

Consultation on the Draft Student Fees (Specification) (Scotland) Order 2011

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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

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T: 0300-244 6765 F: 0300-244 1270
E: Stephen.Kerr@scotland.gsi.gov.uk

Dear Sir/Madam

CONSULTATION ON THE DRAFT STUDENT FEES (SPECIFICATION) (SCOTLAND) ORDER 2011

Responding to this consultation

I am writing to invite you to respond to a consultation on secondary legislation which is part of arrangements which the Scottish Government intends to put in place to enable Scottish universities to set their own fees for students who usually live in England, Wales or Northern Ireland¹ from academic year 2012-13.

This legislation is being proposed in response to the changes to higher education tuition fee policy taking place in other parts of the UK. It is designed to maintain the current level of cross border flow of students within the UK and thereby protect the interests of Scottish domiciled students.

It takes forward the commitment made by Michael Russell MSP, Cabinet Secretary for Education and Lifelong Learning, in his statement to the Scottish Parliament on 16 March 2011 in response to *Building a Smarter Future*. This was an extensive consultation undertaken last year about the further development of higher education in Scotland. The proposed legislation is therefore the first step in creating a uniquely “Scottish Solution” to developing a sustainable future for the sector. A fuller explanation of the policy rationale and the new arrangements are set out within the documents accompanying this letter.

¹In this letter – including Annex A - the term ‘RUK domiciled students’ will be used to refer to students who usually live in England, Wales or Northern Ireland. The term ‘Scottish domiciled students’ will be used to refer to students who usually live in Scotland.

We are inviting written responses to this consultation by 2 September 2011. Specifically, we are inviting comments on:

- the questions listed in Annex A;
- the draft Student Fees (Specification) (Scotland) Order 2011 and associated documentation (Statement of Reasons and draft Executive Note) attached at Annex B; and
- the Interim Equality Impact Assessment is attached at Annex C.

Please send your response by 2 September with the completed Respondent Information Form (see "Handling your Response" below) to:

Christine Hamilton-Rice
Higher Education and Learner Support Division
Scottish Government
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU
Email: HELS@scotland.gsi.gov.uk

If you have any queries contact Christine Hamilton-Rice on 0300 244 1357.

We would be grateful if you would use the consultation questionnaire provided at **Annex A** as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library by 30 September 2011 and on the Scottish Government consultation web pages by 7 October 2011. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the final draft of the 2011 Order to be laid before Parliament. We aim to issue a report on this consultation process by 28 October 2011.

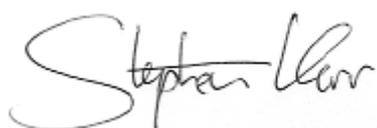
Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Ann McVie
Higher Education and Learner Support Division
Scottish Government
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU
Email: ann.mcvie@scotland.gsi.gov.uk

Thank you for taking part in this consultation exercise. We look forward to receiving your views.

Yours faithfully



Stephen Kerr
Deputy Director
Employability, Skills and Lifelong Learning Directorate

**CONSULTATION ON THE DRAFT STUDENT FEES (SPECIFICATION)
(SCOTLAND) ORDER 2011**



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email
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3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes

CONSULTATION QUESTIONS

1. Do you agree that we need to respond to the changes in tuition fee policy taking place elsewhere in the UK?

Yes No

If not, why not?

Comments

2. Do you agree with the suggested approach of deregulating fees for RUK domiciled students, thereby allowing Scottish universities the flexibility to offer those students courses on an equal basis, in terms of overall tuition fee costs, with universities in other parts of the UK?

Yes No

If not, why not? And how would you ensure that Scottish universities do not become the “cheap option” for RUK domiciled students?

Comments

3. Do you agree that the differential fee for medicine should be removed?

Yes No

If not, why not?

Comments

4. Do you have any comments on the draft Order and associated documentation (Annex B)?

Comments

Questions on the Interim Equality Impact Assessment

5. Do you consider that there is any additional evidence in relation to adverse impact on any of the equality groups that we have not recognised or considered?

Yes No

If so, please identify this and provide us with any further relevant data to support your analysis.

Comments

6. Do you think that there are any alternative options which we could adopt to mitigate any potential for adverse impact?

Comments

7. Do you agree with our findings in the EQIA?

Yes No

If not, please indicate the reasons why and, if appropriate, provide us with any further relevant data to support your analysis.

Comments

8. Any other comments about this consultation?

Comments

**STUDENT FEES (SPECIFICATION) (SCOTLAND) ORDER 2011 -
STATEMENT OF REASONS**

This is a statement of the Scottish Ministers' reasons for proposing to make the Student Fees (Specification) (Scotland) Order 2011 ("the 2011 Order"). This statement is laid before Parliament along with a copy of the proposed draft 2011 Order in accordance with section 9(13) of the Further and Higher Education (Scotland) Act 2005 ("the 2005 Act"). The purpose of the 2011 Order is to set tuition fee levels under section 9(6) and 9(7) of the 2005 Act.

Summary of proposed changes

Students who usually live in another part of the UK outside Scotland (referred to as "RUK domiciled students") will be excluded, with effect from the academic year 2012-2013, from arrangements in terms of which Scottish Ministers set tuition fee levels in connection with higher education, leaving institutions to set their own tuition fee levels for this cohort.

Reason for the proposed changes and the consequences of not acting

Scottish Ministers would prefer that no RUK domiciled students attending a Scottish university¹ paid higher fees than students who usually live in Scotland (referred to as "Scottish domiciled students"). However, higher education policy across the UK is at its most diverse since devolution and, arguably, ever. England, Wales and Northern Ireland currently have tuition fees of varying levels. Scottish Ministers respect the fact that politicians elsewhere have the right to make that choice. In an environment where higher education policy is becoming more distinct, however, Scottish Ministers' first responsibility is to protect opportunities for Scottish domiciled students to study at Scottish universities.

Currently, around 15% of undergraduate students at Scottish universities come from other parts of the UK. If we take no action, Scotland will become the cheapest destination for higher education in the UK. Students who usually live in England could, for example, continue to pay fees of £1,820 per year to attend a Scottish university as opposed to up to five times that – £9,000 – in their home nation. This would create an unparalleled level of competition for places at Scottish universities, displacing suitably qualified Scottish domiciled students. It would also result in many students making one of the most important decisions they will face based on cost rather than the academic benefit of a particular course at a particular institution and how the resulting degree might support their chosen career path.

The proposed changes are therefore designed to maintain current levels of cross border student flows within the UK and thereby protect opportunities for Scottish domiciled students. They are an extension of the principles that underpin student support in the UK, whereby the administration governing the part of the UK where

¹ In this Statement of Reasons references to a 'Scottish university' or 'Scottish universities' are references to Scotland's 20 institutions of higher education.

the student usually lives is responsible for determining entitlement to student support. We believe this is a reasonable position to take, in view of the changes taking place in other parts of the UK.

Timing has also been an important consideration in this work. Universities in England will begin charging higher tuition fees at the start of academic year 2012-13, that is in a little over 12 months time. As part of his statement on higher education funding to the Scottish Parliament on 16 March 2011, Michael Russell MSP, the Cabinet Secretary for Education and Lifelong Learning, gave a commitment to filling any funding gap which might emerge between Scottish and English universities by the start of academic year 2012-13. He said that we would do so through a number of initiatives. This is the first such initiative.

