

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT SUPPORT AND EUROPEAN UNIVERSITY**  
**INSTITUTE) (AMENDEMENT) REGULATIONS 2013**

**2013 No. 1728**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills (BIS) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This instrument amends the Education (Student Support) Regulations 2011 and the Education (Student Support)(European University Institute) Regulations 2010 which prescribe the amount of support for tuition and living costs for students taking designated higher education courses.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Context**
  - 4.1 This instrument amends the following regulations:
    - The Education (Student Support) Regulations 2011 (“the Student Support Regulations 2011” (S.I. 2011/ 1986))
    - The Education (Student Support) (European University Institute) Regulations 2010 (“the European University Institute Regulations 2010” (S.I. 2010/447))
  - 4.2 This instrument amends the Student Support Regulations 2011 to increase the maximum maintenance grant and special support grant for full-time students in respect of an academic year beginning on or after 1 September 2014. (An academic year beginning on or after 1 September 2014 is deemed to include courses starting on or after 1 August 2014.) It also amends the Student Support Regulations 2011 to increase the maximum loan for living costs, adult dependants’ grant, childcare grant and parents’ learning allowance for full-time students in respect of an academic year beginning on or after 1 September 2014.
  - 4.3 This instrument amends the Student Support Regulations 2011 to increase the maximum fee Grants and Course Grants for part-time courses (and full-time distance learning courses) that started before September 2012. It also amends the Student Support Regulations 2011 to increase disabled students allowances for full-time, full-time distance learning, part-time and postgraduate students in respect of an academic year beginning on 1 September 2014.
  - 4.4 This instrument amends provisions in the Student Support Regulations 2011 covering support for students who are undertaking an Erasmus study or Erasmus work placement year, or a period of study at an overseas institution that is not an Erasmus

year. These changes will apply to students starting their courses at institutions in England or Wales on or after 1 September 2012 in respect of an academic year beginning on or after 1 September 2014.

4.5 This instrument also amends provisions in the Student Support Regulations 2011 covering support for students who are undertaking a work placement year on a sandwich course either in the UK or abroad. These changes will apply to students starting their courses at institutions in England or Wales on or after 1 September 2012 in respect of an academic year beginning on or after 1 September 2014.

4.6 This instrument replaces the current definition of a 'publicly funded educational institution' in the Student Support Regulations 2011 in respect of automatic course designation with a new definition: 'authority funded educational institution'. This change will apply to new courses starting in 2014/15 and courses continuing in 2014/15.

4.7 This instrument makes some minor technical changes and corrections to the Student Support Regulations 2011 and the European University Institute Regulations 2010 which will apply to student support arrangements for the 2013/14 academic year on or after the date that these Amendment Regulations come into force

## **5. Territorial Extent and Application**

5.1 The Regulations apply to England.

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

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

## **7. Policy background**

Section 22 of the Teaching and Higher Education Act 1998 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. Student support regulations are made annually by the Secretary of State to provide this support to eligible students in connection with their undertaking designated higher education courses. The following paragraphs set out the changes in more detail:

### **7.1 Increasing elements of the living costs support packages for new and continuing students in 2014/15.**

The maximum maintenance grant and special support grant for full-time students entering higher education from 1 September 2012 onwards will be increased by 1% for 2014/15 to £3,387 if their household income is £25,000 or less. The maximum maintenance grant and special support grant for full-time students who started their courses before 1 September 2012 will also be increased by 1% for 2014/15 to £3,110. Equivalent changes have also been made to the provisions relating to the special support grant.

The maximum loan for living costs for full-time students entering higher education from 1 September 2012 onwards will be increased by 1% for 2014/15 to £5,555 for students living away from home and studying outside London, £7,751 for students living away from home and studying in London, £4,418 for students living at home and £6,600 for students attending an overseas institution or an overseas work placement in an Erasmus year.

The maximum loan for living costs for eligible full-time students entering higher education from 1 September 2009 onwards but before 1 September 2012 will be increased by 1% for 2014/15 to £5,000 for students living away from home and studying outside London, £6,997 for students living away from home and studying in London, £3,876 for students living at home and £5,953 for students attending an overseas institution or an overseas work placement in an Erasmus year.

Maximum dependants grants for full-time students will be increased by 1% for 2014/15. The maximum adult dependants grant will be increased to £2,668 for 2014/15 and the maximum parents' learning allowance to £1,523. The amount of childcare grant payable in 2014/15 will be based on 85% of actual childcare costs, subject to increased maxima of £150.23 per week for one child or £257.55 per week for two or more children.

Maximum disabled students allowances (DSA) will be increased by 1% for 2014/15. For full-time and full-time distance learning students, the amount of DSA for expenditure on a non medical helper will be increased to £20,725, for major items of specialist equipment to £5,212 and for other disability related expenditure to £1,741. For part-time students, the amount of DSA for expenditure on a non medical helper will be increased to £15,543, for major items of specialist equipment to £5,212 and for other disability related expenditure to £1,305. For postgraduate students, the single DSA will be increased to £10,362.

