

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 9 March 2020

Meeting time: 10.45

For further information contact:

Gareth Williams

Committee Clerk

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4 Papers to note

10.55–11.00

4.1 Letter from the Minister for Housing and Local Government: Local Government and Elections (Wales) Bill

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4.2 Letter from the Minister for Finance and Trefnydd: Competence for a vacant land tax in Wales

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5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for Item 6:

11.00

6 Local Government and Elections (Wales) Bill: Draft report

11.00–11.30

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7 Wales' Changing Constitution: Evidence session 5

11.30–12.30

(Pages 218 – 240)

The Rt Hon Simon Hart MP, Secretary of State for Wales

Geth Williams, Deputy Director, Constitution and Policy, Wales Office

CLA(5)–09–20 – Briefing

8 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

12.30

9 Wales' Changing Constitution: Consideration of evidence and key issues

12.30-12.45

Date of the next meeting – 16 March 2020

Statutory Instruments with Clear Reports 09 March 2020

SL(5)512 – The Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020

Procedure: Affirmative

These Regulations are to be read in conjunction with the Adoption Agencies (Wales) (Amendment) Regulations 2020.

The Regulations amend the Adoption Agencies (Wales) Regulations 2005 (as amended by the Adoption Agencies (Wales) (Amendment) Regulations 2020). The effect of the amendment is that, when an adoption agency is determining the suitability of a couple to adopt a child, the agency must have proper regard to the need for stability and permanence in their relationship.

The Regulations are made under sections 9 and 45(2) of the Adoption and Children Act 2002.

Parent Act: Adoption and Children Act 2002

Date Made:

Date Laid: 20 February 2020

Coming into force date:





WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	Laying of the Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) and the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020
DATE	20th February 2020
BY	Julie Morgan AM, Deputy Minister for Health and Social Services

Today, the Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) and the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 have been laid before the National Assembly for Wales.

The Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) amend the Adoption Agencies (Wales) Regulations 2005 (“the 2005 Regulations”) by substituting a new Part 4 (Duties of Adoption Agencies in Respect of a Prospective Adopter). Part 4 makes provision for the assessment and approval of prospective adopters by adoption agencies and is amended to introduce a new two-stage process for that assessment and approval. In Stage One (the pre-assessment process, which is limited to two months) all prescribed checks, including criminal record and health checks, are conducted. In Stage Two (the assessment decision, which is limited to four months) the adoption agency reaches a decision about the suitability of the prospective adopter.

The Amendment Regulations will also introduce a requirement on adoption agencies to refer a child to the Adoption Register for Wales within one month of the date on which the adoption agency was authorised to place the child for adoption; and to refer a prospective adopter to the Adoption Register within one month of the date on which the agency decided that the prospective adopter was suitable to adopt a child.

The Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 (“the No. 2 Regulations”) place an additional requirement on adoption agencies in Stage Two of the assessment process when assessing the suitability of a couple to adopt a child, to have proper regard to the need for stability and permanence in the couple’s relationship.

It is imperative that we continue to assess the adoption system in Wales to ensure it is offering the best support available to children and families, to enable those children who cannot return home or be cared for by their wider family to be placed in safe and stable adoptive families. The change in the regulations will go some way in improving the current system in Wales.

The changes will enable the overall operation of the approval process to become more streamlined and more efficient. This will not only result in consequential savings for the adoption agencies in Wales but will benefit the children and potential adopters by making the system less bureaucratic and more efficient and timely.

The changes will also reduce the length of time that children are waiting to be matched with a stable adoptive family by giving immediate access to a national system through which the widest possible range of links from across Wales and (where appropriate) other parts of the UK can be explored. The changes will lead to even more good quality, lasting matches being made.

I want the adoption system in Wales to be the best it can be. I believe that every child should be offered the best opportunity to flourish in a safe family environment where their fundamental needs are met and where they can enjoy the same opportunities as any other child. For some vulnerable children adoption is a positive and effective intervention for meeting their care needs and improving their overall outcomes. I am therefore committed to ensuring that continuing to improve the adoption system in Wales remains a priority for the Welsh Government.

Agenda Item 3.1 SL(5)507 – The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020

Background and Purpose

These Regulations amend the following regulations:

- the Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”),
- the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”), and
- the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the Master’s Regulations”).

Definition of “end-on course”

The 2017 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 September 2017. Regulation 3 amends the definition of “end-on course” in the 2017 Regulations so that the definition refers to the 2017 Regulations as well as to previous Regulations, with the effect that a student who completes a course attracting support under the 2017 Regulations and then, disregarding any intervening vacation, immediately starts one of a number of other courses listed in the definition of “end-on course” will continue to be eligible for support for the later course under the 2017 Regulations.

Calculation of household income

The 2017 Regulations, the 2018 Regulations and the Master’s Regulations provide for the calculation of household income to be used in means testing certain elements of support. Under the 2017 Regulations and 2018 Regulations, students applying for full-time and part-time maintenance grants and grants for students with adult and child dependants qualify for support depending on their household income. Similarly, students applying for a contribution to costs grant under the Master’s Regulations have their income assessed, and support is provided accordingly.

For most students this is based on the taxable income of the student’s parents or, where the student’s parents have separated, the taxable income of the more appropriate parent (usually the parent with whom the student normally lives) and, where applicable, that parent’s partner.

The amendments made by regulations 4 to 8 of these Regulations make it explicit that the income of both parents, or the more appropriate parent and their partner, is taken into account when determining which financial year to use when calculating the incomes.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Four points are identified for reporting under Standing Order 21.3(ii) in respect of this instrument.



Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

1. The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented. However, in this case, Welsh Government consider that the circumstances justify a breach of that rule. The Minister for Finance and Trefnydd, as required under section 11A of the Statutory Instruments Act 1946, has notified the Llywydd of the breach in a letter dated 13 February 2020 so that the matter can be brought to the attention of Members.

It is noted that the breach is due to an administrative error, which meant an earlier coming into force date was used. The letter states this does not have a material effect other than bringing the Regulations into force earlier than originally anticipated. Revoking the Regulations and making and laying a new statutory instrument with the intended coming into force date was considered, but it was concluded there was no merit in doing this. It is further stated that this will also ensure that there is no delay to the launch of the student finance application process for academic year 2020/21.

2. Section 22 of the Teaching and Higher Education Act 1998 is cited as one of the enabling powers for making these Regulations. Section 22 contains a wide range of powers and it would assist the reader if the Regulations were more specific in stating the enabling powers. This point has been reported previously in relation to section 22, a point with which the Government agreed.

3. The Explanatory Memorandum states the following:

“Where the income for the current financial year falls by at least 15% compared to the income provided for the prior financial year (the financial year ending in the calendar year before the academic year for which the student is applying for support), income can be reassessed. The Regulations make it explicit that the income of both parents, or the more appropriate parent and their partner, is taken into account to determine whether such a reassessment should take place.”

Sub-paragraph 5 of paragraph 16 of Schedule 3 to the 2018 Regulations is amended by regulation 6(b) of these Regulations. This sub-paragraph refers to a situation where the aggregate of the residual incomes for the current financial year is likely to be at least 15% lower than the financial year immediately preceding the current financial year (“PY”). The text in brackets above appears to only refer to the financial year immediately preceding PY, i.e. PY-1.

4. The quoted text, at point 3 above, states that these Regulations make it explicit that the income of both parents, or the more appropriate parent and their partner, is taken into account to determine whether a reassessment should take place. Can the Government therefore confirm that these Regulations do not change current practice.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.



Government Response

A Government response is required in relation to the second, third and fourth merits points.

Legal Advisers

Legislation, Justice and Constitution Committee

28 February 2020



Cynulliad Cenedlaethol Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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National Assembly for Wales **Pack Page 6**

Legislation, Justice and Constitution Committee

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 142 (W. 25)

EDUCATION, WALES

**The Education (Student Support)
(Miscellaneous Amendments)
(Wales) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- (a) the Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”),
- (b) the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”), and
- (c) the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the Master’s Regulations”).

The 2017 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 September 2017.

Regulation 3 amends the definition of “end-on course” in regulation 2(1) of the 2017 Regulations. It inserts “or under these Regulations” at paragraphs (a), (b), (c), (d), (e) and (f) so that the definition refers to the 2017 Regulations as well as to previous Regulations, with the effect that a student who completes a course attracting support under the 2017 Regulations and then, disregarding any intervening vacation, immediately starts one of a number of other courses listed in the definition of “end-on course” will continue to be eligible for support for the later course under the 2017 Regulations.

Regulation 4(a) amends paragraph 5 of Schedule 5 to the 2017 Regulations. It introduces a new paragraph 5(4A) and makes an amendment to paragraph 5(2) which is consequential on the introduction of paragraph 5(4A). Paragraph 5(4A) provides that subparagraphs (2), (3) and (4) of paragraph 5 are to be read so that, if there are two parents in an eligible student’s household, the aggregate of both parents’ residual incomes is used when determining which

financial year to use when calculating the residual incomes of those parents.

Regulation 4(b) makes an amendment which is consequential on the introduction of paragraph 5(4A) of Schedule 5 to the 2017 Regulations.

Regulation 4(c) amends paragraph 7 of Schedule 5 to the 2017 Regulations. It introduces a new paragraph 7(2) and makes a change to the existing text of paragraph 7 which is consequential on the introduction of paragraph 7(2). Paragraph 7(2) provides that, when sub-paragraphs (2), (3) and (4) of paragraph 5 are applied to the determination of a new eligible student's parent's partner's income, those sub-paragraphs are to be read so that the aggregate of the student's parent's residual income and the student's parent's partner's residual income is used when determining which financial year to use when calculating the residual incomes of the parent and the parent's partner.

The 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 August 2018. They also provide support for courses which begin before that date and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

Regulation 6 amends paragraph 16 of Schedule 3 to the 2018 Regulations so that, if there are two parents, or a parent and a parent's partner, in an eligible student's household, the aggregate of both those persons' residual incomes is used when determining which financial year to use when calculating their residual incomes.

The Master's Regulations provide for the making of grants and loans to students for postgraduate master's degree courses which begin on or after 1 August 2019.

Regulation 8 amends paragraph 16 of Schedule 3 to the Master's Regulations so that, if there are two parents, or a parent and a parent's partner, in an eligible student's household, the aggregate of both those persons' residual incomes is used when determining which financial year to use when calculating their residual incomes.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 142 (W. 25)

EDUCATION, WALES

**The Education (Student Support)
(Miscellaneous Amendments)
(Wales) Regulations 2020**

Made 11 February 2020

Laid before the National Assembly for Wales
13 February 2020

Coming into force 2 March 2020

The Welsh Ministers, in exercise of powers conferred on the Secretary of State by sections 22 and 42(6) of the Teaching and Higher Education Act 1998⁽¹⁾, and now exercisable by them⁽²⁾, make the following Regulations:

-
- (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; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with section 22(2)(a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

PART 1

TITLE AND COMMENCEMENT

Title and commencement

1.—(1) The title of these Regulations is the Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020.

(2) These Regulations come into force on 2 March 2020.

PART 2

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2017

Amendments to the Education (Student Support) (Wales) Regulations 2017

2. The Education (Student Support) (Wales) Regulations 2017⁽¹⁾ are amended in accordance with regulations 3 and 4.

3. In regulation 2(1) (interpretation), in the definition of “end-on course”, after “2015 Regulations”, in each place it occurs, insert “or under these Regulations”.

4. In Schedule 5 (financial assessment)—

(a) in paragraph 5—

(i) in sub-paragraph (2), after “sub-paragraph (3)” insert “and sub-paragraph (4A)”;

(ii) after sub-paragraph (4) insert—

“(4A) If an eligible student’s household income is determined by reference to the residual income of two parents under paragraph 3(2)(a), the references in sub-paragraphs (2), (3) and (4) to the residual income of A are to be construed as if they were references to the aggregate of the residual incomes of both parents.”;

(b) in paragraph 6(1), after “(other than sub-paragraphs” insert “(4A),”;

(c) in paragraph 7—

(i) the existing text becomes sub-paragraph (1);

(ii) after that sub-paragraph insert—

(1) S.I. 2017/47 (W. 21), to which there are amendments not relevant to these Regulations.

“(2) But in the application of sub-paragraphs (2), (3) and (4) of paragraph 5 to the determination of a new eligible student’s parent’s partner’s residual income, references to A’s residual income in those sub-paragraphs are to be construed as if they were references to the aggregate of the residual incomes of the new eligible student’s parent and the new eligible student’s parent’s partner.”

PART 3

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2018

Amendments to the Education (Student Support) (Wales) Regulations 2018

5. The Education (Student Support) (Wales) Regulations 2018(1) are amended in accordance with regulation 6.

6. In paragraph 16 of Schedule 3 (calculation of income)—

(a) for sub-paragraph (3) substitute—

“(3) The applicable financial year is CY if the Welsh Ministers are satisfied that—

(a) where P is one of two persons whose residual incomes are aggregated under paragraph (b)(i) or (ii) of List A in paragraph 3(1), the aggregate of the residual incomes of P and the other person for CY is likely to be at least 15% lower than the aggregate of the residual incomes of P and the other person for PY-1, or

(b) in any other case, P’s residual income for CY is likely to be at least 15% lower than P’s residual income for PY-1.”;

(b) for sub-paragraph (5) substitute—

“(5) Where this sub-paragraph applies—

(a) the applicable financial year is CY if the Welsh Ministers are satisfied that—

(i) where P is one of two persons whose residual incomes are aggregated under paragraph (b)(i) or (ii) of List A in paragraph 3(1), the aggregate of the residual

(1) S.I. 2018/191 (W. 42), to which there are amendments not relevant to these Regulations.

incomes of P and the other person for CY is likely to be at least 15% lower than the aggregate of the residual incomes of P and the other person for PY, or

(ii) in any other case, P's residual income for CY is likely to be at least 15% lower than P's residual income for PY;

(b) otherwise, the applicable financial year is PY.”

PART 4

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (POSTGRADUATE MASTER'S DEGREES) (WALES) REGULATIONS 2019

Amendments to the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019

7. The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019⁽¹⁾ are amended in accordance with regulation 8.

8. In paragraph 16 of Schedule 3 (calculation of income), for sub-paragraph (3) substitute—

“(3) The applicable financial year is CY if the Welsh Ministers are satisfied that—

(a) where P is one of two persons whose residual incomes are aggregated under paragraph (b)(i) or (ii) of List A in paragraph 3(1), the aggregate of the residual incomes of P and the other person for CY is likely to be at least 15% lower than the aggregate of the residual incomes of P and the other person for PY-1, or

(b) in any other case, P's residual income for CY is likely to be at least 15% lower than P's residual income for PY-1.”

Kirsty Williams

Minister for Education, one of the Welsh Ministers
11 February 2020

(1) S.I. 2019/895 (W. 161), to which there are amendments not relevant to these Regulations.

**Explanatory Memorandum to the Education (Student Support)
(Miscellaneous Amendments) (Wales) Regulations 2020**

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister for Education's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020.

Kirsty Williams AM
Minister for Education
February 2020

Part 1

1. Description

The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020 ('the Regulations') amend:

- the Education (Student Support) (Wales) Regulations 2017 ('the 2017 Regulations');
- the Education (Student Support) (Wales) Regulations 2018 ('the 2018 Regulations'); and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the Master's Regulations').

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Regulations will come into force on 2 March 2020, before 21 days have elapsed since laying. The Minister for Finance and Trefnydd has written to the Llywydd as required by Section 11A(4) of the Statutory Instruments Act 1946. The coming into force date will enable the student finance application process for the 2020/21 academic year to launch without delay.

3. Legislative background

The Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998 ('the 1998 Act'). Section 22 provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. In particular, this power enables the Welsh Ministers to prescribe the amount of financial support (grant or loan) and who is eligible to receive such support.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(j), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Welsh Ministers make regulations to provide the basis for the system of financial support for students ordinarily resident in Wales and EU students studying in Wales taking designated courses of higher education. The 2017 Regulations and 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 September 2017 and on or after 1 August 2018 respectively. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018. The Master's Regulations make provision for those studying designated postgraduate Master's courses which began on or after 1 August 2019.

The Regulations apply to academic years beginning on or after 1 August 2020 and provide for certain technical amendments, as set out below.

The 2017 Regulations, the 2018 Regulations and the Master's Regulations provide for the calculation of household income to be used in means testing certain elements of support. Under the 2017 Regulations and 2018 Regulations, students applying for full-time and part-time maintenance grants and grants for students with adult and child dependants qualify for support depending on their household income. Similarly, students applying for a contribution to costs grant under the Master's Regulations have their income assessed, and support is provided accordingly. For most students this is based on the taxable income of the student's parents or, where the student's parents have separated, the taxable income of the more appropriate parent (usually the parent with whom the student normally lives) and, where applicable, that

parent's partner. Where the income for the current financial year falls by at least 15% compared to the income provided for the prior financial year (the financial year ending in the calendar year before the academic year for which the student is applying for support), income can be reassessed. The Regulations make it explicit that the income of both parents, or the more appropriate parent and their partner, is taken into account to determine whether such a reassessment should take place.

An issue with the provision for eligibility of students on 'end-on' courses in the 2017 Regulations has been corrected. An end-on course is one which a student undertakes after completing a lower level higher education course. Special treatment is required to ensure the period of eligibility is adequate for the student to complete their end-on course. The definition of an end-on course is amended to enable students who started a preceding course in academic year 2017/18 to continue to be eligible for support for their end-on course in accordance with longstanding policy.

5. Consultation

There is no statutory requirement to consult on the Regulations.

6. Regulatory Impact Assessment

The Regulations provide for two minor technical amendments to ensure the correct operation of the legislation. The amendments do not have a major policy impact. The Welsh Ministers' regulatory impact assessment code for subordinate legislation provides for an exception to the policy of carrying out a Regulatory Impact Assessment in such cases.



Ein cyf/Our ref MA/KW/0556/20

Elin Jones AM
Llywydd
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

13 February 2020

Dear Llywydd,

The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that this Statutory Instrument (SI) will come into force less than 21 days from the date of laying. The Explanatory Memorandum is attached for your information.

The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020 (“the Regulations”) amend the Education (Student Support) (Wales) Regulations 2017, the Education (Student Support) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019.

Student support regulations, made under section 22 of the Teaching and Higher Education Act 1988, underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education.

The Regulations will implement the Welsh Government’s policy on student finance for the 2020/21 academic year. The Regulations provide the legal basis for the Welsh Ministers to make grants and loans to students ordinarily resident in Wales. This instrument follows the negative resolution procedure.

As noted, the Regulations as made will come into force before 21 days have elapsed. This is due to an administrative error, which meant an earlier coming into force date was used, although I should make clear this does not have a material effect other than bringing the Regulations into force earlier than originally anticipated. I have considered whether there is any merit in revoking the Regulations and making and laying a new statutory instrument with

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

the intended coming into force date, and have concluded that there is not. This will also ensure that there is no delay to the launch of the student finance application process for academic year 2020/21, delay which may impact on students.

An Explanatory Memorandum has been prepared and this has been laid, together with the Regulations, in Table Office.

A copy of this letter goes to Mick Antoniw AM, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive style.

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

SL(5)508 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) Regulations 2020

Background and Purpose

These Regulations amend the Regulations listed below to make provision for the annual uprating of student support:-

- The Education (Student Support) (Wales) Regulations 2017
- The Education (Student Support) (Wales) Regulations 2018
- The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018
- The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019

Procedure

Negative.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Standing Order 21.2 (vi) – that its drafting appears to be defective or fails to fulfil statutory requirements.

1. The Regulations do not contain a coming into force date. This creates doubt as to when the instrument comes into force. Paragraph 1.3.5 of *Statutory Instrument Practice* provides that when no coming into force date is specified, the default assumption is that an SI comes into force at the moment of making.

Standing Order 21.2 (vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

2. Regulation 24 (b) – the Welsh text reads “in paragraph (2)” when it should read “in column 2”
3. Regulation 25 (b) - the Welsh text reads “in paragraph (2)” when it should read “in column 2”

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3 (ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be interest to the Assembly.

4. We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date subordinate legislation is laid before the Assembly and the date the subordinate legislation comes into force), and the explanation for the breach provided by the Minister for Finance and Trefnydd in a letter dated 14 February 2020 to the Llywydd which refers to three related statutory instruments. The letter explains that the breach in the case of these Regulations has arisen due to an administrative error when making and laying them, resulting in no clear coming into force provision.



Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

No government response is required as these Regulations have been revoked by the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) (Revocation) Regulations. The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 make identical provision.

Legal Advisers

Legislation, Justice and Constitution Committee

27 February 2020



Cynulliad Cenedlaethol Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
National Assembly for Wales **Pack Page 20**

Legislation, Justice and Constitution Committee

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 143 (W. 26)

EDUCATION, WALES

**The Education (Student Finance)
(Miscellaneous Amendments)
(Wales) (No. 2) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- (a) The Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”);
- (b) The Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”);
- (c) The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the Doctoral Degree Loan Regulations”);
- (d) The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the Master’s Degree Regulations”).

The 2017 Regulations provide for financial support for eligible students taking designated higher education courses which begin before 1 September 2018. Part 2 of these Regulations amends the 2017 Regulations.

The 2018 Regulations provide for financial support for eligible students taking designated higher education courses which begin on or after 1 September 2018. Part 3 of these Regulations amends the 2018 Regulations.

The Doctoral Degree Loan Regulations provide for financial support for eligible students undertaking designated postgraduate doctoral degree courses. Part 4 of these Regulations amends the Doctoral Degree Loan Regulations.

The Master’s Degree Regulations provide for financial support for eligible students undertaking designated master’s degree courses. Part 5 of these Regulations amends the Master’s Degree Regulations.

Regulations 4 to 34 uprate figures in the regulations being amended:

- regulations 4 to 18 amend the 2017 Regulations;
- regulations 19 to 30 amend the 2018 Regulations;
- regulations 31 to 32 amend the Doctoral Degree Loan Regulations; and
- regulations 33 to 35 amend the Master's Degree Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 143 (W. 26)

EDUCATION, WALES

**The Education (Student Finance)
(Miscellaneous Amendments)
(Wales) (No. 2) Regulations 2020**

Made 11 February 2020

Laid before the National Assembly for Wales
13 February 2020

Coming into force 2020

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 22(2)(b) and (c) and 42(6) of the Teaching and Higher Education Act 1998⁽¹⁾ and now exercisable by them⁽²⁾, make the following Regulations:

-
- (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; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. *See* section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) of the 1998 Act were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with subsections (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. All the above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

PART 1

TITLE, COMMENCEMENT AND APPLICATION

Title, commencement and application

2.—(1) The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020.

(2) These Regulations come into force on ... 2020 and apply to the provision of support to students in relation to an academic year which begins on or after 1 August 2020, whether anything done under these Regulations is done before, on or after that date.

