

**EXPLANATORY MEMORANDUM TO**  
**THE HIGHER EDUCATION SHORT COURSE LOANS REGULATIONS 2022**  
**2022 No. 349**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The Higher Education Short Course Loans Regulations 2022 (“the Regulations”) provide for tuition fee support for students taking designated higher education (“HE”) short courses during the period beginning on or after 1st September 2022 and ending on or before 1st September 2025. It will provide for tuition fee loans to be available for students undertaking HE short courses in a trial that is part of the pathway towards the Lifelong Loan Entitlement, to be introduced from 2025.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 Section 22 of the Teaching and Higher Education Act 1998 (“the 1998 Act”) 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.
- 6.2 These Regulations apply to short courses beginning on or after 1st September 2022. The Regulations are largely based upon the Further Education Loan Regulations 2012 (as amended) but make changes to make support available for new students starting HE short courses (“HESC”). New students will be eligible to apply for loans to meet the costs of their tuition fees for HESCs undertaken during the period on or after 1st September 2022 and ending before 1st September 2025.
- 6.3 The development of HESCs have been funded by the Office of Students (OfS) through a competition process. Courses will be designated by the Secretary of State as HESC by reference to the Higher Education Providers which the OfS determined as being successful in a competition, in accordance with s.22(2)(aa) of the 1998 Act.

Once available, a list of designated HESC will be published by the Secretary of State on a webpage with this address: <https://www.gov.uk/government/publications/higher-education-short-courses>.

## 7. Policy background

### *What is being done and why?*

- 7.1 HE study in England is supported through government backed tuition fee loans. Eligible students can apply for tuition fee loans for HE courses designated as eligible for this support. At present, HE tuition fee loans are only available for courses of at least a year in length, for a designated HE qualification, and studied at a minimum intensity of 25% of full time. Although tuition fee loans are available for part-time study, these rules still apply and this means HE study is only partly flexible.
- 7.2 There are currently significant skills gaps in sectors which use higher technical skills, including in manufacturing, construction and health and social care. There is also growing employer demand for the skills that higher technical education provides. Investing in these skills at both a local and a national level is critical to international competitiveness, improving our productivity, and re-skilling the workforce to meet future employer needs.<sup>1</sup>
- 7.3 The Independent Panel Report to the Review of Post-18 Education and Funding considered how the HE funding system could be revised. Academic experts on skills requirements told the Independent Panel that ‘current arrangements are ill-suited to helping employees or companies upskill’, and likewise, The Confederation of British Industry (CBI) stated that flexible routes through HE were ‘essential to ensure individuals already in the workforce can learn on a more modular basis and not have to choose work or study’. The Review also endorsed a House of Lords Report that recommended ‘funding for modules or credit where a full degree is not required’.<sup>2</sup>
- 7.4 The report of Independent Panel recommended making HE more flexible by making it possible for individuals to receive support to study shorter courses, such as modules of HE courses and for people to be able to study HE over their lifetimes.<sup>3</sup>
- 7.5 As a response, in September 2020, the Prime Minister announced plans to introduce a Lifelong Loan Entitlement (LLE) from 2025, as part of the Lifetime Skills Guarantee. The LLE will provide individuals with a loan entitlement to the equivalent of four years of post-18 education to use over their lifetime. The LLE will help fund modules of courses at levels 4 to 6 regardless of whether they are provided in colleges or universities, as well as full years of study. It will make it easier for adults and young people to study more flexibly – allowing them to space out their studies, transfer credits between providers, and partake in more part-time study.

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<sup>1</sup> [Employer skills survey 2019 research report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

<sup>2</sup> House of Lords Economic Affairs Committee: Treating Students Fairly: The Economics of Post-School Education, p. 51. <https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/139/139.pdf>

<sup>3</sup> [Independent panel report to the Review of Post-18 Education and Funding](#) Department for Education May 2019, p. 40.

- 7.6 The government has now published its response to the Independent Review of Post-18 Education and Funding and launched a Consultation on the LLE.<sup>4</sup> Responses from the Consultation will help to shape the LLE.
- 7.7 The LLE will be introduced from 2025 and the government is taking a “pathway” approach towards its introduction. Part of the pathway is the HE Short Course trial, which will run for the three years prior to the LLE being launched. The purpose of this instrument is to create the Regulations that will introduce the HE Short Course trial, which will enable design towards the LLE in an iterative, design-led way. It will also allow us to test and stimulate demand for modular learning, understand how providers can adapt their provision to deliver modular study, and how the Students Loans Company (SLC) can build systems and processes to best support future learners.
- 7.8 The loans provided for in these Regulations will enable the HE Short Course trial. The trial supports the introduction of the LLE in the following ways:
- It will test the assumptions on which the LLE is based, for example that people will want to study HE in more flexible ways, with shorter periods of learning. The HE Short Course trial will generate data and insight to test demand for short course learning across a variety of learner cohorts and employer demand for people with the skills gained from such courses. This data and insight will be used in developing the LLE, thereby reducing the risks of its introduction.
  - The trial will allow a number of learners to benefit from support for this more flexible sort of learning ahead of the LLE.
  - The trial will also incentivise short course provision by HE providers ahead of the LLE, as tuition fee loans will be available for their students.
  - The trial will develop and test a loan delivery system that will enable students to apply for loan funding for short course/modular provision to help ensure a smooth learner journey under LLE.
- 7.9 Under these Regulations an eligible person (primarily a person usually resident in England) will be able to take out up to four loans for short HE courses that are designated on a government list. Regulation 4 sets the short course size as 30 or 40 credits in size (similar to a module from an undergraduate degree course), and of a duration of no more than a year. The content of the short courses will be derived from existing HE courses at levels 4 to 6 that are funded under the present rules.
- 7.10 The short courses in the trial will be from a range of subjects: science, technology, engineering and maths (STEM), healthcare, education, digital innovation and areas that help meet Net Zero commitments. These subject restrictions are broad enough to provide a good test for short course study, while providing some direction towards areas of skill shortage. These subject restrictions can be reviewed as the trial progresses and LLE policy is developed. There will be no restrictions relating to a