Precedent

When variable tuition fees were first introduced in England from 2006-07, the then Scottish Executive took the decision to increase fees in Scotland to guard against “fee refugees” from England and other parts of the UK potentially displacing Scottish domiciled students. Since that time demand from RUK domiciled students has been steady, with the most recent data from the Higher Education Statistics Agency (HESA) showing that the numbers of entrants to Scottish universities from other parts of the UK are at their highest levels since devolution, and have increased by 16.9% since 2006-07.

Benefits of the proposed changes

One of the most significant drawbacks in our current system is that Scottish Ministers are often forced to respond to events which happen elsewhere in the UK, be that in England, Wales or Northern Ireland. The measures we intend to bring forward help to “future proof” Scottish higher education policy in this regard. This is particularly important given the increasing divergence of the higher education systems in these islands. Most importantly they will properly leave the devolved policy of tuition fees solely in the hands of Scottish Ministers, rather than remaining under the undue influence of Ministers in the rest of the UK. We believe this is particularly important, given the considerable uncertainty about both students’ and universities’ reaction to the new fee regime in England in both the short and longer term. Further changes by the UK Government to the system in England cannot be ruled out.

Excluding RUK domiciled students from the fee arrangements set out in and flowing from the 2011 Order will allow Scottish universities to set their own tuition fees for RUK domiciled students. It offers Scottish universities the flexibility to compete for RUK domiciled students on an equal footing with universities in other parts of the UK and provides new flexibility to determine how many such students to recruit. Having a solution in place for academic year 2012-13 therefore ensures that we create a stable platform upon which Scottish universities can compete and the process we have chosen provides certainty to students wishing to apply to Scottish universities for entry in that academic year, a process which begins at the end of this year (and for medicine in the autumn). It also provides certainty to Scottish domiciled students, as it enables us, through the Scottish Further and Higher Funding Council (“SFC”), to protect the number of places available to them.

The Joint Technical Working Group which the Cabinet Secretary established with Universities Scotland² identified that an increase in the level of fees payable by RUK domiciled students attending Scottish universities could generate up to £62 million in additional revenue. The figure of £62 million assumes that our universities will set fees for RUK domiciled students at around £6,375, a competitive figure even once the extra length of the degree in Scotland is taken into account. Importantly, through the SFC the current teaching subsidy for RUK domiciled students will be redistributed so that the benefits of any increased income to the sector are shared widely across all our universities. This will help maintain the international competitiveness of Scottish higher education both within the UK and internationally.

Stakeholder views

The responses to *Building a Smarter Scotland* showed that there is recognition across the higher education community of the need to respond to the changes taking place in other parts of the UK. For example, in its response, the Scottish Youth Parliament recommended that “*Students from the rest of the UK attending Scottish universities should have to pay tuition fees at the same level as they would pay in England to avoid Scottish universities being seen as a ‘cheap option’ and places for Scottish-domiciled students being reduced as a result.*”

We also agree with the University and College Union that “*something has to be put in place that dissuades English students coming to Scotland for purely financial reasons while not putting off other UK students.*”. We agree with that and believe our proposals strike the right balance between the points of view expressed by UCU. Our proposals also have the support of Universities Scotland.

Summary of the content of the 2011 Order

Our intention is to change the way in which higher education tuition fees are applied to RUK domiciled students. RUK domiciled students will be excluded from the arrangements in terms of which the Scottish Ministers set tuition fee levels. This will leave institutions free to set their own tuition fee levels for this group, as they currently do for non-EU international students. This will be achieved through secondary legislation and an associated condition attached to any grant paid by the Scottish Ministers to the SFC in terms of section 9 of the 2005 Act.

The 2011 Order is one part of the secondary legislation. It will set tuition fees for higher level courses of education for full time students. The 2011 Order will specify the annual tuition fees for academic year 2012-13 as follows:

- for a full time new student studying an honours or ordinary degree course as £1,820;

²

<http://www.scotland.gov.uk/Topics/Education/UniversitiesColleges/16640/stakeholdergroups/FinalReport>

- for a full time new student studying a Postgraduate Certificate of Education or Professional Graduate Diploma in Education course as £1,820; and
- for a full time new student studying any other higher level course of education as £1,285.

The 2011 Order will provide that it does not apply in relation to any fees which are payable in accordance with the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Regulations” – see further below) by students who do not have a ‘relevant connection with Scotland’ and are not ‘excepted students’ under those Regulations.

In general the 2011 Order will apply to students commencing courses of higher education in Scotland from academic year 2012-13.

But (with the exception of medical students who either have a relevant connection with Scotland or are excepted students within the meaning of the 2011 Regulations) the 2011 Order will not apply to students who commence their course on or after 1st August 2012 after having agreed with a Scottish University, between 1st August 2005 and 31st July 2011, to defer entry to their course. The 2011 Order will also not apply to students who have already commenced their course prior to 31 July 2012. For such students the current arrangements under the Student Fees (Specification) (Scotland) Order 2006 (“the 2006 Order”) and the Education (Fees and Awards) (Scotland) Regulations 2007 (“the 2007 Regulations”) will continue to apply. In terms of those arrangements, the fees set by the 2006 Order apply to all students who have a ‘relevant connection with the United Kingdom and Islands’ and to certain particular categories of ‘excepted student’, both within the meaning of the 2007 Regulations.

The 2011 Order will also allow the Scottish Ministers to set fees for subsequent academic years by determination, rather than by Order, only if either such fees are no greater than the 2012-13 fees or such fees are only higher than the 2012-13 fees in so far as is necessary to maintain the value of the fees in real terms. In considering the value of fees in real terms Scottish Ministers may have regard to any retail price index.

Tuition fees for medical degrees

The 2011 Order does not replicate the provision made in the 2006 Order for a higher rate of fees for medical degrees.

A higher fee for medicine was introduced by the 2006 Order to guard against a disproportionate influx of RUK domiciled students. Medical degrees are the same length in Scotland and in England, and there is high demand for places from RUK domiciled students for places at Scottish Medical Schools. This led to the separate, higher fee of £2,700 being introduced from 2006-07, to match the fee level in England at that time.

If Scottish universities are able to set their own fees for RUK domiciled students under the new arrangements, there is no longer a need for Scottish Ministers to set a separate, higher tuition fee for medicine, to match that being charged in England.

Education (Fees) (Scotland) Regulations 2011

In conjunction with the 2011 Order, Scottish Ministers intend to introduce the 2011 Regulations. The 2011 Regulations will have the effect of limiting the fees set by the 2011 Order to apply to students who can demonstrate a ‘relevant connection with Scotland’ or who are ‘excepted students’ within the meaning of them.

The 2011 Regulations have not yet been made. It is intended that they will come into force at the same time as the 2011 Order.

It is intended that the 2011 Regulations will provide that a student must meet a number of criteria in order to establish a relevant connection with Scotland, including that the student must have been ordinarily resident in Scotland for a period of three years immediately preceding 1st August, 1st January, 1st April or 1st July closest to the beginning of the first term of the student’s course and that the student must be settled in the United Kingdom within the meaning of the Immigration Act 1971.

If a student does not satisfy the requirement of three years ordinary residence in Scotland, for example because that student has been ordinarily resident in another part of the United Kingdom during the relevant three year period, that student would not be able to establish a relevant connection with Scotland. As a result such a student would not (unless that student fell within one of the categories of excepted student) be a student to whom the 2011 Order applies. In practice that would mean that a Scottish university would not be obliged to charge such a student tuition fees at the level set by the Scottish Ministers in terms of the 2011 Order. Instead a Scottish university would be able to set tuition fees for such a student at a level which they determined to be appropriate.