PART 2

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2017

Amendments to the Education (Student Support) (Wales) Regulations 2017

3. The Education (Student Support) (Wales) Regulations 2017(1) are amended in accordance with regulations 4 to 18.

Amendments to regulation 16

4. In regulation 16 (new fee grant)—

(1) in paragraph (3)—

- (a) in sub-paragraph (a), for “£4,665” substitute “£4,530”;
- (b) in sub-paragraph (b), for “£4,335” substitute “£4,470”;

(2) in paragraph (4)—

- (a) in sub-paragraph (a), for “£2,410” substitute “£2,340”;
- (b) in sub-paragraph (b), for “£2,090” substitute “£2,160”.

Amendments to regulation 19

5. In regulation 19 (new fee loan in respect of courses beginning on or after 1 September 2012)—

(1) S.I. 2017/47 (W. 21) as amended by S.I. 2018/191 (W. 42), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)).

- (a) in paragraph (3)(a), for “£4,335” substitute “£4,470”;
- (b) in paragraph (4)(a), for “£2,090” substitute “£2,160”.

Amendments to regulation 22

6. In regulation 22 (accelerated graduate entry fee loan)—

- (a) in paragraph (4)(a), for “£5,535” substitute “£5,785”;
- (b) in paragraph (5)(b), for “£5,535” substitute “£5,785”.

Amendments to regulation 24

7. In regulation 24 (grants for disabled students’ living costs), in paragraph (3)—

- (a) in sub-paragraph (a), for “£22,472” substitute “£23,258”;
- (b) in sub-paragraph (b), for “£5,657” substitute “£5,849”;
- (c) in sub-paragraph (d), for “£1,894” substitute “£1,954”.

Amendment to regulation 26

8. In regulation 26 (grants for dependants – adult dependants’ grant)—

- (a) in paragraph (3)(a), for “£2,732” substitute “£3,094”;
- (b) In paragraph (3)(b), for “£2,732” substitute “£3,094”.

Amendment to regulation 27

9. In regulation 27 (grants for dependants – childcare grant)—

- (1) in paragraph (7)—
 - (a) in sub-paragraph (a), for “£161.50” substitute “£174.22”;
 - (b) in sub-paragraph (b), for “£274.55” substitute “£298.69”;
- (2) in paragraph (9)(a), for “£115” substitute “£134.70”.

Amendment to regulation 28

10. In regulation 28 (grants for dependants – parents’ learning allowance), in paragraph (2) for “£1,557” substitute “£1,766”.

Amendments to regulation 43

11. In regulation 43 (maximum amount of loans for eligible students with full entitlement who are 2010 cohort students, 2012 cohort students or 2012 accelerated graduate entry students undertaking their first year of study)—

(1) in paragraph (2)—

- (a) in sub-paragraph (i), for “£5,684” substitute “£5,848”;
- (b) in sub-paragraph (ii), for “£10,288” substitute “£10,584”;
- (c) in sub-paragraph (iii), for “£8,756” substitute “£9,008”;
- (d) in sub-paragraph (iv), for “£8,756” substitute “£9,008”;
- (e) in sub-paragraph (v), for “£7,344” substitute “£7,555”;

(2) in paragraph (3) —

- (a) in sub-paragraph (i), for “£5,147” substitute “£5,295”;
- (b) in sub-paragraph (ii), for “£9,368” substitute “£9,638”;
- (c) in sub-paragraph (iii), for “£7,616” substitute “£7,835”;
- (d) in sub-paragraph (iv), for “£7,616” substitute “£7,835”;
- (e) in sub-paragraph (v), for “£6,803” substitute “£6,999”.

Amendments to regulation 45

12. In regulation 45 (students with reduced entitlement)—

(1) in paragraph (1), sub-paragraph (a)—

- (a) in paragraph (i), for “£2,699” substitute “£2,777”;
- (b) in paragraph (ii), for “£5,058” substitute “£5,204”;
- (c) in paragraph (iii), for “£3,598” substitute “£4,428”;
- (d) in paragraph (iv), for “£3,598” substitute “£4,428”;
- (e) in paragraph (v), for “£3,598” substitute “£3,702”;

(2) in paragraph (1), sub-paragraph (b)—

- (a) in paragraph (i), for “£2,699” substitute “£2,777”;
- (b) in paragraph (ii), for “£5,058” substitute “£5,204”;

- (c) in paragraph (iii), for “£4,304” substitute “£4,428”;
 - (d) in paragraph (iv), for “£4,304” substitute “£4,428”;
 - (e) in paragraph (v), for “£3,598” substitute “£3,702”;
- (3) in paragraph (1), sub-paragraph (c)—
- (a) in paragraph (i), for “£4,263” substitute “£4,386”;
 - (b) in paragraph (ii), for “£7,716” substitute “£7,938”;
 - (c) in paragraph (iii), for “£6,567” substitute “£6,756”;
 - (d) in paragraph (iv), for “£6,567” substitute “£6,756”;
 - (e) in paragraph (v), for “£5,508” substitute “£5,666”;
- (4) in paragraph (2), sub-paragraph (a)—
- (a) in paragraph (i), for “£2,052” substitute “£2,111”;
 - (b) in paragraph (ii), for “£3,869” substitute “£3,980”;
 - (c) in paragraph (iii), for “£2,804” substitute “£2,885”;
 - (d) in paragraph (iv), for “£2,804” substitute “£2,885”;
 - (e) in paragraph (v), for “£2,804” substitute “£2,885”;
- (5) in paragraph (2), sub-paragraph (b)—
- (a) in paragraph (i), for “£2,052” substitute “£2,111”;
 - (b) in paragraph (ii), for “£3,869” substitute “£3,980”;
 - (c) in paragraph (iii), for “£3,146” substitute “£3,237”;
 - (d) in paragraph (iv), for “£3,146” substitute “£3,237”;
 - (e) in paragraph (v), for “£2,804” substitute “£2,885”;
- (6) in paragraph (2), sub-paragraph (c)—
- (a) in paragraph (i), for “£3,860” substitute “£3,971”;
 - (b) in paragraph (ii), for “£7,026” substitute “£7,228”;
 - (c) in paragraph (iii), for “£5,712” substitute “£5,876”;
 - (d) in paragraph (iv), for “£5,712” substitute “£5,876”;

- (e) in paragraph (v), for “£5,102” substitute “£5,249”.

Amendments to regulation 50

13. In regulation 50 (increases in maximum amount), paragraph (1)—

- (a) in sub-paragraph (a), for “£84” substitute “£86”;
- (b) in sub-paragraph (b), for “£162” substitute “£167”;
- (c) in sub-paragraph (c), for “£177” substitute “£182”;
- (d) in sub-paragraph (d), for “£177” substitute “£182”;
- (e) in sub-paragraph (e), for “£127” substitute “£131”.

Amendments to regulation 88

14. In regulation 88 (grants for disabled part-time student’s living costs), paragraph (3)—

- (a) in sub-paragraph (a), for “£16,853” substitute “£17,443”;
- (b) in sub-paragraph (b), for “£5,657” substitute “£5,849”;
- (c) in sub-paragraph (d), for “£1,420” substitute “£1,465”.

Amendment to regulation 91

15. In regulation 91 (part-time adult dependants’ grant)—

- (a) in paragraph (3)(a), for “£2,732” substitute “£3,094”;
- (b) in paragraph (3)(b), for “£2,732” substitute “£3,094”.

Amendments to regulation 92

16. In regulation 92 (part-time childcare grant)—

(1) in paragraph 6—

- (a) in sub-paragraph (a), for “£161.50” substitute “£174.22”;
- (b) in sub-paragraph (b), for “£274.55” substitute “£298.69”;

(2) in paragraph (8)(a), for “£115” substitute “£134.70”.

Amendment to regulation 93

17. In regulation 93 (part-time parents' learning allowance), in paragraph (2) for "£1,557" substitute "£1,766".

Amendment to regulation 117

18. In regulation 117 (amount of grant), in paragraph (2) for "£20,000" substitute "£20,580".

PART 3

**AMENDMENTS TO THE EDUCATION
(STUDENT SUPPORT) (WALES)
REGULATIONS 2018**

**Amendments to the Education (Student Support)
(Wales) Regulations 2018**

19. The Education (Student Support) (Wales) Regulations 2018⁽¹⁾ are amended in accordance with regulations 20 to 30.

Amendment to regulation 40

20. In regulation 40 (amount of tuition fee loan), in Table 2, category of student 4, column 4 for—

- (a) "Wales, England and Scotland" substitute "Wales and England";
- (b) "Northern Ireland" in the last place that it occurs substitute "Scotland and Northern Ireland".

Amendments to regulation 55

21. In regulation 55 (amount of maintenance loan: full-time students), Table 7—

(1) in column 1, for "Beginning on or after 1 September 2018" substitute "Beginning on or after 1 September 2020";

(2) in column 4, for—

- (a) "£6,840" substitute "£7,335";
- (b) "£10,530" substitute "£11,260";
- (c) "£8,225" substitute "£8,810";
- (d) "£3,420" substitute "£3,665";
- (e) "£5,265" substitute "£5,630";
- (f) "£4,110" substitute "£4,405".

(1) S.I.2018/191 (W. 42) as amended by S.I. 2018/813 (W. 164), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)).

Amendments to regulation 56

22. In regulation 56 (amount of maintenance loan: full-time students who qualify for special support payment)—

- (1) in Table 8—
 - (a) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
 - (b) in column 3, for—
 - (i) “£7,840” substitute “£8,335”;
 - (ii) “£11,530” substitute “£12,260”;
 - (iii) “£9,225” substitute “£9,810”;
- (2) in Table 8A—
 - (a) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
 - (b) in column 3, for —
 - (i) “£3,420” substitute “£3,665”;
 - (ii) “£5,265” substitute “£5,630”;
 - (iii) “£4,110” substitute “£4,405”.

Amendments to regulation 57

23. In regulation 57 (increased maintenance loan for full-time students in extended years), in Table 9—

- (1) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (2) in column 3, for—
 - (a) “£84” substitute “£86”;
 - (b) “£162” substitute “£167”;
 - (c) “£127” substitute “£131”.

Amendment to regulation 58

24. In regulation 58 (amount of maintenance loan: part-time students), in Table 10—

- (a) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (b) in column 2, for “£5,815” substitute “£6,245”.

Amendment to regulation 58A

25. In regulation 58A (amount of maintenance loan: part-time students who qualify for special support payment), in Table 10A—

- (a) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
- (b) in column 2, for “£6,815” substitute “£7,245”.

Amendments to regulation 63

26. In regulation 63 (amount of disabled student's grant), paragraph (2) for—

- (a) “£22,472” substitute “£23,258”;
- (b) “£16,853” substitute “£17,443”;
- (c) “£5,657” substitute “£5,849”;
- (d) “£1,894” substitute “£1,954”;
- (e) “£1,420” substitute “£1,465”.

Amendment to regulation 72

27. In regulation 72 (maximum amount of adults dependant grant), in Table 11—

- (a) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (b) in column 2, for “£2,732” substitute “£3,094”.

Amendment to regulation 74

28. In regulation 74 (maximum amount of parents' learning grant), in Table 12—

- (a) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (b) in column 2, for “£1,557” substitute “£1,766”.

Amendments to regulation 76

29. In regulation 76 (maximum amount of childcare grant)—

(1) in Table 13—

- (a) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (b) in column 3—
 - (i) for “£161.50” substitute “£174.22”;
 - (ii) for “£274.55” substitute “£298.69”;

(2) in paragraph (4)(a), for “£115” substitute “£134.70”.

Amendment to Schedule 4

30. In Schedule 4, in paragraph 20(1)(a) for “£20,000” substitute “£20,580”.

PART 4

AMENDMENTS TO THE EDUCATION (POSTGRADUATE DOCTORAL DEGREE LOANS) (WALES) REGULATIONS 2018

Amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018

31. The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(1) are amended in accordance with regulation 32.

Amendments to regulation 13

32. In regulation 13 (amount of postgraduate doctoral degree loan)—

- (a) in paragraph (1), for “£25,700” substitute “£26,445”;
- (b) in paragraph (2), for “£25,700” substitute “£26,445”.

PART 5

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (POSTGRADUATE MASTER’S DEGREES) (WALES) REGULATIONS 2019

Amendments to the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019

33. The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019(2) are amended in accordance with regulations 34 to 35.

Amendments to regulation 31

34. In regulation 31 (amount of contribution to costs loan), for “£16,000” in both places it appears substitute “£16,489”.

Amendments to regulation 36

35. In regulation 36 (effect of becoming, or ceasing to be, an eligible prisoner)—

-
- (1) S.I. 2018/656 (W. 124) as amended by S.I. 2017/712 (W. 169), S.I. 2018/277 (W. 53), S.I. 2018/814 (W. 165), S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)), S.I. 2019/895 (W. 161).
 - (2) S.I. 2019/895 (W. 161).

- (a) in paragraph (8), for “£16,000” substitute “£16,489”;
- (b) in paragraph (10), for “£16,000” substitute “£16,489”.

Kirsty Williams

Minister for Education, one of the Welsh Ministers

11 February 2020

**Explanatory Memorandum to the Education (Student Finance)
(Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020**

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister for Education's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM
Minister for Education
13 February 2020

Part 1

1. Description

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 ('the Regulations') amend:

- the Education (Student Support) (Wales) Regulations 2017 ('the 2017 Regulations');
- the Education (Student Support) (Wales) Regulations 2018 ('the 2018 Regulations');
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations ('the doctoral Regulations'); and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the Master's Regulations').

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998 ('the 1998 Act'). Section 22 provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. In particular, this power enables the Welsh Ministers to prescribe the amount of financial support (grant or loan) and who is eligible to receive such support.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(j), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Welsh Ministers make regulations to provide the basis for the system of financial support for students ordinarily resident in Wales and EU students studying in Wales taking designated courses of higher education. The 2017 Regulations and 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 September 2017 and on or after 1 August 2018 respectively. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018. The Master's Regulations make provision for those studying designated postgraduate Master's courses which began on or after 1 August 2019. The doctoral Regulations make provision for those studying designated doctoral courses which began on or after 1 August 2018.

The Regulations apply to academic years beginning on or after 1 August 2020 and provide for the routine annual uprating of support amounts, as set out below.

The Regulations amend the 2017 Regulations and 2018 Regulations to provide for the annual uprating by inflation of the amount of student support:

- to **increase** the amount of Disabled Student's Grant available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales by the projected rate of inflation – RPIX – of 2.88 per cent;
- to **increase** the amount of Grants for Dependants available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales to match those available in England, a greater than inflationary increase;
- to **increase** the amount of maintenance loan available to those students who began their courses on or after 1 August 2018, to ensure that the

overall maintenance package reflects the National Living Wage projection for 2019;

- to **increase** the amount of maintenance loan available to those students who began their courses on or after 1 September 2012 but before 1 August 2018 by RPIX; and
- to **decrease** the amount of tuition fee grant and **increase** the amount of tuition fee loan for those students who began their courses on or after 1 September 2012 but before 1 August 2018 by RPIX so that overall tuition fee support is unchanged.

In addition, Table 2 of the 2018 Regulations is amended to reflect the correct rate of Category 4 fee support (£3,080) for students attending courses at private institutions in Scotland.

The Master's Regulations are amended to **increase** the amount of support by RPIX from £17,000 to £17,489. This will be achieved by increasing the amount of loan. This will apply to new students only, i.e. those starting courses on or after 1 August 2020. Unlike undergraduate support, for which support for living costs is increased each year for all cohorts, postgraduate Master's support is a contribution to costs.

The doctoral Regulations are amended to **increase** the amount of support by RPIX from £25,700 to £26,445. Doctoral support is loan only. This is for new students only.

5. Consultation

There is no statutory requirement to consult on the Regulations.

Part 2

Regulatory Impact Assessment

Options

Option 1: Business as usual

In the event of the Regulations not being made the principal implications is that students eligible for support under 2017 Regulations, the 2018 Regulations, the Master's Regulations and the doctoral Regulations would see a reduction in the real value of their support.

Option 2: Make the Regulations

Making the Regulations ensures that the implication noted above is avoided, the legislative framework reflects the Welsh Ministers' policy for student support, and students are able to apply for appropriate support.

Costs and benefits

Option 1: Business as usual

Leaving the existing regulations in place would mean no additional costs are incurred via the student support system. Students would bear the cost of a real reduction in the value of their student support.

Option 2: Make the Regulations

By making the Regulations the Welsh Ministers ensure that the Welsh student support system has a proper underpinning legal framework and that policy commitments to students are met. Students who are ordinarily resident in Wales will benefit from the maintenance of the real value of their support. The benefits of a higher education to the individual, to the economy and to society are well established.

The impact of routine annual uplifts applied to student support rates each year are by and large neutral, preserving the real value of support. The budget for student support in the 2019-20 and 2020-21 financial year is provided for information and comparison.

Budget	2019-20 (£m)	2020-21 (£m)
Student Support Grants	425.742	390.742
Student Loans AME	687.483	766,989
Student Loans RAB	106.849	106.849
Total	1,220.074	1,264.580

AME = Annually Managed Expenditure, RAB = Resource Accounting and Budgeting Charge

Competition Assessment

The making of the Regulations has no impact on the competitiveness of businesses, charities or the voluntary sector.

Post-Implementation Assessment

The regulations governing the student support system are revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the regulations.

Summary

The making of the Regulations is necessary to establish the basis for, and update aspects of, the higher education student support system (and connected matters) for students ordinarily resident in Wales and EU students studying in Wales in the 2020/21 academic year.



Ein cyf/Our ref MA/KW/0561/20

Elin Jones AM
Presiding Officer
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

14 February 2020

Dear Llywydd,

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020; the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020; and the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that these three Statutory Instruments (SIs) will come into force less than 21 days from the date of laying. The Explanatory Memoranda for these regulations are attached for your information.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 and the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 amend the Education (Student Support) (Wales) Regulations 2017, the Education (Student Support) (Wales) Regulations 2018, the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020.

Student support regulations, made under section 22 of the Teaching and Higher Education Act 1988, underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are intended to implement the Welsh Government's policy on student finance for the

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2020/21 academic year and were laid yesterday. They come into force before 21 days have elapsed. This is due to an administrative error when making and laying, resulting in no clear coming into force provision.

In light of this, the Minister for Education will revoke these regulations by way of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020, which are laid today. The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 come into force the day after they are made, before 21 days have elapsed. This is necessary to ensure revocation of the original SI can happen in a timely manner.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are therefore revoked. The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 are also laid today (and contain identical substantive provisions to the regulations they replace). The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 have a coming into force date of 2 March 2020. This is before 21 days have elapsed. This is necessary to ensure these regulations are made at the same time as the Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020, on which I wrote to you separately yesterday (my reference: MA/KW/0556/20), as both sets of regulations are necessary to make the required amendments to student support legislation in time for the 2020/21 academic year. As I noted in my other letter, there is a need to enable the student finance application process to commence as soon as possible and avoid any unnecessary negative impact on students.

I should make clear that this does not have a material effect other than bringing the three sets of regulations into force before 21 days have elapsed.

Explanatory Memoranda have been prepared and laid, together with the regulations, in Table Office.

A copy of this letter goes to Mick Antoniw AM, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

SL(5)509 – The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020

Background and Purpose

These Regulations amend the Regulations listed below to make provision for the annual uprating of student support:-

- The Education (Student Support) (Wales) Regulations 2017
- The Education (Student Support) (Wales) Regulations 2018
- The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018
- The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019

Procedure

Negative.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Standing Order 21.2 (vii) - that there appear to be inconsistencies between the meaning of its English and Welsh texts.

1. Regulation 23 (ii) – the Welsh text reads “in paragraph (2)” when it should read “in column 2”
2. Regulation 24 (ii) - the Welsh text reads “in paragraph (2)” when it should read “in column 2”

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3 (ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be interest to the Assembly.

3. We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date subordinate legislation is laid before the Assembly and the date the subordinate legislation comes into force), and the explanation for the breach provided by the Minister for Finance and Trefnydd in a letter dated 14 February 2020 to the Llywydd which refers to three related statutory instruments. The letter explains that the breach in the case of these Regulations is necessary to ensure that the Regulations come into force to enable the student finance application process for the 2020/21 academic year to launch without delay. Identical provision was made in the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) Regulations 2020, however it was necessary for the Welsh Government to revoke the Regulations (through the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) (Revocation) Regulations 2020 due to an administrative error when making and laying, resulting in no clear coming into force provision.



Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

The Government accepts the points identified in respect of this instrument. This will be addressed by way of a correction slip.

Legal Advisers

Legislation, Justice and Constitution Committee

27 February 2020



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 153 (W. 27)

EDUCATION, WALES

**The Education (Student Finance)
(Amounts) (Miscellaneous
Amendments) (Wales) Regulations
2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend—

- (i) The Education (Student Support) (Wales) Regulations 2017 (“the 2017 Regulations”);
- (ii) The Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”);
- (iii) The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (“the Doctoral Degree Loan Regulations”);
- (iv) The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019 (“the Master’s Degree Regulations”).

The 2017 Regulations provide for financial support for eligible students taking designated higher education courses which begin before 1 September 2018. Part 2 of these Regulations amends the 2017 Regulations.

The 2018 Regulations provide for financial support for eligible students taking designated higher education courses which begin on or after 1 September 2018. Part 3 of these Regulations amends the 2018 Regulations.

The Doctoral Degree Loan Regulations provide for financial support for eligible students undertaking designated postgraduate doctoral degree courses. Part 4 of these Regulations amends the Doctoral Degree Loan Regulations.

The Master’s Degree Regulations provide for financial support for eligible students undertaking

designated master's degree courses. Part 5 of these Regulations amends the Master's Degree Regulations.

Regulations 2 to 34 update figures in the regulations being amended:

- regulations 2 to 17 amend the 2017 Regulations;
- regulations 18 to 29 amend the 2018 Regulations;
- regulations 30 and 31 amend the Doctoral Degree Loan Regulations; and
- regulations 32 to 34 amend the Master's Degree Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 153 (W. 27)

EDUCATION, WALES

**The Education (Student Finance)
(Amounts) (Miscellaneous
Amendments) (Wales) Regulations
2020**

Made 13 February 2020

*Laid before the National Assembly for
Wales* 14 February 2020

Coming into force 2 March 2020

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 22(2)(b) and (c) and 42(6) of the Teaching and Higher Education Act 1998⁽¹⁾ and now exercisable by them⁽²⁾, make the following Regulations:

-
- (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; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) of the 1998 Act were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with subsections (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. All the above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

PART 1
TITLE, COMMENCEMENT AND
APPLICATION

Title, commencement and application

1.—(a) The title of these Regulations is the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020.

(b) These Regulations come into force on 2 March 2020 and apply to the provision of support to students in relation to an academic year which begins on or after 1 August 2020, whether anything done under these Regulations is done before, on or after that date.

PART 2
AMENDMENTS TO THE EDUCATION
(STUDENT SUPPORT) (WALES)
REGULATIONS 2017

Amendments to the Education (Student Support) (Wales) Regulations 2017

2. The Education (Student Support) (Wales) Regulations 2017(1) are amended in accordance with regulations 3 to 17.

Amendments to regulation 16

3. In regulation 16 (new fee grant)—

(a) in paragraph (3)—

- (i) in sub-paragraph (a), for “£4,665” substitute “£4,530”;
- (ii) in sub-paragraph (b), for “£4,335” substitute “£4,470”;

(b) in paragraph (4)—

- (i) in sub-paragraph (a), for “£2,410” substitute “£2,340”;
- (ii) in sub-paragraph (b), for “£2,090” substitute “£2,160”.

