EXPLANATORY MEMORANDUM TO

THE FURTHER EDUCATION LOANS (AMENDMENT) REGULATIONS 2016

2016 No. 238

1. Introduction

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

2. Purpose of the instrument

2.1 The purpose of the instrument is to make amendments to the Further Education Loans Regulations 2012 (S.I. 2012/1818) ("the 2012 Regulations"). The amendments reflect an extension of the loans offer to include those aged 19-23 and simplification of the eligibility rules to allow for multiple loans at all levels of study.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England.

3.3 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument amends the 2012 Regulations. The 2012 Regulations introduced, for the first time, income-contingent loans for students who are 24 years old or over beginning Further Education courses at Level 3 or above from 1st August 2013. The amendments introduced by this instrument will come into force for the 2016/17 academic year, commencing 1st August 2016.

5. Extent and Territorial Application

5.1 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

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

What is being done and why

7.1 Section 22 of the Teaching and Higher Education Act 1998 enables the Secretary of State to make regulations to provide financial support for students undertaking higher

or further education courses. Such financial support is to be provided in accordance with regulations made by the Secretary of State.

7.2 Encouraging investment in economic infrastructure (e.g. skills) is one of the two pillars of the Government's productivity plan, and this policy change will support this goal, by increasing adult investment in skills. Currently loan funding is available for adults aged 24 and above, to study vocational qualifications at Level 3, Level 4, and a few qualifications at Level 5 and Level 6. This means there are two gaps in loan funding framework, where adults may be unable to access funding to improve their skills and employability:

- 19-23 year olds who are seeking to do a second Level 3 or a Level 4 qualification;
- Adults wishing to study qualifications at Level 5 and Level 6.

7.3 Loans expansion will mean that these two groups of learners will be able to access loan-funding to pursue qualifications. This will achieve a number of strategic objectives:

- Play a key part in delivering the Government's aims to address recognised skills gaps at higher technical and professional levels.
- It will ensure that 19-23 year olds (from whom we expect strong returns from learning) will have the same opportunity to access learning as people aged 24+.
- Loans at higher levels will support the emergence of National Colleges and Institutes of Technology, and incentivise the Further Education sector to develop an offer more suited to the demands of individuals, employers and the economy.

Consolidation

Changes to the 2012 Regulations

7.4 This instrument makes a number of changes for the 2016/17 academic year, starting 1st August 2016. Specifically these are:

a. The opening up of the Advanced Learner Loans offer to include adults aged 19-23 (no legislative changes are needed to allow Government to fund courses at Levels 5 and 6);

b. A learner will be able to have multiple loans concurrently and for a range of eligible qualifications (with the exception of A Levels and Access to HE diplomas), up to a continuing maximum of four loans;

c. A learner will be able to apply for a loan for a qualification where they have previously funded the same type and level of qualification with a loan;

d. The removal of the 'withdrawal and repeat' loan due to the change given at 7.4c. – except in recognised Compelling Personal Reasons;

e. Enabling the Secretary of State to refuse or cease granting of a loan if the recipient has received a government fee grant for their tuition cost, to avoid the Government providing fees support twice for the same qualification;

f. The ability to allow electronic signatures as a form of learner authorisation.

g. The maximum eligibility period for vocational qualifications is being standardised as three years.

7.5 In 2016/17 learners aged 19-23 will be eligible to apply for a loan. Consequently Regulation 3 is being amended to reflect the lower age.

7.6 It has become evident that some learners are being constrained in their attempts to up-skill or re-skill as the current loans offer only allows for one loan at a time. And any subsequent loans cannot be for the same 'type' and 'level'. So a learner cannot currently utilise loans to fund two Level 3 certificates. This means that in occupational sectors, where multiple qualifications at the same level are often studied either side-by-side or sequentially, some people are being disadvantaged by the existing rules. Consequently Regulation 15 will be amended to allow for same type and level loan-funded study, while retaining the maximum number of loans as four. There will be two exceptions to the relaxation of these rules.

7.7 The first exception is that one Access to HE diploma is sufficient for its purpose of demonstrating the learner's ability to progress to a course of Higher Education, therefore a learner will not be able to access more than one loan to support such study. The second exception is that the loans offer supports learners to fund up to four full A Levels. This acknowledges there is no intrinsic value to an institution or employer of holding certificates for more than four.

7.8 By allowing learners greater freedom to use their loans for the same type and level of course means there is no longer a need to retain the existing ability to 'withdraw and repeat' one course for those students who decide to withdraw from a course to try something different. We are therefore removing this entitlement.

7.9 Legal entitlements to grant funding will still be available in the future. It is important that an individual does not take both a loan and a grant to fund the same qualification. Therefore amendments to the regulations will allow for the ceasing of any loan payments in such rare situations.

7.10 An amendment has been made to allow electronic signatures to be used where a student is required to sign a contract for a loan for fees.

- Students applying for fee loans can complete almost all of the application process online. However, all applicants must also currently sign a paper declaration form, which confirms that the student has read and agreed to the terms and conditions of the repayable loan. Further work is being done on potential options for introducing electronic signatures to the student application process.
- The 2012 Regulations explicitly state that information required from a student by the Secretary of State can be signed using an electronic signature. However, the 2012 Regulations do not stipulate what type of signature can be used when a student enters into a contract with the Secretary of State for a loan.
- This instrument amends the 2012 Regulations to make it explicit that a loan contract can be signed by electronic signature. This change will apply from the date that these amendment regulations come into force.

7.11 The regulations will be amended to refer to the document published by the Skills Funding Agency containing the maximum loan amounts available in 2016/17, and a description of how these amounts have been calculated. It is called "Maximum Loan

Amounts for Advanced Learner Loans Designated Qualifications 2016 to 2017, Version 1".

8. Consultation outcome

8.1 A government consultation in 2014 gathered evidence on the opportunities and possible consequences of extending the loan offer to younger adults and at other levels, and simplifying some of the rules to better enable and expedite re-skilling and upskilling. There were 164 responses through the online consultation platform; 39 responses sent in by email; four England-wide workshops covering all issues raised by the consultation; a workshop covering arrangements for those in custody and qualitative interviews with potentially eligible learners. The responses informed the government's decision to create a loans offer for those aged 19+ undertaking Level 3 to Level 6 qualifications.

9. Guidance

9.1 The Department is working with the Skills Funding Agency to support the relevant institutions to continue to deliver Advanced Learner Loans, and will enhance the information, advice and guidance with regard to these changes as appropriate.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The Regulations will be kept under review. The next scheduled change would relate to any policy changes for the academic year 2017/18.

13. Contact

13.1 Paul Robinson at the Department for Business, Innovation and Skills (Telephone: 0114 207 5323 or email: paul.robinson@bis.gsi.gov.uk) can answer any queries regarding this instrument.