 1st September) fall within the calendar year 2009 and the remaining eight months fall within the calendar year 2010. Accordingly, the basic and higher tuition fee rates have been increased by 2.6 per cent.

### 7.7. Guidance

Local Education Authorities (LAs) and Higher Education Institutions were provided with details of the new basic and higher fee amounts for 2009/10, together with details of the increased rates of loans and grants available in 2009/10 to higher education students in May 2008, via one of the Department's regular Student Support Information bulletins. The new rates are also shown in an Annex to the Consolidated Guidance on "Assessing Financial Entitlement" that the Department provides annually to LAs.

### 7.8. Consultation

As the amendments being made are routine, and are expected, no consultation was considered necessary.

## **8. Impact**

An Impact Assessment has not been prepared for this Instrument as the impact on business, charities and the public sector is minimal.

## **9. Contacts**

Cliff Woods at the Department for Innovation, Universities and Skills in London (e-mail: cliff.woods@dius.gsi.gov.uk) can answer any queries regarding this instrument.