

EXPLANATORY MEMORANDUM TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2017

The Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales under Standing Order 27.1.

Cabinet Secretary's declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Support) (Wales) Regulations 2017. I am satisfied that the benefits justify the likely costs.

Kirsty Williams
Cabinet Secretary for Education
23 January 2017

Description

The Education (Student Support) (Wales) Regulations 2017 ('the Regulations') provide the basis for the system of financial support for students who are ordinarily resident in Wales and taking designated higher education courses in respect of academic years beginning on or after 1 September 2017. Support includes fee grants, fee loans, maintenance grants and maintenance loans.

Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

Legislative background

Section 22 of the Teaching and Higher Education Act 1998 ('the 1998 Act') 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 amount of financial support (grant or loan) and categories of attendance on higher education courses. This provision, together with sections 42(6) and 43(1) of the 1998 Act, provide the Welsh Ministers with the power to make the Education (Student Support) (Wales) Regulations 2017.

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)(a), (c), (j) or (k), (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) to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under sections 42(6) and 43(1) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 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 (c.32).

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 is made by the negative resolution procedure.

Purpose and intended effect of the legislation

The Welsh Ministers make regulations annually to provide the basis for the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education. The Regulations apply to courses beginning on or after 1 September 2017 and introduce a number of changes to student support, as set out below.

Changes to the amount of tuition fee loans and grants

The fee which full-time students will be expected to pay will depend upon where and what they choose to study. The maximum fee which higher education institutions in Wales will be able to charge in 2017/18 is £9,000, and up to £9,250 in the rest of the United Kingdom.

Students ordinarily resident in Wales who study on a designated course where they are charged up to £9,250 will be able to apply for a non means-tested fee loan of up to £4,296, to cover all or part of their tuition fee. These students will also be eligible to apply for a non means-tested fee grant of up to £4,954.

Students ordinarily resident in Wales who study on a designated course where they are charged up to £9,000 will be able to apply for a non means-tested fee loan of up to £4,046. These students will also be eligible to apply for a non means-tested fee grant of up to £4,954.

Changes to the amount of support for living costs

The total amount of support for living costs – grant and loan – available to students ordinarily resident in Wales is to increase by 10%. The amount of means tested grant available and the associated income thresholds are frozen at 2016 levels and the loan element will consequentially increase. The table below summarises.

Table 1

Proposed maintenance support available in 2017/18 and increase from 2016/17

INCOME (£)	WELSH GOVERNMENT LEARNING GRANT (£)	MAINTENANCE LOAN (£)	TOTAL GRANT PLUS LOAN (£)	Difference from current total support
Student studying outside London		Maximum £6,922		
18,370	5,161	4,342	9,503	8%
20,000	4,715	4,565	9,280	9%
25,000	3,347	5,249	8,596	9%
26,500	2,936	5,454	8,390	10%
30,000	2,099	5,873	7,972	10%
34,000	1,142	6,351	7,493	11%
40,000	734	6,555	7,289	11%
45,000	393	6,726	7,119	12%
50,020	50	6,897	6,947	12%
50,753	0	6,922	6,922	12%
55,000	0	6,073	6,073	14%
59,099	0	5,191	5,191	12%

Equivalent level qualification exemption for part time study

Students are not normally eligible for support if they have an equivalent level qualification to the one they propose to study. For example, those with a first degree would not ordinarily be supported to undertake another degree. This ensures that support is targeted at those without higher level qualifications.

The Regulations will enable those with equivalent level qualifications to study certain subjects on a part time basis. The subjects exempted are Engineering, Technology or Computer Science, Subjects Allied to Medicine, Biological

Sciences, Veterinary Sciences, Agriculture and Related Subjects, Physical Sciences, Mathematical Sciences, and Welsh. This is designed to encourage the take-up of these courses, especially among those working in relevant economic sectors but who lack appropriate higher level qualifications.

Course designation

Courses of higher education are designated by the Welsh Ministers where they are substantially provided in the United Kingdom. The Regulations now provide that a course is substantially provided in the United Kingdom where at least half of the teaching and supervision which comprise the course is provided in the UK.

The Regulations have also been updated to reflect:

- the policy underpinning the Higher Education (Wales) Act 2015, so that courses delivered by a regulated institution (an institution with an approved fee and access plan) are automatically designated for student support by the Regulations;
- a change in policy in England in which the courses of authority funded providers (providers funded by the Higher Education Funding Council for England), rather than the courses of publicly funded providers, are now automatically designated by the Secretary of State; and
- a policy change to ensure that franchised courses delivered by providers with charitable status on behalf of regulated institutions in Wales, authority funded providers in England or publicly funded providers in Scotland and Northern Ireland are automatically designated.

References to certain courses for the training of teachers have been identified as redundant and removed. The particular type of course no longer exists.

ERASMUS

The Erasmus programme is an EU exchange student programme that has been in existence since the late 1980s. Its purpose is to provide foreign exchange options for students from within the European Union. Students can go abroad for three to twelve months. Students must be registered at a higher education institution and enrolled on a course leading to a recognised degree or other recognised tertiary level qualification (up to and including the level of doctorate). The moves are carried out in the framework of prior inter-institutional agreements between the sending and receiving institutions, both

of which must be holders of the Erasmus Charter for Higher Education (if located in a Programme country).

