

**EXPLANATORY MEMORANDUM TO**  
**THE STUDENT FEES (BASIC AND HIGHER AMOUNTS) (APPROVED**  
**PLANS) (ENGLAND) (AMENDMENT) REGULATIONS 2012**

**2012 No. 433**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument amends existing regulations which prescribe the basic and higher amounts of tuition fees that may be charged by institutions funded by the Higher Education Funding Council for England (HEFCE) in respect of the 2012/13 academic year. The instrument also amends the regulations which prescribe the content of the access plans of such higher education institutions (HEIs) so that the Director of Access can agree a variation of a plan before the plan has come into force.

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 Student Fees (Amounts) (England) Regulations 2004 (“the Fees Amounts Regulations 2004”) (S.I. 2004/1932) (as amended);
- The Higher Education (Basic Amount) (England) Regulations 2010 (“the Basic Amount Regulations”) (S.I. 2010/3021);
- The Higher Education (Higher Amount) (England) Regulations 2010 (“the Higher Amount Regulations”) (S.I. 2010/3020); and
- The Student Fees (Approved Plans) (England) Regulations 2004 (“the Approved Plans Regulations”) (S.I. 2004/2473).

4.2 This instrument amends the Fees Amounts Regulations 2004 to update the basic and higher amounts which HEIs can charge by way of tuition fees for the 2012/13 academic year, in line with forecast inflation. As the increase is no greater than required to maintain the value of the amounts in real terms, it is subject to the negative procedure.

The Fees Amounts Regulations 2004 (which apply in respect of continuing students, i.e. those starting courses before 1<sup>st</sup> September 2012) are also amended to make it clear that they continue to apply to students transferring to a course starting on or after 1<sup>st</sup> September 2012 from a course starting before 1<sup>st</sup> September 2012, where the mode of study remains the same, and students doing end-on courses.

4.3 A corresponding amendment for 2012/13 is made to the Basic Amount Regulations 2010 and the Higher Amount Regulations 2010 which prescribe the maximum amounts that may be charged by way of tuition fees to students starting courses on or after 1<sup>st</sup> September 2012 to make it clear that they do not apply to transferring students, in cases where the mode of study remains the same, or end-on students.

4.4. New provision is also inserted into the Basic Amount Regulations 2010 and the Higher Amount Regulations 2010 prescribing a basic and higher amount for part-time courses. Part time courses were brought within scope of the fee caps by virtue of section 77 of the Education Act 2011.

4.5 The Approved Plan Regulations are amended so that the Director of Access may agree to vary a plan at any time after it is approved.

## **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**

The policy changes effected by these Regulations are set out below.

### **7.1 Changes to the Fees Amounts Regulations 2004 (coming into force on 1 August 2012)**

The changes to the Fees Amounts Regulations 2004 will apply to:

- Continuing full-time students (i.e. those who began courses before 1st August 2012 who are continuing those courses on or after 1<sup>st</sup> August 2012);
- New full-time students starting their courses in August 2012;
- ‘End on’ students;
- Transferring students starting a course before 1<sup>st</sup> September 2012 who transfer to another course on or after 1<sup>st</sup> September 2012, where the mode of study remains the same.

HEIs in England that have an access plan approved by the Director of Fair Access can set tuition charges not exceeding the level approved in their access

plan, which cannot exceed the higher amount. HEFCE-funded HEIs in England that do not have an access plan are only allowed to charge fees up to the basic amount. The higher and basic amounts are set out in regulation 4 of the Fees Amounts Regulations 2004.

In the case of certain specific courses, HEIs are only allowed to charge a reduced higher or basic amount. These amounts and courses are set out in regulation 5 of the Fees Amounts Regulations 2004.

This new instrument amends regulation 4 of the Fees Amounts Regulations 2004 to increase the higher amount from £3,375 to £3,465 and the basic amount from £1,345 to £1,380.

It also amends regulation 5 of the Fees Amounts Regulations 2004 to increase the reduced higher and basic amounts that apply in respect of certain specific courses from £1,680 to £1,725 and from £665 to £680 respectively.

The increases to the basic and higher amounts have been calculated with reference to the All Items Retail Prices Index Excluding Mortgage Interest Payments (RPIX), which is prescribed as the appropriate index of prices specified in the Student Fees (Inflation Index) Regulations 2006 (S.I. 2006/507).

The figure used for uprating is forecast RPIX for the 2012/13 academic year, which is 2.69%. This has been calculated by using the average of forecast quarterly RPIX figures for the 2012 and 2013 calendar years provided by the Office for Budget Responsibility (OBR).

The new instrument also inserts new provisions into the Fees Amounts Regulations 2004 so that they continue to apply to 'end on' students and transferring students, in cases where the mode of study remains the same.