It is intended that the categories of excepted students under the 2011 Regulations will remain broadly the same as under the 2007 Regulations, although there may be some changes.

Impact on Scottish domiciled students

With the exception of the ‘removal’ of the higher fee for medical degrees, the changes will not directly affect Scottish domiciled students. The tuition fee levels for such students will continue to be set by Order by the Scottish Ministers and, for eligible students, tuition fees will be met by the Student Awards Agency for Scotland (SAAS).

Impact on non-UK EU students

With the exception of the ‘removal’ of the higher fee for medical degrees, the changes will not directly affect students domiciled in another part of the EU outwith the UK. The tuition fee levels for such students will continue to be set by Order by the Scottish Ministers and, for eligible students, tuition fees will be met by SAAS. This is because, under EU law, students who come from outwith a Member State must be treated on an equal basis with local students in terms of access to higher education.

Impact on RUK domiciled students

RUK domiciled students will continue to be liable to pay their own tuition fees, as they are at the moment. The difference will be that the level of their tuition fees will no longer be set by Order by the Scottish Ministers. Instead, they will be set by the Scottish university at which they choose to study.

Future Intentions

It is intended that these proposals will apply until such time as Scottish Ministers can bring forward primary legislation to set an upper limit for fee levels for RUK domiciled students. It is expected that the upper limit for this cohort will be set at £9,000 per academic year.

Scottish Government
Employability, Skills and Lifelong Learning Directorate
June 2011

EXECUTIVE NOTE

STUDENT FEES (SPECIFICATION) (SCOTLAND) ORDER 2011

(SSI/2011/xx)

Powers under which instrument is made

The Student Fees (Specification) (Scotland) Order 2011 (“the 2011 Order”) is made in exercise of the powers conferred by section 9(6) and (7) of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”).

Parliamentary Procedure

The 2011 Order is subject to affirmative procedure in the Scottish Parliament.

Summary of Policy Proposals

Our intention is to change the way in which higher education tuition fees are applied to students who normally live in another part of the UK outside Scotland (referred to as “RUK domiciled students”). RUK domiciled students will be excluded from arrangements in terms of which the Scottish Ministers set tuition fee levels. This will leave institutions free to set their own tuition fee levels for this group, as they currently do for non-EU international students. This will be achieved through secondary legislation and an associated condition attached to any grant paid by the Scottish Ministers to the Scottish Further and Higher Education Funding Council (“the SFC”) in terms of section 9 of the 2005 Act.

The main policy drivers for these changes are:

- the need to respond to an increasing divergence in higher education tuition fee policy across the UK in order to maintain current cross-border flows of students;
- the need to protect places for students who normally live in Scotland (“Scottish domiciled students”);
- strengthening the link between the number of publicly funded university places and maintenance support from the Student Awards Agency for Scotland (SAAS);
- reducing the subsidy paid by the SFC to the teaching of RUK domiciled students; and
- changing the system to reduce the need to react to changes elsewhere in the UK in future.

We are making new arrangements for tuition fee levels in connection with higher education provided by any “fundable body” (within the meaning of section 6 of, and Schedule 2 to, the 2005 Act – Schedule 2 to the 2005 Act lists various educational

institutions which provide courses of higher education). Broadly, the intention is that the new arrangements will apply to students commencing courses of education at fundable bodies in the 2012-13 academic year (or later academic years) but that the existing arrangements will continue to apply to students who commenced courses at fundable bodies prior to the 2012-13 academic year but who are continuing their course in that academic year (or later academic years).

Current arrangements

The Student Fees (Specification) (Scotland) Order 2006

The levels of higher education tuition fees to be charged by fundable bodies are currently set by the Student Fees (Specification) (Scotland) Order 2006 (“the 2006 Order”). The 2011 Order makes certain amendments to the 2006 Order which will remain in force and will continue to govern the level of higher education tuition fees for any full time student who is either a “deferred student”, an “existing student” or a “new student” within the meaning of the 2006 Order. These terms cover any student who has already started a course of education on or before 31 July 2012. The 2006 Order will also govern the level of higher education tuition fees for a “new deferred student” within the meaning of the 2006 Order. That term covers any student who starts a course of education on or after 1 August 2012 having already agreed, between 1 August 2005 and 31 July 2011, to defer entry to their course. The term “new deferred student”, however, excludes medical students who have a relevant connection with Scotland or are excepted students within the meaning of the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Regulations” – see further below). Such students will be subject to the new arrangements.

The fees set by the 2006 Order apply to students who have a ‘relevant connection with the United Kingdom and Islands’ and to certain particular categories of ‘excepted student’ within the meaning of the Education (Fees and Awards) (Scotland) Regulations 2007 (“the 2007 Regulations”).

A student must meet a number of criteria in order to establish a ‘relevant connection with the United Kingdom and Islands’ including that the student must have been ordinarily resident in the United Kingdom and Islands for a period of three years immediately preceding 1st August, 1st January, 1st April or 1st July closest to the beginning of the first term of the student’s course and that the student must be settled in the United Kingdom within the meaning of the Immigration Act 1971.

As provided for in terms of section 9(5) of the 2005 Act, in making grants to the SFC in terms of section 9 of the 2005 Act, the Scottish Ministers make it a condition of grant that the SFC, in turn, makes it a condition of any grant made by the SFC to any fundable body in terms of section 12 of the 2005 Act that the fundable body charge tuition fees at the level set by the Scottish Ministers in terms of the 2006 Order. It is intended that the Scottish Ministers will continue to make this a condition of the grant to the SFC.

New arrangements

The Student Fees (Specification) (Scotland) Order 2011

The 2011 Order sets tuition fees for full time courses of higher education and it applies to any full time student who is a “new student”, that is a student who commences a course of education in the academic year 2012-13 (or later years) and who is not a “deferred student” or a “new deferred student” within the meaning of the 2006 Order.

The 2011 Order specifies the annual tuition fees for academic year 2012-13 as follows:

- for a full time new student studying an honours or ordinary degree course as £1,820;
- for a full time new student studying a Postgraduate Certificate of Education or Professional Graduate Diploma in Education course as £1,820; and
- for a full time new student studying any other higher level course of education as £1,285.

Under the 2011 Order there is no longer a different fee for medical students (as is the case under the 2006 Order).

The 2011 Order provides that it does not apply in relation to any fees which are payable in accordance with the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Regulations”) by students who do not have a relevant connection with Scotland and are not excepted students under those Regulations.

The 2011 Regulations have not yet been made but it is intended that they will come into force at the same time as the 2011 Order.

It is intended that the 2011 Regulations will provide that a student must meet a number of criteria in order to establish a relevant connection with Scotland for the purposes of the 2011 Regulations, including that the student must have been ordinarily resident in Scotland for a period of three years immediately preceding 1st August, 1st January, 1st April or 1st July closest to the beginning of the first term of the student’s course and that the student must be settled in the United Kingdom within the meaning of the Immigration Act 1971.