Amendments to regulation 19

4. In regulation 19 (new fee loan in respect of courses beginning on or after 1 September 2012)—

(1) S.I. 2017/47 (W. 21) as amended by S.I. 2018/191 (W. 42), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)).

- (i) in paragraph (3)(a), for “£4,335” substitute “£4,470”;
- (ii) in paragraph (4)(a), for “£2,090” substitute “£2,160”.

Amendments to regulation 22

5. In regulation 22 (accelerated graduate entry fee loan)—

- (i) in paragraph (4)(a), for “£5,535” substitute “£5,785”;
- (ii) in paragraph (5)(b), for “£5,535” substitute “£5,785”.

Amendments to regulation 24

6. In regulation 24 (grants for disabled students’ living costs), in paragraph (3)—

- (i) in sub-paragraph (a), for “£22,472” substitute “£23,258”;
- (ii) in sub-paragraph (b), for “£5,657” substitute “£5,849”;
- (iii) in sub-paragraph (d), for “£1,894” substitute “£1,954”.

Amendment to regulation 26

7. In regulation 26 (grants for dependants – adult dependants’ grant)—

- (i) in paragraph (3)(a), for “£2,732” substitute “£3,094”;
- (ii) In paragraph (3)(b), for “£2,732” substitute “£3,094”.

Amendment to regulation 27

8. In regulation 27 (grants for dependants – childcare grant)—

- (a) in paragraph (7)—
 - (i) in sub-paragraph (a), for “£161.50” substitute “£174.22”;
 - (ii) in sub-paragraph (b), for “£274.55” substitute “£298.69”;
- (b) in paragraph (9)(a), for “£115” substitute “£134.70”.

Amendment to regulation 28

9. In regulation 28 (grants for dependants – parents’ learning allowance), in paragraph (2) for “£1,557” substitute “£1,766”.

Amendments to regulation 43

10. In regulation 43 (maximum amount of loans for eligible students with full entitlement who are 2010 cohort students, 2012 cohort students or 2012 accelerated graduate entry students undertaking their first year of study)—

(a) in paragraph (2)—

- (i) in sub-paragraph (i), for “£5,684” substitute “£5,848”;
- (ii) in sub-paragraph (ii), for “£10,288” substitute “£10,584”;
- (iii) in sub-paragraph (iii), for “£8,756” substitute “£9,008”;
- (iv) in sub-paragraph (iv), for “£8,756” substitute “£9,008”;
- (v) in sub-paragraph (v), for “£7,344” substitute “£7,555”;

(b) in paragraph (3) —

- (i) in sub-paragraph (i), for “£5,147” substitute “£5,295”;
- (ii) in sub-paragraph (ii), for “£9,368” substitute “£9,638”;
- (iii) in sub-paragraph (iii), for “£7,616” substitute “£7,835”;
- (iv) in sub-paragraph (iv), for “£7,616” substitute “£7,835”;
- (v) in sub-paragraph (v), for “£6,803” substitute “£6,999”.

Amendments to regulation 45

11. In regulation 45 (students with reduced entitlement)—

(a) in paragraph (1), sub-paragraph (a)—

- (i) in paragraph (i), for “£2,699” substitute “£2,777”;
- (ii) in paragraph (ii), for “£5,058” substitute “£5,204”;
- (iii) in paragraph (iii), for “£3,598” substitute “£4,428”;
- (iv) in paragraph (iv), for “£3,598” substitute “£4,428”;
- (v) in paragraph (v), for “£3,598” substitute “£3,702”;

(b) in paragraph (1), sub-paragraph (b)—

- (i) in paragraph (i), for “£2,699” substitute “£2,777”;
- (ii) in paragraph (ii), for “£5,058” substitute “£5,204”;

- (iii) in paragraph (iii), for “£4,304” substitute “£4,428”;
 - (iv) in paragraph (iv), for “£4,304” substitute “£4,428”;
 - (v) in paragraph (v), for “£3,598” substitute “£3,702”;
- (c) in paragraph (1), sub-paragraph (c)—
- (i) in paragraph (i), for “£4,263” substitute “£4,386”;
 - (ii) in paragraph (ii), for “£7,716” substitute “£7,938”;
 - (iii) in paragraph (iii), for “£6,567” substitute “£6,756”;
 - (iv) in paragraph (iv), for “£6,567” substitute “£6,756”;
 - (v) in paragraph (v), for “£5,508” substitute “£5,666”;
- (d) in paragraph (2), sub-paragraph (a)—
- (i) in paragraph (i), for “£2,052” substitute “£2,111”;
 - (ii) in paragraph (ii), for “£3,869” substitute “£3,980”;
 - (iii) in paragraph (iii), for “£2,804” substitute “£2,885”;
 - (iv) in paragraph (iv), for “£2,804” substitute “£2,885”;
 - (v) in paragraph (v), for “£2,804” substitute “£2,885”;
- (e) in paragraph (2), sub-paragraph (b)—
- (i) in paragraph (i), for “£2,052” substitute “£2,111”;
 - (ii) in paragraph (ii), for “£3,869” substitute “£3,980”;
 - (iii) in paragraph (iii), for “£3,146” substitute “£3,237”;
 - (iv) in paragraph (iv), for “£3,146” substitute “£3,237”;
 - (v) in paragraph (v), for “£2,804” substitute “£2,885”;
- (f) in paragraph (2), sub-paragraph (c)—
- (i) in paragraph (i), for “£3,860” substitute “£3,971”;
 - (ii) in paragraph (ii), for “£7,026” substitute “£7,228”;
 - (iii) in paragraph (iii), for “£5,712” substitute “£5,876”;
 - (iv) in paragraph (iv), for “£5,712” substitute “£5,876”;

- (v) in paragraph (v), for “£5,102” substitute “£5,249”.

Amendments to regulation 50

12. In regulation 50 (increases in maximum amount), paragraph (1)—

- (i) in sub-paragraph (a), for “£84” substitute “£86”;
- (ii) in sub-paragraph (b), for “£162” substitute “£167”;
- (iii) in sub-paragraph (c), for “£177” substitute “£182”;
- (iv) in sub-paragraph (d), for “£177” substitute “£182”;
- (v) in sub-paragraph (e), for “£127” substitute “£131”.

Amendments to regulation 88

13. In regulation 88 (grants for disabled part-time student’s living costs), paragraph (3)—

- (i) in sub-paragraph (a), for “£16,853” substitute “£17,443”;
- (ii) in sub-paragraph (b), for “£5,657” substitute “£5,849”;
- (iii) in sub-paragraph (d), for “£1,420” substitute “£1,465”.

Amendment to regulation 91

14. In regulation 91 (part-time adult dependants’ grant)—

- (i) in paragraph (3)(a), for “£2,732” substitute “£3,094”;
- (ii) in paragraph (3)(b), for “£2,732” substitute “£3,094”.

Amendments to regulation 92

15. In regulation 92 (part-time childcare grant)—

(a) in paragraph 6—

- (i) in sub-paragraph (a), for “£161.50” substitute “£174.22”;
- (ii) in sub-paragraph (b), for “£274.55” substitute “£298.69”;

(b) in paragraph (8)(a), for “£115” substitute “£134.70”.

Amendment to regulation 93

16. In regulation 93 (part-time parents' learning allowance), in paragraph (2) for "£1,557" substitute "£1,766".

Amendment to regulation 117

17. In regulation 117 (amount of grant), in paragraph (2) for "£20,000" substitute "£20,580".

PART 3

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2018

Amendments to the Education (Student Support) (Wales) Regulations 2018

18. The Education (Student Support) (Wales) Regulations 2018⁽¹⁾ are amended in accordance with regulations 19 to 29.

Amendment to regulation 40

19. In regulation 40 (amount of tuition fee loan), in Table 2, category of student 4, column 4 for—

- (i) "Wales, England and Scotland" substitute "Wales and England";
- (ii) "Northern Ireland" in the last place that it occurs substitute "Scotland and Northern Ireland".

Amendments to regulation 55

20. In regulation 55 (amount of maintenance loan: full-time students), Table 7—

(a) in column 1, for "Beginning on or after 1 September 2018" substitute "Beginning on or after 1 September 2020";

(b) in column 4, for—

- (i) "£6,840" substitute "£7,335";
- (ii) "£10,530" substitute "£11,260";
- (iii) "£8,225" substitute "£8,810";
- (iv) "£3,420" substitute "£3,665";
- (v) "£5,265" substitute "£5,630";
- (vi) "£4,110" substitute "£4,405".

(1) S.I.2018/191 (W. 42) as amended by S.I. 2018/813 (W. 164), S.I. 2018/814 (W. 165), S.I. 2019/235 (W. 54) and S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)).

Amendments to regulation 56

21. In regulation 56 (amount of maintenance loan: full-time students who qualify for special support payment)—

- (a) in Table 8—
 - (i) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
 - (ii) in column 3, for—
 - (i) “£7,840” substitute “£8,335”;
 - (ii) “£11,530” substitute “£12,260”;
 - (iii) “£9,225” substitute “£9,810”;
- (b) in Table 8A—
 - (i) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
 - (ii) in column 3, for —
 - (i) “£3,420” substitute “£3,665”;
 - (ii) “£5,265” substitute “£5,630”;
 - (iii) “£4,110” substitute “£4,405”.

Amendments to regulation 57

22. In regulation 57 (increased maintenance loan for full-time students in extended years), in Table 9—

- (a) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (b) in column 3, for—
 - (i) “£84” substitute “£86”;
 - (ii) “£162” substitute “£167”;
 - (iii) “£127” substitute “£131”.

Amendment to regulation 58

23. In regulation 58 (amount of maintenance loan: part-time students), in Table 10—

- (i) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (ii) in column 2, for “£5,815” substitute “£6,245”.

Amendment to regulation 58A

24. In regulation 58A (amount of maintenance loan: part-time students who qualify for special support payment), in Table 10A—

- (i) in column 1, for “Beginning on or after 2018” substitute “Beginning on or after 2020”;
- (ii) in column 2, for “£6,815” substitute “£7,245”.

Amendments to regulation 63

25. In regulation 63 (amount of disabled student's grant), paragraph (2) for—

- (i) “£22,472” substitute “£23,258”;
- (ii) “£16,853” substitute “£17,443”;
- (iii) “£5,657” substitute “£5,849”;
- (iv) “£1,894” substitute “£1,954”;
- (v) “£1,420” substitute “£1,465”.

Amendment to regulation 72

26. In regulation 72 (maximum amount of adults dependant grant), in Table 11—

- (i) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (ii) in column 2, for “£2,732” substitute “£3,094”.

Amendment to regulation 74

27. In regulation 74 (maximum amount of parents' learning grant), in Table 12—

- (i) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
- (ii) in column 2, for “£1,557” substitute “£1,766”.

Amendments to regulation 76

28. In regulation 76 (maximum amount of childcare grant)—

- (a) in Table 13—
 - (i) in column 1, for “Beginning on or after 1 September 2018” substitute “Beginning on or after 1 September 2020”;
 - (ii) in column 3—
 - (i) for “£161.50” substitute “£174.22”;
 - (ii) for “£274.55” substitute “£298.69”;
- (b) in paragraph (4)(a), for “£115” substitute “£134.70”.

Amendment to Schedule 4

29. In Schedule 4, in paragraph 20(1)(a) for “£20,000” substitute “£20,580”.

PART 4

AMENDMENTS TO THE EDUCATION (POSTGRADUATE DOCTORAL DEGREE LOANS) (WALES) REGULATIONS 2018

Amendments to the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018

30. The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(1) are amended in accordance with regulation 31.

Amendments to regulation 13

31. In regulation 13 (amount of postgraduate doctoral degree loan)—

- (i) in paragraph (1), for “£25,700” substitute “£26,445”;
- (ii) in paragraph (2), for “£25,700” substitute “£26,445”.

PART 5

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (POSTGRADUATE MASTER’S DEGREES) (WALES) REGULATIONS 2019

Amendments to the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019

32. The Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019(2) are amended in accordance with regulations 33 and 34.

Amendments to regulation 31

33. In regulation 31 (amount of contribution to costs loan), for “£16,000” in both places it appears substitute “£16,489”.

Amendments to regulation 36

34. In regulation 36 (effect of becoming, or ceasing to be, an eligible prisoner)—

-
- (1) S.I. 2018/656 (W. 124) as amended by S.I. 2017/712 (W. 169), S.I. 2018/277 (W. 53), S.I. 2018/814 (W. 165), S.I. 2019/424 (W. 98) (as from exit day, as defined by European Union (Withdrawal) Act 2018, section 20(1)–(5)), S.I. 2019/895 (W. 161).
 - (2) S.I. 2019/895 (W. 161).

- (i) in paragraph (8), for “£16,000” substitute “£16,489”;
- (ii) in paragraph (10), for “£16,000” substitute “£16,489”.

Kirsty Williams

Minister for Education, one of the Welsh Ministers

13 February 2020

Explanatory Memorandum to the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister for Education's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM
Minister for Education
13 Februray 2020

Part 1

1. Description

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 ('the Regulations') amend:

- the Education (Student Support) (Wales) Regulations 2017 ('the 2017 Regulations');
- the Education (Student Support) (Wales) Regulations 2018 ('the 2018 Regulations');
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations ('the doctoral Regulations'); and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the Master's Regulations').

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Regulations will come into force on 2 March 2020, before 21 days have elapsed since laying. The Minister for Minister for Finance and Trefnydd has written to the Llywydd as required by Section 11A(4) of the Statutory Instruments Act 1946. The coming into force date will enable the student finance application process for the 2020/21 academic year to launch without delay.

3. Legislative background

The Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998 ('the 1998 Act'). Section 22 provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. In particular, this power enables the Welsh Ministers to prescribe the amount of financial support (grant or loan) and who is eligible to receive such support.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(j), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the

Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Welsh Ministers make regulations to provide the basis for the system of financial support for students ordinarily resident in Wales and EU students studying in Wales taking designated courses of higher education. The 2017 Regulations and 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 September 2017 and on or after 1 August 2018 respectively. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018. The Master's Regulations make provision for those studying designated postgraduate Master's courses which began on or after 1 August 2019. The doctoral Regulations make provision for those studying designated doctoral courses which began on or after 1 August 2018.

The Regulations apply to academic years beginning on or after 1 August 2020 and provide for the routine annual uprating of support amounts, as set out below.

The Regulations amend the 2017 Regulations and 2018 Regulations to provide for the annual uprating by inflation of the amount of student support:

- to **increase** the amount of Disabled Student's Grant available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales by the projected rate of inflation – RPIX – of 2.88 per cent;

- to **increase** the amount of Grants for Dependants available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales to match those available in England, a greater than inflationary increase;
- to **increase** the amount of maintenance loan available to those students who began their courses on or after 1 August 2018, to ensure that the overall maintenance package reflects the National Living Wage projection for 2019;
- to **increase** the amount of maintenance loan available to those students who began their courses on or after 1 September 2012 but before 1 August 2018 by RPIX; and
- to **decrease** the amount of tuition fee grant and **increase** the amount of tuition fee loan for those students who began their courses on or after 1 September 2012 but before 1 August 2018 by RPIX so that overall tuition fee support is unchanged.

In addition, Table 2 of the 2018 Regulations is amended to reflect the correct rate of Category 4 fee support (£3,080) for students attending courses at private institutions in Scotland.

The Master's Regulations are amended to **increase** the amount of support by RPIX from £17,000 to £17,489. This will be achieved by increasing the amount of loan. This will apply to new students only, i.e. those starting courses on or after 1 August 2020. Unlike undergraduate support, for which support for living costs is increased each year for all cohorts, postgraduate Master's support is a contribution to costs.

The doctoral Regulations are amended to **increase** the amount of support by RPIX from £25,700 to £26,445. Doctoral support is loan only. This is for new students only.

5. Consultation

There is no statutory requirement to consult on the Regulations.

Part 2

Regulatory Impact Assessment

Options

Option 1: Business as usual

In the event of the Regulations not being made the principal implications is that students eligible for support under 2017 Regulations, the 2018 Regulations, the Master's Regulations and the doctoral Regulations would see a reduction in the real value of their support.

Option 2: Make the Regulations

Making the Regulations ensures that the implication noted above is avoided, the legislative framework reflects the Welsh Ministers' policy for student support, and students are able to apply for appropriate support.

Costs and benefits

Option 1: Business as usual

Leaving the existing regulations in place would mean no additional costs are incurred via the student support system. Students would bear the cost of a real reduction in the value of their student support.

Option 2: Make the Regulations

By making the Regulations the Welsh Ministers ensure that the Welsh student support system has a proper underpinning legal framework and that policy commitments to students are met. Students who are ordinarily resident in Wales will benefit from the maintenance of the real value of their support. The benefits of a higher education to the individual, to the economy and to society are well established.

The impact of routine annual uplifts applied to student support rates each year are by and large neutral, preserving the real value of support. The budget for student support in the 2019-20 and 2020-21 financial year is provided for information and comparison.

Budget	2019-20 (£m)	2020-21 (£m)
Student Support Grants	425.742	390.742
Student Loans AME	687.483	766,989
Student Loans RAB	106.849	106.849
Total	1,220.074	1,264.580

AME = Annually Managed Expenditure, RAB = Resource Accounting and Budgeting Charge

Competition Assessment

The making of the Regulations has no impact on the competitiveness of businesses, charities or the voluntary sector.

Post-Implementation Assessment

The regulations governing the student support system are revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the regulations.

Summary

The making of the Regulations is necessary to establish the basis for, and update aspects of, the higher education student support system (and connected matters) for students ordinarily resident in Wales and EU students studying in Wales in the 2020/21 academic year.



Ein cyf/Our ref MA/KW/0561/20

Elin Jones AM
Presiding Officer
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

14 February 2020

Dear Llywydd,

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020; the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020; and the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that these three Statutory Instruments (SIs) will come into force less than 21 days from the date of laying. The Explanatory Memoranda for these regulations are attached for your information.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 and the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 amend the Education (Student Support) (Wales) Regulations 2017, the Education (Student Support) (Wales) Regulations 2018, the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020.

Student support regulations, made under section 22 of the Teaching and Higher Education Act 1988, underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are intended to implement the Welsh Government's policy on student finance for the

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2020/21 academic year and were laid yesterday. They come into force before 21 days have elapsed. This is due to an administrative error when making and laying, resulting in no clear coming into force provision.

In light of this, the Minister for Education will revoke these regulations by way of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020, which are laid today. The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 come into force the day after they are made, before 21 days have elapsed. This is necessary to ensure revocation of the original SI can happen in a timely manner.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are therefore revoked. The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 are also laid today (and contain identical substantive provisions to the regulations they replace). The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 have a coming into force date of 2 March 2020. This is before 21 days have elapsed. This is necessary to ensure these regulations are made at the same time as the Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020, on which I wrote to you separately yesterday (my reference: MA/KW/0556/20), as both sets of regulations are necessary to make the required amendments to student support legislation in time for the 2020/21 academic year. As I noted in my other letter, there is a need to enable the student finance application process to commence as soon as possible and avoid any unnecessary negative impact on students.

I should make clear that this does not have a material effect other than bringing the three sets of regulations into force before 21 days have elapsed.

Explanatory Memoranda have been prepared and laid, together with the regulations, in Table Office.

A copy of this letter goes to Mick Antoniw AM, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

SL(5)510 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) (Revocation) Regulations 2020

Background and Purpose

These Regulations revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) Regulations 2020.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3 (ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be interest to the Assembly.

1. We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date subordinate legislation is laid before the Assembly and the date the subordinate legislation comes into force), and the explanation for the breach provided by the Minister for Finance and Trefnydd in a letter dated 14 February 2020 to the Llywydd which refers to three related statutory instruments.

The letter explains that the breach in the case of these Regulations is necessary to ensure revocation of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No.2) Regulations 2020 happens in a timely manner. The Minister states that those Regulations inadvertently came into force earlier than they should have done due to an administrative error when making and laying them.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

27 February 2020



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 154 (W. 28)

EDUCATION, WALES

**The Education (Student Finance)
(Miscellaneous Amendments)
(Wales) (No. 2) (Revocation)
Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, no impact assessment has been produced for these Regulations as there is no change to policy, or impact on business or the voluntary sectors foreseen.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 154 (W. 28)

EDUCATION

**The Education (Student Finance)
(Miscellaneous Amendments)
(Wales) (No. 2) (Revocation)
Regulations 2020**

Made 13 February 2020

*Laid before the National Assembly for
Wales* 14 February 2020

*Coming into force in accordance with
regulation 2*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 22(2)(b) and (c) and 42(6) of the Teaching and Higher Education Act 1998⁽¹⁾ and now exercisable by them⁽²⁾, make the following Regulations:

-
- (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; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. *See* section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The Secretary of State’s functions in section 22(2)(a) to (i) and (k) of the 1998 Act were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with subsections (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State’s function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. All the above functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Title and commencement

1. The title of these Regulations is the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020.

2. These Regulations come into force on the day after the day on which they are made.

Revocation

3. The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020⁽¹⁾ are revoked.

Kirsty Williams

Minister for Education, one of the Welsh Ministers
13 February 2020

(1) S.I. 2020/143 (W.26)

**Explanatory Memorandum to the Education (Student Finance)
(Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations
2020**

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister for Education's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020.

Kirsty Williams AM
Minister for Education
13 February 2020

Part 1

1. Description

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No 2) Regulations 2020.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Regulations will come into force the day after they are made, before 21 days have elapsed since laying. The Minister for Minister for Finance and Trefnydd has written to the Llywydd as required by Section 11A(4) of the Statutory Instruments Act 1946. The coming into force date will enable the timely revocation of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No 2) Regulations 2020.

3. Legislative background

The Regulations are made under sections 22 and 42(6) of the Teaching and Higher Education Act 1998 ('the 1998 Act'). Section 22 provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(j), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument will follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The regulations revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No 2) Regulations 2020 which omitted to include the date on which the Regulations were to come into force.

5. Consultation

There is no statutory requirement to consult on the Regulations.

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/KW/0561/20

Elin Jones AM
Presiding Officer
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

14 February 2020

Dear Llywydd,

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020; the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020; and the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that these three Statutory Instruments (SIs) will come into force less than 21 days from the date of laying. The Explanatory Memoranda for these regulations are attached for your information.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 and the Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 amend the Education (Student Support) (Wales) Regulations 2017, the Education (Student Support) (Wales) Regulations 2018, the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 revoke the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020.

Student support regulations, made under section 22 of the Teaching and Higher Education Act 1988, underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are intended to implement the Welsh Government's policy on student finance for the

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2020/21 academic year and were laid yesterday. They come into force before 21 days have elapsed. This is due to an administrative error when making and laying, resulting in no clear coming into force provision.

