EXECUTIVE NOTE

DRAFT : The Student Fees (Specification) (Scotland) Order 2006

The above instrument was made in exercise of the powers conferred by sections 9(6) and (7) and 34(2) of the Further and Higher Education (Scotland) Act 2005 (the Act). This instrument is subject to affirmative resolution procedure.

Policy Objectives

Sections 9(6) and (7) and 34(2) of the Act permit the specification of the level of higher education tuition fees in Scotland by Order.

The purpose of the Order is to set tuition fees for full-time higher level courses of education. This is the first time that such fees will be set by legislation in Scotland. Previously, Scottish Ministers used conditions of grant between themselves, the Scottish Higher Education Funding Council and the Scottish Further Education Funding Council and fundable bodies to set fees.. The Scottish Ministers set the fee for 2005 to 2006 at £1,175. There was a regular practice of increasing fees annually in line with inflation. If this fee had been increased to account for inflation it would have been set at approximately £1,200 in academic year 2006 to 2007.

The Order specifies the annual tuition fees for new full time (non-medical) degree and postgraduate initial teacher training courses at £1,700 and for new full time medical degree courses at £2,700, for academic year 2006 to 2007.

The Order specifies the annual tuition fees for new full time students studying all other courses of higher education, excluding courses of post-graduate studies (including higher degree courses) and courses at a higher level in preparation for a qualification from a professional body, at £1,200 for academic year 2006 to 2007.

The Order specifies the annual tuition fees for all full time courses of higher education, excluding courses of post-graduate studies (including higher degree courses) and courses at a higher level in preparation for a qualification from a professional body, at £1,200 for academic year 2006 to 2007 for existing students who commenced their studies in earlier academic years and students who deferred entry before 1 August 2005.

The Order also makes provision for subsequent annual increases which take account of inflation without the need for any further legislation. Scottish Ministers may also decrease the fee or leave it at the same level in future academic years, again without the need for legislation.

The Order does not cover student support issues for Scottish and non-UK EU domiciled students, as these are covered separately in the student support regulations.

Consultation

This Order has been amended from the previous version laid before Parliament following the enhanced consultation required under section 9 of the Act. The consultation period ran from 17 November 2005 until 26 January 2006.

Among others the following bodies were alerted to this consultation and submitted responses: Universities Scotland; National Union of Students Scotland; Student Awards Agency for Scotland; The Scottish Funding Council; Association of University Teachers Scotland; Coalition of Higher Education Students in Scotland; British Medical Association Scotland Medical Students Committee.

Financial Effects

The instrument has no implications for increased financial liability on the Scottish Executive or local government. Any savings to the Scottish Executive resulting from the changes to tuition fee levels specified in this Order will be re-invested in higher education in Scotland. This instrument may present cost implications to business, charities or public bodies, in terms of increased costs of administering proposed changes. Specifically the instrument may present higher education institutions with increased administration costs which they will be expected to absorb.

A Regulatory Impact Assessment has been completed for this Order and is available from the Scottish Executive.

Scottish Executive Enterprise, Transport and Lifelong Learning Department
May 2006

Regulatory Impact Assessment 2005/38

1. Title of proposal

The Student Fees (Specification) (Scotland) Order 2006

2. Purpose and intended effect

- **Objectives**

The Scottish Executive proposes to set annual tuition fees for non medical full time degree and postgraduate initial teacher training courses at £1,700 and for full time medical degree courses at £2,700. If accepted these changes will take effect from academic year 2006/07 and will affect new students only. The draft Order also makes provision for subsequent annual increases which take account of inflation, without recourse to further legislation. All other higher education courses will have fees for 2006/07 set at £1,200.

- **Background**

This is the first time that such fees will be set by legislation in Scotland, as they have previously been set by the Scottish Executive on an annual basis.

The fees for academic year 2005/06 were set at £1,175 for students on full-time undergraduate and postgraduate initial teacher training courses. There was a regular practice of increasing fees annually in line with inflation. If this fee had been increased to account for inflation it would have been set at approximately £1,200 in academic year 2006/07. Therefore the Order represents an increase in tuition fees from £1,200 to £1,700 in the case of the non medical courses covered and from £1,200 to £2,700 in the case of medical courses.

- **Rationale for government intervention**

The order sets separate fee levels for general courses and medical courses.

<u>General (non-medical) courses</u>

The introduction of variable tuition fees in England and Northern Ireland from 2006/07 and in Wales from 2007/8 will have significant effects on the relative costs of studying in Scotland compared to the rest of the UK. Stakeholders generally agree that if a significant gap opens up between the costs of studying in Scotland and the cost of studying in the rest of the UK, then there are likely to be increases in the number of students from the rest of the UK choosing to study in Scotland.

