

EXPLANATORY MEMORANDUM TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES)(AMENDMENT) REGULATIONS 2008.

The Explanatory Memorandum has been prepared by the Funding and Student Finance Division and is laid before the National Assembly for Wales under Standing Order 24.1.

Description

1. These Regulations are required to amend the existing *The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008 (No.1273 (W.130))*, which came into force on 30 May 2008 (“the main regulations”) The main regulations are made on an annual basis to underpin the higher education student support system in Wales.

Matters of special interest to the Subordinate Legislation Committee

2. None

Legislative Background

3. These Regulations are made under the Teaching and Higher Education Act 1998. Most of the functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(c.79)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159)(C.56)) refers. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30 (1) and 30(2)(a) of Schedule 11 of the Government of Wales Act 2006 (c.32).

4. This instrument will follow the Negative Resolution procedure.

Purpose and intended effect of the legislation

5. The Welsh Assembly Government makes annual regulations governing the student support system. These Regulations will amend the existing legislation governing the student support arrangements for students ordinarily resident in Wales and for EU students attending Welsh HEIs in designated higher education courses in the 2008/09 academic year.

6. These Regulations will update the main regulations by introducing a limited number of policy and technical drafting amendments to the existing legislation.

7. The specific policy changes incorporated within the draft legislation are set out below:

- a) **Part-time** - alignment of the targeted support package with the package available to full-time students, in response to a recommendation of the Graham Report. This will result in the introduction of the means-tested Childcare Grant, Adult Dependents' Grant and Parents' Learning Allowance for eligible part-time students studying an average of at least 60 credits (50% FTE). The costs of this change equate to £3.6m (split as £2.4m in FY 2008-09 and £1.2m in FY 2009-10);
- b) **Prisoners** – the amendment will enable students to receive pro-rated maintenance support for those who only spend part of the academic year in prison. The associated costs of this change are thought to be negligible and can be absorbed within the existing demand-led budgets;
- c) **Residency** – to amend the legislation so that students who leave Wales to exercise a right of residence in the EEA or Switzerland are treated as if they are ordinarily resident in Wales for student support purposes, regardless of where they reside in the UK for 3 years after return. Similar changes are also being made by the other UK administrations and will ensure UK wide compliance with EC law. After assessment any associated costs are felt to be negligible and can also be absorbed within the existing demand-led budgets.

Implementation

9. The legislation updates the 2008/09 student support system and needs to be in place in before the start of the 2008/09 academic year (1 September). The delivery partners (the Student Loans Company and the local authorities) have been consulted and informed of the intended changes so that they have been able to take these into consideration when assessing a student's entitlement.

10. Except for the part-time aspects and some minor technical amendments, similar changes have recently been made by the Department of Innovations University and Skills (DIUS) and this legislation is necessary to ensure parity of treatment across the UK for students who fall under various eligibility requirements.

Consultation

11. There is no statutory requirement to consult on these Regulations. However the part-time changes were included in the main consultation exercise for the 2008 Regulations and the details are referred in paragraph 18.

Regulatory Impact Assessment

Options

12. **Do nothing** – by not amending the existing 2008 legislation (the main regulations) to include the residency changes, it could potentially open the way for legal challenge as the UK as a whole would then be in breach of EC law. In addition, part-time students and students who spend part of a year in prison would be disadvantaged.

13. **Make the Legislation** – implementing these amendment Regulations will ensure that the proper legislative framework is in place and that EC compliance is achieved. They will also provide for Part-time students to be eligible for additional targeted support and relevant prisoner students will be eligible for a pro-rated amount of maintenance support.

Benefits

14. By making the Regulations Welsh Ministers will benefit from the assurance that the Welsh student support system has a proper legal framework and are covered against the possibility of legal challenge. The delivery partners will also benefit from the knowledge that they are acting within the requirements of the Welsh legislation. Students will benefit as the extended rules for eligibility will be defined.