In light of this, the Minister for Education will revoke these regulations by way of the Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020, which are laid today. The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) (Revocation) Regulations 2020 come into force the day after they are made, before 21 days have elapsed. This is necessary to ensure revocation of the original SI can happen in a timely manner.

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 are therefore revoked. The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 are also laid today (and contain identical substantive provisions to the regulations they replace). The Education (Student Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020 have a coming into force date of 2 March 2020. This is before 21 days have elapsed. This is necessary to ensure these regulations are made at the same time as the Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020, on which I wrote to you separately yesterday (my reference: MA/KW/0556/20), as both sets of regulations are necessary to make the required amendments to student support legislation in time for the 2020/21 academic year. As I noted in my other letter, there is a need to enable the student finance application process to commence as soon as possible and avoid any unnecessary negative impact on students.

I should make clear that this does not have a material effect other than bringing the three sets of regulations into force before 21 days have elapsed.

Explanatory Memoranda have been prepared and laid, together with the regulations, in Table Office.

A copy of this letter goes to Mick Antoniw AM, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

Agenda Item 3.5

SL(5)511 – The Adoption Agencies (Wales) (Amendment) Regulations 2020

Background and Purpose

The Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Regulations”) are to be read in conjunction with the Adoption Agencies (Wales) (Amendment) (no.2) Regulations 2020.

The Regulations amend the Adoption Agencies (Wales) Regulations 2005 which make provision relating to the exercise by adoption agencies (local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002 by:

- Substituting a new Part 4 (Duties of Adoption Agencies in Respect of a Prospective Adopter) which:
 - makes provision for the assessment and approval of prospective adopters by adoption agencies by introducing a new time-limited two-stage process for that assessment and approval, which can be extended in certain circumstances. In Stage One (the pre-assessment process, which is limited to two months) all prescribed checks, including criminal record and health checks, are conducted. In Stage Two (the assessment decision, which is limited to four months) the adoption agency reaches a decision about the suitability of the prospective adopter;
 - introduces a fast-track process to allow certain previous adopters or foster parents to proceed straight to the Stage Two assessment process.
- Inserting a requirement on adoption agencies to refer a child to the Adoption Register for Wales within one month of the date on which the adoption agency was authorised to place the child for adoption, and to refer a prospective adopter to the Adoption Register within one month of the date on which the agency decided that the prospective adopter was suitable to adopt a child.
- Clarifying that the requirement on an adoption agency to request a Welsh family proceedings officer or an officer of CAFCASS to witness the consent of a parent or guardian to the placement or adoption of a child in their care only applies where the parent or guardian resides in England and Wales.
- Requiring an adoption agency to arrange for the appointment of an authorised person to witness a parent or guardian’s consent to the placement or adoption of a child in their care, where the parent or guardian resides outside England and Wales.

The Regulations are made under sections 9(1)(a), 11(2) and (3), 12(1), 45(1), 54, 83(4) and (5), 140(7) and (8) and 142(5) of the Adoption and Children Act 2002, and sections 174(7) and 196(2) of the Social Services and Wellbeing (Wales) Act 2014.

Procedure

Negative.



Technical Scrutiny

One technical point is identified for reporting under Standing Order 21.2(vi) in respect of this instrument.

It is unclear why the information set out in new paragraph 26(f) (inserted by regulation 10 of the Regulations) is not required to be submitted to the Adoption Panel with the other information set out in new sub-paragraph 30(6)(b), as it is of a similar nature.

Merits Scrutiny

No merits points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

The technical point is noted. It is Welsh Government's intention that the information set out in new regulation 26(f) is required to be submitted to the adoption panel with the other information set out in new regulation 30(6)(b). The reference in new regulation 30(6)(b) to regulation 26(b) to (e) should be a reference to regulation 26(b) to (f). Welsh Government is considering the means by which to correct this typographical error at the earliest opportunity.

Legal Advisers

Legislation, Justice and Constitution Committee

2 March 2020



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 163 (W. 31)

**SOCIAL CARE, ENGLAND
AND WALES**

**The Adoption Agencies (Wales)
(Amendment) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adoption Agencies (Wales) Regulations 2005 (“the Principal Regulations”) which make provision relating to the exercise by adoption agencies (local authorities and registered adoption societies) of their functions in relation to adoption under the Adoption and Children Act 2002.

These Regulations insert new regulations 19A and 20A into the Principal Regulations. New regulation 19A requires adoption agencies to refer to the Adoption Register for Wales (within the required timescale) details of children whom the adoption agency has been authorised to place for adoption. New regulation 20A lists, for the purposes of that regulation, those persons authorised to witness the execution outside England and Wales of forms of consent to placement for adoption by parents and guardians and, as the case may be, to the making of a future adoption order.

A minor amendment is also made to regulation 20 of the Principal Regulations to clarify that an adoption agency must request the appointment of a Welsh family proceedings officer or an officer of CAFCASS to obtain consent from a parent or guardian to the placement or adoption of a child in their care only where the parent or guardian resides in England and Wales.

These Regulations substitute a new Part 4 (regulations 21 to 30G) in the Principal Regulations to provide for a two stage approval process for prospective adopters (the pre-assessment process – stage 1 and the assessment decision – stage 2). New regulations 21 to 27 (stage 1) apply where a person has notified an adoption agency that they want to adopt a

child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of them. New regulations 28 to 30G (stage 2) apply where, following the adoption agency's decision that the prospective adopter may be suitable to adopt, the prospective adopter has notified the adoption agency within six months of that decision that they wish to proceed to stage 2 of the approval process.

New regulation 22 requires the adoption agency to prepare a written plan in consultation with the prospective adopter (“the prospective adopter stage one plan”) which is to include information about the role of the adoption agency and the prospective adopter in the stage one process.

New regulation 25 requires the adoption agency to obtain an enhanced criminal record certificate in respect of the prospective adopter and any other member of the prospective adopter’s household who is aged 18 or over.

New regulation 26 sets out the other pre-assessment information that an adoption agency must obtain and new regulation 27 provides that an adoption agency must decide in light of that information whether the prospective adopter may be suitable to adopt a child. That decision must be made within two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with new regulation 21, but the agency may delay making that decision where it is satisfied that there are good reasons for doing so or upon the request of the prospective adopter.

New regulation 29 requires the adoption agency to prepare a written plan in consultation with the prospective adopter (“the prospective adopter assessment plan”) which is to include information about the procedure for assessing the prospective adopter's suitability to adopt a child under stage 2.

New regulation 30B provides that an adoption agency must decide whether a prospective adopter is suitable to adopt within four months of the date on which the agency received the prospective adopter's notification that they wish to proceed with the assessment process. The agency may delay making that decision where the agency considers that there are exceptional circumstances which mean it cannot make that decision within that time or upon the request of the prospective adopter.

New regulation 30F and Schedule 4A provide that in certain cases Part 4 of the Principal Regulations applies subject to the modifications set out in Schedule 4A. Those cases are where an adoption agency is satisfied that a prospective adopter is an approved

foster parent or has, at any time, previously adopted a child in England or Wales or overseas (having been approved in accordance with the Principal Regulations or the Adoptions with a Foreign Element Regulations 2005). In those cases the adoption agency must decide whether the prospective adopter is suitable to adopt within four months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process in accordance with new regulation 21.

New regulation 30G requires adoption agencies to refer (within the required timescale) details of approved prospective adopters to the Adoption Register for Wales.

New regulation 31 provides that an adoption agency must prepare a written plan in consultation with an approved prospective adopter (“the prospective adopter matching plan”) which is to include information about the duties of the agency in relation to placement and reviews. The exception is in a section 83 case (where a person intends to bring, or to cause another to bring, a child into the United Kingdom in circumstances where section 83 of the Adoption and Children Act 2002 (restrictions on bringing children into the United Kingdom) applies).

These Regulations make other consequential amendments to English and Welsh regulations which are set out in Schedule 1 and include amendments to the Adoptions with a Foreign Element Regulations 2005 and minor amendments to the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010, which make provision for the review of certain determinations by adoption agencies and fostering service providers, to be carried out by an independent panel appointed by Welsh Ministers.

Schedule 2 contains amendments to the Welsh language text of the Principal Regulations which were not previously introduced by the Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 and the Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. 163 (W. 31)

**SOCIAL CARE, ENGLAND
AND WALES**

**The Adoption Agencies (Wales)
(Amendment) Regulations 2020**

Made 17 February 2020

Laid before the National Assembly for Wales
20 February 2020

Coming into force 1 April 2020

The Welsh Ministers, in exercise of the powers conferred by sections 9(1)(a), 11(2) and (3), 12(1), 45(1), 54, 83(4) and (5), 140(7) and (8) and 142(5) of the Adoption and Children Act 2002(2) and sections 174(7) and 196(2) of the Social Services and Well-being (Wales) Act 2014(3), make the following Regulations:

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Adoption Agencies (Wales) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 April 2020.

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- (1) Section 12 was amended by section 57 of the Children Act 2004 (c. 31) and by section 34 of the Children and Young Persons Act 2008 (c. 23).
- (2) 2002 c. 38; *see* the definitions of “regulations”, “appropriate Minister” and “the Assembly” in section 144(1). The power conferred on the National Assembly for Wales to make regulations under the Adoption and Children Act 2002 transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (3) 2014 anaw 4; *see* the definition of “regulations” in section 197(1).

(3) In these Regulations, “the Principal Regulations” means the Adoption Agencies (Wales) Regulations 2005(1).

Amendment of the Principal Regulations

2. The Principal Regulations are amended as follows.

3. In regulation 2 (interpretation)—

(a) in the appropriate places insert—

““the 2014 Regulations” (“*Rheoliadau 2014*”) means the Representations Procedure (Wales) Regulations 2014(2);”;

““the Adoption Register for Wales” (“*Cofrestr Fabwysiadu Cymru*”) means the register containing information about children who are suitable for adoption and prospective adopters who are suitable to adopt a child, which is established under section 60 of the Government of Wales Act 2006(3) and maintained on behalf of the Welsh Ministers;”;

““fostering services provider” (“*darparwr gwasanaethau maethu*”) has the meaning given in regulation 2 of the Fostering Panels (Establishment and Functions) (Wales) Regulations 2018(4);”;

““preparation for adoption” (“*paratoad ar gyfer mabwysiadu*”) has the meaning given in regulation 24;”;

““prospective adopter assessment plan” (“*cynllun asesu darpar fabwysiadydd*”) has the meaning given in regulation 29;”;

““prospective adopter matching plan” (“*cynllun paru darpar fabwysiadydd*”) has the meaning given in regulation 31;”;

““prospective adopter stage one plan” (“*cynllun cam un darpar fabwysiadydd*”) has the meaning given in regulation 22;”;

““prospective adopter’s report” (“*adroddiad darpar fabwysiadydd*”) has the meaning given in regulation 30(2);”;

““prospective adopter’s review report” (“*adroddiad adolygu darpar fabwysiadydd*”) has the meaning given in regulation 30D(5)(a);”;

(1) S.I. 2005/1313 (W. 95) to which there are amendments not relevant to these Regulations.

(2) S.I. 2014/1795 (W. 188), amended by S.I. 2016/211 (W. 84), S.I. 2018/48 (W. 15) and S.I. 2019/237 (W. 56).

(3) 2006 c. 32.

(4) S.I. 2018/1333 (W. 260).

- (b) for the definition of “qualifying determination” substitute—

““qualifying determination” (*“dyfarniad o gymhwyster”*) has the meaning given in regulation 30B(5)(a);”.

4. In regulation 16(2) (requirement to obtain information (including health information) about the child’s family), for “natural” substitute “birth”.

5. In regulation 17 (requirement to prepare a written report)—

- (a) in paragraph (2C), for “in (2D)” substitute “in paragraph (2D)”;
(b) in the Welsh language text, the existing paragraph (2D) is renumbered as paragraph (2CH) of that regulation;
(c) in paragraph (2D)(iii), for “natural” substitute “birth”.

6. In the Welsh language text of regulation 19(1A) (adoption agency decision and notification), for “17(2D)” substitute “17(2CH)”.

7. After regulation 19 insert—

“Referral to the Adoption Register for Wales - children

19A.—(1) Where an adoption agency—

- (a) is authorised to place a child for adoption, and
(b) has not identified particular prospective adopters with whom it is considering placing the child for adoption,

the agency must provide details about the child to the organisation which maintains the Adoption Register for Wales for entry in the register as soon as possible and no later than one month after the date on which the agency was authorised to place the child for adoption.

(2) Where an adoption agency becomes aware of any changes to the details about the child, the agency must notify⁽¹⁾ the organisation which maintains the register of those changes as soon as reasonably practicable.

(3) In paragraph (1), “authorised to place a child for adoption” means either—

- (a) authorised to place a child for adoption pursuant to parental consent under section 19 of the Act, or

(1) “Notify”, which is defined in regulation 2 of the Principal Regulations, means notify in writing.

- (b) authorised to place a child for adoption pursuant to a placement order made pursuant to section 21(1) of the Act.”

8. In regulation 20(1) (request to appoint a Welsh family proceedings officer or an officer of CAF/CASS), after “parent or guardian of the child” insert “resides in England and Wales and”.

9. After regulation 20 insert—

Persons authorised to witness consent to placement for adoption

20A.—(1) Where the parent or guardian resides outside England and Wales and is prepared to consent to the placement of the child for adoption under section 19 of the Act and, as the case may be, to consent to the making of a future adoption order under section 20 of the Act, the adoption agency must arrange for the appointment of an authorised person to witness the execution of the form of consent to placement or to adoption by that parent or guardian and send to that person the information specified in Schedule 2.

(2) “Authorised person” for the purposes of this regulation means in relation to a form of consent executed—

- (a) in Scotland, a Justice of the Peace or a Sheriff;
- (b) in Northern Ireland, a Justice of the Peace;
- (c) outside the United Kingdom, any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose, a British Consular officer, a notary public or, if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.”

10. For Part 4 substitute—

**“PART 4
DUTIES OF ADOPTION AGENCY IN
RESPECT OF A PROSPECTIVE
ADOPTER**

Stage 1 – the pre-assessment process

Registration of interest in adoption

21. Regulations 22 to 27 apply when a person has notified an adoption agency that they want

to adopt a child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of that person.

Prospective adopter stage one plan

22. The adoption agency must prepare a written plan in consultation with the prospective adopter (“the prospective adopter stage one plan”) which includes the following matters—

- (a) information about the counselling, information and preparation for adoption to be provided under regulation 24,
- (b) the procedure for carrying out police checks under regulation 25,
- (c) details of any training that the prospective adopter has agreed to undertake,
- (d) information about the role of the prospective adopter in the stage one process,
- (e) any applicable timescales,
- (f) information about the process for making a representation (including a complaint) under the 2014 Regulations, and
- (g) any other information that the agency considers relevant.

Prospective adopter’s case record

23.—(1) The adoption agency must set up a case record in respect of the prospective adopter (“the prospective adopter’s case record”) and place on that case record—

- (a) the prospective adopter stage one plan,
- (b) the information and reports obtained by the agency by virtue of this Part,
- (c) the prospective adopter assessment plan,
- (d) the prospective adopter’s report and the prospective adopter’s observations on that report,
- (e) the written record of the proceedings of the adoption panel held under regulation 30A (and where applicable regulation 30B(8)), its recommendation, the reasons for the recommendation and any advice given by the panel to the agency,

- (f) the record of the agency's decision under regulation 30B(1), (6) or as the case may be (9),
- (g) where the prospective adopter applied to the Welsh Ministers for a review by an independent review panel, the recommendation of that review panel,
- (h) where applicable, the prospective adopter's review report and the prospective adopter's observations on that report,
- (i) the prospective adopter matching plan, and
- (j) any other documents or information obtained by the agency which it considers should be included in that case record.

(2) The adoption agency may ask the prospective adopter to provide any further information that the agency may reasonably require.

(3) Where paragraph (1) applies in relation to a couple, the assessment of their suitability to adopt a child must be considered jointly and the agency must set up a single case record.

Requirement to provide counselling, information and preparation for adoption

24.—(1) The adoption agency must—

- (a) provide a counselling service for the prospective adopter,
- (b) in a section 83 case⁽¹⁾, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, adopting a child from the country from which the prospective adopter wishes to adopt,
- (c) in any other case, explain to the prospective adopter, and provide written information about, the procedure in relation to, and the legal implications of, placement for adoption and adoption,
- (d) provide the prospective adopter with any available information and training

(1) A “section 83 case”, which is defined in regulation 2 of the Principal Regulations, means a case where a person intends to bring, or to cause another to bring, a child into the United Kingdom in circumstances where section 83 of the Adoption and Children Act 2002 (restrictions on bringing children into the United Kingdom) applies.

materials relating to adopting a child,
and

- (e) make arrangements for the prospective adopter to receive such preparation for adoption as the agency considers appropriate.

(2) In paragraph (1)(e), “preparation for adoption” includes the provision of information to the prospective adopter about—

- (a) the age range, sex, likely needs and background of children who may be placed for adoption by the adoption agency,
- (b) the significance of adoption for a child and the child's family,
- (c) contact between a child and the child's birth parent or guardian, siblings and other relatives where a child is authorised to be placed for adoption or is adopted,
- (d) the skills which are necessary for an adoptive parent,
- (e) the perspective of the child and the child's family on adoption,
- (f) the adoption agency's procedures in relation to the assessment of a prospective adopter and the placement of a child for adoption, and
- (g) the procedure in relation to placement for adoption and adoption.

Requirement to carry out police checks

25.—(1) In respect of the prospective adopter and any other member of the prospective adopter's household who is aged 18 or over, the adoption agency must obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997⁽¹⁾ which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).

(2) An adoption agency may not consider a prospective adopter suitable to adopt a child if that person or any member of that person's household aged 18 or over—

(1) 1997 c. 50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15). There are other amendments to the Police Act 1997 which are not relevant to these Regulations.

- (a) has been convicted of a specified offence committed at the age of 18 or over, or
- (b) has been cautioned by a constable in respect of any such offence.

(3) In paragraph (2), “specified offence” means—

- (a) an offence against a child;
- (b) an offence specified in Part 1 of Schedule 3;
- (c) an offence contrary to section 170 of the Customs and Excise Management Act 1979⁽¹⁾ in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)⁽²⁾ where the prohibited goods included indecent photographs of children under the age of 16;
- (d) any other offence involving bodily injury to a child, other than an offence of common assault or battery,

and the expression “offence against a child” has the meaning given to it by section 26(1) of the Criminal Justice and Courts Services Act 2000⁽³⁾, notwithstanding the repeal of that provision⁽⁴⁾, except that it does not include an offence contrary to section 9 of the Sexual Offences Act 2003 (sexual activity with a child)⁽⁵⁾ in a case where the offender was under the age of 20 and the child was 13 or over at the time the offence was committed.

(4) An adoption agency may not consider a person suitable to adopt a child if that person or any member of that person's household aged 18 or over—

- (a) has been convicted of an offence specified in paragraph 1 of Part 2 of Schedule 3 committed at the age of 18 or over or has been cautioned by a constable in respect of any such offence, or
- (b) falls within paragraph 2 or 3 of Part 2 of Schedule 3,

notwithstanding that the offences specified in Part 2 of Schedule 3 have been repealed.

(1) 1979 c. 2.
(2) 1876 c. 36.
(3) 2000 c. 43.
(4) See Schedule 10 to the Safeguarding Vulnerable Groups 2006 Act (c. 47).
(5) 2003 c. 42.

(5) Where an adoption agency becomes aware that a prospective adopter or a member of the prospective adopter's household falls within paragraph (2) or (4), the agency must notify the prospective adopter as soon as possible that they cannot be considered suitable to adopt a child.

Other pre-assessment information

26. The adoption agency must—

- (a) obtain the information about the prospective adopter which is specified in Part 1 of Schedule 4,
- (b) obtain a written report from a registered medical practitioner about the health of the prospective adopter following a full examination which must include the matters specified in Part 2 of Schedule 4 unless such a report has been made within 6 months of the panel's consideration of the case under regulation 30A and is available to the agency,
- (c) obtain a written report of each of the interviews with the persons nominated by the prospective adopter to provide personal references for the prospective adopter,
- (d) where the adoption agency considers it necessary, obtain a personal reference from the prospective adopter's former spouse, civil partner or partner,
- (e) where it is not the local authority in whose area the prospective adopter has their home, ascertain whether the local authority in whose area the prospective adopter has their home has any information about the prospective adopter which may be relevant to an assessment of the prospective adopter's suitability to adopt and if so obtain from that authority a written report setting out that information, and
- (f) where the prospective adopter has their home in the local authority area for less than twelve months, also ascertain whether the local authority in whose area the prospective adopter previously had their home has any information about the prospective adopter which may be relevant to an assessment of the prospective adopter's suitability to adopt and if so obtain from that authority a written report setting out that information.

Pre-assessment decision

27.—(1) The adoption agency must, taking into account the information obtained under regulations 25 and 26, decide—

- (a) whether the prospective adopter may be suitable to adopt a child, or
- (b) whether the prospective adopter is not suitable to adopt a child.

(2) Subject to paragraph (3), the agency must make its decision under paragraph (1) within a period of two months from the date on which the adoption agency notified the prospective adopter that it had decided to proceed with the pre-assessment process in accordance with regulation 21.

(3) The adoption agency may delay making the decision under paragraph (1)—

- (a) where it is satisfied there are good reasons to do so because, for example, there has been a delay in obtaining information about the prospective adopter, or
- (b) upon the request of the prospective adopter.

(4) Where the adoption agency decides that the prospective adopter may be suitable to adopt a child, the agency must—

- (a) as soon as practicable, notify the prospective adopter of its decision, and
- (b) explain to the prospective adopter that they must notify the adoption agency that they wish to continue with the assessment process within six months of the date on which the notification is given.

(5) Where the adoption agency decides that the prospective adopter is not suitable to adopt a child, the agency must as soon as practicable after making the decision notify the prospective adopter of its decision together with reasons for its decision.

Stage 2 – the assessment decision

Stage 2 assessment

28.—(1) Regulations 28 to 30G apply where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process within six months from the date on which the agency notified the prospective adopter that they may be suitable to adopt under regulation 27(4).

(2) This paragraph applies where the prospective adopter notifies the adoption agency that they wish to continue with the assessment process more than six months after being notified in accordance with regulation 27(4).

(3) Where paragraph (2) applies, the adoption agency must notify the prospective adopter that the prospective adopter may not proceed with the assessment process unless the pre-assessment process is repeated to the extent the adoption agency considers necessary to determine whether it continues to be satisfied that the prospective adopter may be suitable to adopt a child.

Prospective adopter assessment plan

29. The adoption agency must prepare a written plan in consultation with the prospective adopter (“the prospective adopter assessment plan”) which includes the following matters—

- (a) the procedure for assessing the prospective adopter's suitability to adopt a child,
- (b) any applicable timescales,
- (c) the arrangements for the prospective adopter to receive any additional counselling or preparation for adoption,
- (d) details of any training that the prospective adopter has agreed to undertake,
- (e) information about the role of the prospective adopter in the assessment process,
- (f) information about the process for submitting representations or applying to the Welsh Ministers for a review under regulation 30B(5)(c), and
- (g) any other matters which the agency considers relevant.

Prospective adopter's report

30.—(1) The adoption agency must obtain the information about the prospective adopter which is specified in Part 3 of Schedule 4.

(2) The adoption agency must prepare a written report (“the prospective adopter's report”) which includes—

- (a) the information about the prospective adopter and the prospective adopter's family which is specified in Parts 1 and 3 of Schedule 4,

- (b) a summary, written by the agency's registered health practitioner, of the state of health of the prospective adopter,
- (c) any relevant information obtained by the agency under regulation 26(e);
- (d) any observations of the agency on the matters referred to in regulations 24 and 25,
- (e) the agency's assessment of the prospective adopter's suitability to adopt a child, and
- (f) any other information which the agency considers relevant.

(3) In a section 83 case, the prospective adopter's report must also include—

- (a) the name of the country from which the prospective adopter wishes to adopt a child (“country of origin”),
- (b) confirmation that the prospective adopter meets the eligibility requirements to adopt a child from the country of origin,
- (c) any additional information obtained as a consequence of the requirements of the country of origin, and
- (d) the agency's assessment of the prospective adopter's suitability to adopt a child who is habitually resident outside the British Islands.

(4) Where the adoption agency receives information under paragraph (1) or other information in relation to the assessment of the prospective adopter which leads to the opinion that the prospective adopter is unlikely to be considered suitable to adopt a child, it may prepare the prospective adopter's report under paragraph (2) notwithstanding that the agency may not have received all the information about the prospective adopter which may be required by this regulation.

(5) When the adoption agency has prepared the prospective adopter's report, the agency must—

- (a) notify the prospective adopter that the prospective adopter's application is to be referred to the adoption panel,
- (b) give the prospective adopter a copy of the prospective adopter's report,
- (c) invite the prospective adopter to send any observations in writing to the agency within 10 working days,

beginning with the date on which the notification is received, and

- (d) explain to the prospective adopter that the adoption agency may, in exceptional circumstances, extend the timescale referred to in sub-paragraph (c).

(6) At the end of the 10 working days referred to in paragraph (5)(c) (or, where that timescale is extended by the adoption agency, as soon as possible after the prospective adopter's observations are received) the adoption agency must submit to the adoption panel—

- (a) the prospective adopter's report and the prospective adopter's observations,
- (b) the written reports and references referred to in regulation 26(b) to (e) (but in the case of reports obtained in accordance with regulation 26(b), only if the agency's registered health practitioner advises it to do so), and
- (c) any other relevant information obtained by the agency.

(7) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel and send that information to the panel.

Functions of the adoption panel

30A.—(1) Subject to paragraphs (2) and (3), the adoption panel must consider the case of the prospective adopter referred to it by the adoption agency and make a recommendation to the agency as to whether the prospective adopter is suitable to adopt a child.

(2) In considering what recommendation to make the adoption panel—

- (a) must consider and take into account all the information and reports passed to it in accordance with regulation 30(6),
- (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary, and
- (c) must obtain legal advice as it considers necessary in relation to the case.

(3) In relation to the case of a prospective adopter in respect of whom a report has been prepared in accordance with regulation 30(4), the adoption panel must either—

(a) request the adoption agency to prepare a further prospective adopter's report, covering all the matters set out in regulation 30(2), or

(b) recommend that the prospective adopter is not suitable to adopt a child.

(4) Where the adoption panel makes a recommendation to the adoption agency that the prospective adopter is suitable to adopt a child, the panel may also consider and give advice to the agency about the number of children the prospective adopter may be suitable to adopt, their age range, sex and likely needs.

(5) Before making any recommendation, the adoption panel must invite the prospective adopter to attend a meeting of the panel.

Adoption agency decision and notification

30B.—(1) Subject to paragraph (2), the adoption agency must decide whether the prospective adopter is suitable to adopt a child within four months of the date on which the agency received the prospective adopter's notification that they wish to proceed with the assessment process.

(2) The adoption agency may delay making the decision under paragraph (1)—

(a) in a case where the adoption agency considers there are exceptional circumstances which mean it cannot make the decision within that time, or

(b) upon the request of the prospective adopter.

(3) No member of the adoption panel may take part in any decision made by the adoption agency under paragraph (1).

(4) Where the adoption agency decides to approve the prospective adopter as suitable to adopt a child, it must notify the prospective adopter of its decision.

(5) Where the adoption agency considers that the prospective adopter is not suitable to adopt a child, it must—

(a) notify the prospective adopter that it proposes not to approve the prospective adopter as suitable to adopt a child (“qualifying determination”),

(b) send with that notification its reasons together with a copy of the recommendation of the adoption panel if that recommendation is different, and

- (c) advise the prospective adopter that within 40 working days beginning with the date on which the notification was sent the prospective adopter may—
 - (i) submit any representations the prospective adopter wishes to make to the agency, or
 - (ii) apply to the Welsh Ministers for a review by an independent review panel of the qualifying determination.

(6) If, within the period of 40 working days referred to in paragraph (5)(c), the prospective adopter has not made any representations or applied to the Welsh Ministers for a review by an independent review panel, the adoption agency must proceed to make its decision and notify the prospective adopter of its decision together with reasons for that decision.

(7) If, within the period of 40 working days referred to in paragraph (5)(c), the adoption agency receives representations from the prospective adopter, it may refer the case together with all relevant information to the adoption panel for further consideration.

(8) The adoption panel must consider any case referred to it under paragraph (7) and make a new recommendation to the adoption agency as to whether the prospective adopter is suitable to adopt a child.

(9) The adoption agency must make a decision on the case but—

- (a) if the case has been referred to the adoption panel under paragraph (7), the agency must make the decision only after taking into account the recommendations of the adoption panel under both paragraph (8) and regulation 30A, or
- (b) if the prospective adopter has applied to the Welsh Ministers for a review by an independent review panel of the qualifying determination, the agency must make the decision only after taking into account the recommendation of the independent review panel and the recommendation of the adoption panel made under regulation 30A.

(10) As soon as possible after making its decision under paragraph (9), the adoption agency must notify the prospective adopter of its decision, stating its reasons for that decision if they do not consider the prospective adopter

suitable to adopt a child, and of the adoption panel's recommendation under paragraph (8), if this is different from the agency's decision.

(11) In a case where an independent review panel has made a recommendation, the adoption agency must send to the Welsh Ministers a copy of the notification referred to in paragraph (10).

Information to be sent to the independent review panel

30C.—(1) If the adoption agency receives notification from the Welsh Ministers that a prospective adopter has applied for a review by an independent review panel of a qualifying determination, the agency must, within 10 working days of receipt of that notification, send to the Welsh Ministers the information specified in paragraph (2).

(2) The following information is specified for the purposes of paragraph (1)—

- (a) all of the documents and information which were submitted to the adoption panel in accordance with regulation 30,
- (b) any other reports or information submitted by the adoption agency to the adoption panel including any relevant information in relation to the prospective adopter which was obtained by the agency after the date on which the documents and information referred to in subparagraph (a) were submitted to the adoption panel, and
- (c) the documents referred to in regulation 30B(5)(a) and (b).

Review and termination of approval

30D.—(1) The adoption agency must review the approval of each prospective adopter in accordance with this regulation, unless—

- (a) a child is placed for adoption with the prospective adopter or the agency is considering placing a child with the prospective adopter in accordance with regulations 32 to 34, or
- (b) in a section 83 case, the prospective adopter has visited the child in the country in which the child is habitually resident and has confirmed in writing that they wish to proceed with the adoption.

(2) A review must take place not more than one year after approval and thereafter whenever

the adoption agency considers it necessary, but at intervals of not more than one year.

(3) When undertaking such a review the adoption agency must—

- (a) make such enquiries and obtain such information as it considers necessary in order to review whether the prospective adopter continues to be suitable to adopt a child, and
- (b) seek and take into account the views of the prospective adopter.

(4) As part of each review, the adoption agency must consider—

- (a) why no child has yet been placed with the prospective adopter,
- (b) any arrangements for the provision of adoption support services and whether they should continue or be modified,
- (c) where a child placed for adoption with the prospective adopter is returned to the adoption agency in accordance with section 35(1) or (2) of the Act, the reasons for the child's return, and
- (d) whether the prospective adopter is still suitable to adopt a child.

(5) The adoption agency must—

- (a) set out in writing the arrangements governing the manner in which the review of a prospective adopter is to be carried out and must draw the written arrangements to the attention of—
 - (i) the prospective adopter, and
 - (ii) any other person the agency considers relevant;
- (b) ensure that—
 - (i) the information obtained in respect of the prospective adopter,
 - (ii) details of the proceedings at any meeting arranged by the agency to consider any aspect of the review, and
 - (iii) details of any decision made in the course of or as a result of the review,

are recorded in writing and placed on the prospective adopter's case record.

(6) If, at the conclusion of the review, the adoption agency considers that the prospective adopter may no longer be suitable to adopt a child, it must—

- (a) prepare a written report (“the prospective adopter's review report”) which includes—
 - (i) the information obtained on the matters referred to in paragraphs (3) and (4),
 - (ii) the agency's reasons, and
 - (iii) any other information which the agency considers relevant,
- (b) notify the prospective adopter that the case is to be referred to the adoption panel, and
- (c) give the prospective adopter a copy of the report and invite the prospective adopter to send any observations to the agency within 10 working days beginning with the date on which that report is given to the prospective adopter.

(7) At the end of the period of 10 working days referred to in paragraph (6)(c) (or earlier if the prospective adopter's comments are received before that period has expired), the adoption agency must send the prospective adopter's review report together with the prospective adopter's observations, if any, to the adoption panel.

(8) The adoption agency must obtain, so far as is reasonably practicable, any other relevant information which may be required by the adoption panel and send that information to the panel.

(9) The adoption panel must consider the prospective adopter's review report, the prospective adopter's observations, if any, and any other information passed to it by the adoption agency and make a recommendation to the agency as to whether the prospective adopter continues to be suitable to adopt a child.

(10) The adoption agency must make a decision as to whether the prospective adopter continues to be suitable to adopt a child and regulation 30B(2) to (11) apply in relation to that decision by the agency.

Duties of the adoption agency in a section 83 case

30E. Where the adoption agency decides in a section 83 case to approve a prospective adopter as suitable to adopt a child, the agency must send the Welsh Ministers—

- (a) written confirmation of the decision and any recommendation the agency

may make in relation to the number of children the prospective adopter may be suitable to adopt, their age range, sex, likely needs and background,

- (b) all the documents and information which were passed to the adoption panel in accordance with regulation 30,
- (c) the record of the proceedings of the adoption panel, its recommendation and the reasons for its recommendation,
- (d) if the prospective adopter applied to the Welsh Ministers for a review by an independent review panel of a qualifying determination, the record of the proceedings of that panel, its recommendation and the reasons for its recommendation, and
- (e) any other information relating to the case which the Welsh Ministers or the relevant foreign authority may require.

Application of Part 4 with modifications to specified persons

30F.—(1) This paragraph applies where the adoption agency is satisfied that the prospective adopter—

- (a) is an approved foster parent, or
- (b) has, at any time, adopted a child—
 - (i) in England and Wales, after having been assessed as suitable to adopt in accordance with these Regulations or the Adoption Agencies Regulations 2005(1), or
 - (ii) after having been assessed as suitable to adopt in accordance with the Adoptions with a Foreign Element Regulations 2005(2) (“the 2005 Regulations”).

(2) Where paragraph (1) applies Part 4 has effect subject to the modifications set out in Schedule 4A.

(3) Where the prospective adopter is an approved foster parent and consents, the adoption agency may request access to any

(1) S.I. 2005/389, amended by S.I. 2005/3482, S.I. 2017/52 (W. 23) and by other provisions which are not relevant to these Regulations.

(2) S.I. 2005/392, amended by S.I. 2005/3482, S.I. 2009/2563, S.I. 2010/1172, S.I. 2012/1410, S.I. 2013/235, S.I. 2013/985 and S.I. 2014/2103.

relevant records compiled in relation to that approval by the fostering services provider.

(4) In this regulation, “approved foster parent” means a person who is approved as a foster parent in accordance with the Fostering Panels (Establishment and Functions) (Wales) Regulations 2018(1) but does not include a person with whom a child is placed under regulation 26 (temporary approval of a relative, friend or other person connected with C) or 28 (temporary approval of a particular prospective adopter as a foster parent) of the Care Planning, Placement and Case Review (Wales) Regulations 2015(2).

Referral to the Adoption Register for Wales – prospective adopters

30G.—(1) Where paragraph (2) applies, the adoption agency must provide details about the prospective adopter to the organisation which maintains the Adoption Register for Wales for entry in the register as soon as possible and in any event no later than one month after the determination referred to in paragraph (2)(a).

(2) Other than in a section 83 case, this paragraph applies where—

- (a) an adoption agency has, in accordance with regulation 30B, determined that a prospective adopter is suitable to adopt a child,
- (b) the agency has not identified a particular child who it is considering placing with that prospective adopter, and
- (c) the agency has obtained the consent of the prospective adopter.

Prospective adopter matching plan

31. Except in a section 83 case, where an adoption agency has approved a prospective adopter as suitable to adopt a child in accordance with regulation 30B, the agency must prepare a written plan in consultation with the prospective adopter (“the prospective adopter matching plan”) which includes—

- (a) information about the duties of the adoption agency under Parts 5 and 6,

(1) S.I. 2018/1333 (W. 260).

(2) S.I. 2015/1818 (W. 261), amended by S.I. 2017/52 (W. 23), S.I. 2017/713 (W. 170), S.I. 2018/48 (W. 15), S.I. 2018/111 (W. 26) and S.I. 2019/237 (W. 56).

- (b) information about the role of the prospective adopter in identifying a child for whom they would be an appropriate adopter,
- (c) information about the process for making a representation (including a complaint) under the 2014 Regulations, and
- (d) any other matters that the agency considers relevant.”

11. In regulation 33(4) (function of the adoption panel in relation to the proposed placement), for “regulation 28” substitute “regulation 30B”.

12. In regulation 43 (access to case records and disclosure of information), in paragraph (1)—

- (a) at the end of sub-paragraph (h), for the full stop substitute “;”;
- (b) after sub-paragraph (h) insert—
 - “(i) to a fostering service provider within fifteen working days of a request under regulation 7(2)(f) of the Fostering Panels (Establishment and Functions) (Wales) Regulations 2018.”

13. In Schedule 1—

- (a) in Part 3 (information about the child’s family and others), in the heading before paragraph 1, for “natural” substitute “birth”;
- (b) in Part 5 (particulars relating to the health of the child’s natural parents and brothers and sisters)—
 - (i) in the Part heading, for “natural” substitute “birth”;
 - (ii) in paragraphs 1, 2 and 3, for “natural”, in each place it occurs, substitute “birth”.

14. In Part 1 of Schedule 3 (offences specified for the purposes of regulation 23(3)(b))—

- (a) in the heading, for “Regulation 23(3)(b)” substitute “Regulation 25(3)(b)”,
- (b) for paragraphs 2 and 3 (offences in Scotland) substitute—

2. An offence under section 1 (rape) and section 18 (rape of a young child) of the Sexual Offences (Scotland) Act 2009⁽¹⁾.

3. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995⁽²⁾ except, in a case where the offender was under

(1) 2009 asp 9.

(2) 1995 c. 46.

the age of 20 at the time the offence was committed.”,

- (c) for paragraphs 7 and 8 (offences in Northern Ireland) substitute—

“7. An offence under Article 5 (rape) and Article 12 (rape of a child under 13) of the Sexual Offences (Northern Ireland) Order 2008(1).

8. An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968(2), except in the case where the offender was under the age of 20 at the time the offence was committed.”, and

- (d) omit paragraph 10.

15. For Schedule 4 substitute—

“SCHEDULE 4

PART 1 Regulation 26(a)

Information to be provided during stage 1

Information about the prospective adopter

1. Name, sex, date and place of birth and address including the local authority area.

2. If the prospective adopter is married or has formed a civil partnership and is applying alone for an assessment of their suitability to adopt, the reasons for this.

3. Details of any previous family court proceedings in which the prospective adopter has been involved.

4. Names and addresses of three referees who will give personal references on the prospective adopter, not more than one of whom may be a relative.

5. Name and address of the prospective adopter's registered medical practitioner.

6. If the prospective adopter—

- (a) is married, the date and place of the marriage;
- (b) has formed a civil partnership, the date and place of registration of that partnership;

(1) S.I. 2008/1769 (N.I. 2).

(2) 1968 c. 34.

(c) has a partner, details of that relationship.

7. Details of any previous marriage, civil partnership or relationship.

8. Whether the prospective adopter is domiciled or habitually resident in a part of the British Islands and if habitually resident for how long they have been habitually resident.

Information about the home etc. of the prospective adopter

9. Details of other members of the prospective adopter's household (including any children of the prospective adopter whether or not resident in the household).

PART 2 Regulation 26(b)

Report on the health of the prospective adopter

1. Name, date of birth, sex, weight and height.

2. A family health history of the parents, any brothers and sisters and the children of the prospective adopter, with details of any serious physical or mental illness and any hereditary disease or disorder.

3. Infertility or reasons for deciding not to have children (if applicable).

4. Past health history, including details of any serious physical or mental illness, disability, accident, hospital admission or attendance at an out-patient department, and in each case any treatment given.

5. Obstetric history (if applicable).

6. Details of any present illness, including treatment and prognosis.

7. Details of any consumption of alcohol that may give cause for concern or whether the prospective adopter smokes or uses habit-forming drugs.

8. Any other relevant information which the adoption agency considers may assist the adoption panel and the adoption agency.

PART 3 Regulation 30(1)

Information to be provided during stage 2

Information about the prospective adopter

1. A photograph and physical description.
2. Racial origin and cultural and linguistic background.
3. Religious persuasion.
4. Relationship (if any) to the child.
5. A description of the prospective adopter's personality and interests.
6. A family tree with details of the prospective adopter, the prospective adopter's siblings and any children of the prospective adopter, with their ages (or ages at death).
7. A chronology of the prospective adopter from birth.
8. The observations of the prospective adopter about their own experience of being parented and how this has influenced them.
9. Details of any experience the prospective adopter has had of caring for children (including as a parent, step-parent, foster parent, child minder or prospective adopter) and an assessment of the prospective adopter's ability in this respect.
10. Any other information which indicates how the prospective adopter and anybody else living in the prospective adopter's household is likely to relate to a child placed for adoption with the prospective adopter.

Wider Family

11. A description of the wider family of the prospective adopter and their role and importance to the prospective adopter and their likely role and importance to a child placed for adoption with the prospective adopter.

Information about the home etc. of the prospective adopter

12. Information about the prospective adopter's home and the neighbourhood in which the prospective adopter lives.
13. Information about the local community of the prospective adopter, including the degree of

the family's integration with its peer groups, friendships and social networks.

Education and employment

14. Details of the prospective adopter's educational history and attainments and the prospective adopter's views about how this has influenced them.

15. Details of the prospective adopter's employment history and the observations of the prospective adopter about how this has influenced them.

16. The current employment of the prospective adopter and the prospective adopter's views about achieving a balance between employment and child care.

Income

17. Details of the prospective adopter's income and expenditure.

Other information

18. Information about the prospective adopter's capacity to—

- (a) provide for a child's needs, particularly emotional and behavioural development needs,
- (b) share a child's history and associated emotional issues, and
- (c) understand and support a child through possible feelings of loss and trauma.

19. The prospective adopter's—

- (a) reasons for wishing to adopt a child,
- (b) views and feelings about adoption and its significance,
- (c) views about their parenting capacity,
- (d) views about parental responsibility and what it means,
- (e) views about a suitable home environment for a child,
- (f) views about the importance and value of education,
- (g) views and feelings about the importance of a child's religious and cultural upbringing, and
- (h) views and feelings about contact between a child and his birth parents and other relatives.

20. The views of other members of the prospective adopter's household and wider family in relation to adoption.

21. Any other relevant information which might assist the adoption panel or the adoption agency.

SCHEDULE 4A

Regulation 30F(2)

Modifications to Part 4

- 1.** Regulation 22 does not apply.
- 2.** Regulations 24, 25 and 26 only apply where an adoption agency considers it necessary.
- 3.** Regulations 27 and 28 do not apply.
- 4.** Regulation 30 applies as if—
 - (a) paragraphs (1) and (4) were omitted,
 - (b) for paragraph (2) there were substituted—

“(2) The adoption agency must prepare a written report (“the prospective adopter's report”) which includes—

 - (a) where applicable, a summary, written by the agency's registered health practitioner, of the state of the health of the prospective adopter,
 - (b) where applicable, any observations of the agency on the matters referred to in regulation 25,
 - (c) where applicable, any relevant information obtained by the agency under regulation 26,
 - (d) the agency's assessment of the prospective adopter's suitability to adopt a child, and
 - (e) any other information which the agency considers relevant.”, and
 - (c) “where applicable” were inserted at the beginning of paragraph (6)(b).
- 5.** Regulation 30A(3) does not apply.
- 6.** Regulation 30B applies as if for paragraph (1) there were substituted—

“(1) The adoption agency must decide whether the prospective adopter is suitable to adopt a child within four months of the date on which the agency received the prospective adopter's notification that they wish to proceed with the pre-assessment process.””

Consequential amendments to other Regulations

16. The amendments to other Regulations are set out in Schedule 1.

Miscellaneous amendments

17. Schedule 2 makes amendments to the Welsh language text of the Principal Regulations⁽¹⁾.

Transitional provision

18. In a case where an adoption agency has started to assess the suitability of a prospective adopter in accordance with Part 4 of the Principal Regulations, prior to the coming into force of these Regulations, the adoption agency must continue that assessment as if these Regulations had not been made.

Julie Morgan

Deputy Minister for Health and Social Services, under authority of the Minister for Health and Social Services, one of the Welsh Ministers
17 February 2020

(1) The amendments in Schedule 2 to the Welsh language text correspond to the amendments made to the English language text of the Principal Regulations by the Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 (S.I. 2009/1892) and by the Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/852).

SCHEDULE 1 Regulation 16

Consequential Amendments to Other Regulations

Adoptions with a Foreign Element Regulations 2005

1.—(1) The Adoptions with a Foreign Element Regulations 2005⁽¹⁾ are amended as follows.

(2) In regulation 13 (requirements applicable in respect of eligibility and suitability)—

(a) for paragraph (1) substitute—

“(1) A couple or a person who wishes to adopt a child habitually resident in a Convention country outside the British Islands must notify the agency that they want to adopt a child, and give the agency any information it may require for the purposes of the pre-assessment process set out in Part 4 of the Agencies Regulations or corresponding Welsh provision.”;

(b) in paragraph (2)—

(i) in the words before sub-paragraph (a), for the words from “in Wales” to “(as the case may be)” substitute—

“may not proceed with the pre-assessment process referred to in paragraph (1), unless at the date of that notification—”, and

(ii) in sub-paragraphs (a) and (b), for “an application”, in each place where it occurs, substitute “a notification” and for “date of application”, in each place where it occurs, substitute “date of notification”.

