EXPLANATORY MEMORANDUM TO

THE STUDENT FEES (AMOUNTS) (ENGLAND) (AMENDMENT) REGULATIONS 2009

No. 3113

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

These Regulations amend the Student Fees (Amounts) (England) Regulations 2004 (S.I.2004/1932) by increasing (in line with forecast inflation) the basic and higher amounts of tuition fees that may be charged to full-time undergraduates in respect of an academic year beginning on or after 1st September 2010.

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

None

4. Legislative Context

4.1. Section 23 of the Higher Education Act 2004 imposes a duty on the Secretary of State to set a condition on the grant paid to the two funding bodies for Higher Education in England: the Higher Education Funding Council for England and the Training and Development Agency for Schools. The condition requires the funding bodies in turn to impose a condition on the grant they pay to English Higher Education Institutions (HEIs) relating to the tuition fees to be paid by full-time undergraduates.

4.2. Section 24 of the Act sets out the requirements of the condition of grant. It stipulates that an HEI which has an access plan approved by the Director of Fair Access must not charge fees in excess of the limit approved in that plan, which must not be more than the higher amount. An HEI which does not have an access plan must not charge fees in excess of the basic amount. Section 24 also sets out the sanctions which should be imposed on any HEI that breaches the condition; and specifies that the basic and higher amounts should be prescribed in regulations.

4.3. Section 26 of the Act sets out the arrangements for making increases to the basic and higher amounts, and the arrangements for approving regulations under section 24. No regulations may be made by the negative procedure increasing the basic and higher amounts unless the Secretary of State is satisfied that the increase is no greater than required to maintain the value of the amounts in real terms.

4.4. This instrument is made in order to uprate the basic and higher amounts for the 2010/11 academic year, in line with forecast inflation.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

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. HEIs in England which have an access plan approved by the Director of Fair Access are allowed to charge variable fees not exceeding the level approved in their access plan, which cannot exceed the higher amount. HEIs in England which do not have an access plan are only allowed to charge fees up to the level of the basic amount. The higher and basic amounts are set out in regulation 4 of the Student Fees (Amounts) (England) Regulations 2004 ("the 2004 Regulations").

7.2. In the case of certain prescribed courses, HEIs are only allowed to charge a reduced, or half-rate higher or basic amount. These amounts and courses are set out in regulation 5 of the 2004 Regulations.

7.3 This instrument amends regulation 4 of the 2004 Regulations to increase the higher rate from £3,225 to £3,290 and the basic rate from £1,285 to £1,310 in respect of an academic year beginning on or after 1st September 2010. It amends regulation 5 of those Regulations to increase the half rate higher and basic amounts that apply in respect of specific courses from £1,610 to £1,640 and from £640 to £650 respectively, also with effect from 1st September 2010.

7.4. The increases to the basic and higher rates of tuition fee have been calculated with reference to the All Items Retail Prices Index Excluding Mortgage Interest Payments (RPI-X). This is the index of prices set by the Student Fees (Inflation Index) Regulations 2006 (SI. 2006 No. 507), and is the same measure of inflation that has been used to uprate the amounts of grants and loans for fees that are available to undergraduate students.

7.5. The basic and higher rates have been increased by using a forecast in the rise of the RPI-X to provide the best available match with inflation in the period in question. The forecast used is the Treasury April 2009 forecast of the rise in the RPI-X during the calendar years 2010 (1.1 per cent) and 2011 (2.5 per cent). The uprating factor to be applied to the basic and higher rates for the academic year 2010/11 will therefore be 2.04 per cent as the first four months of the academic year (which begins on 1st September) fall within the calendar year 2010 and the remaining eight months fall within the calendar year 2011. Accordingly, the basic and higher tuition fee rates have been increased by 2.04 per cent.

Consolidation

7.6 These Regulations serve only to make the annual uprating changes to the 2004 Regulations. Therefore, there is no intention to consolidate the relevant legislation.

8. Consultation

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

9. Guidance

Details of the new basic and higher fee amounts for the 2010/11 Academic Year have been made available for Local Authorities and HEIs in the Practitioner resources section of the Student Finance England website. The new rates have also been included in Departmental guidance for Local Authorities. The same information will be made available for students on the 'Directgov' website.

10. Impact

10.1. The impact on business, charities or voluntary bodies is nil.

10.2. The impact on the public sector is minimal.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & Review

These Regulations will ensure that, as part of a regular annual review, tuition fees are increased in line with forecast inflation for the 2010/11 Academic Year. Tuition fees will be further reviewed in 2010 for the 2011/12 Academic Year and the legislation may be amended accordingly.

13. Contact

Steven Bannister, at the Department for Business, Innovation and Skills, telephone number: 020 7215 1488 or email: steven.bannister@bis.gsi.gov.uk, can answer any queries regarding the instrument.