EXPLANATORY MEMORANDUM TO

THE HIGHER EDUCATION (FEE LIMITS AND FEE LIMIT CONDITION) (ENGLAND) (AMENDMENT) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

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

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

2. Declaration

2.1 Baroness Smith at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Anne Rimmer and Paul Williams, Deputy Directors, Student Funding Policy at the Department for Education confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Simon Wigfield / Richard Pearson at the Department for Education simon.wigfield@education.gov.uk and richard.pearson@education.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This statutory instrument (SI) increases the limits on tuition fees that higher education (HE) providers can charge students studying undergraduate courses in the 2025/26 academic year. It also introduces new lower tuition fee limits for foundation years in classroom-based subjects, such as business, social science and humanities, in the 2025/26 academic year.

Where does the legislation extend to, and apply?

4.2 The extent of this SI (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this SI (that is, where the instrument produces a practical effect) is England.

5. Policy Context

5.1 The intention of this SI is to increase maximum fee limits for full-time and part-time students undertaking a designated undergraduate course and those undertaking a designated accelerated degree course from 2025/26. This instrument is increasing maximum fee limits for designated undergraduate and accelerated courses offered by

Approved (Fee Cap) Providers by 3.1% for eligible new and continuing undergraduate students for the 2025/26 academic year, which is based on forecast RPIX[1]. RPIX is the inflation index in the Student Fees (Inflation Index) Regulations 2006 to which the Secretary of State has regard when satisfying herself that increases in maximum fee limits are no greater than is required to maintain their value in real terms.

5.2 The Government has increased fee limits for the 2025/26 academic year to put the HE sector on a more secure financial footing. Teaching income per UK student that HE institutions receive has declined in real terms since 2017/18 and is now approaching its lowest level since 1997. The Office for Students (OfS) has reported that a growing number of HE providers (HEPs) are facing significant financial difficulty, with 40% forecasting deficits in the 2023-24 financial year.

5.3 An Equality Impact Assessment (EIA) for the 2025/26 academic year for this SI has been published on legislation.gov.uk alongside this SI. Our overall assessment is that a 3.1% increase in tuition fee limits will not be significant enough to alter participation decisions. The increase in tuition fee limits will be accompanied by a commensurate increase in tuition fee loans ensuring that participation in HE remains free at the point of access for those eligible for support. While maximum tuition fees and tuition fee loans will rise in nominal terms, they will remain unchanged in real terms as will the level of debt that students may take on to cover their course costs.

5.4 The Higher Education and Research Act 2017 ("the 2017 Act") established a new independent regulator – the OfS – which was given various functions under Part 1 of the Act, including an obligation to establish and maintain a register of English HEPs. In general, the provider must be registered with the OfS in order for the Secretary of State to pay it a tuition fee loan on behalf of an eligible student. There are two parts to the register, with registered HEPs included in either the "Approved" or "Approved (Fee Cap)" category of registration. Providers in the Fee Cap category are subject to maximum fee limits in Regulations. In order to charge up to the highest fee limits, HEPs must have an Access and Participation Plan (APP) and Teaching Excellence Framework (TEF) award in place. Providers in the Approved category are not subject to fee limits in Regulations.

5.5 An Approved (Fee Cap) Provider with an APP and TEF award can charge up to the Higher Amount in this SI; those with an APP but without a TEF award can charge up to the Floor Amount to that Higher Amount; those with a TEF award but without an APP can charge up to the Basic Amount; those without a TEF award and without an APP can charge up to the Floor Amount to that Basic Amount. The SI sets different 'higher', 'basic' and 'floor' fee limit amounts depending on whether the fee limit is in relation to a full or part-time course, an accelerated degree course or a foundation year in a classroom-based subject. Different fee limit amounts also apply to the final year of a course, a sandwich placement year, an Erasmus year or other overseas year. The following paragraphs set these out and a summary is provided in Annex 1 – Tuition Fee Limit amounts.

[1] 3.1% is forecast RPIX for the first quarter of 2026 published by the Office for Budget Responsibility in its October 2024 Detailed Forecast Economy Tables here: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fobr.uk%2Fdocs%2Fdlm_uploads%2FEconomy_Detailed_forecast_tables_October_2024.xlsx&wdOrigin=BROWSELINK.
The first quarter of 2026 is used as it is roughly mid-way through the 2025/26 academic year for most students who will start the 2025/26 academic year in Autumn 2025.

