

**EXPLANATORY MEMORANDUM TO THE EDUCATION (POSTGRADUATE
MASTER'S DEGREE LOANS) (WALES) (AMENDMENT) REGULATIONS
2017**

The 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.

Cabinet Secretary's declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Postgraduate Master's Degree Loans) (Wales) (Amendment) Regulations 2017.

Kirsty Williams AM
Cabinet Secretary for Education

30 June 2017

Description

These Regulations make amendments to the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017 ("the 2017 Regulations") which provide the basis for the provision of financial support for students who are ordinarily resident in Wales and taking designated higher education courses which lead to a postgraduate Master's degree in respect of academic years beginning on or after 1 August 2017.

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 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 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 (Postgraduate Master's Degree Loans) (Wales) (Amendment) 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).

This instrument is made by the negative resolution procedure.

Purpose and intended effect of the legislation

These Regulations amend the 2017 Regulations which provide for the making of loans to students who are ordinarily resident in Wales for postgraduate master's degree courses which begin on or after 1 August 2017.

In amending the existing legislation, Regulation 3 introduces a policy change which enables the Welsh Ministers to deem a person who has previously received a postgraduate loan from a government authority in the United Kingdom to be eligible for support if the person was unable to complete the course due to compelling personal reasons. The Welsh Ministers already had the benefit of this discretion pursuant to Regulation 3 of the 2017 Regulations in respect of persons who had received an earlier loan under the 2017 Regulations, but had not been able to complete the designated course. Regulation 3 of the 2017 Regulations is replaced by virtue of these amending Regulations to cover both instances.

The Regulations also correct a typographical error (regulation 4). A further typographical error is corrected and syntax improved (regulation 5).

IMPLEMENTATION

This legislation updates the current postgraduate student support system for academic year 2017/18.

CONSULTATION

These Regulations amend the 2017 Regulations to correct typographical and grammatical errors, and extend the Welsh Ministers' existing discretion to deem a person who has previously had a postgraduate loan eligible for another loan in certain limited circumstances, so as to also encompass such loans provided by a government authority within the United Kingdom. As such, the impact is limited and no consultation is required.

REGULATORY IMPACT ASSESSMENT

A Regulatory Impact Assessment has not been undertaken as the Regulations do not have a major policy impact. As noted above, the Regulations provide for technical amendments required to correct typographical errors, and extend an existing power of the Welsh Ministers, neither of which have a major impact.