In settling upon the proposed fee level there were two overriding considerations. These were to protect the interests of students normally resident in Scotland while working to maintain the competitive position of Scottish higher education within the UK in terms of its ability to attract the best students from around the UK.

Allowing for the bursary element of variable fees, it is likely that the average student studying at an HEI in the rest of the UK will pay fees of around £8,100 over the course of a 3 year degree programme. At current Scottish fee levels, the same student coming to a Scottish HEI would pay around £3,300 less over the course of a 4 year degree programme. For those students with sufficiently strong A-Level results to go straight into the second year of a Scottish degree programme, the saving would increase to £4,500.

Given the costs of an extra year of study which students in Scotland generally undertake, it was felt by the Executive that lining costs up exactly could lead to drops in the number of students coming from the rest of the UK . The fee level proposed for non medical courses is set at a level which would still offer a saving of around £1,300 to a student coming from the rest of the UK over the course of a 4 year degree programme.

Medical Courses

There is already acute demand for places at Scottish medical schools. The ratio of applications to acceptances is 10:1 in Scotland. This compares to a UK average of 3:1. There is also widespread recognition in the Scottish HE sector, evidenced by the response to our consultation on fees policy, that demand will increase following the introduction of variable fees of £3,000 at English medical schools.

Standard medical courses are the same length in Scotland and in the rest of the UK. As for all other courses, medical schools in other parts of the UK are obliged to set aside at least £300 from their £3,000 tuition fees to support wider access. This has the effect of reducing the actual fee to an average level of £2,700. The Executive is proposing to use new powers under the Act to set a separate annual fee for medicine of £2,700. This is designed to regulate demand and ensure fair access for suitably qualified students normally resident in Scotland

Impact of not increasing fee levels

The overall number of HE places in Scotland fully funded by the Scottish Further and Higher Education Funding Council is capped. This cap exists to ensure that the overall HE budget is managed without the need to reduce funding per place. If fess remained unchanged in Scotland and significant numbers of extra students entered Scottish HEIs as a result of the gap in fee levels there would be either be displacement of Scots domiciled students from Scottish HEIs, pressure on the resources of HEIs or the requirement inject unplanned additional resources into HEIs. The details of these impacts are outlined below in the options section.

3. Consultation

There has been a consultation on the principle of increasing fees above the level of inflation for 2006/07 and on having a higher fee level for medical fees. There was wide support for taking these steps.

HEIs were supportive of the principles although they were keen to have a fee level set that ensured their courses would be priced competitively within the UK market. A number of HEIs suggested delaying the implementation of the changes until 2007/08 on the basis that more evidence will be available on the effects of variable fees on cross border flows.

The Executive has taken these comments on board in terms of the proposed fee level. The fee level proposed in the draft order for general courses is at the bottom of the Executive's original indicative range. Although the Executive can see the arguments for not acting until more information is available, the potential costs of increased flows outlined above are such that the Executive has taken the view that it would be imprudent not to act in 2006/07.

Student representative bodies and individual students made it clear that they oppose the principle of increasing fees above the level of inflation and the principle of introducing a separate higher fee level for medical students. Again the Executive takes the view that the potential costs of not acting are such that it would be imprudent to take no action.

In line with the requirements of the Further & Higher Education (Scotland) Act 2005, which confers powers on Ministers to raise tuition fees in the manner proposed, a statutory 60 day consultation on the proposed fees order has also been carried out. All statutory consultees were invited to respond as were those who responded to the original consultation. As a result of the responses to this second consultation, changes have been made to the draft order and accompanying documentation.

- **Within government**

The proposals have been the subject of a full Cabinet consultation and have been signed off by all members of the Cabinet including the First Minister. DfES and the devolved administrations of the UK have been kept informed of the proposals through the Variable Fees Design Group and other channels.

4. Options

Option 1 – Do nothing - Maintain the cap on places

This course of action would ensure that no extra resources would be required to fund HEIs. Any additional students entering from other parts of the UK would displace Scots domiciled students who might otherwise have entered a Scottish HEI. Some of these Scots domiciled students might choose to study in other parts of the UK. This would create additional demand for fee support at the higher fee levels in other parts of the UK and possibly other support. This would impact on the budget of the Student Awards Agency for Scotland (SAAS).

Other Scots domiciled students might be displaced from studying at an HEI altogether. This would have initial impacts on participation rates in Scotland with likely subsequent impacts on the proportion of graduates in the Scottish workforce. At current population levels, a drop in of around 650 young Scots domiciled entrants would correspond to 1% reduction in the overall Age Participation Index for Scotland.

Drops in the number of Scots entering medical schools could put pressure on the provision of doctors in Scotland. The *Review of Basic Medical Education In Scotland* produced by Sir Kenneth Calman suggests that Scots graduates from Scottish medical schools are over twice as likely to be working in the Scottish NHS a decade after graduation as their counterparts from other parts of the UK.