Maximum fees in respect of an academic year starting on or after 1 August 2025 for full-time courses starting on or after 1 August 2019.

5.6 The higher amount for Approved (Fee Cap) Providers which have an APP and a TEF award will be £9,535 for full-time courses in 2025/26. The floor amount in respect of the higher amount for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £9,275 for full-time courses in 2025/26.

5.7 The basic amount for Approved (Fee Cap) providers without an APP, but with a TEF award will be £6,355 for full-time courses in 2025/26. The floor amount in respect of the basic amount for Approved (Fee Cap) providers which have neither an APP nor a TEF award will be £6,185 for full-time courses in 2025/26.

Maximum fees in respect of an academic year starting on or after 1 August 2025 for specified cases for full-time courses starting on or after 1 August 2019.

5.8 Lower basic and higher amount tuition fees apply to the final year of a full-time course which is normally required to be completed after less than 15 weeks' attendance, for a sandwich work placement year where the periods of full-time study are less than 10 weeks, for a full-time course provided in conjunction with an overseas provider where the periods of study at the UK provider are less than 10 weeks, and for an Erasmus study or work placement year. An Erasmus year is an academic year of a course where a student is participating in the European Union programme, Erasmus +, for education, training, youth and sport or in the Turing programme. For the final year of a full-time course which is normally required to be completed after less than 15 weeks' attendance, Approved (Fee Cap) providers can charge up to 50% of the maximum full-rate fees.

5.9 The higher amount for the final year of a course for Approved (Fee Cap) Providers which have an APP and TEF award will be £4,765 in 2025/26. The floor amount in respect of the higher amount for the final year of course for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £4,635 in 2025/26.

5.10 The basic amount for the final year of a course for Approved (Fee Cap) providers without an APP, but with a TEF award will be £3,175 in 2025/26. The floor amount in respect of the basic amount for the final year of course Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £3,090 in 2025/26.

5.11 For a sandwich work placement year where the periods of full-time study in the academic year are less than 10 weeks, approved (Fee Cap) providers can charge up to 20% of the maximum full-rate fees.

5.12 The higher amount for a sandwich work placement year for Approved (Fee Cap) Providers which have an APP and TEF award will be £1,905 in 2025/26. The floor amount in respect of the higher amount for a sandwich work placement year for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £1,855 in 2025/26.

5.13 The basic amount for a sandwich work placement year for Approved (Fee Cap) providers without an APP, but with a TEF award will be £1,270 in 2019/20. The floor amount in respect of the basic amount for a sandwich work placement year for Approved (fee cap) providers which have neither an APP nor a TEF award will be £1,235 in 2019/20.

5.14 For an overseas study year where the periods of full-time study at the UK provider are less than 10 weeks or an Erasmus study or work placement year, approved (Fee Cap) providers can charge up to 15% of the maximum full-rate fees.

5.15 The higher amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) Providers which have an APP and TEF award will be £1,430 in 2025/26. The floor amount in respect of the higher amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £1,390 in 2025/26.

5.16 The basic amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers without an APP, but with a TEF award, will be £950 in 2025/26. The floor amount in respect of the basic amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers which have neither an APP nor a TEF award will be £925 in 2025/26.

Maximum fees in respect of an academic year starting on or after 1 August 2025 for an Accelerated Degree programme starting on or after 1 August 2019.

5.17 The higher amount for the final year of a course for Approved (Fee Cap) Providers which have an APP and TEF award will be £11,440 in 2025/26. The floor amount in respect of the higher amount for the final year of course for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £11,130 in 2025/26.

5.18 The basic amount for the final year of a course for Approved (Fee Cap) providers without an APP, but with a TEF award will be £7,625 in 2025/26. The floor amount in respect of the basic amount for the final year of course for Approved (Fee Cap) providers which have neither an APP nor a TEF award will be £7,420 in 2025/26.

5.19 For a sandwich work placement year where the periods of full-time study in the academic year are less than 10 weeks, approved fee cap providers can charge up to 20% of the maximum full-rate fees.

5.20 The higher amount for a sandwich work placement year for Approved (Fee Cap) Providers which have an APP and TEF award will be £2,285 in 2025/26. The floor amount in respect of the higher amount for a sandwich work placement year for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £2,225 in 2025/26.

5.21 The basic amount for a sandwich work placement year for Approved (Fee Cap) providers without an APP, but with a TEF award will be £1,525 in 2019/20. The floor amount in respect of the basic amount for a sandwich work placement for Approved (fee cap) providers which have neither an APP nor a TEF award will be £1,480 in 2019/20.

