

EXPLANATORY MEMORANDUM TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) (No.2) (AMENDMENT) (No.2) 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 Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) (Amendment) (No.2) Regulations 2012. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Education and Skills

26 April 2012

Description

1. These Regulations are required in order to underpin the higher education student support system in Wales (fee grants, fee loans, maintenance grants and maintenance loans) in relation to full-time students, part-time students, distance learning students and certain postgraduate students for academic year 2012/13. These regulations amend 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. None

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

Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) (Amendment) (No.2) Regulations 2012.

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 amend the existing legislation governing academic year 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 2012/13 academic year and will enable the Welsh Ministers to make awards of grants and loans to eligible students. In amending the existing legislation, these Regulations will introduce a number of policy changes.
6. The specific policy changes incorporated within the regulations are set out below:

a. Full-time Distance Learners

Students commencing full-time distance learning courses, being undertaken in Wales, will, from academic year 12/13, be able to apply for the new tuition fee grant of up to £5,535, as well as a tuition fee loan of up to £3465. Currently these students are only eligible to support equivalent to that provided for part-time students. Full-time distance learning (FTDL) courses provided by publicly funded institutions will also be automatically designated for student support in line with other full-time courses. FTDL courses offered by private providers will remain subject to individual designation on a course by course basis.

b. Prisoners

Welsh prisoners, (that is those who were resident in Wales before their imprisonment), starting full-time courses after 1 September 2012 will be able to access fee support on the same basis as other full-time students starting courses after this date. In order to be defined as eligible, a prisoner will need to have a release date that falls within 6 years of the start date of their course. Prisoners serving a longer or an indeterminate custodial sentence will not be entitled to any fee support. Prisoners will no longer be entitled to a grant for disabled students living costs when enrolling on courses of higher education after 1st September 2012. This is because responsibility for providing the required support has transferred to the prison or other establishment where the student is detained.

c. Course Designation

In order to be automatically designated for student support, all undergraduate courses from 1 September 2012 will be required to lead to a qualification which is granted by a body recognised to award UK degrees i.e. a recognised body or by a body that is permitted to act on behalf of the recognised body in the granting of degrees (i.e. a Listed Body).

d. New Part-time students

Part-time students commencing their courses in academic year 2012/13 will be able to apply for the existing package of student support; that is a means tested fee and course grant. The deadline for the submission of part-time students' applications for support will be extended from six to nine months, beginning with the first day of the academic year in respect of which it is submitted.

e. Compelling personal reasons

The Welsh Ministers will have the discretion to allow a student who has failed to complete a previous course because of compelling personal reasons, to have an additional year added to their period of personal eligibility for support.

Implementation

7. This legislation updates the current student support system for academic year 2012/13 and by putting it in place now, it will enable the 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.

Regulatory Impact Assessment

8. Options

- **Do nothing** – by not amending the existing Regulations several student groups would be affected.
 - Students, (including prisoners) undertaking full-time distance learning courses would still only have access to part-time levels of support, meaning they may be expected to pay substantial up-front fees, if the course for which they applied cost £9,000. In addition, if the current designation procedure for full-time distance learning courses (at publicly funded institutions) is retained, the chance to reduce bureaucratic arrangements within the higher education sector and government will be lost. The move towards automatic designation for most full-time distance learning courses will also bring those courses within the scope of the fee planning obligations/ access arrangements in the same way as mainstream full-time courses.

- Prisoners would be unable to claim support in relation to full time distance learning courses, which are likely to attract large fees from academic year 2012/13. In addition, the current support would not be restricted to those prisoners with a release date falling within 6 years of the start date of their course. Without a time limited condition there would be less opportunity to safeguard and ensure the most efficient use of public funds. This is because student support funding would not be targeted at the HE study which is most likely to support ex-offenders in re-entering employment or additional training. Consequently, without this amendment the chances of any fee loans being repaid would also be reduced, as prisoners qualifying for support would be less likely to enter the repayment system .
 - If the provision for new part-time students is not made then only continuing part-time students will be supported in academic year 12/13. Part-time students would also continue to be subject to a shorter application deadline than full-time students.
 - If the additional discretion surrounding compelling personal reasons was not included there would be a continued risk of a small number of students being unable to pursue their studies and complete their course, arguably through no fault of their own.
- **Make the Legislation** – implementing these Regulations will ensure that the legislative framework is in place for academic year 12/13. 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 25 July and was open for four weeks. No responses were received.
16. The delivery partners and student advice bodies were further consulted on 1 November at a partnership event, and will be notified of the legislation having been made via further Student Finance Wales Information Notices.

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 2012/13 academic year.