
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 10 of the Higher Education and Research Act 2017 (c. 29) (“HERA”) requires the Office for Students to ensure that the ongoing registration conditions of each registered higher education provider of a description prescribed by regulations made by the Secretary of State must include a fee limit condition. Such a condition requires the governing body of a provider to secure that “regulated course fees” do not exceed a fee limit. Schedule 2 to the Act sets out how fee limits are determined. The “regulated course fees” to which fee limits apply are fees which are paid by a “qualifying person” where that person undertakes a “qualifying course”.

Under section 3(1) of HERA, the Office for Students must establish and maintain a register of English higher education providers (providers whose activities are carried on, or principally carried on, in England (see section 83(1) of HERA)). These Regulations therefore apply to students resident in England, Wales, Scotland and Northern Ireland who are studying a higher education course at an English higher education provider. The description of registered higher education providers, and qualifying courses are prescribed in the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189) (as amended by the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903) (“the general Fee Limits Regulations 2018”).

Paragraph 2 of Schedule 2 to HERA permits the Secretary of State to prescribe (i) the higher amount – being the regulated course fee limit applicable where the provider has an approved access and participation plan in force, and where the provider has been awarded a high level quality rating in accordance with arrangements made under section 25 of HERA, and (ii) the floor amount – being a level of regulated course fee above which providers may charge if they have an approved access and participation plan but have not been awarded a high level quality rating (but the amount they charge must not exceed any sub-level amount determined by the Secretary of State under Schedule 2, paragraph 2(6)). An “approved access and participation plan” means a plan that is approved by the Office for Students under section 29 of HERA.

Paragraph 3 of Schedule 2 to HERA permits the Secretary of State to prescribe (i) the basic amount – being the course fee limit applicable where the provider does not have an approved access and participation plan in force but does have a high level quality rating, and (ii) the floor amount – being a level of regulated course fee above which providers which do not have an approved access and participation plan in force, and which do not have a high level quality rating may charge (but the amount they charge must not exceed any sub-level amount determined by the Secretary of State under Schedule 2, paragraph 3(5)).

The general Fee Limits Regulations 2018 provide for the higher, basic and floor amounts applicable to different courses and cases in respect of an academic year of a course beginning on or after 1st August 2019, whether or not the course began before that date. Paragraph 4(1) of Schedule 2 to HERA provides that the power for the Secretary of State to prescribe by regulations different amounts for different cases or purposes under the Act includes power to prescribe different amounts as the higher amount, basic amount and floor amount in the case of an accelerated course. An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award (see paragraph 4(2) of Schedule 2 to HERA).

These Regulations provide that the higher amounts in the case of an accelerated course are those listed in regulations 5 and 6. They provide that the basic amounts in the case of an accelerated course are those listed in regulations 7 and 8. They provide that the floor amounts in respect of the relevant higher and basic amounts are those listed in regulations 5 to 8.

Changes to legislation: *There are currently no known outstanding effects for the The Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019. (See end of Document for details)*

Regulation 4 provides that the amounts prescribed in regulations 5 to 8 apply in respect of an academic year of an accelerated course where the first year of that accelerated course begins on or after 1st August 2019. In the case of an accelerated course which began before 1st August 2019, the amounts prescribed in the general Fee Limits Regulations 2018 will apply.

An impact assessment has been produced for this instrument. That assessment concludes that there is not expected to be any additional impact on the costs of business, charities or the voluntary sector as a result of these new fee limits. The impact assessment is available at <https://www.gov.uk/government/publications/accelerated-degree-courses-assessment-of-impact>. Alternatively, a hard copy of the impact assessment is available from Julie Hull at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT (or via email at julie1.hull@education.gov.uk).

An Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk.

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