## **7.2 Changes to the Basic Amount Regulations and the Higher Amount Regulations (coming into force on 1 September 2012)**

### **7.2.1 The introduction of maximum tuition charge amounts for part-time courses beginning on or after 1<sup>st</sup> September 2012**

The Basic Amount Regulations and the Higher Amount Regulations were both made in December 2010, and come into force on 1st September 2012. They will allow publicly funded HEIs to charge up to £6,000 (or where an HEI has an access plan approved by the Director of Fair Access, up to £9,000) to new full-time students starting a qualifying course on or after 1st September 2012. Part-time courses were brought within scope of the maximum tuition charge amounts by virtue of section 77 of the Education Act 2011.

The changes to the Basic Amount Regulations and the Higher Amount Regulations will introduce corresponding basic and higher amounts of £4,500 and £6,750 for qualifying part-time courses starting on or after 1 September

2012, to ensure HEFCE-funded HEIs cannot charge more than the Government will give to students in the form of a tuition loan.

Corresponding maximum tuition loan amounts of £4,500 and £6,750 for students starting part-time courses on or after 1 September 2012 are set out in the Education (Student Support) (England) Regulations 2011 (S.I. 2011/1986), which were made in August 2011

#### 7.2.2 Excluding ‘end on’ students from the new tuition charge caps that will apply to new students from 2012/13.

Students starting an ‘end on’ course on or after 1st September 2012 will remain under the current (i.e. 2011/12) tuition charge arrangements in 2012/13 and subsequent years (i.e. until they complete their ‘end on’ course).

For students starting their courses on or after 1st September 2012, an ‘end on’ course means a first degree with honours taken (disregarding any normal intervening vacation) immediately after successful completion of one of the following qualifications which started before 1st September 2012:

- Higher National Certificate (HNC)
- Certificate of Higher Education (CertHE)
- Higher National Diploma (HND)
- Diploma of Higher Education (DipHE)
- Foundation degree
- First degree without honours (i.e. ordinary degree or pass degree)

**and** where both courses are studied in the same mode of study (that is, either both are full-time or part-time or full-time distance learning).

The changes to the Basic Amount Regulations and the Higher Amount Regulations will ensure that they do not apply to these students, who will continue to be subject to the tuition charge caps set by the Fees Amounts Regulations 2004.

#### 7.2.3 Excluding certain transferring students from the new tuition charge caps that will apply to new students from 2012/13.

Students starting a course before 1<sup>st</sup> September 2012 who transfer to another course on or after 1<sup>st</sup> September 2012, where the mode of study remains the same, will remain under the current (i.e. 2011/12) tuition charge arrangements in 2012/13 and subsequent years.

The changes to the Basic Amount Regulations and the Higher Amount Regulations will ensure that they do not apply to these students.

This means that students who transfer from a full-time course starting before 1<sup>st</sup> September 2012 to a full-time course starting on or after 1<sup>st</sup> September 2012 will continue to be subject to the tuition charge caps set by the Fees Amounts Regulations 2004.

For students transferring from a part-time course starting before 1 September 2012 to a part-time course starting on or after 1<sup>st</sup> September 2012, their tuition charges will remain unregulated and therefore continue to not be subject to a maximum level.

Students starting a course before 1<sup>st</sup> September 2012 who transfer to another course on or after 1<sup>st</sup> September 2012, where the mode of study has changed, will be subject to the new full or part-time tuition caps as set by the Basic Amount Regulations and the Higher Amount Regulations for their second course.

### **7.3 Changes to the Approved Plans Regulations (coming into force on 15 March 2012)**

Access plans are ordinarily approved by the Director of Fair Access around 15 months before the start of the academic year to which they relate and come into force. The Approved Plans Regulations enable applications to the Director to vary access plans during the period that the plan is in force.

The new instrument will amend the regulations so that the Director can agree a variation of a plan at any time after the plan has been approved. It will enable HEI's access plans to be varied once they are approved but not yet in force.

### **7.4 Consolidation**

These Regulations make a number of amendments to existing regulations. There is no current intention to consolidate the relevant legislation.

## **8. Consultation outcome**

As the amendments being made are routine, no consultation was considered necessary.

## **9. Guidance**

The Minister of State announced the broad changes to student support in an oral statement to Parliament on 3 November 2010. The Secretary of State provided further details on support for part-time study in a Written Statement on 8 December 2010. Since then, students, prospective students, institutions and others have been given detailed information about the 2012/13 student support package through a media campaign and through information and guidance materials provided on the DirectGov website.

## **10. Impact**

The Impact Assessment undertaken as part of the Government's proposals for higher education student funding reform in November 2010 covered changes to part-time student finance. A further Impact Assessment has not been

prepared for this instrument as it has no impact on business, charities or voluntary bodies. The impact on the public sector is minimal.

**11. Regulating small business**

The legislation does not apply to small business.

**12. Monitoring and review**

The Regulations will be kept under review.

**13. Contact**

David Gregson, at the Department for Business, Innovation and Skills, telephone number: 020 7215 1498 or email: [david.gregson@bis.gsi.gov.uk](mailto:david.gregson@bis.gsi.gov.uk) can answer any queries regarding the instrument.