EXPLANATORY MEMORANDUM TO THE

Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2004

2004 No. 1658

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

2. Description

This Statutory Instrument increases the maximum Disabled Students' Allowance (DSA) for postgraduate study from £5,370 for an academic year beginning on or after 1 September 2003 and before 1 September 2004 to £5,500 for an academic year beginning on or after 1 September 2004. It also removes references to the British Academy from the original Regulations (as amended).

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

None.

4. Legislative Background

Disabled Students Allowances ("**DSAs**") were extended to full and part-time postgraduate students in September 2000 and the allowances are currently paid under The Education (Grants for Disabled Postgraduate Students) Regulations 2000 as amended later in 2000 and in subsequent years (the "**2000 Regulations**"). This Statutory Instrument is being made to amend the 2000 Regulations to effect an annual uprating of the DSA for postgraduates in line with inflation and so that students in receipt of any allowance, bursary or award from the British Academy are no longer excluded from receiving postgraduate DSAs.

5. Extent

This instrument applies to England and Wales.

6. European Convention on Human Rights

The Minister, Alan Johnson, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2004 are compatible with the Convention rights.

7. Policy background

7.1 The Education (Grants for Disabled Postgraduate Students) Regulations 2000 as amended later in 2000 and in subsequent years, provide for full-time and part-time postgraduate students to be eligible for a DSA. This will be equal to

the amount of additional expenditure students are obliged to incur in respect of their undertaking a course as a direct result of their disability subject to a maximum provided in the Regulations. The DSA for postgraduate study is intended to help disabled students benefit fully from their course and is not subject to income assessment. There is no longer any need for the exclusion from postgraduate DSAs of students in receipt of any allowance, bursary or award from the British Academy because the British Academy no longer offers such financial support for taught and research courses.

7.2 Students receiving awards from the Arts and Humanities Research Board (AHRB) for taught or research arts and humanities postgraduate courses have not been eligible for support under the 2000 Postgraduate Regulations. The Arts and Humanities Research Council (AHRC), which is expected to be created by Royal Charter and commence operating on 1 April 2005, will replace the ARHB. We cannot anticipate its existence in these amending regulations before the relevant provisions in the HE Bill become law. That is why these amending regulations make no reference to the AHRC. We will be framing a further amendment regulation in due course.

7.3 The Teaching and Higher Education Act 1998 (in particular s. 22(1) and (2)) provides vires for regulations making provision for grants or loans to eligible students undertaking higher education courses. In making provision for DSAs for postgraduate students, the 2000 Regulations, and this Statutory Instrument which makes further, routine, amendments to them, fulfil policy objectives implicit in these vires.

7.4 We consider that the level of public interest in these minor amendments will be low and that the changes have no special political or legal importance.

8. Impact

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

8.2 The impact on the public sector is minimal. The maximum allowance for postgraduate DSAs is reviewed on an annual basis and is increased by the rate of inflation.

9. Contact

Mark Williams at the Department for Education and Skills (Tel: 020-7925-5352 or e-mail: mark.williams@dfes.gsi.gov.uk) can answer any queries regarding the instrument.