If a student does not satisfy the requirement of three years ordinary residence in Scotland, for example because that student has been ordinarily resident in another part of the United Kingdom during the relevant three year period, that student would not be able to establish a relevant connection with Scotland. As a result such a student would not (unless that student fell within one of the categories of excepted student) be a student to whom the 2011 Order applies. In practice that would mean that a fundable body would not be obliged to charge such a student tuition fees at the level set by the Scottish Ministers in terms of the 2011 Order. Instead a fundable body

would be able to set tuition fees for such a student at a level which they determined to be appropriate.

It is intended that the categories of excepted students under the 2011 Regulations will remain broadly the same as under the 2007 Regulations, although there may be some changes.

The 2011 Order will also allow the Scottish Ministers to set fees for subsequent academic years by determination, rather than by Order, only if either such fees are no greater than the 2012-13 fees or such fees are only higher than the 2012-13 fees in so far as is necessary to maintain the value of the fees in real terms. In considering the value of fees in real terms Scottish Ministers may have regard to any retail price index.

As provided for in terms of section 9(5) of the 2005 Act, it is intended that in making grants to the SFC in terms of section 9 of the 2005 Act, the Scottish Ministers will make it a condition of grant that the SFC, in turn, makes it a condition of any grant made by the SFC to any fundable body in terms of section 12 of the 2005 Act that the fundable body charge tuition fees at the level set by the Scottish Ministers in terms of the 2011 Order.

It is intended that the relevant secondary legislation will be in place by the end of 2011 to allow students and institutions as much time as possible to make decisions for the academic year 2012-13.

The 2011 Order does not affect student support. Eligible full-time undergraduate Scottish domiciled students have their tuition fees met by the Scottish Government through the Student Awards Agency for Scotland (SAAS). This will continue.

Consultation

The 2011 Order is subject to the enhanced consultation required under section 9 of the 2005 Act. A 60 day consultation period is being held. The Act specifies that a draft Order must be laid in Parliament along with a statement of Scottish Ministers' reasons for making the Order. The 2011 Order must be publicised by Scottish Ministers and it is being placed on the website of the Scottish Government. Additionally written representations are to be invited from the SFC, the National Union of Students Scotland and fundable bodies. The 60 day consultation period commences when Scottish Ministers invite written representations from these bodies.

The following bodies are being alerted to this consultation: Student Awards Agency for Scotland; Educational Institute of Scotland; University and College Union Scotland; Association of Managers of Student Services in Higher Education; Scotland's Colleges; Universities Scotland; Student Loans Company; Coalition of Higher Education Students in Scotland; and the British Medical Association Scotland Medical Students Committee.

A full list of consultees is appended.

Impact Assessments

An Equality Impact Assessment will be completed for this Order. An interim Equality Impact Assessment is attached.

Financial Effects

The 2011 Order has no implications for increased financial liability on the Scottish Government or local government. Any savings to the Scottish Government resulting from the changes to tuition fee arrangements specified in the 2011 Order will be re-invested in higher education in Scotland.

The 2011 Order is not expected to present cost implications to business, charities or public bodies, in terms of increased costs of administering proposed changes. Therefore, no Regulatory Impact Assessment has been completed for the 2011 Order.

Scottish Government
Employability, Skills and Lifelong Learning Directorate
June 2011

EXECUTIVE NOTE

STUDENT FEES (SPECIFICATION) (SCOTLAND) ORDER 2011

(SSI/2011/xx)

List of Consultees

Advisory Centre for Education (ACE)
Allied Health Professions Federation
Association of Colleges
Association of Directors of Education
Association of Directors of Social Work
Association of Graduate Careers Advisory Service
Association of Graduate Recruiters
Association of Teachers and Lecturers
Association of Managers of Student Services in Higher Education (AMOSSHE)
Beattie Resource for Inclusiveness in Technology and Education (BRITE)
Board for Academic Medicine
British Academy
British Accreditation Council
British Association of Art Therapists (BAAT)
British Council
British Diabetic Association (BDA)
British Medical Association (BMA)
British Youth Council
Capability Scotland
Chartered Society of Physiotherapy
CLD Standards Council
Coalition of Higher Education Students in Scotland (CHESS)
Colleges
College of Paramedics (CoP)
Committee of Education, Lifelong Learning & Culture, Scottish Parliament
Committee of Equal Opportunities, Scottish Parliament
Community Service Volunteers (CSV)
Confederation of Business Industry (CBI)
CoSLA
Department for Business, Innovation and Skills
Disability Action
Dyslexia Scotland
Education Institute Scotland
Education Law Association
Education Law Unit
Education and Library Boards, Northern Ireland
Education Scotland
Enquire
Estyn
Equality & Human Rights Commission
Equality Network
Federation of Small Businesses
General Dental Council

Government Departments, Northern Ireland
Governors Wales
Heath Boards
Higher Education Academy
Highlands and Islands Enterprise
Independent Living Fund
Institute of Directors (IoD)
Law Society of England and Wales
Law Society of Scotland
Linking Education and Disability Scotland (Lead)
Mental Welfare Commission for Scotland
National Centre for Independent Living (NCIL)
National Union of Students
National Union of Students Scotland
Ofsted
Open University (OU)
Royal College of Speech and Language Therapists (RCSLT)
Royal Society of Edinburgh
Russell Group
Scotland's Colleges
Scottish Association of Mental Health
Scottish Autism Service Network
Scottish Chairmen Committee (CSC)
Chambers of Commerce
Scottish Chambers of Commerce
Scottish Council for Development and Industry (SCDI)
Scottish Council for Research in Education
Scottish Dental Practice Committee
Scottish Financial Enterprise
Scottish Funding Council
Scottish Interfaith Council
Scottish Local Authorities
Scottish MEPs
Scottish Parent Teacher Council
Scottish Science Advisory Council
Scottish Society for Autism Advisory and Consultancy Service
Scottish Qualifications Authority (SQA)
Scottish Youth Parliament
Sector Skills Alliance Scotland
Skills Development Scotland (SDS)
Society and College of Radiographers (SCoR)
Society of Chiropodists and Radiographers (SCP)
STUC
Student Awards Agency for Scotland (SAAS)
Student Loans Company
Student Unions
Scottish Universities International Group (SUIG)
Supporting Professional Admissions
International Student Advisors in Scotland (STRATOS)
The National Union of Students / Union of Students in Ireland (NUS-USI)

Universities
Universities Scotland
University and College Union (UCU)
University and College Application Service (UCAS)
Quality Assurance Agency (QAA)
UKCISA
UKNARIC
UNISON
Volunteer Development Scotland
Welsh Assembly Government
Workforce Plus
YoungScot
Youthlink Scotland
1994 Group

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

EDUCATION

The Student Fees (Specification) (Scotland) Order 2011

Made - - - - []

Coming into force - - []

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 9(6) and (7) and 34(2) of the Further and Higher Education (Scotland) Act 2005(a) (“the Act”) and of all other powers enabling them to do so.

The Scottish Ministers have laid before the Scottish Parliament a proposed draft of this Order and a statement of their reasons for proposing to make it; publicised the proposed draft of this Order; invited written representations on the proposed draft of this Order; and had regard to any written representations about the proposed draft of this Order, all in accordance with section 9(13) and (15) of the Act.

The Scottish Ministers have laid before the Scottish Parliament a statement summarising all written representations about the proposed draft of this Order to which they had regard under section 9(13) of the Act; the changes (if any) made to the proposed draft of this Order in light of the representations; and any reasons for making, or not making, changes in light of the representations, all in accordance with section 9(14) of the Act.