HEIs would have the option of absorbing an inflow of students above the level set by the cap. However these students would not be funded by the Funding Council and would have to be supported from the institution's own resources. This might be possible if the extra numbers were small but any significant recruitment above the number of funded places would lead to resources being stretched to such a point that there would be the possibility of a negative impact on the quality of provision.

Option 2 – Raise the cap on places

This course of action would ensure that Scots domiciled students would not be displaced without HEIs having to stretch resources. Extra places would be funded by the Executive through the Funding Council. The costs to the Executive associated with this would average at around £4,200 per extra student at 2005/6 prices, although this could fluctuate between £3,650 and £13,980 depending on the subjects chosen by the extra students. At the average cost, an extra 1,000 funded places would cost just under £17 million to fund over the course of a 4 year degree course.

Option 3 – Implement the proposed increase in fees

The proposed new fee levels are designed to maintain the current levels of cross border flow. If successful this course of action would ensure that displacement of Scots domiciled students could be avoided without HEIs having to stretch resources and extra public funds having to be invested. The average non-medical student coming from the rest of the UK would still pay £1,300 less in fees over the course of a 4 year degree compared to the cost of fees for a 3 year degree elsewhere in the UK. Unused resources in the order of £10m would accrue over the period of a 4 year roll out (2006/7 - 2009/10). The Executive intends to invest any unused resources in student support. Scots domiciled students studying at HEIs in other parts of the UK will be eligible for a non-means tested loan to cover variable fees. This will be funded from these additional resources. There would be no additional costs for monitoring the success of this option as exiting data collections will provide indications of effectiveness.

5. Costs and benefits

- **Sectors and groups affected**

Full-time degree and initial teacher training students domiciled in other parts of the UK entering a Scottish HEI from 2006/07 onward. The cost to each individual compared to the current fee regime would be an extra £3,200 over the course of a 4 year degree. For medical students the cost would be an additional £7,500 compared to the current fee regime over the course of a 5 year degree course.

Any local education authority in the rest of the UK providing fee support for students would be liable for any extra contribution that they choose to make.

These figures are gross figures compared to the current fee regime across the UK. Net figures which compare fees at Scottish HEIs to likely fees at HEIs in the rest of the UK from 2006/07 show a saving of up to £1,300 for such students. Only students entering a Welsh HEI in 2006/07 and, beyond that year, Welsh domiciled students entering a Welsh HEI would pay lower fees (£1,200 per year).

Organisations paying the fees of full-time degree and initial teacher training students domiciled in other parts of the UK entering a Scottish HEI from 2006/07 onward. Net and gross figures are the same as those outlined above.

Scottish Higher Education Institutions. There are likely to be administrative changes in 2006 for Scottish HEIs. Essentially these will be focussed on keeping track of extra categories of students following the introduction of separate fee levels for different courses and levels of study. This contrasts to the current situation where a single fee is charged for all undergraduate courses. Costs of administering these changes will vary between institutions depending on the flexibility of current arrangements. It is not possible at this stage for the Executive to accurately estimate the cost of these changes across the sector. Institutions will be expected to absorb any costs from existing funding allocations.

- **Benefits**

Benefits are examined in options section.

- **Costs**

Costs are examined in Options section.

6. Small/Micro Firms Impact Test

Only those firms paying the fees of full-time degree and initial teacher training students domiciled in other parts of the UK entering a Scottish HEI from 2006/07 onward would be affected. Net and gross figures are the same as those outlined above.

The impact on small/micro firms is negligible due to the very small number of students who have their fees paid by employers. According to Higher Education Statistics Agency data for 2003/04, there were under 50 full-time degree students from other parts of the UK studying in Scotland who had their fees paid their employers. It is likely that a significant proportion of these employers will have been large and medium sized companies.

7. "Test Run" of business forms

The Executive will place no additional form filling burden on businesses in relation to this change in fee levels. The Scottish Funding Council will require extra data from institutions. This broader data collection was run successfully for the first time in December 2005. Institutions themselves may choose change their own forms for students**.**

8. Competition assessment

Not applicable – fees for EU students on undergraduate degree courses at all of Scotland's HEIs and colleges are set by Order.

9. Enforcement, sanctions and monitoring

The fees set in the order are maximum tuition fees which are a Funding Council condition of grant. Any HEI charging more than the maximum would face financial penalties from the Funding Council for breaking this condition. The effectiveness of this proposal will be monitored through ongoing analysis by the Scottish Executive of university applications data produced annually Universities & Colleges Admissions Service (UCAS). UCAS centrally administers applications to the bulk of UK HEIs including those in Scotland.