

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Student Finance

Section 76: Student loans: interest rates

361. *Section 76* amends the power given to the Secretary of State in section 22(4) of THEA 1998 to make regulations setting interest rates for student loans. Section 22(4)(a) provides that the rates set must be no higher than the rates required to maintain the value of the loan in real terms or the amount specified for low interest rate loans, whichever is the lower.
362. For students who start their courses on or after 1 September 2012, the Secretary of State will have a wider power to set interest rates in regulations, provided that the rates set do not exceed those commercially available: the new restriction in *subsection (1)* reflects the terminology of the exemption in Article 2.2(1) of Directive [2008/48/EC](#) on Credit Agreements for Consumers, and the Consumer Credit (EU Directive) Regulations 2010 which implement it. This new cap will ensure that section 8 of the Sale of Student Loans Act 2008, which exempts student loans from the regime in the Consumer Credit Act 1974, continues to be compliant with EU law.
363. *Subsection (3)* sets out the general rule that the new limits on interest rates will only apply to borrowers starting courses on or after 1 September 2012, except in prescribed circumstances.

Section 77: Limit on student fees: part-time courses

364. *Section 77* amends the definition of “course” in section 41(1) of HEA 2004 to remove the exclusion of part-time courses from that definition. The effect of this amendment is that references to “course” in Part 3 of HEA 2004 will include part-time courses. This will enable the Secretary of State to apply a regime of capping the amounts which institutions providing higher education courses can charge part-time students, as can currently be done in relation to full-time students. In particular, the Secretary of State will be able to specify in regulations under section 24 of HFEA 2004 the amounts which can be charged for part-time courses, and to prescribe the type of part-time courses which are subject to these amounts. This will ensure that part-time undergraduate students can be treated in a way which is commensurate with the treatment of full-time undergraduate students.
365. *Subsection (2)* provides that this amendment applies in relation to a part-time course which begins on or after 1 September 2012, unless the case is within a prescribed exception.