In accordance with section 34(4) of that Act, a draft of this Order has been laid before, and approved by resolution of, the Scottish Parliament(b).

Citation and commencement

1. This Order may be cited as the Student Fees (Specification) (Scotland) Order 2011 and comes into force on [].

Interpretation

2. In this Order—

(a) “the 2006 Order” means the Student Fees (Specification) (Scotland) Order 2006(c);

(a) 2005 asp 6.

(b) Section 34(4) of the Further and Higher Education (Scotland) Act 2005 has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(c) S.S.I. 2006/401.

- (b) a “2012/13 academic year” is any academic year commencing during the period beginning on 1st August 2012 and ending on 31st July 2013 and subsequent academic years are to be construed accordingly;
- (c) a “higher level course of education” is any course at a higher level, including a honours or ordinary degree course, with the exception of—
 - (i) a course of post-graduate studies (including a higher degree course); and
 - (ii) a course at a higher level in preparation for a qualification from a professional body;
- (d) a “new student” is a student, who is not a deferred student or a new deferred student within the meaning of article 1(2) of the 2006 Order, who commences a course at a fundable body on or after 1st August 2012.

Specification of fees for a 2012/13 academic year

3.—(1) Subject to paragraph (3), the Scottish Ministers specify the following fees payable for a 2012/13 academic year.

- (2) Full time new students who are studying at fundable bodies must pay a fee of—
 - (a) £1,820 in connection with their attending any honours or ordinary degree course;
 - (b) £1,820 in connection with their attending a Postgraduate Certificate in Education or Professional Graduate Diploma in Education course;
 - (c) £1,285 in connection with their attending any higher level course of education which is not specified in (a).

(3) Paragraphs (1) and (2) do not apply in relation to any fees which are payable in accordance with the Education (Fees) (Scotland) Regulations 2011(a) by students who do not have a relevant connection with Scotland and are not excepted students under those Regulations.

Specification of fees for academic years subsequent to a 2012/13 academic year

4. The Scottish Ministers may determine, in relation to any academic year subsequent to a 2012/13 academic year, that the fees payable for that year, by any full time new students in connection with their attending such courses as specified under article 3(1) and (2) are—

- (a) in each case no higher than the fees specified under article 3(1) and (2); or
- (b) in any case higher than the fees specified under article 3(1) and (2) provided that any increase in fees is no greater than is required in order to maintain the value in real terms of those specified fees.

Amendment of the Student Fees (Specification) (Scotland) Order 2006.

- 5.**—(1) The 2006 Order is amended as follows.
- (2) In article 1(2) (citation, commencement and interpretation)—
 - (a) after sub-paragraph (c) insert—
 - “(ca) “an excluded medical student” is a student, who is not an existing student or a new student, who—
 - (i) has been accepted on to a Bachelor of Medicine and Bachelor of Surgery degree course or a Bachelor of Science course which is a preparatory course for the study of a Bachelor of Medicine and Bachelor of Surgery course at a fundable body and has agreed in writing with that fundable body, during the period beginning on 1st August 2005 and ending on 31st July 2011, to defer entry to that course; and

(a) S.S.I. 2011/[].

- (ii) has a relevant connection with Scotland, or is an excepted student, within the meaning of the Education (Fees) (Scotland) Regulations 2011;”;
 - (b) after sub-paragraph (e) insert—
 - “(ea) a “new deferred student” is a student, who is not an excluded medical student, an existing student or a new student who has been accepted on to a course at a fundable body and has agreed in writing with that fundable body, during the period beginning on 1st August 2005 and ending on 31st July 2011, to defer entry to that course;”;
 - (c) in sub-paragraph (f) for “on or after 1st August 2006” substitute “during the period beginning on 1st August 2006 and ending on 31st July 2012”.
- (3) In article 2 (specification of fees for the 2006/07 academic year)—
- (a) in paragraph (2), after “students” insert “and full time new deferred students”; and
 - (b) in paragraph (5), for “1997” substitute “2007”.

St Andrew’s House,
Edinburgh

2011

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 9(6) and (7) and 34(2) of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”). It specifies the fees that are payable by certain students attending courses of higher education at fundable bodies in the 2012/13 academic year. It also amends the Student Fees (Specification) (Scotland) Order 2006 (“the 2006 Order”). “Fundable body” means a body specified in schedule 2 to the 2005 Act.

The 2012/13 academic year is defined as any academic year which has a start date between 1st August 2012 and 31st July 2013, inclusive. Subsequent academic years are to be construed accordingly (i.e. with reference to start dates during the period from 1st August to 31st July).

The Order specifies fees for full time students only and does not apply to part time students. The fees apply to any student who is a “new student” within the meaning of the Order. A “new student” is a student, who is not a “deferred student” or a “new deferred student” within the meaning of the 2006 Order, who commences a course on or after 1st August 2012. To qualify as a “deferred student” within the meaning of the 2006 Order a student must commence a course on or after 1st August 2006 having agreed with the relevant fundable body, before 1st August 2005, to defer entry to that course. To qualify as a “new deferred student” within the meaning of the 2006 Order a student must commence a course on or after 1st August 2012 having agreed with the relevant fundable body, between 1st August 2005 and 31st July 2011, to defer entry to that course.

Article 3(2)(a) provides that full time new students studying honours or ordinary degrees shall pay a fee of £1,820. Article 3(2)(b), provides that full time new students studying postgraduate initial teacher training courses shall pay a fee of £1,820. Article 3(2)(c), provides that full time new students studying any other higher level education course shall pay a fee of £1,285.

Article 3(3) provides that these fees do not apply to students who do not have a relevant connection with Scotland and are not excepted students within the meaning of the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Regulations”).

These specified fees will form part of the conditions of grant imposed on fundable bodies under section 9 of the 2005 Act. Under this section the Scottish Ministers specify fees, then will require the Scottish Further and Higher Education Funding Council (through the terms of the grant to that Council) to set this fee level through further conditions of grant on fundable bodies. Fundable bodies then require this level of fee from those students to whom the 2011 Regulations apply.

Article 4 allows Scottish Ministers to set fees for subsequent academic years by determination, rather than by Order, only if either such fees are no greater than the 2012/13 fees or such fees are only higher than the 2012/13 fees in so far as is necessary to maintain the value of the fees in real terms. In considering the value of fees in real terms, section 9(17) of the 2005 Act provides that the Scottish Ministers may have regard to any retail price index. (Information on retail price index is available on www.statistics.gov.uk.) This provision allows fees to remain at the same level, be reduced or be increased in line with inflation without making further legislation.

Fees payable by students attending courses of higher education at fundable bodies were previously set in terms of the 2006 Order. Article 5 amends the 2006 Order by altering the definitions of the classes of student to whom the 2006 Order applies. The 2006 Order will continue to apply in respect of fees payable by any student who is a “new student”, a “deferred student”, an “existing student” or a “new deferred student” as defined in the 2006 Order.

Interim Equality Impact Assessment
STUDENT FEES (SPECIFICATION) (SCOTLAND) ORDER 2011
(SSI/2011/xx)

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Appendix A	Equality Questionnaire

1. Introduction

The Scottish Government is subject to the public sector general duty as set out in the Equality Act 2010. Scottish Ministers are required to have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. The duty requires us to have due regard to the impact of proposed policies, decisions and practices on specific equality groups, as far as is relevant and proportionate.