The maximum fee loan for English domiciled full-time students who started their courses before 1 September 2012 at institutions in Northern Ireland will be increased by 3.1% for 2014/15 to £3,685, in line with an equivalent increase to maximum tuition fees for this group of students in Northern Ireland.

Maximum fee and course grants for full-time distance learning and part-time students who started their courses before 1 September 2012 will also be increased by 1% for 2014/15. Maximum fee grants will be increased to £855, £1,025 or £1,285 depending on the intensity of study on the course. Maximum course grants will be increased to £280.

## 7.2 Changes to maximum fee loans for students undertaking Erasmus study and work placement years abroad, and non-Erasmus years of study abroad.

Currently, full-time students undertaking a study or work placement (or combination of both) Erasmus year (European Region Scheme for the Mobility of University Students) are entitled to a fee waiver. The Student Support Regulations 2011 provide that this group of students are not entitled to apply for fee loans.

Conversely, full-time students undertaking overseas years of study that are not Erasmus years, where the period of full-time study in the United Kingdom is less than

10 weeks, are charged a half-rate fee. The Student Support Regulations 2011 provide that this group of students are entitled to apply for a fee loan of up to £1,725 where their course started before 1 September 2012, or up to £4,500 /£3,000 (for public /private universities and colleges) where their course started on or after 1 September 2012.

For the 2014/15 academic year, new arrangements will apply to eligible students who started their courses at universities or colleges in England on or after 1 September 2012 who are taking an Erasmus study year or Erasmus work placement year abroad. Universities and colleges in England will be able to charge this group of students up to 15% of the maximum fee caps for 2014/15: £1,350 for students attending universities where the higher (£9,000) fee amount is permitted and £900 for students attending universities where the basic (£6,000) fee amount is permitted. This instrument amends the Student Support Regulations 2011 to allow this group of students to apply for a fee loan of up to £1,350 to cover these costs.

This instrument also amends the Student Support Regulations 2011 to allow students who started their courses at universities or colleges in England on or after 1 September 2012 who are undertaking overseas years of study that are not Erasmus years in 2014/15 to apply for a fee loan of up to £1,350 to cover the costs of their fees.

Students starting their courses at universities or colleges in Wales on or after 1 September 2012 who are undertaking an Erasmus study or work placement year or a non Erasmus overseas year of study in 2014/15 will also be charged up to £1,350 in fees and be able to apply for a fee loan of up to £1,350.

Students starting their courses at universities or colleges in Northern Ireland or Scotland, or who started courses at universities or colleges in England or Wales before 1 September 2012, and who are undertaking an Erasmus study or work placement year or a non Erasmus overseas study year in 2014/15 will continue to be subject to the student support arrangements in 2014/15 that applied in 2013/14.

### 7.3 Changes to maximum fee loans for students undertaking work placement years on sandwich courses.

Currently, full-time students undertaking work placement years on sandwich courses where the period of full-time study at the university or college is less than 10 weeks, can apply for a fee loan of up to £1,725 where their course started before 1 September 2012, or up to £4,500 /£3,000 (for public /private universities and colleges) where their course started on or after 1 September 2012.

For the 2014/15 academic year, new arrangements will apply to eligible students starting their courses at universities or colleges in England on or after 1 September 2012 onwards who are taking a sandwich work placement year either in the UK or abroad. Universities and colleges in England will be allowed to charge this group of students up to 20% of the maximum fee caps for 2014/15: £1,800 for students attending universities where the higher (£9,000) fee amount is permitted and £1,200 for students attending universities where the basic (£6,000) fee amount is permitted. This instrument amends the Student Support Regulations 2011 to allow this group of students to apply for a fee loan of up to £1,800 to cover these costs. Students starting their courses at universities or colleges in Wales on or after 1 September 2012 who

are undertaking a sandwich work placement year in 2014/15 will also be charged up to £1,800 in fees and be able to apply for a fee loan of up to £1,800.

Students starting their courses at universities or colleges in Northern Ireland or Scotland, or who started courses at universities or colleges in England or Wales before 1 September 2012, and who are undertaking a sandwich work placement year in 2014/15, will continue to be subject to the student support arrangements in 2014/15 that applied in 2013/14. Sandwich placement years exclude Erasmus work placement years for which different charging arrangements apply.

#### 7.4 Automatic course designation.

The Student Support Regulations 2011 currently stipulate that higher education courses provided by “publicly funded” institutions are designated courses for student support purposes. They define “publicly funded” as meaning maintained or assisted by recurrent grants out of public funds, with “public funds” meaning “moneys provided by Parliament or by a government authority outside the United Kingdom”. This means that some publicly funded providers in England which are not funded by HEFCE are currently able to get automatic course designation because of their publicly funded status and are therefore outside any system of student number controls.

For the 2014/15 academic year, this instrument amends the Student Support Regulations 2011 to narrow the definition for automatic designation to courses provided by or on behalf of “authority funded” educational institutions (defined as the Higher Education Funding Council for England (HEFCE) or equivalent funding bodies in the Devolved Administrations). Publicly funded providers which are not funded by HEFCE or by an equivalent funding body in the Devolved Administrations will no longer be eligible for automatic course designation and will be expected to follow the specific course designation application process.

