

EXPLANATORY MEMORANDUM TO

Student Fees (Qualifying Courses and Persons) (Amendment) (No.2) Regulations (Northern Ireland) 2011

SR No. 376

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by Articles 4 and 14 of the Higher Education (Northern Ireland) 2005 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Rule amends the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007, SR 2007 No. 328, the "principal regulations".
- 2.2. This Rule excludes persons ordinarily resident in England, Wales, Scotland or the Islands from the categories of qualifying persons which are subject to the fee amounts prescribed in the Student Fees (Amounts) Regulations (Northern Ireland).

3. Background

- 3.1. The Northern Ireland Executive agreed a package of measures to address a £40m budget deficit facing the higher education sector in Northern Ireland.
- 3.2. The agreed package was premised, in part, on retaining tuition fees in Northern Ireland at the existing level for Northern Ireland students and allowing higher education institutions in Northern Ireland to charge tuition fees above the fee cap for students from other parts of the United Kingdom, with the potential additional revenue factored into the overall funding package.

4. Consultation

- 4.1. In March 2011, the Department launched a consultation on the future policy of tuition fees and student finance arrangements in Northern Ireland. As part of this consultation, views were sought on the proposal to introduce differential tuition fee charging for students "ordinarily resident" in the United Kingdom (excluding Northern Ireland) commencing qualifying courses at institutions delivering higher education in Northern Ireland.
- 4.2. The consultation ran for 12 weeks, closing on 10 June 2011. Forty responses were received and a significant number of respondents favoured differential charging, making reference to the potential for displacement of Northern Ireland students at institutions here if there was an influx of students seeking to avail of lower fees.

5. Equality Impact

- 5.1. A full draft Equality Impact Assessment (EIA) was published as part of the public consultation on the future policy of tuition fees and student finance arrangements in Northern Ireland.
- 5.2. This Rule does not affect students from Northern Ireland and the Department considers that the making of it does not adversely impact on any of the Section 75 categories.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has not been prepared for this Rule as it has no impact on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The Executive has agreed that the additional revenue that will accrue due to higher fee levels for students from outside Northern Ireland will form part of the contribution from the Department and the Higher Education sector to address the £40m budget deficit.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department considers that the provisions in this Statutory Rule comply with Section 24 of the Northern Ireland Act 1998 and advice from the Departmental Solicitor's Office reaffirms this.

9. EU Implications

- 9.1. In accordance with European Community law, non-UK EU residents will continue to be categorised as qualifying persons, and subject to the regulated capped fees that apply at institutions in Northern Ireland. EU nationals are entitled to use a host country's education system on the same terms as its own nationals.

10. Parity or Replicatory Measure

- 10.1. The issue of higher education tuition fees is a devolved matter across the United Kingdom. Since the independent review of higher education funding and student finance in England, and the subsequent proposals by the Coalition Government, the respective policies on tuition fees has become more disparate.
- 10.2. From academic year 2012/13 higher education providers in England and Wales can charge up to £9,000 for new eligible students resident in the United Kingdom commencing qualifying courses.
- 10.3. For Welsh students commencing higher education courses in academic year 2012/13, the Welsh Assembly Government will provide non-repayable grants to cover the difference in the existing fee levels and the fee levels which will apply from 2012/13.
- 10.4. In Scotland, arrangements will be in place for fees of up to £9,000 per annum to be charged to students ordinarily resident in England, Wales and Northern Ireland who commence study at higher education providers in academic year 2012/13. Scottish students in Scotland will not be charged fees. The Scottish Government will cover the cost of their tuition fees.

11. Additional Information

- 11.1. The rule also makes a few minor amendments to definitions in the principal regulations.