



Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

20 June 2019

Dear Mick,

The Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (EU Exit) Regulations 2019

I intend to lay the above regulations in the National Assembly on or around 24 June 2019. The regulations will ensure support for all students, including EU students, under the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ("the Master's Regulations") continues uninterrupted after the UK leaves the EU. The regulations will be subject to the negative procedure and will be made using powers under the Teaching and Higher Education Act 1998 rather than the European Union (Withdrawal) Act 2018 ("the Withdrawal Act"). I thought a note in advance of the regulations being laid setting out the reasons why these regulations are being made under those powers rather than under the Withdrawal Act would assist you. The same approach was taken for the Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, which I wrote to you about on 21 February 2019.

Student support has been made available by the Welsh Ministers to postgraduate Master's students from the EU since 2017. A student who falls into certain residence categories will, subject to meeting other criteria, be eligible for support from the Welsh Ministers. The policy of the Welsh Ministers to support these students is not directly affected by the UK's exit from the EU. I issued a Written Statement on 2 July 2018 to announce a continuation of existing policy for the 2019/20 academic year.

The Master's Regulations employ various territorial descriptions and references to the EU and EEA and nationals of both. As the UK exits the EU, technical amendments are required

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Kirsty.Williams@llyw.cymru
Correspondence.Kirsty.Williams@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

to ensure the language of the legislation will continue to implement existing policy effectively.

Paragraph 1(1) of Schedule 2 to the Withdrawal Act contains a power for the Welsh Ministers to make regulations to “prevent, remedy or mitigate” any failure of “retained EU law” to operate effectively arising from the UK’s withdrawal from the EU. There is an argument to be made that the proposed amendment regulations should be made under this power. However, I believe that the usual education law powers cited above are more appropriate for these purposes.

No new policy is being introduced and the proposed regulations will not do anything to recreate or replace EU law in domestic legislation. These amendments are in line with other technical amendments routinely made to student finance legislation using the cited powers.

An important consideration in this decision was accessibility of the law. The Committee noted the importance of maintaining the accessibility of the law in the EU Exit SI programme in its report on scrutiny of legislation to leave the EU. Student support legislation is extremely complex and often amended. Regulations made under the Withdrawal Act will not be directly connected to education legislation, making discovery of the appropriate legislation more difficult than it ought to be for the public. Equally, in terms of accessibility, the title of the regulations will include “EU Exit” therefore making it clear that there is a link to the departure of the UK from the EU.

I hope this assists your Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams', is centered on the page. The signature is fluid and cursive, with a large initial 'K'.

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education