5.22 For an overseas study year where the periods of full-time study at the UK provider are less than 10 weeks or an Erasmus study or work placement year, approved fee cap providers can charge up to 15% of the maximum full-rate fees.

5.23 The higher amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) Providers which have an APP and a TEF award will be £1,715 in 2025/26. The floor amount in respect of the higher amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £1,665 in 2025/26.

5.24 The basic amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers without an APP, but with a TEF award will be £1,140 in 2025/26. The floor amount in respect of the basic amount for an overseas study year or an Erasmus study or work placement year for Approved (Fee Cap) providers which have neither an APP nor a TEF award will be £1,110 in 2025/26.

Maximum fees in respect of an academic year starting on or after 1 August 2025 for part-time courses starting on or after 1 August 2019.

5.25 Maximum fees for part-time courses are set at around 75% of the maximum fees for full-time courses.

5.26 The higher amount for Approved (Fee Cap) Providers which have an APP and a TEF award will be £7,145 for part-time courses in 2025/26. The floor amount in respect of the higher amount for Approved (Fee Cap) providers which have an APP but do not have a TEF award will be £6,955 for part-time courses in 2025/26.

5.27 The basic amount for Approved (Fee Cap) providers without an APP, but with a TEF award will be £4,765 for part-time courses in 2025/26. The floor amount in respect of the basic amount for Approved (Fee Cap) providers which have neither an APP nor a TEF award will be £4,635 for part-time courses in 2025/26.

Foundation years

5.28 A foundation year is an additional period of study, integrated with an undergraduate course at the start of that course, which is one year in duration if studied at full-time intensity. Foundation years are designed to prepare students for undergraduate study at degree-level where students lack the necessary skills, subject knowledge or prior attainment required to undertake an undergraduate course. They can act as a valuable access route into HE, often for mature students or students from underrepresented groups.

5.29 From the start of the 2025/26 academic year, lower fee limits, the maximum of which is £5,760, are being introduced for foundation years in classroom-based subjects[2], with foundation years in all other subjects retaining the maximum fee limit for the relevant academic year (£9,535 in 2025/26). The change to foundation year fee limits was first announced in a statement to the House of Commons by the previous Government on 17 July 2023. The current Government confirmed its intention to proceed with these changes in a statement to the House of Commons on 4 November 2024.

5.30 There has been disproportionate growth of foundation years in classroom-based subjects: between academic years 2011/12 and 2022/23, the total number of students starting foundation years in England grew from 8,700 to almost 72,000, with classroom-based subjects accounting for 57% of all foundation year entrants in

[2] Classroom-based subjects are subjects that are currently in the Office for Student's (OfS) Price Group D. They are considered the least costly to deliver – see: https://www.officeforstudents.org.uk/media/0bkppnsu/guide-to-funding-2024-25-jan-2025.pdf. The list is available here: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F663b5d7a1c82a7597d4f3295%2FLower_fee_subject_list_including_HECoS_and_CAH3_codes.ods&wdOrigin=BROWSELINK

[3] https://explore-education-statistics.service.gov.uk/find-statistics/foundation-years-statistics

[4] The Access to Higher Education Diploma is a Level 3 qualification which prepares people without traditional qualifications for HE study, it is typically taught in further education settings.

[5] https://www.gov.uk/government/publications/understanding-the-costs-of-foundation-year-study

2022/23. Business and management subjects accounted for 49% of all students who started foundation years in 2022/23. This compares to 20% of all students starting year one of an undergraduate course in business and management subjects in 2022/23[3].

5.31 The Government is concerned that many of these classroom-based foundation years represent poor value for money for students and taxpayers. There is little evidence that studying a foundation year is always necessary for students wishing to access an undergraduate course in these subjects, and potential foundation year students can choose functionally similar courses – such as Access to HE Diplomas – that cost significantly less[4]. Research commissioned by the Department for Education also shows that foundation years in these subjects can be delivered for significantly less than the current maximum fee limit of £9,250[5].

5.32 The lower fee limit for classroom-based foundation years, that this SI will introduce, seeks to stem the disproportionate growth of these foundation years by removing any currently existing financial incentive for HE providers to continue growing this provision, and reduce the amount of loan debt that students accrue through studying foundation years in classroom-based subjects. The Government believes that the new fee limit delivers better value for money for students and taxpayers.

