

SL(6)310 – The Education (Student Loans) (Repayment) (Amendment) (No. 5) Regulations 2022

Background and Purpose

The Education (Student Loans) (Repayment) Regulations 2009 (the “2009 Regulations”) govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which begin on or after September 1998.

The 2009 Regulations (and subsequent amendments to them) have been made as composite instruments; meaning they have been made by both the Secretary of State and the Welsh Ministers (in relation to Wales).

Various amendments were recently made to the 2009 Regulations via the Education (Student Loans) (Repayment) (Amendment) (No. 4) Regulations 2022 ([SI. 2022/1335](#)) (the “No.4 Regulations”).

These [Regulations](#) have been made in consequence of drafting errors in the No.4 Regulations. The Explanatory Memorandum states:

“An error has been identified in the commencement provisions in the 2002 [sic: *should read “2022”*] No.4 regulations (SI 2022/1335) which means aspects of the instrument relating to the prevailing market rate interest rate cap for Plan 2 (post-2012 undergraduate) and Plan 3 (Postgraduate) student loans may not come into force on 16 January as intended.

This error may create uncertainty and lead to further difficulty when the relevant provision needs amending in February 2023. To rectify this, the 2022 No.5 Regulations will correct the commencement provision”.

Procedure

Composite Negative

The Regulations were made by both the Welsh Ministers and the Secretary of State, before being laid before both the Senedd and the United Kingdom Parliament.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd. The United Kingdom Parliament can also annul the Regulations, in accordance with the rules for annulment that apply to the United Kingdom Parliament.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.



1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

These Regulations have been made as a composite instrument, meaning the Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before both the Senedd and the United Kingdom Parliament. As a result, the Regulations have been made in English only.

The Explanatory Memorandum explains that:

“This composite statutory instrument is subject to the negative resolution procedure. As the regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

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Merits Scrutiny

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

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

13 January 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee