

**EXPLANATORY MEMORANDUM TO THE  
STUDENT FEES (APPROVED PLANS) REGULATIONS (NORTHERN  
IRELAND)**

**2005 No. 367**

1. This explanatory memorandum has been prepared by the Department for Employment and Learning and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 These Regulations detail the required content of access plans; the process for their approval and variation; their duration, how the Department for Employment and Learning can enforce them, if necessary; and the process for a review of the Department's decision by a person or panel of persons. Corresponding regulations have been made in England (S.I. 2004 No. 2473)
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Background**
  - 4.1 Article 4 of the Higher Education (Northern Ireland) Order 2005 (No. 1116 N.I.5) gives the Department for Employment and Learning power to impose conditions on the grant it pays to Northern Ireland institutions providing full-time undergraduate courses of higher education in relation to the tuition fees to be paid by full time undergraduates. Similar provisions are contained in Section 24 of the Higher Education Act (2004) in relation to tuition fees at English institutions.
  - 4.2 Any publicly-funded institution in Northern Ireland, as defined in Article 3 (2) of the Higher Education (Northern Ireland) Order 2005, that wishes to charge higher variable fees in excess of the basic fee for any of their courses from academic year 2006 will be required to have an access plan (commonly known as an access agreement) approved by the Department for Employment and Learning. The basic and higher amounts on the tuition fees that may be charged to full-time undergraduates have been set at £1,200 and £3,000 respectively in the Education Student Fees (Amounts) Regulations (Northern Ireland) 2005 No. 290.

4.3 Article 6 of the Higher Education (Northern Ireland) Order 2005 details the contents of access plans that may be required by regulations. The plan will set out the fee limits and the courses to which they apply. The access plan will also cover an institution's provisions for financial and other support for students (including bursaries); outreach activity; and its own milestones for assessing progress in widening access to higher education.

## **5. Extent**

5.1 These Regulations apply to Northern Ireland.

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

As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Institutions in Northern Ireland providing full-time undergraduate courses of higher education are currently restricted as to the fees they charge full-time undergraduates to a standard amount - £1,175 for academic year 2005/06 and taking into account inflation, the standard amount for 2006/07 would be £1,200. The policy of variable fees was first set out in the Higher Education White Paper (Cm 5375). In response to the White Paper, the Department for Employment and Learning launched a consultation outlining the case for introducing variable fees to Northern Ireland. The key features of the policy are:

- Institutions in Northern Ireland are to be allowed to charge variable fees of up to £3,000 (the higher amount), provided they have an access plan approved by the Department for Employment and Learning; but
- If an institution does not have an access plan, it may charge whatever the current standard fee is by 2006 (the basic amount).

7.2 The case for introducing variable fees in Northern Ireland is based on:

- providing the additional funding to help higher education institutions meet long term challenges to maintain and improve standards, widen access, and become more internationally competitive;
- ensuring that Northern Ireland institutions have the opportunity to maintain broad parity with their English counterparts; and

- supporting the substantial number of Northern Ireland students who go to universities in England, by providing fee deferral arrangements, to help with higher tuition fees planned for 2006.
- 7.3 The philosophy behind access plans is that the introduction of variable deferred fees should not have a detrimental effect on widening access and ensure that institutions are explicitly committed to increasing participation rates of under represented groups.
- 7.4 The main difference in the policy approach between Northern Ireland and England is that, in England, the Office for Fair Access (OFFA), under control of the Director for Fair Access, has responsibility for regulating and approving access plans submitted by English institutions. In Northern Ireland, however, the Department for Employment and Learning will perform the regulatory role in relation to access plans submitted by Northern Ireland institutions under guidance from OFFA if necessary.
- 7.5 The policy consultation which outlined the case for introducing variable fees in Northern Ireland revealed that the majority of respondents were in agreement with the need to raise additional funding for higher education but the response was more divided over who should pay. Of those not in favour of graduates making an increased contribution towards the cost, none suggested a viable alternative. The consultation on the draft legislation elicited significantly fewer responses with the respondents raising no new issues and reinforcing their position as stated during the policy consultation. The Order attracted significant media and political interest. All Northern Ireland parties were against the introduction of variable fees and were critical of, in particular, the use of the Order in Council process to legislate for Northern Ireland.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for these Regulations as they have no impact on business, charities or voluntary bodies.
- 8.2 The actual costs of implementing the proposals and the long-term cost of allowing students to defer payment of fees until they are earning will depend on a number of factors such as the level of fees set by the institutions, the number of students choosing to defer payment of fees, the extent to which loans will be repaid and the time taken to repay. The current estimated full year cost is £28 million which will be met by the Department for Employment and Learning. The cost of approving access plans would be met by the Department out of existing resources with the cost of preparing and complying with plans falling to the institutions. The cost of establishing an

independent review panel using the public appointment procedures would be met by the Department and is likely to be minimal.

8.3 In line with its commitments in its Equality Scheme, the Department for Employment and Learning conducted an Equality Impact Assessment (EQIA) on the policy proposals to which the Higher Education (Northern Ireland) Order gives effect. The EQIA, which included a public consultation exercise, found no evidence to suggest potential for adverse impact on any of the nine equality categories identified in Section 75 of the Northern Ireland Act 1998.

## **9. Contact**

David McAuley, Director, Higher Education Division, Department for Employment and Learning, 6th Floor Adelaide House, 39 – 49 Adelaide Street, Belfast, BT 2 8FD. telephone: 028 90257811 email:david.mcauley@delni.gov.uk.