5.33 This SI reduces tuition fee limits for full-time classroom-based foundation years offered by or on behalf of Approved (Fee Cap) providers with an APP and a TEF award from £9,250 to £5,760. Corresponding fee limits for part-time classroom-based foundation years offered by or on behalf of Approved (Fee Cap) Providers with an APP and a TEF award are being reduced from £6,935 to £4,315.

5.34 The SI also reduces tuition fee limits for full-time classroom-based foundation years offered by or on behalf of Approved (Fee Cap) providers without a TEF award and with an APP from £9,000 to £5,605 and from £6,165 to £3,835 for providers with a TEF award but without an APP. For Approved (Fee Cap) providers without a TEF award and without an APP, tuition fee limits are being reduced from £6,000 to £3,735 for full-time classroom-based foundation years. Corresponding fee limits for part-time classroom-based foundation years offered by or on behalf of Approved (Fee Cap) providers are being reduced from £6,750 to £4,200 for providers without a TEF award and with an APP. And, from £4,625 to £2,875 for providers with a TEF rating but without an APP, and from £4,500 to £2,800 for providers without a TEF award and without an APP.

6. Legislative and Legal Context

How has the law changed?

6.1 This SI amends The Higher Education (Fee Limit and Fee Limit Condition) (England) Regulations 2018 and The Higher Education (Fee Limits for Accelerated Courses) England) Regulations 2019 to increase maximum fee limit amounts set out in Regulations by 3.1%.

6.2 As is currently the case, the uplifted fee limit amounts will apply to Approved (Fee cap) Providers and be set out as ‘higher’, ‘basic’ and ‘floor’ amounts depending on whether the provider has a TEF award and/or an APP. The fee limit amounts will

continue to vary depending on whether fee limit is in relation to a full or part-time course, accelerated degree course, the final year of a course, a sandwich placement year, an Erasmus year or other overseas year.

6.3 This SI is increasing these maximum fee limit amounts for designated undergraduate and accelerated degree courses offered by Approved (Fee Cap) Providers for eligible new and continuing undergraduate students for the 2025/26 academic year.

Foundation years

6.4 This SI introduces new tuition fee limits for foundation years in classroom-based subjects. It also specifies which subjects are within scope of these new lower fees and introduces a definition of a foundation year to the legislation to ensure that the new fee limits are applied to the correct type of provision.

6.5 The new fee limits are for foundation years which commence on or after 1 August 2025. Fee limits for foundation years commencing before that date will continue to be subject to the current limits in the 2018 Regulations, under which they are not treated differently for fee limit purposes from the other years of the undergraduate course with which they are integrated.

Why was this approach taken to change the law?

6.6 Implementing these policies must be done via an affirmative instrument due to the requirements of the enabling primary legislation.

7. Consultation

7.1 There is no statutory requirement to consult on these amendment regulations and no consultation was carried out. The principal changes in this SI make increases to existing Fee Limit Regulations and the Accelerated Course Regulations. A formal consultation would therefore not be appropriate for these changes given that they are not introducing new policy. However, as part of a quality review process in Summer 2024, drafts of this SI were sent to the Student Loans Company (SLC) to ensure the drafting was accurate and met the policy intent of the changes.

Foundation years

7.2 The Independent Panel (chaired by Sir Philip Augar) that supported the Review of Post-18 Education and Funding concluded that: "universities are using foundation years to create four-year degrees in order to entice students who do not otherwise meet their standard entry criteria", and recommended defunding foundation years entirely, with possible exemptions for foundation years in subjects such as medicine, to ensure better value for money for students and taxpayers[6].

7.3 On 24 February 2022, the Department for Education launched a consultation on reforms to the HE sector in response to the recommendations made by the Independent Panel[7]. The department disagreed with the Panel's recommendation on foundation years, concluding that removing all funding for this provision would have a detrimental impact on access to HE – particularly for students from underrepresented backgrounds. Instead, the department consulted on reducing tuition

[6] https://www.gov.uk/government/publications/post-18-review-of-education-and-funding-independent-panel-report
[7] https://assets.publishing.service.gov.uk/media/62176749d3bf7f4f0399d0a8/HE_reform_command-paper-web_version.pdf

fees for all foundation years so that they aligned with the funding rates for Access to HE Diplomas, and on whether HEPs should be able to charge a higher tuition fee for foundation years in certain subjects.