These changes will apply to new courses starting in 2014/15 and courses which are continuing in 2014/15.

#### 7.5 Changes to definition of ‘residency’ for tax purposes.

When a student’s household income is calculated for student support purposes, it is normally based on the taxable income of the student’s parents or, in the case of an independent student, the income of the student and the student’s partner. Taxable income is defined in the Student Support Regulations 2011 and the European University Institute Regulations 2010 as income from all sources computed for the purposes of the Income Tax Acts and/or the income tax legislation of another EU member state. However where parents are not resident, ordinarily resident or domiciled in the UK or in another EU Member State, some of their income may not fall within the definition of taxable income in the Student Support Regulations 2011 and European University Institute Regulations 2010. In such circumstances these sets of Regulations stipulate that this income will be treated as taxable income in the household income assessment.

The Government has abolished the concept of ‘ordinary residence’ in respect of income tax legislation with effect from 6 April 2013. This means that current

references to ordinary residence in respect of income tax legislation in the Student Support Regulations 2011 and European University Institute Regulations 2010 are no longer applicable from 6 April 2013.

This instrument removes references to ordinary residence in relation to the household income assessment from the Student Support Regulations 2011 and the European University Institute Regulations 2010. References to 'resident' in relation to the household income assessment will remain in these sets of regulations and will cover the 'ordinarily resident' definition in respect of UK tax legislation. The reference to 'ordinarily resident' in respect of income tax legislation of another EU Member State is also being removed from these regulations.

These changes will apply to new and continuing full-time students applying for support in the 2013/14 academic year. They do not apply to other references to ordinary residence in either the Student Support Regulations 2011 or the European University Institute Regulations 2010.

#### 7.6 Removal of reference to courses in youth and community work.

Schedule 2 of the Student Support Regulations 2011 lists courses that are designated for support including 'a course for the further training of youth and community workers'. A separate definition for these courses is not required in Regulations as undergraduate courses in youth and community work are covered elsewhere in Schedule 2. This instruction removes the reference to 'a course for the further training of youth and community workers' from the Student Support Regulations 2011. This change will apply to new and continuing students applying for support in the 2013/14 academic year.

#### 7.7 Recovery of overpayments of loans for living costs and long courses loans.

This instrument amends the relevant provisions of the Student Support Regulations 2011 (regulations 116(15), 119(11) and (12)) which allow the Secretary of State to deduct overpayments of living costs or long courses loans from future payments of loan. The provisions are amended to make it clear beyond doubt that overpayments of either loan payable under Part 6 can be recovered from future payments of either loan. This technical amendment will apply to new and continuing students applying for support in the 2013/14 academic year.

#### 7.8 Living costs support for disabled students undertaking full-time courses by distance learning.

Eligible students starting full-time distance learning courses before 1 September 2012 qualify for part-time fee grants and course grants, and those starting full-time distance learning courses on or after 1 September 2012 qualify for full-time fee loans. Most students undertaking full-time distance learning courses do not qualify for full-time maintenance grants, dependants' grants or loans for living costs, as students must be attending their courses to qualify for these grants and loans. The exception to this rule relates to students who are undertaking a course by distance learning because they are unable to attend any full-time course for a reason related to their disability. This can be a full-time course that normally requires attendance or a full-time distance learning course. This instrument amends the Student Support Regulations 2011 to make it clear that

disabled students who are unable to attend any full-time course due to their disability are eligible to apply for full-time maintenance grants, dependants' grants or loans for living costs if they are undertaking by distance learning, a full-time course or a full-time distance learning course. This technical amendment will apply to new and continuing students applying for support in the 2013/14 academic year.

## **8. Consultation outcome**

8.1 There is no statutory requirement to consult on these Regulations.

However, as part of a quality review process in Spring 2013, the draft 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), Universities UK (UUK), GuildHE, the Student Loans Company (SLC) and the Higher Education Funding Council for England (HEFCE) to check that the Regulations met policy intent.

## **9. Guidance**

9.1 The Minister of State announced the broad changes to student support for the 2014/15 Academic Year in a Written Statement to Parliament on 11 March 2013 and the arrangements were circulated to institutions and the HE sector at that time. Prospective full-time and part-time students and their parents will be given information about the 2014/15 student support package through the Student Finance Tour. Students, universities, colleges and others will be given information on the 2014/15 support package through information provided on Gov.UK and Student Finance England's student and practitioners' websites. Guidance materials will be produced by Student Finance England for those intending to apply for full-time and part-time financial support for 2014/15 and these will be available in both hard copy and electronic formats.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

10.2 The impact on the public sector is minimal.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The Regulations will be kept under review and in particular we will be monitoring the views of stakeholders. We will also be monitoring the number of students who receive grants and loans. This information is published in the Student Loans Company's Statistical First Releases.

## **13. Contact**

13.1 Mark Williams at the Department for Business, Innovation and Skills Tel: 020 7215 1546 or email: [mark.williams@bis.gsi.gov.uk](mailto:mark.williams@bis.gsi.gov.uk) can answer any queries regarding the instrument.