We use Equality Impact Assessments (EQIAs) to help us develop effective policies and processes which minimise or eliminate negative impacts on groups of consumers and capitalise on and maximise any positive impacts.

This interim EQIA has been prepared to accompany our consultation paper on the proposed Student Fees (Specification) (Scotland) Order 2011 (“the 2011 Order”) which will make new provision for setting levels of student tuition fees as well as making amendments to the Student Fees (Specification) (Scotland) Order 2006 (“the 2006 Order”). The Interim EQIA sets out our initial findings and will enable us to garner your views on the likely impact of the proposed amendments in relation to the following equality characteristics: Disability; Race; Age; Gender; Gender Reassignment; Pregnancy and Maternity; Sexual Orientation and Religion and Belief. Although not a specific characteristic, we have also included an assessment of socio-economic impact as we consider this to be relevant.

The future policy on higher education tuition fees for students who are domiciled in another part of the UK outwith Scotland (referred to as “RUK-domiciled students”) who attend Scottish universities will be determined by the Scottish Government, following consideration of responses to the consultation process on both the policy proposals and this interim EQIA.

2. Policy Description

Background

Since devolution there has been an increasing divergence of policy relating to higher education across the UK, particularly on the issue of tuition fees. The most recent changes proposed in England, where institutions can charge up to £9,000 in tuition fees from 2012-13 look likely to increase that divergence even further.

To ensure Scottish universities remain competitive, the Scottish Government is required to consider its current funding arrangements for universities. As part of this process, consideration has been given to amending the current policy in relation to fees charged to RUK-domiciled students for attendance at Scottish universities.

The Administrations in Northern Ireland and Wales are also considering the detail of how they will respond to current funding challenges.

Proposal for Change

The Scottish Government’s policy for change to these arrangements is outlined in the ‘Consultation on the draft Student Fees (Specification) (Scotland) Order 2011’. This document can be accessed via the following link:

<http://www.scotland.gov.uk/consultations>.

Our key policy proposal relates to changing the way in which higher education tuition fees are applied to RUK-domiciled students, excluding them from arrangements in terms of which the Scottish Ministers set tuition fee levels. This will leave institutions free to set their own tuition fee levels for this group. This will be achieved through secondary legislation and an associated condition attached to any grant paid by the Scottish Ministers to the Scottish Further and Higher Education Funding Council (“the SFC”) in terms of section 9 of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”).

The main policy drivers for this proposal are:

- the need to respond to an increasing divergence in higher education tuition fee policy across the UK and the potential impact on cross-border flows of students;
- protecting places for students who normally live in Scotland (“Scottish domiciled students”); and
- changing the system to reduce the need to react to changes elsewhere in the UK in future.

We propose to address these issues by laying secondary legislation which will:

- retain the current fee level of £1,820 for full-time undergraduate Scottish domiciled, EU and certain other categories of students, with the option to maintain the real value of this in subsequent years;
- remove the higher fee level for medicine; and
- leave institutions free to charge RUK-domiciled students tuition fees at a (potentially higher) level set by them (in the same way as institutions are currently free to do for non-EU international students).

We will also create a mechanism through the SFC which ensures that the benefits of any increased income to the sector are shared widely across all our universities.

We propose using the powers at section 9(6) and (7) of the Further and Higher Education (Scotland) Act 2005 to make the 2011 Order. The 2011 Order will set tuition fees for higher level courses of education, but those fees will only apply to those students who have a relevant connection with Scotland or who are excepted students within the meaning of the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Regulations”).

The 2011 Regulations have not yet been made but it is intended that they will provide that a student must meet a number of criteria in order to establish a relevant connection with Scotland, including that the student must have been ordinarily resident in Scotland for a period of three years immediately preceding 1st August, 1st January, 1st April or 1st July closest to the beginning of the first term of the student’s course and that the student must be settled in the United Kingdom within the meaning of the Immigration Act 1971.

It is intended that the categories of excepted students under the 2011 Regulations will remain broadly the same as under the Education (Fees and Awards) (Scotland) Regulations 2007 (“the 2007 Regulations”), although there may be some changes.

In general the 2011 Order will apply to students commencing courses of higher education in Scotland from academic year 2012-13.

But (with the exception of medical students who either have a relevant connection with Scotland or are excepted students within the meaning of the 2011 Regulations) the 2011 Order will not apply to students who commence their course on or after 1st August 2012 after having agreed with a Scottish University, between 1st August 2005 and 31st July 2011, to defer entry to their course. The 2011 Order will also not apply to students who have already commenced their course prior to 31 July 2012. For such students the current arrangements under the 2006 Order and the 2007 Regulations will continue to apply. In terms of those arrangements, the fees set by the 2006 Order apply to all students who have a 'relevant connection with the United Kingdom and Islands' and to certain particular categories of 'excepted student', both within the meaning of the 2007 Regulations.

We intend to have the relevant secondary legislation in place by the end of 2011 to allow students and institutions as much time as possible to make decisions for the academic year 2012-13.

3. Key Facts and Findings

It should be borne in mind that there are many factors which could influence student behaviour and the likelihood of RUK-domiciled students pursuing their higher education in Scotland. The cost of education is only one of those factors.

From analysis of the evidence available, we have identified the following key facts:

- The policy proposal involves RUK-domiciled students being treated differently from Scottish domiciled students in relation to the setting of tuition fee levels.
- The policy proposal to enable increased tuition fee levels for RUK-domiciled students is likely to affect slightly more female RUK-domiciled students than male, although the imbalance is not considered disproportionate when compared to the figures for the whole of the UK.
- The majority of RUK-domiciled under-graduate students who attend Scottish universities are under the age of 21. An increase in tuition fee levels for RUK-domiciled students could therefore be expected to disproportionately affect younger people.
- During the course of this interim assessment, we have not found there to be any likely impacts on the following equality groups: Sexual Orientation, Gender Reassignment, Pregnancy and Maternity, and Religion or Belief. However, if you disagree, please let us know your views at Appendix A.

- The Equality Act 2010 does not require us to promote equality on the basis of socio-economic status. However, a previous consultation carried out by the UK Department for Business, Innovation and Skills (BIS) identified certain socio-economic impacts that may also be relevant to our policy proposals. For this reason we have included some information about the BIS study in our consultation document. The proposed changes to tuition fee levels and the student support system in England will have a socio-economic impact on RUK-domiciled students. Increasing the tuition fee levels for RUK-domiciled students who attend university in Scotland, will have a similar socio-economic impact, as RUK students will be able to access funding for tuition fees and student support in the same way as those studying at RUK universities.

4. Data Sources and Research

We utilised quantitative data from the sources below to make our initial assessment of the likely impact of the proposals on equality groups.

- The Higher Education Statistics Agency;
- The Labour Force (Office of National Statistics);
- The Department for Business Innovation & Skills;
- The Student Loans Company; and
- The 2001 Census.

5. Evidence

In General

Although the proposals will enable universities to set their own tuition fee levels for RUK-domiciled students, it is not anticipated that these students will have to pay more towards tuition fees to attend a Scottish university than they would to attend a university in their own country. It is envisaged that, in terms of overall tuition fee costs, Scottish universities will wish to remain competitive with universities elsewhere in the UK.

NB: The data contained in tables 1 to 4 relates to under-graduate, first degree students.