Costs

15. The individual costs associated with each technical policy change are set out in paragraph 7. The total cost to the Welsh Assembly Government of the changes contained within the draft legislation equate to £3.6m (split as £2.4m for the FY 2008-09 and £1.2m for the FY 2009-10) and can be met from existing budgets. Therefore, there are no additional financial implications for the DCELLS MEG or the Welsh Ministers.

16. The delivery agents (the Student Loans Company and the local authorities) annually make assessments and payments of the loans and grants to students as specified by the relevant legislation. There are no additional burdens on the delivery agents created by the changes incorporated within the enclosed draft Regulations.

Competition Assessment

17 The making of these Regulations has no impact on business, charities or the voluntary sector.

Consultation

18. The part-time changes were included in the main consultation covering the 2008 Regulations which took place between 17 September and 26 October 2007, when 15 responses were received. Annex A provides a list of

the consultees and summary of the comments received on the part-time proposals is attached as annex B. The consultees were fully in support of the changes and the technical questions which were raised have since been addressed and stakeholders notified as part of the implementation phase.

19. The delivery partners and student advice bodies will be notified of the further amendment legislation via Student Finance Wales Information Notices.

Post Implementation Review

20. The main regulations governing the student support system are made annually and are continually subject to detailed review, both by policy officials and by the delivery partners in their practical implementation of the Regulations. Due to the alignment of the student support system with the UCAS timetable the 2009/10 legislation is scheduled to be in place by December 2008 and work on these regulations is currently underway.

Summary

21. The making of these Regulations results in a £3.6m cost to the Welsh Assembly Government in order to implement a package of targeted support for part-time students. The legislation is also necessary to update the eligibility criteria and to amend the higher education student support system in Wales for the 2008/09 academic year.

List of consultees

Further Education Institutions

Barry College
Bridgend College
Ceredigion College
Coleg Glan Hafren
Deeside College
Gorseinon College
Gwent College
Coleg Harlech
Llandrillo College
Llysfasi College
Coleg Menai
Coleg Meirion-Dwyfor
Merthyr Tydfil College
Coleg Morgannwg
Neath Port Talbot College
Pembrokeshire College
Powys College
Coleg Sir Gar
St David's College
Swansea College
Swansea Institute of Higher Education
Trinity College
Yale College, Wrexham
Ystrad Mynach College
Welsh College of Horticulture
Welsh College of Music and Drama

Higher Education Institutions

University of Wales, Aberystwyth
University of Wales, Bangor
Cardiff University,
University of Wales Institute Cardiff
University of Glamorgan
University of Wales, Lampeter
University of Wales, Newport
North East Wales Institute of Higher Education
University of Wales, Swansea
Open University

Local Authorities

Anglesey Council
Blaenau Gwent Council
Bridgend Council
Caerphilly Council
Cardiff Council
Carmarthenshire Council
Ceredigion Council
Conwy Council
Denbighshire Council
Flintshire Council
Gwynedd Council

Merthyr Council
Monmouthshire Council
Newport Council
Neath Port Talbot Council
Pembrokeshire Council
Powys Council
Rhondda Cynon Taff
Swansea Council
Torfaen Council
Vale of Glamorgan Council
Wrexham Council
Welsh Local Government Association

Organisations

AMMOSHE
Care Council for Wales
fforwm
NUS Wales
Student Loan Company
NASMA
HEFCW
UKCISA
Citizens Advice Cymru

Consultation Exercise

Set out below is a summary of the responses received on the part-time proposals to align the targeted grant support with that available to full time students. This will result in the introduction of the means-tested Childcare Grant, Adults Dependants' Grant and Parents' Learning Allowance for part-time students..

Summary

10 responses were receive and were very supportive of the proposals, with only a few technical questions being raised:

- Request for consideration of the Financial Contingency Fund rules to support those currently not supported.
- The observation that in the current climate that there may be increase in the number of part-time students and the number of applications will increase.
- Question on the type of income assessment that would be applied to the part-time dependants' grant.
- Questions on whether amendments will be made to the application form.
- As the part-time maintenance grant is paid in one single instalment and is non repayable, there was a question whether this arrangement would apply for the dependants' grants
- Question on whether the maximum values would be pro-rated as with other part time financial provisions.