(3) In regulation 15 (procedure in respect of carrying out an assessment), in paragraph (1), after “Part 4 of the Agencies Regulations” insert “or corresponding Welsh provision”.

Local Authorities (Prescribed Fees) (Adoptions with a Foreign Element) (Wales) Regulations 2005

2. In regulation 3 (power to charge for facilities provided in connection with adoptions with a foreign element) of the Local Authorities (Prescribed Fees) (Adoptions with a Foreign Element) (Wales)

(1) S.I. 2005/392, amended by S.I. 2013/985. There are other amendments not relevant to these Regulations.

Regulations 2005(1), in paragraph (5)(b)(ii), for “regulation 28” substitute “regulation 30B”.

Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010

3.—(1) The Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010(2) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “prospective adopter’s report”, for “regulation 26” substitute “regulation 30”.

(3) In regulation 3(a) (qualifying determination – prescribed description for the purposes of section 12(2) of the 2002 Act)—

- (a) in sub-paragraph (i), for “regulation 28(4)” substitute “regulation 30B(5)”, and
- (b) in sub-paragraph (ii), for “regulation 30” substitute “regulation 30D(2)”.

(4) In regulation 12 (functions of panel constituted to review an adoption suitability determination)—

- (a) in paragraph (2)(b)(i), for “regulation 26(4) and, where applicable, regulation 26(5)” substitute “regulation 30(2) and, where applicable, regulation 30(3)”,
- (b) in paragraph (3), for “regulation 26(4) and, where applicable, regulation 26(5)” substitute “regulation 30(2) and, where applicable, regulation 30(3)”,
- (c) in paragraph (4), for “regulation 26(4) and, where applicable, regulation 26(5) of the Agencies Regulations, did not include all of the information required by regulation 26(4) or, where applicable, regulation 26(5)” substitute “regulation 30(4) of the Agencies Regulations, did not include all of the information required by regulation 30(2) and, where applicable, regulation 30(3)”, and
- (d) in paragraph (5)(a), for “regulation 29” substitute “regulation 30C”.

(1) S.I. 2005/3114 (W. 234).

(2) S.I. 2010/746 (W. 75), amended by S.I. 2012/1479, S.I. 2016/211 (W. 84), S.I. 2017/52 (W. 23) and S.I. 2019/237 (W. 56).

**The Representations Procedure (Wales)
Regulations 2014**

4. In regulation 9 (specified functions under the 2002 Act) of the Representations Procedure (Wales) Regulations 2014⁽¹⁾, after paragraph (1)(f)(i) insert—

“(ia) Part 4 (duties of adoption agency in respect of a prospective adopter) in so far as those functions relate to a decision under regulation 27 (pre-assessment decision) that a prospective adopter is not suitable to adopt a child;”.

(1) S.I. 2014/1795 (W. 188), amended by S.I. 2016/211 (W. 84).
There are other amendments not relevant to these Regulations.

SCHEDULE 2 Regulation 17

Miscellaneous Amendments to the Principal Regulations

Amendments to the Principal Regulations

1. The Welsh language text of the Principal Regulations is amended as follows.

2. In regulation 2 (interpretation), after the definition of “Deddf 1989” insert—

“ystyr “Deddf 2008” (*“the 2008 Act”*) yw Deddf Ffrwythlondeb ac Embryoleg Dynol 2008(1);”.

3. In regulation 14 (requirement to provide counselling etc.)—

(a) for paragraph (2) substitute—

“(2) Mae’r paragraff hwn yn gymwys pan nad oes gan dad y plentyn neu’r fenyw sy’n rhiant i’r plentyn yn rhinwedd adran 43 o Ddeddf 2008 gyfrifoldeb rhiant am y plentyn ac mae’r asiantaeth fabwysiadu yn gwybod pwy yw’r person hwnnw.”, and

(b) in paragraph (3)—

(i) after “tad”, in each place it occurs, insert “neu’r fenyw sy’n rhiant yn rhinwedd adran 43 o Ddeddf 2008”,

(ii) in sub-paragraph (b)(i), for “adran 4” substitute “adran 4 neu 4ZA”, and

(iii) in sub-paragraph (b)(ii)—

(aa) for “preswyllo neu orchymyn cyswllt” substitute “trefniadau plentyn”, and

(bb) for “preswylad, cyswllt” substitute “gorchmynion trefniadau plentyn”.

4. In regulation 17(1)(ch), (d) and (e) (requirement to prepare written report), after “tad y plentyn” and “ei dad” insert “neu’r fenyw sy’n rhiant i’r plentyn yn rhinwedd adran 43 o Ddeddf 2008”.

5. In regulation 19(3) (adoption agency decision and notification)—

(a) for sub-paragraph (b) substitute—

“(b) unrhyw berthynas neu berson arwyddocaol arall yr ymgynghorodd yr

(1) 2008 c. 22.

asiantaeth ag ef o dan reoliad 14(1) gan gynnwys—

(i) unrhyw berson a enwir mewn gorchymyn trefniadau plentyn o dan adran 8 o Ddeddf 1989, fel person y mae'r plentyn i dreulio amser gydag ef neu i gael cyswllt ag ef fel arall, neu

(ii) unrhyw berson y mae gorchymyn o dan adran 34 o Ddeddf 1989 (cyswllt rhiant â phlant mewn gofal) wedi ei wneud o'i blaid,

pan fo'r gorchymyn hwnnw mewn grym yn union cyn yr awdurdodir yr asiantaeth i leoli'r plentyn ar gyfer ei fabwysiadu;"

(b) in sub-paragraph (c), after "tad y plentyn" insert "neu'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 43 o Ddeddf 2008".

6. In regulation 34(4)(b) (adoption agency's decision in relation to the proposed placement), after "tad y plentyn," insert "neu'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 43 o Ddeddf 2008,".

7. In regulation 39(2)(b) (withdrawal of consent), after "tad y plentyn" insert "neu'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 43 o Ddeddf 2008".

8. In paragraphs 13(a)(i) and 14 of Part 1 of Schedule 1 (information about the child), after "ei dad" insert "neu'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 43 o Ddeddf 2008".

9. In Part 3 of Schedule 1 (information about the child's family and others)—

(a) in the heading before paragraph 1, after "am y plentyn" insert "neu fenyw sy'n rhiant yn rhinwedd adran 43 o Ddeddf 2008 nad oes ganddi gyfrifoldeb rhiant am y plentyn",

(b) for paragraph 16 substitute—

"16. Os nad yw rhieni'r plentyn yn briod neu'n bartïon mewn partneriaeth sifil, a oes gan y tad neu'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 43 o Ddeddf 2008 gyfrifoldeb rhiant am y plentyn ac os felly, sut y cafwyd ef.",

(c) for paragraph 17 substitute—

"17. Os na wyddys pwy yw tad y plentyn neu ble y mae, neu pwy yw'r fenyw sy'n rhiant i'r plentyn yn rhinwedd adran 42 neu 43 o Ddeddf 2008 neu ble y mae, yr wybodaeth amdano neu amdani sy'n hysbys a phwy a'i rhoes, a'r camau a gymerwyd i ddarganfod pwy yw'r rhiant.",

- (d) in the heading before paragraph 24, after “tad” insert “neu’r fenyw sy’n rhiant i’r plentyn yn rhinwedd adran 43 o Ddeddf 2008”, and
- (e) in paragraph 27, after “thad y plentyn” insert mewnosoder “neu’r fenyw sy’n rhiant i’r plentyn yn rhinwedd adran 42 neu 43 o Ddeddf 2008”.

**Explanatory Memorandum to the Adoption Agencies (Wales)
(Amendment) Regulations 2020 and the Adoption Agencies (Wales)
(Amendment) (No.2) Regulations 2020**

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020 and I am satisfied that the benefits justify the likely costs.

Julie Morgan
Deputy Minister for Health and Social Services
20 February 2020

PART 1

1. Description

The Adoption Agencies (Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020 (hereafter collectively referred to as “these Regulations”) amend the Adoption Agencies (Wales) Regulations 2005 (“the 2005 Regulations”) by:

- substituting a new Part 4 (Duties of Adoption Agencies in Respect of a Prospective Adopter) which:
 - makes provision for the assessment and approval of prospective adopters by adoption agencies by introducing a new time-limited two-stage process for that assessment and approval, which can be extended in certain circumstances. In Stage One (the pre-assessment process, which is limited to two months) all prescribed checks, including criminal record and health checks, are conducted. In Stage Two (the assessment decision, which is limited to four months) the adoption agency reaches a decision about the suitability of the prospective adopter.
 - introduces a fast-track process to allow certain previous adopters or foster parents to proceed straight to the Stage Two assessment process.
- inserting a requirement on adoption agencies to refer a child to the Adoption Register for Wales within one month of the date on which the adoption agency was authorised to place the child for adoption and to refer a prospective adopter to the Adoption Register within one month of the date on which the agency decided that the prospective adopter was suitable to adopt a child.
- clarifying that the requirement on an adoption agency to request a Welsh family proceedings officer or an officer of CAFCASS to witness the consent of a parent or guardian to the placement or adoption of a child in their care only applies where the parent or guardian resides in England and Wales.
- requiring an adoption agency to arrange for the appointment of an authorised person to witness a parent or guardian’s consent to the placement or adoption of a child in their care, where the parent or guardian resides outside England and Wales.

This Explanatory Memorandum relates to regulations that will come into force from April 2020.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The powers enabling these Regulations to be made are contained in a number of sections within the Adoption and Children Act 2002. They are as follows:

- Section 9(1)(a) which allows regulations to make provision for any purpose relating to the exercise by local authorities or voluntary adoption agencies of their functions in relation to adoption.
- Section 11(2) allows regulations under section 9 to prescribe the fees which may be charged by local authorities in respect of the provision of prescribed facilities of the Adoption Service where the conditions in subsection (3) are met.
- Section 12 allows regulations under section 9 to establish a procedure under which any person in respect of whom a qualifying determination has been made by an adoption agency may apply to an independent panel for a review of that determination.
- Section 45(1) of the 2002 Act allows regulations under section 9 to make provision as to the matters to be taken into account by an adoption agency in determining, or making any report in respect of, the suitability of any persons to adopt a child. Subsection (2) provides that, in particular, the regulations may make provision for the purpose of securing that, in determining the suitability of a couple to adopt a child, proper regard is had to the need for stability and permanence in their relationship. This power, which is subject to the affirmative procedure, is used to make the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 to require adoption agencies to have proper regard to the need for stability and permanence in a couple's relationship when assessing the couple's suitability to adopt.
- Section 54 allows regulations under section 9 to require adoption agencies in prescribed circumstances to disclose in accordance with the regulations prescribed information to prospective adopters.
- Section 83(4) and (5) allows regulations to require a person intending to bring, or to cause another to bring, a child into the United Kingdom in certain circumstances and conditions to be assessed and approved as

suitable to adopt by an adoption agency.

The power in section 174(7) of the Social Services Well-being (Wales) Act 2014 is also used. Section 174 requires local authorities to establish a representations procedure for considering representations (including complaints) from certain persons and subsection (7) allows regulations to make further provision about that procedure.

The power conferred on the National Assembly for Wales to make regulations under the Adoption and Children Act 2002 transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006. The Adoption Agencies (Wales) (Amendment) Regulations 2020 are subject to the negative resolution procedure. The Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 are subject to the affirmative procedure. This is by virtue of section 140(3)(a) of the 2002 Act (which provides that a statutory instrument containing subordinate legislation under section 9 which includes provision made by virtue of section 45(2) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament) and paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006.

These Regulations make other consequential amendments which are set out in Schedule 1 including making minor amendments to the Independent Review of Determinations (Adoption and Fostering) (Wales) Regulations 2010 which make provision for the review of certain determinations by adoption agencies and fostering service providers, to be carried out by an independent panel appointed by the Welsh Ministers. Amendments are also made to the Adoptions with a Foreign Element Regulations 2005 (which apply to England and Wales) to ensure that the inter-country adopter assessment process is in line with the process in Part 4 of these Regulations.

Schedule 2 contains amendments to the Welsh language text of the 2005 Regulations where these were not previously introduced by the Human Fertilisation and Embryology (Consequential Amendments and Transitional and Savings Provisions) Order 2009 and the Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014.

4. Purpose and intended effect of the legislation

Welsh Government are making changes to the prospective adopter approval process in Wales. Part 4 of The Adoption Agencies Regulations 2005¹ (which dealt with the duties of an adoption agency in respect of prospective adopters in England) was replaced by provision within The Adoption Agencies (Miscellaneous Amendments) Regulations 2013² (“the 2013 Regulations”). This changed the approval process in relation to England and allowed a two-stage process. In Wales, Part 4 of the 2005 Regulations will be replaced with a new Part 4 to make provision for the new two-stage approval process for the assessment and approval of prospective adopters.

¹ http://www.legislation.gov.uk/uksi/2005/389/pdfs/uksi_20050389_en.pdf

² http://www.legislation.gov.uk/uksi/2013/985/pdfs/uksi_20130985_en.pdf

The Adoption Technical Group in Wales, which met four times between September and November 2017, and especially the National Adoption Service, has requested that Welsh Government legislate to introduce a similar two-stage process for Wales. In essence, this change would enable an adoption agency to make an early decision 'not to proceed' with an individual's full application to become an adopter if it had collected information – for instance from a medical report showing a serious problem – which clearly demonstrated that this particular individual was not a suitable person to adopt a child. It would mean that in such cases, there would no longer be a legal obligation to proceed to full panel consideration of a manifestly unsuitable application before it could be filtered out of the process. The change will introduce the 'brief report' where, during Stage Two of the assessment process, a prospective adopter may be taken to panel and Agency Decision Maker with a recommendation that they are not suitable to adopt, even though the full assessment has not been completed. The changes will also introduce a fast track process for assessment for second time adoptive parents and existing foster carers.

In making the changes, which are further outlined below, it is intended that:

- the process of considering potential adopters for a particular child from within their own family and connected people will move along more quickly and efficiently, with less delay and uncertainty for the child as a consequence;
- potential adopters whose applications are clearly not going to be successful, due to an obvious and serious difficulty with their application, will not have their hopes and expectations raised unduly;
- the overall operation of the approvals process will be streamlined and made more efficient, with consequent savings in staff and panel-members' time in preparing and considering applications.

Referral to the Adoption Register for Wales – children (new regulation 19A)

A new Regulation 19A is inserted into Part 3 of the 2005 Regulations to place a requirement on adoption agencies to refer children's details to the organisation which maintains the Adoption Register as soon as possible and no later than one month from the date on which the adoption agency was authorised to place the child for adoption, unless the agency had identified a particular prospective adoption with who it is considering placing the child for adoption.

The regulation will improve the comprehensiveness of the information stored on the Adoption Register, so that potential matches are identified at the earliest possible stage as information will be added and shared throughout Wales in a timely way.

Request to appoint a Welsh family proceedings officer or an officer of Cafcass (regulation 20)

Regulation 20 in Part 3 is amended to clarify that an adoption agency must request that a Welsh family proceedings officer or an officer of CAFCASS be appointed to obtain consent from a parent or guardian to the placement or adoption of a child in their care only where the parent or guardian resides in England and Wales.

Persons authorised to witness consent to placement for adoption (new regulation 20A)

A new regulation 20A is inserted into Part 3 to require an adoption agency to arrange for the appointment of an authorised person to witness a parent or guardian's consent to the placement or adoption of a child in their care where the parent or guardian resides outside England and Wales and to list those persons authorised to witness the consent. .

Regulations 20 and 20A will allow for improved clarity about the requirements around witnessing a child's parent or guardian's consent to the placement or adoption of that child.

Two stage process

The provision for the new two-stage prospective adopter approval process as set out in the new Part 4 of the 2005 Regulations includes the following:

Stage 1 Pre-assessment Process

Regulations 21 to 27 make provision for stage 1 of the process and applies where a person has notified an adoption agency that they want to adopt a child and the agency has notified that person that it has decided to proceed with the pre-assessment process in respect of them.

Prospective adopter stage one plan (regulation 22)

Regulation 22 requires the adoption agency to prepare a written plan, in consultation with the prospective adopter, which is to include information about their respective roles in the stage one process. This includes information about the counselling, information and preparation for adoption to be provided, the procedure for carrying out police checks, details of any training and any applicable timescales.

Prospective adopter's case record (regulation 23)

Regulation 23 requires the adoption agency to set up a case record in respect of the prospective adopter and sets out the information that must be contained in that record, which is not specified in the current Part 4.

The case record provides the means of collating all the necessary information in one place so progress can be seen at any given time and a manager, new social worker etc. can pick it up and immediately understand the adoption case.

Criminal Record Certificate (regulation 25)

Regulation 25 requires the adoption agency to obtain an enhanced criminal record certificate in respect of the prospective adopter and any other member of the prospective adopter's household who is aged 18 or over.

Other pre-assessment information and pre-assessment decision (regulations 26 and 27)

Regulation 26 sets out the pre-assessment information that an adoption agency must obtain and regulation 27 provides that an adoption agency must decide in light of that information whether the prospective adopter may be suitable to adopt a child and therefore progress to Stage Two. That decision must be made within two months from the date on which the adoption agency notified the prospective adopter that they had decided to proceed with the pre-assessment process at the commencement of Stage One. However, the agency may delay making that decision where it is satisfied that there are good reasons for doing so or upon the request of the prospective adopter.

Stage 2 – The assessment decision

Regulation 28 provides that Stage 2 begins when, following the adoption agency's decision that the prospective adopter may be suitable to adopt and the prospective adopter has notified the adoption agency within six months of that decision that they wish to proceed to stage 2 of the approval process.

Prospective adopter assessment plan (regulation 29)

Regulation 29 requires the adoption agency to prepare a written plan in consultation with the prospective adopter which is to include information about the procedure for assessing the prospective adopter's suitability to adopt a child under Stage 2.

Prospective adopter's report (regulation 30)

Regulation 30 requires the adoption agency to obtain certain information about the prospective adopter and to prepare a written report which includes information about the prospective adopter and their family, the prospective adopter's health, any relevant information as a result of the pre-assessment checks and the agency's assessment of the prospective adopter's suitability to adopt a child³. When assessing the suitability of a couple to adopt a child, the agency must, in their assessment, have proper regard to the need for stability and permanence in their relationship. If the agency receives certain information which leads to the opinion that the prospective adopter is unlikely to be considered suitable to adopt a child, it may prepare the report and submit it to adoption panel for a decision without having all the required information about the prospective adopter.

³ This is provided for in the Adoption Agencies (Wales) (Amendment) (No. 2) Regulations 2020 which is subject to the affirmative procedure.

Adoption agency decision and notification (new regulation 30B)

A new regulation 30B requires an adoption agency to decide whether a prospective adopter is suitable to adopt within four months of the date on which the agency received the prospective adopter's notification that they wish to proceed with the assessment process. The agency may delay making that decision where the agency considers that there are exceptional circumstances which mean it cannot make that decision within that time or upon the request of the prospective adopter.

Fast-track process (new regulations 30F and Schedule 4A)

A new regulation 30F and Schedule 4A make provision for a fast-track process for approval in certain cases. Those cases are where an adoption agency is satisfied that a prospective adopter is an approved foster parent or has, at any time, adopted a child in certain cases. In those cases the adoption agency must decide whether the prospective adopter is suitable to adopt within four months of the date on which the adoption agency received the prospective adopter's notification that they wish to proceed with the pre-assessment process.

Referral to the Adoption Register – prospective adopters (new regulation 30G)

A new regulation 30G is inserted to place a requirement on adoption agencies to refer approved prospective adopter's details to the organisation which maintains the Adoption Register as soon as possible and no later than one month from the determination that they are suitable to adopt a child unless the agency has identified a particular child to place with that prospective adopter.

Prospective Adopter Matching Plan (new regulation 31)

New regulation 31 requires an adoption agency to prepare a written plan in consultation with an approved prospective adopter which will include information about the duties of the agency in relation to placement and reviews.

5. Consultation

A consultation ran between 3 October 2018 to 9 January 2019 and sought views on the two new sets of Adoption regulations: The Adoption Agencies (Wales) (Amendment) Regulations 2020 and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations 2020.

8 responses were received to the consultation. The majority of consultation responses received were positive and no significant concerns were raised over additional burdens arising from the new regulations.

As a result of the consultation four minor changes have been made to the legislation. These are:

- amend the requirement on agencies to refer details of the child to the organisation which maintains the Adoption Register for Wales as soon as possible and no later than one month after the date on which the agency decided the child should be placed for adoption to as soon as possible and no later than one month of the date the agency was authorised to place the child for adoption,
- during stage one of the pre-assessment process, introduce a requirement to carry out police checks clearer, stating that an adoption agency may not considers a prospective adopter (as opposed to a person) suitable to adopt a child if that person or any member of that persons household aged 18 or over has committed a specified offence (as stated within paragraph 1 of Part 2 of Schedule 3).
- clarify that, if the prospective adopter does not notify the adoption agency that they wish to continue to stage two of the assessment process within six months from the date on which the agency notifies the adopter that they may be suitable to adoption, then stage one will be need to repeated to the extent the adoption agency considers necessary to determine whether it continues to be satisfied that the prospective adopter may be suitable to adopt,
- increase the time limit from 20 days to 40 days from the date on which the prospective adopter was notified by the adoption agency that they were not suitable to adopt a child for the adopter to make representations to the agency or apply to the Welsh Ministers for a review of the decision by an independent review panel.

Further details on the consultation process are set out in the Regulatory Impact Assessment below.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has been prepared in accordance with Standing Order 26.6(vi) and is attached at Part 2.

PART 2 – REGULATORY IMPACT ASSESSMENT

The Regulatory Impact Assessment has been undertaken in relation to the requirements of the Welsh Ministers regulatory impact assessment code for subordinate legislation. Since the passing of the Government of Wales Act 2006 the function of making subordinate legislation in Wales now lies with the Welsh Ministers. Welsh Ministers are committed to considering the impact of subordinate legislation on business, the voluntary sector, local government and others and on its statutory duties

7. Options

a) Two Stage Adoption Process in Wales

Option 1: *do nothing*

This option would mean that the existing process for approval and assessment of adopters would continue to be followed. As a result the prospective adopter approval process will continue to take longer than is needed in some cases, will continue to be a resource intensive and sometimes bureaucratic function and will remain inflexible. The process will also continue to inhibit the role of prospective adopters in the process.

Delays in finding a suitable adoptive family for a child can have adverse consequences for their well-being. One reason for this delay is a mismatch between the numbers of approved adopters and the number of children waiting to be adopted. Feedback from agencies has suggested that the slow, unwelcoming and bureaucratic structure of the current process for those looking to adopt a child can contribute to this mismatch as the overall process deters potential adopters from engaging with the process.

Option 2: *amend the Adoption Agencies (Wales) Regulations 2005 (“the 2005 Regulations”) to introduce a two stage process for the assessment and approval of potential adopters.*

This option would enable Welsh Ministers to introduce a new, time-limited two stage approval process. Whilst remaining rigorous it will allow for greater prospective adopter involvement in the process and be more transparent with clearer timescales. It will mean that, in the majority of cases, prospective adopters can expect to wait no longer than six months to become approved as an adopter.