Gender

Table 1

No of Students by Gender - 2009	Male	Female	% Female
All RUK-domiciled under-graduate students studying at UK universities	554,085	702,040	56
All under-graduate students studying at Scottish universities	62,550	82,985	57
All RUK-domiciled under-graduate students studying at Scottish universities	8,865	10,885	55

Source – Higher Education Statistics Agency (HESA)

The above table provides information about the number of male and female students studying at university in the UK. From the table, it is clear that there are more female students studying in the UK than male in all categories.

Although the policy proposal to enable increased tuition fee levels for RUK-domiciled students will affect males and females in the same way, as there are more female students, the policy proposal will affect slightly more female students than male students.

Disability

Table 2

Disabled Students - 2009	Total Number	%
All RUK-domiciled under-graduate students studying at UK universities	221,290	17.6
All under-graduate students studying at Scottish universities	19,615	13.5
All RUK-domiciled under-graduate students studying at Scottish universities	2,310	11.7

Source – Higher Education Statistics Agency (HESA)

The above table provides information about the number of disabled students studying at universities within the UK. From the table, although 17.6% of all RUK-domiciled students studying in the UK and 13.5% of all students studying at Scottish universities are from this equality group, only 11.7% of the RUK-domiciled students studying at Scottish universities are from this group.

As the proportion of RUK-domiciled students studying at Scottish universities is lower, the proposed increase in tuition fee levels is not expected to have a disproportionately adverse effect on the disabled students studying at universities in Scotland.

Race

There are clear differences in the demographics of the populations in England, Scotland, Wales and Northern Ireland. From information derived from the 2001 census, in 2001 people from minority ethnic groups made up 9% of the population in England, 2% of the population in Scotland and Wales and less than 1% of the population in Northern Ireland. However, in relation to the student population, these percentages look quite different.

Table 3

BME Students - 2009	Total Number	%
All RUK-domiciled students studying at UK universities	304,155	24.2
All students studying at Scottish universities	20,775	14.3
All RUK-domiciled students studying at Scottish universities	1,975	10.0

Source – Higher Education Statistics Agency (HESA)

The above table provides information about the number of black and ethnic minority students studying at universities within the UK. From the table, although 24.2% of all RUK-domiciled students studying in the UK and 14.3% of all students studying at Scottish universities are from this equality group, only 10% of the RUK-domiciled students studying at Scottish universities are from this group.

As this proportion is lower, it is not expected that an increase in tuition fee levels for RUK-domiciled students will have a disproportionately adverse effect on those RUK-domiciled students from BME groups studying at universities in Scotland.

Age

Table 4

Students by Age Group - 2009	Under 21	%	22-25	%	Over 25	%
All RUK-domiciled under-graduate students studying at UK universities	793,665	63	172,620	14	289,730	23
All under-graduate students studying at Scottish universities	94,605	65	23,670	16	27,260	19
All RUK-domiciled under-graduate students studying at Scottish universities	15,800	80	3,085	16	860	4

Source – Higher Education Statistics Agency (HESA)

The above table provides information about the number and percentage of students from 3 different age groups studying at university within the UK.

In every category, the highest proportion of students are under the age of 21. This is particularly evident when we look at the percentage of RUK-domiciled students under the age of 21 studying at Scottish universities (80%). An increase in tuition fee levels for RUK-domiciled students could therefore be expected to have a disproportionately adverse effect on younger people.

Socio-Economic Impacts

Not all RUK-domiciled students studying at Scottish universities require to access loan funding from the Student Loans Company to pay for their university fees. However, of those who do, 54% are male and 46% female, suggesting that there is likely to be a disproportionately adverse socio-economic impact on male students.

RUK-domiciled students receiving fee loans to study at Scottish higher education institutions

Table 5

Academic Year	Male	Female	All Students
2009/10	6,745	5,745	12,490
2010/11	6,750	5,640	12,390

Source: Student Loans Company

When we look at the different age groups, significantly more younger students are in receipt of fee loans than older students. This may be because a significantly higher number of young RUK-domiciled students attend Scottish universities than older RUK-domiciled students.

From the information we have gathered to date, it is not possible to carry out an accurate proportional analysis, but the initial data does appear to show that the proportion of young RUK-domiciled students studying at Scottish universities who access fee loans is greater than the proportion of older RUK-domiciled students accessing fee loans.

RUK-domiciled students receiving fee loans to study at Scottish higher education institutions

Table 6

Academic Year	21 and under	22-25	Over 25	All students
2009/10	9,575	2,670	235	12,490
2010/11	9,285	2,840	250	12,390

Source: Student Loans Company

(Note: Student numbers in the above table have been rounded up or down to the nearest 5. Totals may not be equal to their constituent parts due to rounding.)

No data is held in relation to ethnicity or disability of borrowers.

English-domiciled Students

The UK Department for Business, Innovation and Skills (BIS) recently carried out a consultation in relation to the proposals in England for reform to higher education funding and student finance. These proposals included a change to the level of tuition fees students attending English universities would have to pay. To enable students to meet the increased costs of a university education, changes to the student support package for English-domiciled students were also proposed. Full details of this, and the evaluation set out below, can be accessed via the following website:

<http://www.bis.gov.uk/publications>.

The amended finance package available for tuition and maintenance costs for English-domiciled students is intended to ensure that education remains free at the point of delivery. Under the proposed new arrangements, repayment of student loans will not require to commence until the student has left university and is earning in excess of £21,000 per annum. The maximum repayment term is 30 years.

The Equalities Impact Assessment which accompanied the BIS consultation, contained an evaluation of the impact of the proposed changes on protected equality groups. This evaluation is relevant to the proposals set out in Scottish Government's consultation as under the new proposals, English-domiciled students will be affected by increased costs to attend Scottish universities. In order to pay for these increased costs, students will access funding in the same way as English-domiciled students attending universities in England.

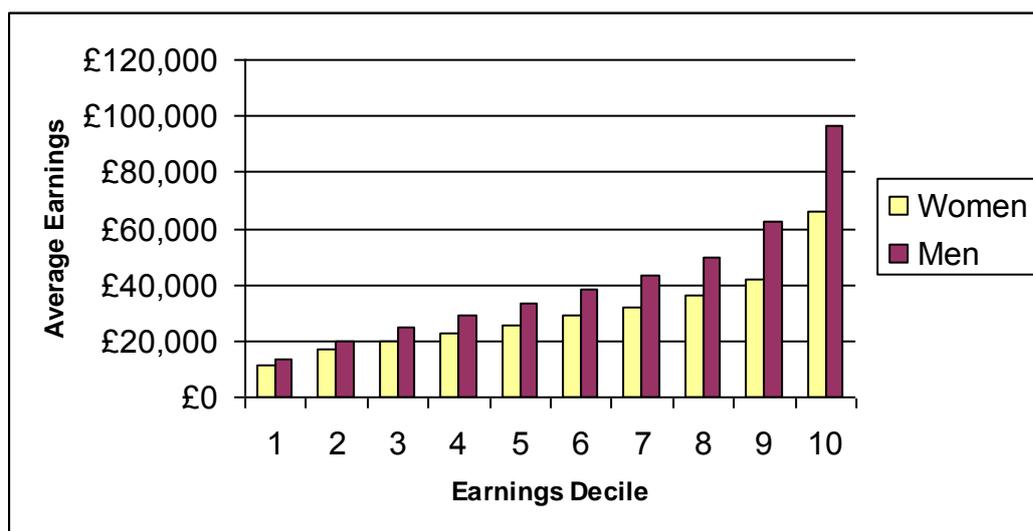
Impact of higher graduate contributions in England

The Labour Force Survey confirms that men generally earn more than women. Analysis carried out by the Office for National Statistics (ONS) confirms that over the last decade, a male graduate could expect to earn, on average, 20.4% more than a female graduate.

