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STATUTORY INSTRUMENTS

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**2014 No. 1766**

**EDUCATION, ENGLAND**

**The Further and Higher Education (Student Support) (Amendment) Regulations 2014**

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| <i>Made</i>                   | - - - - | <i>1st July 2014</i>   |
| <i>Laid before Parliament</i> |         | <i>7th July 2014</i>   |
| <i>Coming into force</i>      | - -     | <i>1st August 2014</i> |

The Secretary of State for Business, Innovation and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(1).

**Citation and commencement**

1. These Regulations may be cited as the Further and Higher Education (Student Support) (Amendment) Regulations 2014 and come into force on 1st August 2014.

**Amendment of the Further Education Loans Regulations 2012**

2. The Further Education Loans Regulations 2012(2) are amended in accordance with regulations 3 to 8.

3. In regulation 2 (interpretation) of the Further Education Loans Regulations 2012—

(a) omit the definition of “Apprenticeship Framework”;

(b) for the definition of “designated further education course” substitute—

““designated further education course” means a course designated by the Secretary of State under regulation 4;”;

(c) for the definition of “further education course” substitute—

““further education course” means—

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(1) 1998 c.30. Section 22 was amended by the Learning and Skills Act 2000 (c. 21) section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c.1) Schedule 6, the Finance Act 2003 (c.14) section 147, the Higher Education Act 2004 (c.8) sections 42 and 43 and Schedule 7, the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) section 257, the Education Act 2011 (c.21) section 76 and S.I. 2013/1881. See section 43(1) of the 1998 Act for the definitions of “prescribed” and “regulations”.

(2) S.I. 2012/1818, amended by S.I. 2014/290.

- (a) a course in preparation for examination for the General Certificate of Secondary Education; or
  - (b) a course providing education (whether or not in preparation for an examination) at a level equivalent to or higher than the course described in sub-paragraph (a);
4. In regulation 3 (eligible students)—
- (a) in paragraph (5), for “(4)(b) and (4)(c)” substitute “(3)(b) and (3)(c)”; and
  - (b) in paragraph (6), for “(4)(c)” substitute “(3)(c)”.
5. For regulation 4 (designated courses) substitute—
- “4. (1) A further education course may be designated by the Secretary of State for the purposes of section 22(1) of the 1998 Act where—
- (a) the course began on or after 1st August 2013; and
  - (b) the institution providing the course is situated in England.
- (2) The Secretary of State may revoke or suspend the designation of a course which is designated under paragraph (1).”
6. In regulation 5(3)(3) (period of eligibility)—
- (a) for the full-stop at the end of sub-paragraph (f) substitute “; and”; and
  - (b) after sub-paragraph (f) insert—
    - “(g) “(g) three years for any other type of course.”
7. In regulation 9 (transfer to another institution), omit the words “or, if an eligible student is an apprentice, that eligible student’s employment status is terminated”.
8. In regulation 15 (standard entitlement of eligible students)—
- (a) in paragraph (1), for the words “a different category of further education course, as listed in regulation 4” substitute “a different type of further education course”; and
  - (b) in paragraph (3), before the full-stop at the end of that paragraph insert “, unless the student has previously qualified for a fee loan by reason of this paragraph.”

### **Amendment of the Education (Student Support) Regulations 2011**

9. The Education (Student Support) Regulations 2011(4) are amended in accordance with regulations 10 and 11.

10. For regulation 42(1)(ge) (interpretation of Chapter 4) substitute—

“(ge) “(ge) “taxable income” means, in respect of the prior financial year—

- (i) the total income on which a person (“A”) is charged to income tax as determined at Step 1 of the calculation in section 23 of the Income Tax Act 2007(5), together with any payments and other benefits mentioned in section 401(1) of the Income Tax (Earnings and Pensions) Act 2003(6) (ignoring section 401(2) of that Act), received or treated as received by A, to the extent that they are not a component of the total income on which A is charged to income tax;

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(3) Regulation 5(3) was amended by [S.I. 2014/290](#).

(4) [S.I. 2011/1986](#), amended by [S.I. 2012/1653](#); there are other amending instruments but none is relevant.

(5) [2007 c.3](#); section 23 was amended by the Finance Act 2009 ([c.10](#)), Schedule 1, paragraph 6(o)(i), and the Finance Act 2013 ([c.29](#)), Schedule 3, paragraph 2(2).

(6) [2003 c.1](#); section 401 was amended by [S.I. 2005/3229](#), [S.I. 2011/1037](#) and [S.I. 2014/211](#).

- (ii) A's total income from all sources as determined for the purposes of the income tax legislation of another Member State which applies to A's income; or
  - (iii) where the legislation of more than one Member State applies to the period, A's total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A's total income in that period is greatest,
- except than no account is taken of income referred to in paragraph (1A) paid to another party;”.

**11.** In Schedule 4 (financial assessment)—

(a) for paragraph 1(1)(o) substitute—

“(o) “taxable income” means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 9 and, in relation to paragraph 5, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the prior financial year—

- (i) the total income on which a person (“A”) is charged to income tax as determined at Step 1 of the calculation in section 23 of the Income Tax Act 2007(7), together with any payments and other benefits mentioned in section 401(1) of the Income Tax (Earnings and Pensions) Act 2003(8) (ignoring section 401(2) of that Act), received or treated as received by A, to the extent that they are not a component of the total income on which A is charged to income tax;
- (ii) A's total income from all sources as determined for the purposes of the income tax legislation of another Member State which applies to A's income; or
- (iii) where the legislation of more than one Member State applies to the period, A's total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A's total income in that period is greatest (except as otherwise provided in paragraph 5),

except than no account is taken of income referred to in sub-paragraph (2) paid to another party;”.

(b) in paragraph 4(1)(b), omit the words “under section 273 of the Income and Corporation Taxes Act 1988(9) or”; and

(c) in paragraph 5—

- (i) omit sub-paragraph (1);
- (ii) in sub-paragraph (2), from the beginning to the word “permitted” substitute “For the purposes of determining the residual income of an eligible student's parent (“A” in this paragraph) there is deducted from the taxable income of A the aggregate of any amounts falling within any of the following sub-paragraphs (unless already deducted in determining a person's taxable income)”; and
- (iii) in sub-paragraph (2)(a), omit the words “under section 273 of the Income and Corporation Taxes Act 1988(10) or”.

(7) 2007 c.3; section 23 was amended by the Finance Act 2009 (c.10), Schedule 1, paragraph 6(o)(i), and the Finance Act 2013 (c.29), Schedule 3, paragraph 2(2).

(8) 2003 c.1; section 401 was amended by S.I. 2005/3229, S.I. 2011/1037 and S.I. 2014/211.

(9) 1988 c.1; section 273 of the Act was repealed by the Finance Act 2009 (c.10), Schedule 2, paragraph 2(h).

(10) 1988 c.1; section 273 of the Act was repealed by the Finance Act 2009 (c.10), Schedule 2, paragraph 2(h).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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1st July 2014

*Matthew Hancock*  
Minister of State for Skills and Enterprise  
Department for Business, Innovation and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Further Education Loans Regulations 2012 (S.I. 2012/1818) (“the 2012 Regulations”) and the Education (Student Support) Regulations 2011 (S.I. 2011/1986) (“the 2011 Regulations”).

Regulations 2 to 8 amend the 2012 Regulations.

Regulation 3(a) amends regulation 2 of the 2012 Regulations to remove the definition of “Apprenticeship Framework” which is no longer required following the amendments made by the Further Education Loans (Amendment) Regulations 2014 (S.I. 2014/290). Regulation 7 makes a further consequential amendment to regulation 9 of the 2012 Regulations.

Regulation 3(c) substitutes a new definition of “further education course” which covers any course which is of a level equivalent to or higher than a course in preparation for an examination for the General Certificate of Secondary Education.

Regulation 4 corrects two cross-referencing errors in regulation 3 of the 2012 Regulations.

Regulation 5 substitutes a new provision for regulation 4 of the 2012 regulations. Regulation 4(1) of the 2012 Regulations now provides that a course may be designated at the discretion of the Secretary of State provided that it meets the conditions in regulation 4(1)(a) and (b). Regulation 4(2) of the 2012 Regulations makes clear that the Secretary of State may suspend or revoke a designation made under paragraph (1). Regulations 3(b) and 8(a) make consequential amendments.

Regulation 6 amends regulation 5 of the 2012 Regulations to provide that the maximum period of eligibility in connection with a designated further education course will be three years for further education courses other than those described in regulation 5(3)(a) to (f). Regulation 8(b) amends regulation 15 of the 2012 Regulations to make clear that a student can only once rely on that paragraph to qualify for a fee loan to repeat a further education course they have previously failed to complete.

Regulations 9 to 11 amend the 2011 Regulations.

Regulations 10 and 11(a) amend regulation 42(ge) of and paragraph 1(1)(o) of Schedule 4 to the 2011 Regulations respectively to substitute a new definition of “taxable income” for the purposes of those provisions. The new definition makes clear that “taxable income” means the total income on which a person is charged to income tax together with certain other payments and benefits. Regulation 11(c)(i) and (ii) make consequential amendments to paragraph 5(1) and (2) of Schedule 4 to the 2011 Regulations.

Regulation 11(b) and (c)(iii) remove obsolete references to section 273 of the Income and Corporation Taxes Act 1988 (c.1).

An impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector. The impact on the public sector is minimal. The Explanatory Memorandum is published alongside the Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).