Explanatory Memorandum to the Education (Student Finance) (Amounts) (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 Finance) (Amounts) (Miscellaneous Amendments) (Wales) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM
Minister for Education
13 Februray 2020

Part 1

1. Description

The Education (Student Finance) (Miscellaneous Amendments) (Wales) (No. 2) 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');
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations ('the doctoral 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 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 doctoral Regulations make provision for those studying designated doctoral courses which began on or after 1 August 2018.

The Regulations apply to academic years beginning on or after 1 August 2020 and provide for the routine annual uprating of support amounts, as set out below.

The 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 amount of Disabled Student's Grant available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales by the projected rate of inflation – RPIX – of 2.88 per cent;

- to **increase** the amount of Grants for Dependants available to new and continuing students (i.e. all cohorts) ordinarily resident in Wales to match those available in England, a greater than inflationary increase;
- 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 2019;
- 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 RPIX; 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 RPIX so that overall tuition fee support is unchanged.

In addition, Table 2 of the 2018 Regulations is amended to reflect the correct rate of Category 4 fee support (£3,080) for students attending courses at private institutions in Scotland.

The Master's Regulations are amended to **increase** the amount of support by RPIX from £17,000 to £17,489. This will be achieved by increasing the amount of loan. This will apply to new students only, i.e. those starting courses on or after 1 August 2020. 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 £25,700 to £26,445. Doctoral support is loan only. This is for new students only.

5. Consultation

There is no statutory requirement to consult on the Regulations.

Part 2

Regulatory Impact Assessment

Options

Option 1: Business as usual

In the event of the Regulations not being made the principal implications is that students eligible for support under 2017 Regulations, the 2018 Regulations, the Master's Regulations and the doctoral Regulations would see a reduction in the real value of their support.

Option 2: Make the Regulations

Making the Regulations ensures that the implication noted above is 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: 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 Regulations the Welsh Ministers ensure that the Welsh student support system has a proper underpinning 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 budget for student support in the 2019-20 and 2020-21 financial year is provided for information and comparison.

Budget	2019-20 (£m)	2020-21 (£m)
Student Support Grants	425.742	390.742
Student Loans AME	687.483	766,989
Student Loans RAB	106.849	106.849
Total	**1,220.074**	**1,264.580**

AME = Annually Managed Expenditure, RAB = Resource Accounting and Budgeting Charge

Competition Assessment

The making of the 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 Regulations is necessary to establish the basis for, and update aspects of, the higher education student support system (and connected matters) for students ordinarily resident in Wales and EU students studying in Wales in the 2020/21 academic year.