Additionally, female graduates are less likely to be employed (analysis by BIS from analysis of Labour Force Survey Data (Q3 – 2010 Q2) suggests that 88% of male first degree graduates are in employment, compared to 84% of female first degree graduates).

Table 7 below shows the average earnings by earnings decile for males and females.

Table 7



Source: Labour Force Survey Q3-2010 Q2, Working age population, Full-time workers currently employed and First degree graduates only

However, in the long term, due to the proposed changes to the student support system in England, it doesn't necessarily follow that women will be disproportionately adversely affected by the increased fee levels proposed for English-domiciled students attending Scottish universities.

In the BIS consultation it is estimated that, despite the increase in expected graduate contributions and changes in the repayment conditions, up to 25% of graduates will end up repaying less than they would have under the previous system.

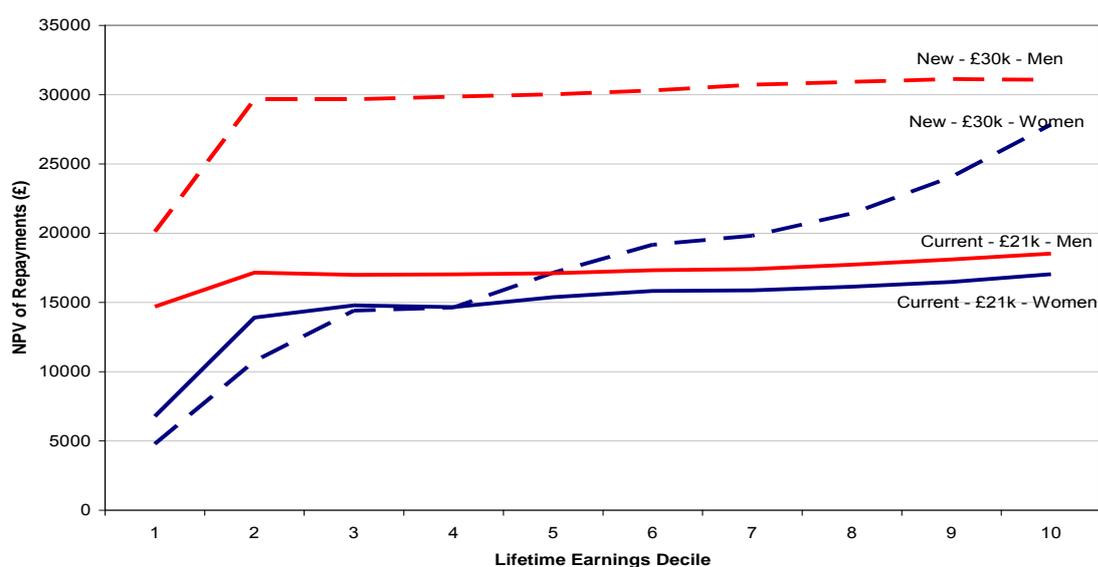
An analysis of the Labour Force Survey shows that female, ethnic minority, and disabled graduates tend to earn less. Changes to the repayment system in England, may therefore benefit these groups disproportionately.

This is predominantly because the earnings threshold at which repayments start is expected to be raised from £15,000 to £21,000, with those on lowest earnings remaining below the repayment threshold for longer.

BIS Evaluation

To illustrate, Table 8 shows how an average female graduate and an average male graduate would fare under the new proposals for reform in England compared to the previous system. The total sum liable to be repaid following graduation is assumed to be £21k under the previous system and £30k under the new system. The analysis shows how the lowest-earning female graduates will end up paying less under the new system than under the previous system. This is not the case for males, since on average they are less likely to be represented in the lowest income deciles of the total population over their working lives.

Table 8 - (Source – BIS)



The new proposals for England are therefore likely to benefit women, particularly those taking time out to have a family. Although men have considerably lower participation rates in Higher Education than women, female graduates are less likely to be employed and, when they are employed, they tend to have lower earnings.

Similarly, because of their lower position in the graduate earnings distribution, it is expected that ethnic minority and disabled graduates will also benefit by the proposed changes to the student support package in England.

6. Additional Evidence and Engagement

In line with our equality duty, utilising the information gathered during the consultation process, we intend to carry out a more in-depth analysis of the equality impact of the policy proposal for inclusion in our final EQIA. The following additional evidence has also been sought to enable a fuller evaluation to be carried out:

- Further information about the outcome of proposals to amend policies relating to tuition fees and student support in Wales and Northern Ireland.
- Comments and responses from the specific equality groups which may be affected by the proposals. It is our intention to invite representatives from major stakeholders to meet with us to discuss their views on the likely equality impacts of the proposal.
- Additional proportional data in relation to age and socio-economic status.
- Additional data about the demographics of the UK, per age group.

7. Consultation Arrangements

Scottish Government recognises the importance of meaningful consultation and is committed to consulting in an open and inclusive manner. We welcome the views of any organisation, group or individual with a particular interest in this area and will reflect on any proposals made in a serious and considered manner in relation to their impact on equality of opportunity.

A 60 day public consultation will be carried out between 29 June and 2 September 2011.

You are invited to provide your responses to the questions set out in the Equality Questionnaire at Appendix A.

The main education bodies, individual universities, student representative bodies and members of the public will be invited to provide their views. Every effort will be made to ensure that the final package of measures is practical and workable for the Scottish education sector.

The following bodies will also be alerted to this consultation: Student Awards Agency for Scotland; Educational Institute of Scotland; University and College Union Scotland; Association of Managers of Student Services in Higher Education; Scotland's Colleges; Universities Scotland; Student Loans Company; Coalition of Higher Education Students in Scotland; and the British Medical Association Scotland Medical Students Committee.

8. Monitoring and Review

Responses to the questions posed in this interim EQIA will be considered together with any additional evidence gathered before any final decision is made.

In addition, annual monitoring of the final policy will be carried out by the Higher Education and Learner Support Division, Employability, Skills and Lifelong Learning Directorate, Scottish Government.

9. Contact

Thank you for taking part in this equality exercise.

Any queries about this Interim EQIA should be addressed to:

Gillian Morrison
Higher Education and Learner Support Division
Employability, Skills and Lifelong Learning Directorate
Scottish Government
5 Atlantic Quay
150 Broomielaw
Glasgow G2 8LU
Telephone: 0300 244 6759
Email: Gill.morrison@scotland.gsi.gov.uk

Equality Questionnaire

In relation to the interim Equality Impact Assessment, consultees are asked to consider the following questions:

1. Do you consider that there is any additional evidence in relation to adverse impact on any of the equality groups that we have not recognised or considered? If so, please identify this and provide us with any further relevant data to support your analysis.

2. Do you think that there are any alternative options which we could adopt to mitigate any potential for adverse impact?

3. Do you agree with our findings? If not, please indicate the reasons why and, if appropriate, provide us with any further relevant data to support your analysis.

Employability, Skills and Lifelong Learning Directorate
Higher Education and Learner Support Division
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