

## **Explanatory Memorandum to The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2021**

This Explanatory Memorandum has been prepared by the 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 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 2021. I am satisfied that the benefits justify the likely costs.

Kirsty Williams  
Minister for Education  
26 January 2021

## **Part 1**

### **1. Description**

The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2021 ('the 2021 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 2018 ('the Doctoral Regulations'); and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the Master's Regulations').

The 2021 Regulations amend existing student support regulations to:

- increase the amount of undergraduate and postgraduate student support;
- consolidate certain Disabled Student Grants into a single new allowance; and
- accommodate changes to the Common Aggregation Hierarchy applied to the HECoS subject coding framework.

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

There are no matters of special interest arising.

### **3. Legislative background**

The 2021 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. This power enables the Welsh Ministers to prescribe, amongst other things, 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 to the National Assembly for Wales, so far as exercisable in relation to Wales, by 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 2019 Master's Regulations provide for financial support for students taking designated postgraduate Master's courses which begin 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 2021 Regulations amend existing student support regulations as outlined below:

Increase the amount of undergraduate and postgraduate student support (uplifts)

In the case of uplifts, the 2021 Regulations apply to academic years beginning on or after 1 August 2021 and provide for the routine annual uprating of support amounts, as set out below.

### *Undergraduate*

The 2021 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 overall amount of Disabled Student's Grant available to new and continuing students ordinarily resident in Wales;
- to **increase** the amount of Grants for Dependants available to new and continuing students ordinarily resident in Wales by the projected rate of inflation – 3.05 per cent;
- 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 2021 (National Living Wage hourly rate £9.20);
- 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 the projected rate of inflation to reflect cost of living increases; 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 the projected rate of inflation so that overall tuition fee support is unchanged, in line with established policy.

### *Postgraduate*

The Master's Regulations are amended to increase the overall amount of support by the projected rate of inflation from £17,489 to £18,025, by increasing the maximum amount of loan. This will apply to new students only, those starting courses on or after 1 August 2021. 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 £26,445 to £27,265. Doctoral support is loan only. Again, this will be for new students only, starting courses on or after 1 August 2021.

### Consolidate certain Disabled Students' Grants (DSGs) into a single new allowance

The 2021 Regulations will combine three of the four allowance categories currently available to students into one overall allowance with a single financial limit. The three categories being combined are: non-medical personal helper allowance, specialist equipment and general allowance for other disability related expenditure. The categories will remain for the purposes of identifying support. Travel will be retained as a separate allowance with no predefined cap, as it currently operates.

The cap on the new allowance (excluding travel) for 2021/22 will be £31,831. This cap is the same for full-time or part-time students studying at undergraduate and postgraduate level. The support available to postgraduate students is then aligned with that available to undergraduate students recognising that there is very little, if any, difference between the costs of the barriers faced by each. Part-time support is also aligned with the full-time equivalent, again ensuring parity for all disabled students.

New and continuing students will benefit from the changes from 2021/22. In addition, a minor amendment is required to ensure that students who become eligible after the start of the academic year qualify for support from the date on which they become an eligible student.

### Accommodate changes to the Common Aggregation Hierarchy applied to the HECoS subject coding framework

The 2018 Regulations provide, for courses beginning on or after 1 August 2018, for a part-time student to be eligible for support despite having attained a first degree from a UK institution if studying one of the subjects listed in regulations. Similar provision is made in the 2017 Regulations for courses beginning before 1 August 2018.

The exempt subjects are defined using the Higher Education Classification of Subjects and the Common Aggregation Hierarchy which provides groupings of subject areas within that classification. The Common Aggregation Hierarchy is revised from time-to-time and has recently updated from version 1.2 to 1.3.3. As such, regulations need amending. The changes preserve existing policy.

## **5. Consultation**

No consultation has been undertaken for the Uplifts and the HECoS changes.

A public consultation on the changes to DSGs was undertaken and a summary of responses is publicly available on the Welsh Government website -

<https://gov.wales/changes-disabled-students-allowances>

The responses to the consultation were largely supportive of the proposed changes.

## **6. Regulatory Impact Assessment**

An RIA has been conducted for the 2021 Regulations.

### **Options**

#### *Option 1: Business as usual*

If the 2021 Regulations are not made the implication is that the value of student support will decrease in real terms, leaving students to bear the cost of this 'reduction'; the courses in respect of which part time students may be entitled to support under the 2017 and 2018 regulations will not reflect current policy; and the current system of DSG allowances will remain. With regards to DSGs, this means that there will still be disparity between full time and part time students and students will remain restricted in the amounts they can spend on particular services, which could potentially hinder their learning.

#### *Option 2: Make the Regulations*

Making the 2021 Regulations ensures that the consequences outlined above are avoided and the legislative framework correctly reflects the Welsh Ministers' policy for student 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 2021 Regulations the Welsh Ministers ensure that the Welsh student support system is underpinned by an appropriate 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 commitment to fund student support in line with student support regulations will form part of the 2021-22 budget process and this funding will be prioritised against the Higher Education divisional budgets.

The final budget for the 2020-21 financial year (for information purposes) was as follows:

<b>Budget</b>	<b>£m</b>
Student Support Grants (BEL 4704)	390.742
Student Loans AME (BEL 4713)	863.631
Student Loans RAB Charge (BEL 4707)	106.849
<b>Total</b>	<b>1,361.222</b>

The budget required to support the revised DSG support allowances will be covered by the standard student support finance for financial year 2021-22. The effect of these changes is not expected to exceed £1.7m.

### **Competition Assessment**

The making of the 2021 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 2021 Regulations is necessary to update aspects of the higher education student support system for students ordinarily resident in Wales in the 2020/21 academic year.