

EXPLANATORY MEMORANDUM TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2012

The Explanatory Memorandum has been prepared by the Higher Education Division of the Department for Education and Skills and is laid before the National Assembly for Wales under 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 Support) (Wales) Regulations 2012. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Education and Skills

12 December 2012

Description

1. These Regulations are required in order to underpin the higher education student support system for students who are ordinarily resident in Wales (fee grants, fee loans, maintenance grants and maintenance loans) and are taking designated higher education courses in respect of academic years beginning on or after 1 September 2013. These regulations consolidate (with some changes) and replace the existing *Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011 No.886 (W.130)* as amended. The main student support regulations are made on an annual basis.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. These Regulations were previously known as *Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations*. The name has been changed to reflect the fact that the awards of student support are made by the Welsh Government, and not by the National Assembly for Wales.

Legislative Background

3. Section 22 of the Teaching and Higher Education Act 1998 (“the 1998 Act”) provides the Welsh Ministers with the power to make regulations on the payment of financial support to students studying courses of higher or further education designated by the Welsh Ministers. In particular, this power enables the Welsh Ministers to prescribe different categories of student, financial support (grant or loan) and categories of attendance on higher education courses. This provision, together with section 42(6) of the 1998 Act provide the Welsh Ministers with the power to make the Education (Student Support) (Wales) Regulations 2012. Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are transferred and delegated to Welsh local authorities and the Student Loans Company under section 23 of the 1998 Act.
4. This instrument follows the Negative Resolution procedure.

Purpose and intended effect of the legislation

5. The Welsh Ministers make annual regulations governing the higher education student support system. Generally, each set of regulations relates to a particular academic year. These Regulations will consolidate, amend and eventually replace the existing legislation governing academic year (AY) 2012/13 which sets out the student support arrangements for students ordinarily resident in Wales and EU students attending Welsh higher education institutions who are undertaking designated higher education courses. These regulations will govern the 2013/14 academic year and will enable the Welsh Ministers to make awards of grants and loans to eligible students. In amending and replacing the existing

legislation, these Regulations will introduce a number of policy changes together with some technical drafting amendments.

6. The specific policy changes incorporated within the regulations are set out below:

a. Changes in the amounts of tuition fee loans and grants

Students who commenced their studies on or after 1 September 2012 will be entitled to tuition fee support to cover the cost of their course or of up to £9,000 per annum, whichever is smaller. The maximum fee chargeable will be frozen at £9,000. This will consist of an entitlement to a non-means tested tuition fee loan of £3575 and a non-means tested tuition fee grant of £5425. Eligible new system students who are continuing a designated course provided by an institution in Northern Ireland, and who began that course before 1 September 2012, will be able to claim an increased non-means tested tuition fee loan of up to £3575 to reflect the increase in the maximum fees applicable there. For other continuing students the fee support package will remain unchanged.

b. Increases in the amounts of loans and grants for living costs

The grants and loans for living costs will be increased by at least the level of inflation for AY 2013/14. Students who started their studies on or after the 1 September 2012 will be eligible for:

- a maximum means tested maintenance grant of £5,161,
- a maximum maintenance loan of £5,150 (depending on household income) or £7,215 if the student studies in London.

c. Continued entitlement to support for distance learners moving outside Wales during their course

Since academic year 2012/13 full-time distance learner students have been entitled to apply for tuition fee support mirroring that available to other full-time students: that is a tuition fee grant and loan. The regulations have been amended to confirm that if a distance learning student moves outside Wales after the first day of their course, they will continue to be funded by Student Finance Wales. The Secretary of State, through the Department for Business, Innovation and Skills in England has reciprocated, meaning that students ordinarily resident in England who move to Wales during their course will continue to be dealt with by Student Finance England (SFE) for the duration of that course.

d. Change in the title of the NHS bodies at which students can undertake work placements

As a result of the UK Government's reforms to the NHS in England (via the Health and Social Care Act 2012), the NHS Commissioning Board and Clinical Commissioning Groups, the Health and Social Care Information Centre and the National Institute for Health and Care

Excellence have been added to the list of employers/bodies included in the Regulations which take students on for 'unpaid service'. This will enable the students to access support whilst on unpaid service in the new NHS bodies. The Commissioning Boards and CCGs will replace the Strategic Health Authorities and Primary Care Trusts in England, but initially both types of organisations may co-exist.

Implementation

7. This legislation updates the current student support system for academic year 2013/14 and by putting it in place now, it will enable the Welsh Government's delivery partners (the Student Loans Company and Local Authorities in Wales) to implement the system changes in time for the affected students to be paid under the revised system and for the application cycle for academic year 2013/14 to commence early in 2013.

Consultation

8. There is no statutory requirement to consult on these Regulations. However, details of the results of the stakeholder engagement exercise are included in the Regulatory Impact Assessment below.

Regulatory Impact Assessment

9. Options

- **Do nothing** – by not amending the existing Regulations several student groups would be affected.
 - If the fee support were to remain unaltered there would be implications for students attending courses in Northern Ireland where the fees are increasing by £110 per year.
 - In terms of the rises in grants and loans for living costs – if these changes were not made then students would be worse off in real terms as inflation would erode their ability to meet their expenses.
 - If the changes to the administrative provisions surrounding distance learning students were not made then potentially students who moved during their course would not have access to student support.
 - If the changes to the names of bodies within the NHS were not made then Welsh students studying on courses within England undertaking placements within these organisations would not be able to access support, meaning that they may not be able to pursue their course.
- **Make the Legislation** – implementing these Regulations will ensure that the legislative framework is in place for academic year 2013/14.

They will also bring benefits to the categories of students outlined above.

Benefits

11. By making the Regulations the Welsh Ministers are ensuring that the Welsh student support system has a proper underpinning legal framework. The delivery partners will also benefit from the knowledge that they are acting within the requirements of the Welsh legislation. The groups of students directly affected by this amendment will benefit as explained above.

Costs

12. The costs to the Welsh Government will be met from existing budgets.

Competition Assessment

14. The making of these Regulations has no impact on business, charities or the voluntary sector.

Consultation

15. There is no statutory requirement to consult on these Regulations. However, a Student Finance Wales Information Notice relating to the changes outlined above, was issued to all stakeholders and interested parties on 29 September and was open for four weeks. Key stakeholders consulted include:

- HEIs in Wales
- Higher Education Wales
- Further education colleges in Wales
- NUS Wales
- Student unions
- Local authorities in Wales
- Student Loans Company
- Higher Education Funding Council for Wales
- UCAS
- Children in Wales
- National Association of Student Money Advisers
- Student Finance Officers in local authorities, HEIs and further education colleges.

16. The consultation period lasted four weeks. 3 written responses were received – a summary of the consultation responses is at **Annex B**.

Post Implementation Review

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

Summary

18. The making of these Regulations is necessary to establish the basis for, and update aspects of, the higher education student support system for students ordinarily resident in Wales and EU students studying in Wales for the 2013/14 academic year.