

**Explanatory Memorandum to the Education (Student Finance)
(Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020**

This Explanatory Memorandum has been prepared by Higher Education Division and is laid before Senedd Cymru 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 Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020.

Kirsty Williams
Minister for Education
18 November 2020

PART 1

1. Description

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (“the Regulations”) revoke and replace the Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 and the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) (Amendment) (EU Exit) Regulations 2019.

The 2020 Regulations will make amendments to the following regulations:

- the Education (Fees and Awards) (Wales) Regulations 2007
- the Education (European University Institute) (Wales) Regulations 2014
- the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provisions) (Wales) Regulations 2015
- the Education (Student Support) (Wales) Regulations 2017
- the Education (Postgraduate Masters’ Degrees Loans) (Wales) Regulations 2017
- the Education (Student Support) (Wales) Regulations 2018
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018
- the Education (Student Support) (Postgraduate Masters’ Degrees) (Wales) Regulations 2019.

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

None.

3. Legislative background

The Regulations will be subject to the negative procedure and made using powers under 1 and 2 of the Education (Fees and Awards) Act 1983, sections 22, and 42(6) and 43(1) of the Teaching and Higher Education Act 1998 and sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015

The functions of the Secretary of State in section 1 of the 1983 Act were transferred to the National Assembly for Wales, so far as exercisable in relation to Wales, by National Assembly for Wales (Transfer of Functions) Order 2006 (S.I. 2006/1458) with effect from 8 June 2006. The functions of the Secretary of

State in section 2 of the 1983 Act were transferred to the National Assembly for Wales, so far as exercisable in relation to Wales, by National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The Secretary of State's functions in section 22(2)(2)(a) 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) and are exercisable concurrently with the Secretary of State. The Secretary of State's functions 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 (c. 32).

4. Purpose and intended effect of the legislation

The purpose of the 2020 Regulations is to ensure that existing student finance policy is continued for AY 2020/21 and is not adversely affected by IP completion day. The 2020 Regulations will therefore replicate the provisions in the 2019 Regulations. In addition, the 2020 Regulations will ensure EU nationals, and other groups who are settled under the EUSS, or who are to be treated as such under provisions of the Withdrawal Agreement, the EEA separation agreement and the Swiss citizens' rights agreement are able to access the same support and home fee status as they would have been able to before IP completion day.

The 2020 Regulations will also amend the provisions which relate to the eligibility for student support of those settled in the UK but who exercise a right of residence elsewhere in the EU after IP completion day and then return to the UK and start a course before 1 August 2021. Due to UK nationals no longer being able to exercise this right of residence IP completion day, were the regulations not amended, EU nationals would receive a more favourable treatment than UK nationals. An amendment will ensure that they receive equal treatment.

5. Consultation

Consultation was not undertaken as the purpose of the Regulations is largely to make technical amendments necessary to preserve existing policy.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted. The Regulations make largely technical amendments that are necessary to preserve existing policy.