The revised procedure will speed up the overall approval process from the initial enquiry through to assessment and at the same time help speed up the matching of approved prospective adopters with children. The new process will increase the number of individuals who proceed through the assessment due to it being a less daunting and bureaucratic process, which will also help reduce the amount of time children wait to be placed for adoption with a suitable adoptive family. Along with reducing the timeframe the process will also benefit potential adopters whose application is clearly not going to be successful due to

an obvious and serious difficulty with their application. The process therefore will reduce the potential for raising their hopes and expectations unduly.

The process will also streamline and make more efficient the approvals process with consequent savings in staff and panel-members' time in preparing and considering applications.

b) Adoption Register for Wales

Option 1: *do nothing*

Adoption agencies currently refer a child or an approved adopter to the Adoption Register for Wales up to three months after the agency is authorised to place the child for adoption or has approved the prospective adopter as suitable to adopt. This option will mean that the existing process will continue.

Although this gives time for possible local and regional links to be explored before making this information available nationally through the register, the current process is preventing the register being used as one available route for searching out a timely external match when a suitable internal/local placement cannot be found.

Delay in finding a suitable adoptive family for a child can cause lasting harm. It is imperative that children are matched as soon as possible to offer them the best opportunity to flourish in a safe family environment where their fundamental needs are met and where they can enjoy the same opportunities as any other child.

Option 2: *amend the regulations to enable new regulations 19A and 30G to be inserted into the 2005 Regulations to reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales.*

This option will place a requirement on adoption agencies to refer a child to the Adoption Register for Wales as soon as possible and no later than one month after the date on which the adoption agency was authorised to place the child for adoption. It will also place the requirement on agencies to refer prospective adopters to the Adoption Register as soon as possible and no later than one month after the date on which the agency decided that the prospective adopter was suitable to adopt a child. The current practice is up to three months.

c) Establishing an 'authorised person'

The new regulation 20A is inserted to provide for cases where a child's parent or guardian resides outside England and Wales and wishes to give their consent to placement of the child for adoption under section 19 of the 2002 Act and, as the case may be, to the making of an adoption order under section 20 of the 2002 Act. In these cases adoption agencies will be required to arrange for the appointment of an 'authorised person' to act as a witness to the consent of a parent or guardian to the placement or adoption of a child in their care. This change, coupled with the amendment to regulation 20, would make clear that

an adoption agency must request that a Welsh family proceedings officer or an officer of CAFCASS appoint an officer to obtain consent to the placement or adoption of a child in their care only where the parent or guardian reside in England and Wales.

8. Costs and benefits

This section contains the cost benefit analysis of the options for the changes detailed in section 7.

a) Two Stage Adoption Process in Wales

Option 1: do nothing - *the existing process for approval and assessment of adopters would continue to be implemented*

Costs:

The recruitment and assessment of prospective adopters is carried out by local authorities and also by Voluntary Adoption Agencies.

To make an estimate of the cost-benefit implications of the policy measure to local authorities and Voluntary Adoption Agencies we have estimated the cost to approve under the existing process. To do this we have identified the activities within a service or process and then calculated a cost estimate of each one.

Table 1 shows the average number of hours taken by each worker in either a Voluntary Adoption Agency or a local authority to complete each main action within the current adoption approval process. The workers mainly involved in the process are administrators, Adoption Social Workers, Adoption Team Managers or Senior Social Work Practitioners and the Agency Decision Maker.

Table 1: Estimation of time taken for activities/tasks: current adopter assessment process

	Administrat or/ Business Support	Adoption Social Worker	Adoption Team Manager	Agency Decision Maker
ENQUIRY STAGE				
Process enquiry to agency	30mins			
Provide information to enquirer		30mins		
Information Event/Session	30 mins	2.5 hours		
Initial Visit		4 hours		
Internal process to agree next steps			30 mins	
APPROVAL STAGE				
Application acceptance process	30 mins		30 mins	
Pre-adoption training	4 hour	[3 days]		
Process of checks/references	5 hours	30 mins		
		18 hours		

Assessment of prospective adopter(s)				
PAR write up and share with adopters		22 hours		
Visits to referees		11 hours		
Quality Assurance of PAR ⁴			3hours	
Panel admin process/minutes	4 hours			
Adoption Panel (inc. QA by Professional Adviser)		45 mins	2 hours	
Decision post panel				2 hours
Administration post approval	2 hours			
Supervision of worker		1 hour	1 hour	
TOTAL	15.5 hours	53 hours	6.5 hours	2 hours

Table 1a: Average Salary costs regarding the roles included in local authority staff undertaking the current assessment process.

LA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	Total
Admin Business Support	£21,116	15.5	£83.00	£12.00	£186.00
Social Worker	£36,876	53	£148.00	£21.00	£1,113.00
Team Manager	£42,683	6.5	£169.00	£24.00	£156.00
ADM (Head of Service)	£56,233	2	£222.00	£32.00	£64.00
Total					£1,519.00

Table 1b: Average Salary costs regarding the roles included in Voluntary Adoption Agency staff undertaking the current assessment process.

VAA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	Total
Admin Business Support	£26,999	15.5	£107.00	£15.00	£232.50

⁴ Prospective Adopters Report

Social Worker	£36,876	53	£148.00	£21.00	£1,113.00
Team Manager	46,565	6.5	£184.00	£26.00	£169.00
ADM (Head of Service)	57,000	2	£225.00	£32.00	£64.00
Total					£1,578.50

Figures in table 1a and b are based on the local authority and VAA staff undertaking the current adoption assessment process for one year between April 2020 and March 2021 per application. Calculations are based on a 7 hour working day.

Table 1a and b also shows the average time each worker has taken in either of the VAA's or the local authority to complete each main action points within the current assessment process

Option 2: amend the Adoption Agencies (Wales) Regulations 2005 ("the 2005 Regulations") to introduce a two stage process for the assessment and approval of potential adopters.

To derive an estimate of the cost-benefit implication of the policy measure to local authorities and Voluntary Adoption Agencies we have estimated the cost to approve under the new process. To do this we have identified the activities within a service or process and then derived a cost estimate of each one.

Table 2: Estimation of time taken for activities/tasks: two stage process

Table 2 shows the anticipated average number of hours taken by each worker in either a Voluntary Adoption Agency or local authority to complete each main action within the new 2 stage adoption approval process. The main workers involved in the process are administrators, Adoption Social Workers, Adoption Team Managers or Senior Social Work Practitioners and Agency Decision Maker.

	Administrator/ Business Support	Adoption Social Worker	Adoption Team Manager	Agency Decision Maker
PRE-STAGE ONE				
Process enquiry to agency	30mins			
Provide information to enquirer		30mins		
Information Event/Session	30 mins	2.5 hours		
Initial Visit		4 hours		
Internal process to agree next steps			30 mins	
STAGE ONE				
	30 mins			

Registration of Interest process				
Pre-adoption training	1 hour	[3 days]		
Process of checks/references	5 hours			
Process re: decision to move to Stage 2		30 mins	30 mins	
Pre-assessment visits ⁵		5.5 hours		
Visits to referees		4 hours		
STAGE TWO				
Assessment of prospective adopter(s)		14 hours		
Visits to referees		7 hours		
PAR write up and share with adopters		22 hours		
Quality Assurance of PAR			3hours	
Panel admin process/minutes	4 hours			
Adoption Panel (inc. QA by Professional Adviser)		45 mins	2 hours	
Decision post panel				2 hours
Administration post approval	2 hours			
Supervision of worker		1 hour	1 hour	
TOTAL	13.5 hours	54 hours	7 hours	2 hours

Table 2a: Average costs of Local Authority Staff undertaking the two stage process

LA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	Total
Admin Business Support	£21,116	13.5	£83.00	£12.00	£162.00
Social Worker	£36,876	54	£148.00	£21.00	£1,134.00
Team Manager	42,683	7	£169.00	£24.00	£168.00
ADM (Head of Service)	56,233	2	£222.00	£32.00	£64.00

⁵ Reduces number of visits during assessment at Stage 2

Total					£1,528.00
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Table 2b: Average costs of Voluntary Adoption Agency staff undertaking the two stage process

VAA staff	Gross Salary	Number of Hours per Application	Daily Rate	Cost per hour	Total
Admin Business Support	£26,999	13.5	£107.00	£15.00	£202.50
Social Worker	£36,876	54	£146.00	£21.00	£1,134.00
Team Manager	46,565	7	£184.00	£26.00	£182.00
ADM (Head of Service)	57,000	2	£225.00	£32.00	£64.00
Total					£1,582.50

Figures in table 2a and 2b are based on the Local Authority and Voluntary Adoption Agency staff undertaking the new adoption two stage assessment process for one year between April 2020 and March 2021 per application. Calculations are based on a 7 hour working day.

Table 2ac and 2b identifies the anticipated average time each worker will take in either the Voluntary Adoption Agency's or local authority to complete each of the main action points within the two stage assessment process

Additional Costs

Training on the two stage process was undertaken by the local authority adoption regions and the Voluntary Adoption Agencies during 2019 costing £4,050. 50% was funded by the National Adoption Services for Wales and the other 50% was spread equally across the adoption regions within Wales. The National Adoption Service for Wales also commissioned AFA Cymru to produce a Good Practice Guide for adoption stakeholders on the two stage process costing £3,850. These costs are sunk costs. No other transitional costs were incurred by the regional adoption agencies or the Voluntary Adoption Agencies.

There could be a potential cost associated with producing, publishing and implementing a Code of Practice for the changes. As a good practice guide has been produced for practitioners in the sector, officials will review the situation 6 months after the regulations come into force to ascertain whether there is also a need for Code of Practice.

The staff cost of producing, publishing and implementing the document is over a 6 months period and is estimated at 15,672 and assumes one MB1 civil servant working two days a week for 6 months and 1 MB2 civil servant working 1 day a week for 6 months.

Welsh Government staff costs presented in this RIA are based on the Central Services Operation Team's Pay Band Costs. Gross pay cost includes: salary; and employers national insurance and pension contributions.

Table 1

Welsh Govt Staff	Net Salary	Gross Salary	Daily Rate	Hourly rate	Cost for 6 months	Total
MB2	£36,500	£46,993	£189.00	£26.00	£4,517	£4,536
MB1	£45,850	£57,977	£232.00	£32.00	£2,712	£11,136
Total						£15,672

Cost Summary

The tables above identify that there will be a marginal increase in staff costs associated with undertaking a full assessment in the two-stage process. Forecasting the total cost saving overall due to the new two stage assessment process is challenging because not all adopters that submit applications to adopt complete the full assessment process and the new process is likely to affect the timing of withdrawals. To calculate an estimated cost saving requires knowledge of the distribution of when in the current assessment process people drop out and knowledge of the distribution of when people will drop out in the new assessment process. National level data is not collected on the former and the latter is unobserved as the new process has not yet been implemented.

It is envisaged however that there will be a cost saving in the overall process. Agencies will supply more information to adopters nearer the beginning of the process and this will therefore enable potential adopters that for whom adoption is not for them, to discover this earlier. Those who are not suited to adoption are expected to realise themselves that adoption is not for them and will self-select out of the process nearer the start of the assessment. The process will allow for the agency to inform potential adopters that they application will not succeed at an earlier stage (stage 1). There will therefore be a reduction in the amount of agency resource devoted to them.

Benefits:

As already noted the full two stage assessment process is expected to allow for unsuitable adopters to be identified at an earlier point. This will prevent unnecessary hopes and expectations being raised unduly for potential adopters who would have gone through the whole process before being told they were unsuitable under the previous process. It will also generate savings for Voluntary Adoption Agencies and local authorities as fewer resources will be dedicated to assessing the applicants who do not proceed to Stage 2 assessment.

The number of assessments that agencies are likely to undertake is likely to increase. The new time-bound adoption assessment process explicitly attempts to increase the number of individuals who apply and continue through

the process. It is not, however, possible to forecast the increase in the number of assessments that will be carried out due to the reform of the process.

Changes to the assessment and approval process intends to increase the numbers of families who apply to adopt. Through reducing the gap between the numbers of children waiting to be matched with a family and the number of families approved to adopt them, the measure intends to reduce delay in finding a suitable match for looked after children with plans for adoption. Likewise the legislative changes (governing adoption agency usage of the register) intends to ensure local authorities widen their search for families at as early stage as possible if no suitable matches are available locally. Both measures will therefore reduce the amount of time children awaiting adoption remain in care. This is expected to lead to cost savings to local authorities as evidence shows that the cost of supporting an adoptive placement is less than the cost of maintaining a child in foster care.

b) Adoption Register Wales

Cost:

Option 1: *Do nothing*

This option will incur no additional cost for providers.

Option 2: *amend the regulations to enable new regulations 19A and 30G to reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales.*

This option is expected to have slight resource implications as it is envisaged that there will be a slight increase in referrals of approved adopters and children to the Adoption Register at the outset due to the introduction of the one month requirement to add details. It is envisaged however that this will settle as the new process is embedded. At this time agencies are unable to approximate the increase in the number of update requests that will occur due to the duty. They have however suggested that they will not see a significant increase.

This amendment will ensure agencies widen their search for families at as early stage as possible if no suitable matches are available locally. This will therefore reduce the amount of time children awaiting adoption remain in care. This is expected to lead to cost savings to local authorities as evidence shows that the cost of supporting an adoptive placement is much less than the cost of maintaining a child in foster care.

Benefits

This change will require the local authorities and Voluntary Adoption agencies to make full and timely use of the Adoption Register, as one available route for searching out an external match, when suitable internal or local placement cannot be found. It will also improve the coverage and comprehensiveness of the information stored on the Register.

This change will not impact on any other aspects of adoption agencies' current duties to record and refer such information. By setting a one month time limit, it

will ensure that all children who are awaiting an adoptive placement and all approved prospective adopters across Wales would then be placed on the Register as soon as possible. This would reduce the length of time that children are waiting by giving immediate access to a national system through which the widest possible range of links from across Wales (and where appropriate) other parts of the UK can be explored.

The changes will lead to even more good quality, lasting matches being made. Furthermore it will enable the system as a whole to be managed in a more effective way, for instance, through identifying patterns of particular needs among the children or groups for siblings which might require tailored recruitment of adopters in order to be met.

c) Establishing an 'authorised person'

There is already provision for this requirement in the Family Procedure Rules (Practice Direction 14.10) and the amendments are placing these directions on a statutory footing.

- where the parent or guardian of the child resides in England and Wales, the adoption agency must request Cafcass to appoint an officer to witness the parent/guardian's consent to the placement of the child for adoption or to the making of a future adoption order;
- where the parent or guardian resides outside England and Wales, the adoption agency must arrange for the appointment of an authorised person to witness the parent/guardian's consent.

Cost

There is no cost associated with these changes as the adoption agencies are maintaining the status quo.

Benefit

There are no further benefits associated with these changes as the adoption agencies are maintaining the status quo.

Preferred Options

The preferred options as detailed above will be implemented as follows:

a) Introduction of the Two Stage Adoption Process - Option 2

Delays in finding a suitable adoptive family for a child can cause lasting harm. Research shows that children need to form attachments or secure and stable relationships with one or two main carers in order to develop physically, emotionally and intellectually. There are currently more children in foster care waiting for adoption than there are adopters. To address this gap we need to recruit more prospective adopters and we need to do more to encourage and help them to adopt children with more complex needs.

One of the issues we are trying to address is the potential for delay in the adoption system and the impact this has on the welfare of children. By

introducing a more adopter involved and less bureaucratic process, it is envisaged that more adopters will come forward to ensure that there is a choice of matching for those children needing an adoptive placement and increase availability for those who wait the longest. The new two stage adopter process will also generate savings for the agencies by become more streamlined and less resource intensive.

b) Reduce the existing time limit for adoption agencies to refer to the Adoption Register in Wales to up to one month – Option 2

It is imperative that agencies strive to match children and adopters in the most timely way. The change to the register will improve the comprehensiveness of the information stored on it, so that potential matches can be identified at the earliest possible stage.

c) Establishing an ‘authorised person’

There is already provision for this requirement in the Family Procedure Rules (Practice Direction 14.10) and the amendments are placing these directions on a statutory footing.

9. Consultation

The consultation, which ran from 3 October 2018 to 9 January 2019, sought views on two new sets of Adoption regulations: The Adoption Agencies (Wales) (Amendment) Regulations and the Adoption Agencies (Wales) (Amendment) (No.2) Regulations. These new regulations amend the Adoption Agencies (Wales) Regulations 2005. In summary they:

- Introduce a two-stage process for the assessment and approval of potential adopters.
- Require adoption agencies to refer to the Adoption Register for Wales details of prospective adopters once they are approved, and of children for whom the agency has been authorised to place for adoption, within a maximum period of one month after the decision has been made
- Require adoption agencies to arrange for the appointment of an ‘authorised person’ to act as a witness to the consent of a parent or guardian to the placement or adoption of a child in their care, where the parent or guardian resides outside England and Wales (including abroad).
- Preserve the requirement on adoption agencies, when assessing the suitability of a couple to adopt a child, to have proper regard to the need for stability and permanence in their relationship (this is provided for in the Adoption Agencies (Wales) (Amendment) (No.2) Regulations).

Eight responses were received to the consultation and a summary of the consultation responses will be published on the Welsh Government website.

As part of the consultation process, two national events were held. The first event was held on 6 November in SWALEC Stadium, Cardiff and the second event was held on 8 November in Glyndwr University.

The sessions aimed to encourage stakeholders to respond and to enable those attending to:

- gain an overview of the draft legislative framework and key changes it will effect;
- check their understanding of the proposals and seek clarity, if needed;
- consider potential implications for their role and organisation

Overall the uptake of places for the events was positive, with approximately 40 attendees in total in Cardiff and 25 delegates in Wrexham. A range of public, private, voluntary and third sector organisations were represented, including a number of service providers from agencies such as the National Adoption Service for Wales; St David's Children Society; Barnardo's Cymru and Adoption UK.

The majority of consultation responses received were positive and no significant concerns were raised over additional burdens arising from the new regulations.

Minor changes were made to the legislation as a result of further consideration of engagement and consultation responses, which include:

- amending the requirement on agencies to refer details of the child to the organisation which maintains the Adoption Register for Wales as soon as possible and no later than one month after the date on which the agency decided the child should be placed for adoption to as soon as possible and no later than one month of the date the agency was authorised to place the child for adoption,
- During stage one of the pre-assessment process, we have made the requirements to carry out police checks clearer, stating that an adoption agency may not consider a prospective adopter (as opposed to a person) suitable to adopt a child if that person or any member of that person's household aged 18 or over has committed a specified offence (as stated within paragraph 1 of Part 2 of Schedule 3).
- clarifying that, if the prospective adopter does not notify the adoption agency that they wish to continue to stage two of the assessment process within six months from the date on which the agency notifies the adopter that they may be suitable to adoption, then stage one will be need to repeated to the extent the adoption agency considers necessary to determine whether it continues to be satisfied that the prospective adopter may be suitable to adopt,
- increasing the time limit from 20 days to 40 days from the date on which the prospective adopter was notified by the adoption agency

that they were not suitable to adopt a child for the adopter to make representations to the agency or apply to the Welsh Ministers for a review of the decision by an independent review panel.

10. Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector categorised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

We do not consider it necessary to undertake a competition assessment for these Regulations since they will not affect the business sector in any significant way.

11. Post implementation review

Delays in the adoption system can cause lasting harm for vulnerable children and may rob them of their best chance of love and stability of a new family.

The Welsh Government's principal policy aim in this area is to increase the number of adoptive families by implementing a less bureaucratic, time consuming and inflexible process for potential adopters.

It is recognised an assessment of the introduction of the new two stage adoption assessment process is challenging. The analysis will not just be based on the cost of implementing the new process but also on the benefits for local authorities, Voluntary Adoption Agencies and the families and children associated with the adoption process.

There will be provision for a number of key reporting mechanisms which will be introduced to monitor all changes brought into effect by the amendments to the regulations. These will offer a set of clear evidence to inform the post implementation review and establish how successful the new process has been in achieving its aims. The reporting mechanisms include:

- Annual returns from service providers
- Annual returns from the National Adoption Service in Wales.
- Annual reports from local authorities
- Officials will monitor the implementation of these Regulations following their coming-into-force date of 1 April 2020

Agenda Item 4.1

Julie James AC/AM

Y Gweinidog Tai a Llywodraeth Leol

Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

Mick Antoniw, AM
Chair
Legislation, Justice and Constitution Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

2 March 2020

Dear Mick,

Local Government and Elections (Wales) Bill - Further information regarding draft proposed amendments for Prisoner Voting

In my letter of 6 February I enclosed drafts of the proposed stage 2 amendments relating to the extension of the franchise for local government elections to certain prisoners and young people in custody from Wales. I am pleased to send the Committee a draft of the purpose and effect table to accompany the amendments and a policy note.

In addition, during my appearance at Finance Committee on 6 February I said I would make information available on the estimated costs. The costs associated with Stage 2 amendments are not normally provided until after the amendment is passed, but on an exceptional basis and setting no precedent, the information is provided below.

- The proposed enfranchisement of certain prisoners and young people in custody will add about 1,900 voters to the electoral register. Registering 1,900 new voters will cost about £2,300 in total across Wales (being £1.22 per elector); this will be a cost which will recur annually from 2021-22. The administrative costs of eligible prisoners and young people being able to vote at the local government elections in May 2022 would be about £4,300 in total across Wales (being £2.23 per elector). The latter cost will arise on a five-yearly basis. The costs of registration and election administration will fall to the local authorities.
- There may be some additional requirements in terms of the communications and voter education streams of work already planned for 16/17 year olds and qualifying foreign citizens. The number of additional prisoner voters is so small that if the communications and education materials need to be tailored in any way for prisoner voters the cost will be accommodated within the general budget for those items as reported in the Regulatory Impact Assessment (RIA).
- There will also be costs associated with the updating of electoral management systems (EMS) used by local authorities to compile the electoral register. Services in relation to the 22 principal councils' registers are provided by three software companies all of which would need to introduce changes to their software necessary for registration officers to meet the requirements when the proposed amendments would place upon them.

These costs will be incurred in 2021-22. We are in the process of estimating these costs and should this amendment be passed at Stage 2 then they will be included in the updated RIA published before Stage 3.

If the Bill is amended at Stage 2, the Explanatory Memorandum, including the Regulatory Impact Assessment (RIA) will be updated and the Committee will be informed of the changes in the usual manner.

I look forward to receiving any views or comments the Committee may have before we table the amendments formally at Stage 2.

I am also sharing this information with the Equality, Local Government and Communities Committee and the Finance Committee.

Yours sincerely,



Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Prisoner voting in Local Government elections in Wales

Policy intention

The proposed amendments will enfranchise prisoners and young people¹ in custody from Wales serving a custodial sentence of less than four years for local government elections in Wales. This will entitle an additional approximately 1,900 adult prisoners and approximately 20 young people in custody to vote at the next ordinary local government elections (across all principal and community councils) to be held in May 2022.