7.4 The consultation received 298 responses to the written questions, including from HEPs; HE mission groups; HE sector representative bodies, arm's length and professional bodies; student representative bodies; and individuals. Views gathered on foundation years showed a slight preference of opinion against the department's proposal: 43% of respondents agreed that foundation year fee limits should be reduced, while 57% disagreed. The majority of HEPs that responded disagreed that foundation year fee limits should be reduced, whereas a majority of individuals, student mission groups, and further education providers that responded agreed with the proposed reduction.

7.5 Of the 183 respondents who commented on whether there was a case for allowing foundation years in some subjects to charge a higher tuition fee, just under two thirds disagreed with this proposal, with HEPs more likely to disagree compared to other respondents[8].

7.6 The department considered the responses to the consultation, commissioned further research into the delivery costs of foundation years, and analysed where the growth in foundation years had been most concentrated. It found the growth in foundation years to be mainly in classroom-based subjects with lower delivery costs, and mostly concentrated at lower- and medium-tariff HE providers. Following this, the department amended the policy to apply a lower tuition fee limit to classroom-based subjects.

8. Applicable Guidance

8.1 The Secretary of State for Education announced a 3.1% increase to maximum fee limits and a 3.1% increase to maximum loans for living costs on 4 November 2024 through an Oral Statement in Parliament. Detailed guidance on increases to maximum fees limits was provided on gov.uk to accompany the Oral Statement[9].

8.2 Information setting out the changes made by this SI will be made available to universities, colleges and other HE stakeholders on Student Finance England's (SFE) practitioners' website in early 2025. Further information on changes to student support for 2025/26 will be published for students on GOV.UK and SFE websites before 1 August 2025.

8.3 Guidance materials (which will be available in early 2025) are being produced by SFE for students intending to apply for tuition fee support for the 2025/26 academic year.

8.4 Non-statutory sector guidance on implementing the fee limit for classroom-based foundation years was published on 9 May 2024 (updated on 4 November 2024)[10].

[8] https://www.gov.uk/government/publications/higher-education-reform-consultation-analysis-research-report
[9] https://www.gov.uk/government/news/higher-education-reform-to-back-opportunity-and-protect-students
[10] https://assets.publishing.service.gov.uk/media/67289068541e1dfbf71e8ad2/Foundation_years_HE_sector_guidance__Nov_2024.pdf

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. An additional impact assessment for the tuition fee reductions for classroom-based foundation years has also been submitted and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 For this SI, an increase in tuition fees will represent a financial benefit for businesses (HEPs), and a cost to students and the government. There will be a positive financial impact on HEPs; they will have greater financial resources which will enable them to spend more on their core activities than they previously were able to do.

9.3 It is estimated that lowering the fee and loan limits for foundation year provision in classroom-based subjects will reduce the total amount of tuition fee income that HEPs receive from this provision.

9.4 There is no, or no significant, impact on charities or voluntary bodies in relation to increases in tuition fee limits.

9.5 There is no significant, impact on the public sector as these changes are an amendment to existing policy. A 3.1% increase to fee limits in 2025/26 will increase outlay by an estimated £331 million in the financial year 2025-26. Lowering the fee and loan limits for foundation year provision in classroom-based subjects will reduce loan outlay by an estimated £154m to £239m on average and per year from financial year 2025/26 onwards.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The SI does not include a statutory review clause, but we will be monitoring the number of students in receipt of fee loans. This information is published in the Student Loans Company's Statistical First Releases[11].

10.2 The OfS, as the regulatory body for HE in England, is responsible for monitoring the financial performance of HEPs and will continue to assess the financial sustainability of the HE sector and individual providers.

10.3 The department will undertake a post-implementation review of the fee increases. As the fee increase will not be in place until the academic year 2025/26 and there will be a lag in the data necessary to conduct such a review, we do not anticipate this happening until after 2028.

10.4 The impact of the changes to fee limits for classroom-based foundation years will be monitored by tracking statistics (using Higher Education Statistics Agency (HESA), Universities and Colleges Admissions Service (UCAS) and SLC data) on the provision and take-up of foundation years. In line with the Better Regulation Framework, the department will also undertake a post-implementation review. As the fee change will not be in place until the academic year 2025/26 and there will be a lag

[11] https://www.gov.uk/government/organisations/student-loans-company/about/statistics

in the data necessary to conduct such a review, we do not anticipate this happening until after 2028 at the earliest.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

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

11.1 This SI makes changes to fee limits for undergraduate full time / part time and those undertaking an Accelerated Degree for new and existing students (dependent on the Institution they are in study at).

12. European Convention on Human Rights

12.1 As the SI is subject to the affirmative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").