Historically, this scheme attracted a fee waiver throughout the UK, meaning that the sending Higher Education Institution (HEI), didn't charge the student a fee for the time they were abroad, but were compensated by their respective funding council. These arrangements changed in 2012, except in Scotland, which maintained the fee waiver. The Scottish government has decided to no longer fund the fee waiver, meaning students ordinarily resident in Wales but participating in this programme of study through a Scottish university will now be subject to a fee of up to £1,350 for any Erasmus year that commence on or after 1 August 2017.

The Regulations make provision for a tuition fee grant and loan of up to £1,350 in these circumstances, to maintain the longstanding policy of no upfront fees for students.

Currency exchange rates

When household income is assessed, for most students, the taxable income used to calculate the residual income for student support is the total income charged to income tax as determined by section 3 of the Income Tax Act 2007. Where a student's parents receive taxable income in the currency of another EU member state, it has been converted into Pounds Sterling using the sterling value of that income in accordance with the rate, as published by the Office of National Statistics (ONS). The ONS no longer publishes conversion tables from EU currencies into Pounds Sterling.

The Regulations make provision for Her Majesty's Revenue and Customs' Foreign Exchange Rate data to be used instead.

Armed forces personnel on distance learning courses

Students undertaking a distance learning course with a UK higher education provider must be ordinarily resident in Wales on the first day of the first academic year of that course in order to qualify for fee support.

The Regulations enable members of the UK Armed Forces serving overseas, or their family members living with them, who continue to undertake a full-time or part-time designated distance learning course from 1 September 2017/18 to qualify for fee support.

Further, students who are obliged to incur essential additional expenditure whilst undertaking a course of higher education as a result of a disability qualify for disabled students' allowances (DSAs) for their distance learning course. However, if the student no longer resides in the UK, then their fee and DSA support will cease. The Regulations ensure that this will not apply to armed forces personnel or their family members.

This change is consistent with the underlying principle of the Armed Forces Covenant that serving members of the armed forces and their families, veterans and bereaved families, should face no disadvantage compared to other citizens in the provision of public and commercial services.

Removal of provisions relating to students who commenced study prior to academic year 2010/11

Certain provisions in the Regulations applied only to a cohort of students who commenced study prior to academic year 2010/11. There are no remaining students in this cohort and the Regulations are changed accordingly.

IMPLEMENTATION

The Regulations provide the basis for the implementation of the Welsh Ministers policy for student support for academic year 2017/18, enable the Welsh Government's delivery partner (the Student Loans Company) to implement system changes, and allows applications for support to commence early in 2017.

CONSULTATION

There is no statutory requirement to consult on these Regulations. However, two public consultations were undertaken in connection with the Regulations (*Support for foundation years (WG28123)* and *Support for postgraduate study and part-time engineering, technology or computer science degrees (WG27990)*).

Further, in line with usual practice, engagement with stakeholders was undertaken late in 2016, in the form of a six week consultation via a Student Finance Wales Information Notice.

A summary list of stakeholders invited to respond to the consultations is at annex A.

REGULATORY IMPACT ASSESSMENT

Options

Option 1: Do nothing

In the event of the Regulations not being made the principal implications are:

- a large number of students may be affected by the increase in tuition fees in England, and would need to find resource to meet them;
- there would be no increase in maintenance support, leaving students worse off than they might otherwise be;
- students undertaking an Erasmus year through a Scottish University may face upfront fees and need to find resource to meet them;
- improved policy in respect of supporting armed forces personnel serving overseas would not be implemented; and
- a number of courses that currently attract student support may no longer do so.

Option 2: Do minimum – make the Regulations

Making the Regulations ensures that the problems noted above are avoided, the legislative framework reflects the Welsh Ministers' policy for student support, and students are able to apply for appropriate support.

Costs and benefits

Option 1: Do nothing

Leaving the previous regulations (the Education (Student Support) (Wales) Regulations 2015, as amended) in place would mean no additional costs are incurred via the student support system. However, this would leave a large proportion of students worse off, providing a material disincentive to undertaking a higher education. This contradicts the Welsh Ministers' policy to widen access to higher education.

Option 2: Do minimum – make the Regulations

By making the Regulations the Welsh Ministers ensure that the Welsh student support system has a proper underpinning legal framework and that their commitments to higher education and students can be met. The Regulations will reflect current policy. Students who are ordinarily resident in Wales will

benefit from the Regulations through the availability of increased student support for tuition fees and living costs.

The changes outlined relating to the designation of courses, Erasmus and ELQ are expected to have no or minimal financial implications for the Welsh Government.

The proposed changes to maintenance support will require the provision of additional loans from Her Majesty's Treasury. The estimated cost of the additional support in 2017-18 is £24.4m. In addition the Government subsidy on the provision of loans (Resource Accounting and Budgeting (RAB) charge, or non cash) will increase by £4.6m in 2017-18.

The proposed changes to fee support will require the provision of additional loans from Her Majesty's Treasury. The estimated cost of the additional support is an £4.8m in loans for the 2017-18 (additional £0.4m in RAB).

COMPETITION ASSESSMENT

The making of these Regulations has no wider impact on the competitiveness of businesses, charities or the voluntary sector.

POST IMPLEMENTATION ASSESSMENT

The main 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 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 in the 2017/18 academic year.

Annex A – List of Consultees

Higher education institutions

Universities Wales

Further education colleges in Wales

Colegau Cymru/College Wales

NUS Wales

Student Loans Company

Higher Education Funding Council for Wales (HEFCW)

UCAS

NIACE

NASMA

Charities and other representative organisations with an interest in higher education