

**Explanatory Memorandum to the Education (Student Support)  
(Miscellaneous Amendments) (Wales) Regulations 2020**

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales 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 2020.

Kirsty Williams AM  
Minister for Education  
February 2020

## **Part 1**

### **1. Description**

The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020 ('the Regulations') amend:

- the Education (Student Support) (Wales) Regulations 2017 ('the 2017 Regulations');
- the Education (Student Support) (Wales) Regulations 2018 ('the 2018 Regulations'); and
- the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the Master's Regulations').

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

The Regulations will come into force on 2 March 2020, before 21 days have elapsed since laying. The Minister for Finance and Trefnydd has written to the Llywydd as required by Section 11A(4) of the Statutory Instruments Act 1946. The coming into force date will enable the student finance application process for the 2020/21 academic year to launch without delay.

### **3. Legislative background**

The 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. In particular, this power enables the Welsh Ministers to prescribe 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, so far as exercisable in relation to Wales, to 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 Master's Regulations make provision for those studying designated postgraduate Master's courses which began on or after 1 August 2019.

The Regulations apply to academic years beginning on or after 1 August 2020 and provide for certain technical amendments, as set out below.

The 2017 Regulations, the 2018 Regulations and the Master's Regulations provide for the calculation of household income to be used in means testing certain elements of support. Under the 2017 Regulations and 2018 Regulations, students applying for full-time and part-time maintenance grants and grants for students with adult and child dependants qualify for support depending on their household income. Similarly, students applying for a contribution to costs grant under the Master's Regulations have their income assessed, and support is provided accordingly. For most students this is based on the taxable income of the student's parents or, where the student's parents have separated, the taxable income of the more appropriate parent (usually the parent with whom the student normally lives) and, where applicable, that

parent's partner. Where the income for the current financial year falls by at least 15% compared to the income provided for the prior financial year (the financial year ending in the calendar year before the academic year for which the student is applying for support), income can be reassessed. The Regulations make it explicit that the income of both parents, or the more appropriate parent and their partner, is taken into account to determine whether such a reassessment should take place.

An issue with the provision for eligibility of students on 'end-on' courses in the 2017 Regulations has been corrected. An end-on course is one which a student undertakes after completing a lower level higher education course. Special treatment is required to ensure the period of eligibility is adequate for the student to complete their end-on course. The definition of an end-on course is amended to enable students who started a preceding course in academic year 2017/18 to continue to be eligible for support for their end-on course in accordance with longstanding policy.

## **5. Consultation**

There is no statutory requirement to consult on the Regulations.

## **6. Regulatory Impact Assessment**

The Regulations provide for two minor technical amendments to ensure the correct operation of the legislation. The amendments do not have a major policy impact. The Welsh Ministers' regulatory impact assessment code for subordinate legislation provides for an exception to the policy of carrying out a Regulatory Impact Assessment in such cases.