Eligible prisoners would register to vote on the basis of an address in Wales, with which they have a connection; this might be their family home, their previous residence or, if homeless, an address with which they can demonstrate a connection. A prisoner would not be able to register on the basis of a family home or other residence which they are prevented from returning to after release by virtue of a court order (“a prohibited address”); such prisoners would be able to give the address of the county or county borough in Wales in whose area the prohibited address is located. Prisoners would not be able to register to vote on the basis of the prison’s address.

Prisoners would be able to vote by post or by proxy only (there would be no polling stations in prisons). Prisoners from England or elsewhere in prisons in Wales would not be able to register to vote in Welsh local government elections using the address of the prison itself. They would be able to register to vote only if they could provide another address in Wales with which they could demonstrate a connection.

The Bill will enfranchise 16 and 17 year olds to vote in local government elections in Wales; young people in custody from Wales will be enfranchised on the same terms as adult prisoners. The Bill will also provide for 14 and 15 year olds to be registered as “attainers” in readiness for them becoming voters at 16. Any 14 and 15 year olds in custody serving a sentence of less than four years will also be registered as “attainers”.

¹ References to “prisoners” include “young people in custody” unless indicated otherwise.

The Bill will enfranchise foreign citizens who are legally resident in Wales; any prisoners who meet these criteria would be enfranchised.

If prisoners decide to exercise their right to vote, they will need access to candidates, election literature and Welsh media in order to identify the issues and to make informed choices. Candidates will also want to have access to the new category of voters. In line with the recommendations of the Equality, Local Government and Communities Committee, the Welsh Government will seek to reach agreement with the UK Government to enable prisoners from Wales across the prison estate to access relevant information and minimise possible barriers to registering and casting their vote.

Amendment background

Whilst the parts of the Local Government and Elections (Wales) Bill have been in development for six years the elements in relation to elections were not fully devolved to Welsh Ministers until April 2018, through the Wales Act 2017. In anticipation of this, the Welsh Government consulted on electoral reform in the summer of 2017. The response to the question on the enfranchisement of prisoners was positive with 50% of respondents supporting the proposal compared 48% opposing with 2% not expressing a view. Respondents cited the human rights and citizenship of prisoners, alongside the rehabilitation benefits of enfranchisement.

On the introduction of the Senedd and Elections (Wales) Bill in January 2019 the Llywydd asked the Equalities and Local Government Committee to undertake an inquiry in to prisoner voting. It would have been inappropriate to include these provisions at introduction ahead of the Committee's report and recommendations being published.

The Committee reported in June 2019 recommending the enfranchisement of prisoners from Wales serving sentences of less than four years and for 16-17 year olds being held in custody to be enfranchised on the same terms. These were supported by a number of recommendations supporting the process such as postal and proxy voting for prisoners.

The Welsh Government accepted the Committee's recommendations that prisoners and young people in custody from Wales serving sentences of less than four years should be enfranchised.

LOCAL GOVERNMENT and ELECTIONS (WALES) BILL – DRAFTS OF PROPOSED STAGE 2 GOVERNMENT AMENDMENTS FOR ENFRANCHISEMENT OF PRISONERS AND YOUNG PEOPLE IN CUSTODY

This table provides information about the drafts of the proposed Stage 2 Government amendments to provide for certain prisoners and young people from Wales to vote in local government elections (relating to the drafts forwarded to ELGC Committee by the Minister for Housing and Local Government on 29 January 2020).

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
1.	Section 2, page 2, line 11, leave out subsection (2).	<p>The amendment omits section 2(2) of the Local Government and Elections (Wales) Bill (“this Bill”) as introduced, which would amend section 12 of the Government of Wales Act 2006 (“GOWA 2006”) (as amended by sections 10 and 11 of the Senedd and Elections (Wales) Act 2020 (“the 2020 Act”). This prepares the way for amendments 2 and 3 below.</p> <p>Sections 10 and 11 of the 2020 Act amended section 12 of the 2006 Act, enfranchising for Senedd elections 16 and 17 year olds (section 10) and qualifying foreign citizens (section 11). Section 12 of the 2020 Act entitled 16 and 17 year olds and qualifying foreign citizens to be registered in a register of local government electors in Wales, albeit sections 10(4) and 11(2) specified that these voters were entitled to vote in elections to the Senedd only (held on or after 5 April 2021).</p> <p>Section 2(1) of this Bill amends section 2 of the Representation of the People Act 1983 (“the 1983 Act”) so 16 and 17 year olds and qualifying foreign citizens are enfranchised to vote in local government elections in Wales also. Section 2(2) of this Bill as introduced would amend GOWA 2006 so the provisions inserted by the Senedd Act (sections 10 and 11) introducing the “extended franchise for Senedd elections” are removed –</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
		<p>there no longer being any differences between the franchise for Senedd and local government elections in respect of 16 and 17 year olds and qualifying foreign citizens.</p> <p>However, the enfranchisement of certain prisoners and young people in custody from Wales (by virtue of amendment 2) for local government elections only, necessitates new provision, so the change achieved by amendment 2 does not apply to Senedd elections – hence amendment 3.</p>
2	<p>Section 2, page 2, after line 15, insert—</p> <p>‘(3) In section 3 of the 1983 Act (disenfranchisement offenders in prison etc.)—</p> <p>(a) in subsection (1), after “election” insert “, unless subsection (1A) applies to that person”;</p> <p>(b) after subsection (1) insert—</p> <p>“(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.</p> <p>(1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section</p>	<p>Amendment 2 amends section 2 of this Bill to insert a new subsection (3) which amends section 3 of the 1983 Act (which concerns the disenfranchisement of convicted offenders who are in prison).</p> <p>The first part of the amendment (the new subsection (3)(a) in this Bill) amends section 3(1) of the 1983 Act to carve out an exception to the general disenfranchisement of convicted offenders. The exception is expressed in the new subsection 1A to be inserted in section 3(1) of the 1983 Act, namely that convicted prisoners are not disenfranchised from voting in local government elections in Wales if they are serving a sentence of less than 4 years in a penal institution.</p> <p>The new subsection 1B, inserted into section 3 of the 1983 Act, provides that the enfranchisement provided for by subsection 1A will not apply if the prisoner has been convicted of a corrupt or illegal practice under section 173 of the 1983 Act. Such convictions concern corrupt or illegal practices in relation to elections and the sentence includes banning the convicted person from registering as an elector for a specified period of 3 or 5 years.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>173 (persons convicted of corrupt or illegal practice).</p> <p>(1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person—</p> <p>(a) on the same occasion, or</p> <p>(b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last.”</p> <p>(c) In subsection (2), for “this purpose” substitute “the purposes of this section”.’.</p>	<p>The new subsection 1C, inserted into section 3 of the 1983 Act provides that in calculating the sentence of a convicted person, sentences that are consecutive or concurrent are treated as a single term, whether imposed on the same occasion (subsection (1C(a)) or on different occasions, during the term of a sentence already imposed (subsection (1C)(c)). If a person is sentenced on the same occasion to two terms of 2 years, which are to run consecutively, they will have breached the 4 year threshold and will not be enfranchised. A person sentenced to and serving a sentence of 3 years, who 1 year into that sentence is convicted of another offence and sentenced to a further term of 2 years, which is to run consecutively, will lose their entitlement to vote at the time the second sentence is imposed.</p> <p>Subsection 3(2) of the 1983 Act is amended by new section 2(3)(c) in this Bill so it refers to “for the purposes of this section” rather than “for this purpose”, in recognition that by virtue of the changes made by this amendment, section 3 of the 1983 Act addresses more than a single purpose.</p>
3	<p>Page 2, after line 24, insert a new section—</p> <p>‘3 Consequential amendments to retain existing franchise for Senedd Cymru elections</p> <p>In section 12 of the Government of Wales Act 2006 (c. 32) (entitlement to vote in Senedd elections)—</p>	<p>Amendment 3 inserts a new section in this Bill which amends section 12 of GOWA 2006 (entitlement to vote in Senedd elections).</p> <p>The new section 3(1A) of the 1983 Act, to be inserted by Amendment 2 above, will enable certain prisoners and young people in custody to be registered as local government electors in Wales.</p> <p>The effect of the new section 3(1)(a) in this Bill, inserted by this amendment, is to amend section 12(1)(a) of GOWA 2006 so those entitled to vote at a Senedd election are those who are registered as local</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>(a) in subsection (1)(a), for “or fall within the extended franchise for Senedd elections as described in this section” substitute “, except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c.2)”;</p> <p>(b) omit subsection (1A);</p> <p>(c) omit subsection (1B).’.</p>	<p>government electors in Wales, except those enfranchised for local government elections by the new section 3(1A) of the 1983 Act (i.e. any prisoners or young persons in custody).</p> <p>The new sections 3(1)(b) and (c) in this Bill, inserted by this amendment, omit subsections (1A) and (1B) of section 12 of GOWA 2006 as amended by sections 10 and 11 of the 2020 Act respectively. Sections 10 and 11 of the 2020 Act are no longer necessary; they provided that the extension of the local government franchise to 16 and 17 year olds and qualifying foreign citizens should apply for Senedd elections only (section 10) and (section 11) respectively.</p>
4	<p>Section 3, page 2, after line 33, insert—</p> <p>‘(3) Despite the coming into force of the amendments made by the provisions mentioned in subsection (4) by virtue of section 171(3), they only have effect for the purposes of an election for membership of Senedd Cymru at which the poll is held on or after 5 April 2021.</p> <p>(4) The provisions are—</p> <p>(a) section 2, so far as it has consequential effects on section 12 of the Government of Wales Act 2006 (c. 32);</p> <p>(b) section <i>[inserted by amendment 3]</i>;</p>	<p>Amendment 4 inserts new subsections (3) and (4) in section 3 of this Bill, as introduced, so that the provisions specified in the new subsection (4), although coming into force two months after this Bill receives Royal Assent (by virtue of section 171(3) of this Bill, as introduced), will only have effect for the purposes of a Senedd election held on or after 5 April 2021.</p> <p>The provisions listed in subsection (4)(a) and (b) are those which make consequential changes (by amendments listed above) to section 12 of GOWA 2006 to ensure that the enfranchisement of certain prisoners and young persons in custody does not apply to Senedd elections.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	(c) paragraph 8(3)(b) of Schedule 2.’.	
5	Section 171, page 108, line 18, after ‘2’, insert ‘and [section inserted by amendment 3]’.	<p>Amendment 5 inserts reference to the new section inserted in this Bill by Amendment 3 above into section 171(3)(b) of this Bill (Coming into force).</p> <p>The new section will come into force two months after this Bill receives Royal Assent, but this is subject to section 3 of the Bill (as introduced), as amended by Amendment 4 above.</p> <p>Accordingly, the new section (which concerns consequential amendments to retain the existing franchise for Senedd elections) will only have effect for the purposes of an election to Senedd Cymru, held on or after 5 April 2021.</p>
6	<p>Schedule 2, page 119, after line 10, insert—</p> <p>‘(2) In section 7A (residence: persons remanded in custody etc.)—</p> <p>(a) after subsection (1) insert—</p> <p>“(1A) But this section does not apply to the registration of local government electors in Wales.”;</p> <p>(b) in subsection (6), after “In this section” insert “and section 7AA”.</p> <p>(3) After section 7A insert—</p>	<p>Amendment 6 inserts new provision after paragraph (1) in Schedule 2 to this Bill to make various amendments (as follows) to Part I of the 1983 Act (Entitlement to registration).</p> <p>The new paragraph 2(2) in Schedule 2 to this Bill inserts a new subsection (1A) in section 7A of the 1983 Act (Residence: persons remanded in custody), to the effect of dis-applying section 7A of the 1983 Act for the purposes of registering remand prisoners as local government electors.</p> <p>The amendment to subsection (6) of section 7A of the 1983 Act provides that remand prisoners will be registered as local government electors on the same basis as other prisoners enfranchised by this legislation, for whom the new section 7AA inserted in the 1983 Act by this Amendment will apply.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>“7AA Residence of persons in custody for registration of local government electors in Wales</p> <p>(1) This section applies to the registration of local government electors in Wales.</p> <p>(2) Subsection (3) applies to—</p> <p>(a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and</p> <p>(b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after—</p> <p>(i) being convicted of any offence, or</p> <p>(ii) a finding in criminal proceedings that the person did the act or made the omission charged.</p> <p>(3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person’s residence is not to be taken to have been interrupted by reason of the person’s detention if—</p> <p>(a) the person—</p>	<p>Subsection (3) of this Amendment inserts a new section 7AA into the 1983 Act; the new section makes provision about the residence of persons in custody (adult and young people) for the purposes of their registration as local government electors.</p> <p>Subsection (3) of the new section 7AA provides that the residence of a person in custody (for the purpose of their registration as a local government elector) will be considered not to have been interrupted if (i) they intend resuming residence at a dwelling where they resided before their detention (provided they are not prevented from doing so by a court order); or (ii) they would be resident at a dwelling on a permanent basis but for their detention.</p> <p>Subsection (4) of the new section 7AA provides that the residence of a person in custody will be considered not to have been interrupted if a declaration of local connection is in force for that person, by virtue of their being homeless (in which state they are a person falling within section 7B(2)(c) of the 1983 Act).</p> <p>The new subparagraph (4), inserted in Schedule 2 to this Bill by this Amendment, makes several amendments to section 7B (notional residence: declarations of local connection) of the 1983 Act, as amended by section 19 of the 2020 Act.</p> <p>The amendments in subparagraph (4)(a) amend subsection (2A) (as inserted by section 19 of the 2020 Act) to pave the way for new arrangements in respect of certain declarations of local connection to be inserted by subparagraphs (4)(b) to (4)(g).</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>(i) intends to resume actual residence there when released from detention (other than on temporary release), and</p> <p>(ii) will not be prevented from doing so by an order of any court, or</p> <p>(b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person's detention.</p> <p>(4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if-</p> <p>(a) a declaration of local connection is in force in respect of the person, and</p> <p>(b) the declaration was made by virtue of the person falling within section 7B(2)(c)."</p> <p>(4) In section 7B (notional residence: declarations of local connection)—</p> <p>(a) in subsection (2A)—</p> <p>(i) omit paragraph (a);</p>	<p>Subparagraph (4)(a)(i) of this Amendment omits subsection (2A)(a) of section 7B of the 1983 Act (as inserted by section 19 of the 2020 Act); subsection (2A)(a) provided that a person entitled to make a declaration of local connection by virtue of being a person enabled to make such a declaration by virtue of subsection (2B) of section 7B (as inserted by section 19 of the 2020 Act) had to be under 18 years of age. Subsection (2B) is amended by this Amendment (see below) and the threshold is no longer appropriate for all categories included in the new subsection (2B).</p> <p>Subparagraph (4)(a)(ii) of this Amendment amends subsection (2) of section 7B of the 1983 Act to omit the reference to section 7A of the 1983 Act, which is dis-applied for the purposes of registering as a local government elector by the new subparagraph (2) of Schedule 2 to this Bill, as inserted by this Amendment (see above).</p> <p>Subparagraph (4)(a)(iii) of this Amendment amends subsection (2A)(c) of the 1983 Act (as inserted by section 19 of the 2020 Act) to insert reference to the new subsection (2E) to be inserted in section 7B of the 1983 Act by this Amendment (see below).</p> <p>Subparagraph (4)(b) of this Amendment substitutes a new subsection (2B) in section 7B of the 1983 Act, so the persons specified in the new subsection (2B) may register as local government electors by making a declaration of local connection; namely (i) a person who is under 18 years of age and is a child looked after by a local authority; or (ii) a person being kept in secure accommodation. The requirement that a person in secure accommodation must be under 18 years of age is thereby removed. Secure accommodation is defined in subsection (2D)(b) of section 7B of the 1983 Act as inserted by section 19 of the 2020 Act.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>(ii) in paragraph (b), for “paragraphs (a) to (c)” substitute “paragraphs (a) or (c)”;</p> <p>(iii) in paragraph (c), after “(2B)” insert “or (2E)”;</p> <p>(b) for subsection (2B) substitute—</p> <p>“(2B) The requirements are that the person—</p> <p>(a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or</p> <p>(b) is being kept in secure accommodation.”;</p> <p>(c) omit subsection (2C);</p> <p>(d) after subsection (2D) insert—</p> <p>“(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person—</p> <p>(a) to whom section 7AA applies (persons in custody), and</p> <p>(b) who would not be entitled to be registered as resident at the place in which the person is</p>	<p>Subparagraph 4(c) of this Amendment omits subsection (2C) of section 7B of the 1983 Act so there is no longer any requirement that the Welsh Ministers first specify, in regulations, the circumstances of secure accommodation in which persons are kept.</p> <p>Subparagraph (4)(d) of this Amendment inserts a new subsection (2E) in section 7B of the 1983 Act (as amended by the 2020 Act). The new subsection (2E) enables a person in custody to make a declaration of local connection if they are a person covered by the new section 7AA of the 1983 Act (see above) and they are prevented from registering as a local government elector by section 5(6) of the 1983 Act or are not already enabled to register as a local government elector by virtue of the provisions in the new section 7AA of the 1983 Act.</p> <p>Subparagraph (4)(e) of this Amendment inserts a new subsection (d) in subsection (4) of section 7B of the 1983 Act, so the “required address” (which is the address which constitutes the person’s connection to the area where they seek to be registered as a local government elector) for a person falling within the new subsection (2E) is as specified in the new subsection (4)(d)(i) to (iii) as inserted by this Amendment. Such a person must provide the address at which they would be residing were they not in detention; if they are unable to give such an address, they must give the address at which they were resident immediately before their detention (but this must not be a penal institution) or, if homeless, an address where they spent a substantial part of their time. If they are only able to give an address which is one at which they would be prevented from residing by court order, they must give the address of the principal council in whose area that address is located.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.”;</p> <p>(e) in subsection (4), after paragraph (c) insert—</p> <p>“(d) in the case of a person falling within subsection (2E)—</p> <p>(i) the address in Wales where the person would be residing but for the person’s detention,</p> <p>(ii) if the person cannot give an address under subparagraph (i), the address in Wales at which the person was resident immediately before the person’s detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person’s time (whether during the day or night), or</p> <p>(iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court (“the prohibited address”), an address used by a council of a</p>	<p>Subparagraph (4)(f) of this Amendment amends subsection (7B)(a) of section 7B of the 1983 Act (as inserted by section 19 of the 2020 Act) so the definition of “relevant declaration” includes one made under the new subsection (2E) of the 1983 Act as inserted by this Amendment and so has effect only for the person’s registration as a local government elector.</p> <p>Subparagraph (4)(g) of this Amendment inserts a new subsection (7D) in section 7B of the 1983 Act (as amended by section 19 of the 2020 Act) so a person in custody, in making a declaration of local connection, may not give, either (i) for the receipt of correspondence from the electoral registration officer or the returning officer, or (ii) as the dwelling which constitutes the person’s connection to the area, an address at which they would be prevented from residing because of a court order.</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>county or county borough in Wales in whose area the prohibited address is located.”;</p> <p>(f) in subsection (7B)(a), after “(2A)” insert “or (2E)”;</p> <p>(g) after subsection (7C), insert—</p> <p>“(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court.”.</p>	
7	<p>Schedule 2, page 123, after line 7, insert—</p> <p>‘(b) in paragraph 2 (manner of voting), after sub-paragraph (6) insert—</p> <p>“(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may</p>	<p>Amendment 7 amends paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new sub-paragraph (6ZA) in paragraph 2 of Schedule 4 to the Representation of the People Act 2000 (the 2000 Act). The effect of the new paragraph (6ZA) is that a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act to be inserted by Amendment 2 above, may vote in a local government election by post or by proxy only.</p> <p>Amendment 7 also amends paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new paragraph (e) in paragraph 3(3) of Schedule 4 to the 2000 Act, so a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act to be inserted by Amendment 2 above, is considered to be eligible to vote by proxy (at local government elections only).</p>

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	<p>only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”;</p> <p>(c) in paragraph 3(3) (absent vote at elections for definite or indefinite period)—</p> <p>(i) in paragraph (c) omit the “or” at the end of the paragraph;</p> <p>(ii) at the end of paragraph (d) insert “, or”;</p> <p>(iii) after paragraph (d) insert—</p> <p>“(e) in the case of local government elections in Wales, if the person</p> <p>is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years</p>	

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	capable of voting in local government elections) applies, ”.‘.	
8	Schedule 2, page 123, after line 14, insert— ‘(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person.’”.	Amendment 8 amends Paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new sub-paragraph (5B) in paragraph 6 of Schedule 4 to the 2000 Act (Proxies at elections), so a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act (to be inserted by Amendment 2 above), is not entitled to be a proxy for another voter at a local government election.
9	Schedule 2, page 124, after line 18, insert— ‘(2) Omit sections 10 and 11.’.	Amendment 9 amends Paragraph 16 of Schedule 2 to this Bill, to insert a new sub-paragraph 2. The purpose is to amend the 2020 Act to omit sections 10 and 11 of the 2020 Act. Sections 10 and 11 of the 2020 Act provided for the enfranchisement of 16 and 17 year olds and qualifying foreign citizens and for these extensions to apply for Senedd elections only. Section 2 of this Bill provides for 16 and 17 year olds and qualifying foreign citizens to vote in local government elections also, so sections 10 and 11 of the 2020 Act are no longer necessary.

Agenda Item 4.2

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Mick Antoniwn AM
Chair, Legislation, Justice and Constitution Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

03 March 2020

Dear Mick,

I am writing to update you on the Welsh Government's progress with securing competence for a vacant land tax in Wales. Official level discussions have now concluded, and it was agreed at a recent Joint Exchequer Committee that Welsh Government proposals are sufficiently developed to move to the next stage of the agreed process – a formal request to the UK Government for devolution of the legislative competence in this area.

I have now submitted this request. If agreed by the UK Government, the next step will be for the UK Government to consult on the constitutional implications of devolving this competence to Wales. I will provide a further update on plans for a UK consultation in due course.

Any policy proposals for the introduction of a new tax will be developed once the necessary competence has been devolved, and will be driven by further evidence-gathering and extensive stakeholder engagement. In addition, before any legislation is prepared in this area, a full Welsh Government public consultation and Regulatory Impact Assessment would be carried out

Yours sincerely,

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Agenda Item 4.3



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM

SeneddLJC@assembly.wales

4 March 2020

Dear Mick.

Thank you for your letter of 23 January and for drawing to my attention your experience of recent practice with respect to fulfilling our responsibilities under the inter-institutional relations agreement. It is clear from your account that we have not yet achieved the level of consistency to which we aspire. I have asked officials to take steps to improve this situation as quickly as possible.

In response to your query about the timing of the first Welsh Government report on intergovernmental relations, I can confirm that this will cover the period from April 2019 to March 2020 and will be laid in September.

Yours sincerely,



Jeremy Miles AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

*p.s. can I also apologise for the time it has taken to
reply to your letter*

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Agenda Item 6

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

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