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<sup>4</sup> [https://consult.education.gov.uk/lifelong-loan-entitlement/lifelong-loan-entitlement-consultation/supporting\\_documents/CP%20618%20Lifelong%20Loan%20Entitlement%20Consultation%20web%20version%201.pdf](https://consult.education.gov.uk/lifelong-loan-entitlement/lifelong-loan-entitlement-consultation/supporting_documents/CP%20618%20Lifelong%20Loan%20Entitlement%20Consultation%20web%20version%201.pdf)

person's existing level of qualification and doing a short course will not reduce a person's future entitlement to government support for HE study, either as part of the present system or under the LLE.

- 7.11 Evaluation of the data and insight generated by the trial will help in developing the LLE. At the end of the first stage of evaluation, the Office for Students will publish an evaluation report in summer 2023.
- 7.12 Designated courses are those developed with the help of challenge funds from the OfS to HE Providers successful in a challenge competition. This will limit the size of the trial and help to ensure the quality of the courses developed. In academic year 2022/23, there will be 22 English HE providers in the trial (out of a total of 419 on the OfS Register) delivering 115 short courses, but this may grow over the period of the trial.
- 7.13 The short courses will be both standalone courses in their own right and derived from larger courses leading to qualifications. This means that courses will be validated by the degree awarding body or the awarding organisation of the full higher education course(s) from which they are derived. There will be assessment and certification at the end of the short course.
- 7.14 The short courses have also had employer support and engagement in their design. They are designed to support individuals to both upskill or re-train and enable progression towards full qualifications. This includes directly enhancing the learners' ability to gain employment or increasing their productivity if they are currently in employment.
- 7.15 To make the loan application system user friendly, Regulations 3 and 5 make provision for a 'period of deemed eligibility' which is separate from the period of eligibility tied to the short course. This means that, once a student's eligibility is established for a short course, if they apply for another short course loan within a 12-month period they will benefit from an expedited application process, unless something has changed in their circumstances. This feature is designed to make it easier for students who wish to undertake more than one short course, up to their entitlement of 4 short courses. The ease of re-application during the period of deemed eligibility has been carefully balanced against risk, so that if relevant change in an individual's circumstances occurs, they would have to go through the full application procedure for further short course loans.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 This instrument does not amend another instrument.

## **10. Consultation outcome**

- 10.1 As this is a trial principally to gather learning, there was no formal consultation for the HE Short Course Trial. The LLE is being consulted upon separately and this was launched on 24 February 2022. An Impact Assessment on the LLE policy was published on 24th February 2022 to show the impacts of the wider LLE policy (more

specifically about the four-year entitlement) and to support response to the wider LLE consultation.<sup>5</sup>

## **11. Guidance**

- 11.1 The Student Loans Company will be issuing user guidance on the HE Short Course tuition fee loans before the portal for loan applications is launched in summer 2022.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because as a small trial there is no significant impact on business.
- 12.4 As part of the Public Sector Equalities Duty, the Minister has been informed of the results of an equalities impact assessment (EIA) on this policy. The results of the EIA are that the loans provided in the trial will help more students take up these types of courses who would not have otherwise had the opportunity, including in terms of giving them greater flexibility in their ability to develop their skills/knowledge. The introduction of this loan is likely to have a positive impact on people of all backgrounds, with further positive impacts on mature learners and females, who are currently more likely to do flexible HE learning.<sup>6</sup>

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The Regulations created by this instrument are intended to be in effect for the three-year period of the trial. The courses made eligible for loan funding under these Regulations will cease before 1 September 2025, although an expiry date has not been included, to permit any delayed loan payments to be made, if necessary, shortly after this date. Once that is done, the Regulations will be amended so they cease to have effect.
- 14.2 The instrument does not include a statutory review clause.

## **15. Contact**

- 15.1 Maggie Bullett at the Department for Education, Telephone: 07384 452120 or email: [maggie.bullett@education.gov.uk](mailto:maggie.bullett@education.gov.uk) can be contacted with any queries regarding the instrument.

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<sup>5</sup> [Lifelong Loan Entitlement consultation \(education.gov.uk\)](https://www.gov.uk/government/consultations/lifelong-loan-entitlement); [Lifelong loan entitlement: impact assessment - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/lifelong-loan-entitlement-impact-assessment)

<sup>6</sup> Source: <https://explore-education-statistics.service.gov.uk/find-statistics/higher-level-learners-in-england/2018-19> (flexible HE learning derived from the institutional credit in higher education providers learner group).

- 15.2 Tom Lee, Deputy Director for Lifelong Loan Entitlement at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Michelle Donelan MP, Minister of State for Higher and Further Education, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.