

EXPLANATORY MEMORANDUM AND REGULATORY IMPACT ASSESSMENT TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) (No 2) (AMENDMENT) REGULATIONS 2009.

The Explanatory Memorandum has been prepared by the Funding and Student Finance Division of the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales under Standing Order 24.1.

Description

1. These Regulations are required in order to make minor amendments to the *Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008 (No.3170 (W.283))*, which came into force on 9 January 2009.

Matters of special interest to the Subordinate Legislation Committee

2. The Committee considered The Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008 on 2 January 2009. The Committee drew attention to the following:

- The English text of regulation 3(9) concludes with a reference to 1 September 2009, whilst the Welsh text refers to 2008.
- The English text of regulation 10(2)(b) includes the expression “or is applying for an additional amount of fee loan under regulation 21(3) or 21(7),” whilst the Welsh text states “neu os yw’n ceisio am swm ychwanegol o fenthyciad at ffioedd o dan reoliad 21(6) neu 21(8),” [or is applying for an additional amount of fee loan under regulation 21(6) or 21(8)].
- The English text of paragraph 5(1)(a) of Schedule 6 includes the expression “in any case where the household income exceeds £39,793” whilst the Welsh text states “mewn unrhyw achos lle mae incwm yr aelwyd dros £39,780” [in any case where the household income exceeds £39,780].

The Committee recommended that the above errors should be corrected as soon as possible. The Assembly Government responded by undertaking to ensure that the corrections would be made before 1st September 2009 at the latest, namely when the academic year to which the Regulations apply begins. This is the purpose of these amendment Regulations, although the regulations do also correct five other minor errors subsequently identified in the Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008.

Legislative Background

3. In June 2006, section 44 of the Higher Education Act 2004 transferred to the National Assembly for Wales the majority of the Secretary of State's functions in relation to student support (essentially the Secretary of State's functions under sections 22 and 23 of the Teaching and Higher Education Act 1998). Sections 47 and 52 of the 2004 Act gave the National Assembly for Wales power, by order, to bring section 44 into force. The relevant Order bringing into force the various subsections of section 44 is the Higher Education Act 2004 (Commencement Order No. 2 and Transitional Provision) (Wales) Order 2005 as amended by the Higher Education Act 2004 (Commencement Order No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006. Those National Assembly functions are now vested in the Welsh Ministers by virtue of Schedule 11 of the Government of Wales Act 2006..

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 Higher Education student support system. Generally, each set of regulations relates to a particular academic year. These amendment Regulations will amend the existing legislation which will govern academic year 09/10 (specifically, student support arrangements for students ordinarily resident in Wales and for EU students attending Welsh HEIs undertaking designated higher education courses).

6. The purpose of these amendment regulations is to correct three errors in the *Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008 (No.3170 (W.283))* as identified by the Subordinate Legislation Committee. In addition the amendment regulations will correct five other minor and typographical errors in the abovementioned regulations. The amendments will, in turn enable Welsh Ministers to make the appropriate awards of grants and loans to eligible students.

Implementation

7. Should this legislation not be made the minor and typographical errors that have been identified in the *Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008* by the Subordinate Legislation Committee and Assembly Government Officials will remain on the statute book. As such, not making these amendment regulations would have an adverse impact on the operation of the student support system in academic year 2009/10. The delivery partners (the Student Loans Company and the local authorities) have been informed of the intended changes.

Consultation

8. There is no statutory requirement to consult on these Regulations and since the changes are very minor and technical in nature there has been no formal consultation in this instance.

Regulatory Impact Assessment

Options

9. **Do nothing** – by not amending the existing Regulations, it would mean that the identified errors would remain in place during the academic year 09/10. This would have an adverse impact on the operation of the student support system in Wales. By way of example, it would mean that in a number of respects the Welsh text and the English text of the *Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008* do not accurately reflect one another.

Make the Legislation – implementing these Regulations will ensure that errors identified by the Subordinate Legislation Committee and Assembly Government officials are corrected and that the proper legislative framework is in place for academic year 09/10 .

Benefits

10. There are no benefits in doing nothing (rather, errors in the legislation governing student support in academic year 2009/10 would remain in place). By making the amendment Regulations, the Welsh Ministers, local authorities and the Student Loans Company will benefit from the assurance that the Welsh student support system has a proper, clear, legislative framework.

Costs

11. There should be no additional costs to the Welsh Assembly Government from the changes contained within this legislation. The delivery agents (the Welsh local authorities and the Student Loans Company) annually make assessments and payments of the loans and grants to students as specified by the relevant legislation. No additional burdens on the delivery agents are expected to be created by the changes incorporated within the enclosed Amendment Regulations

Competition Assessment

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

Consultation

13. There is no statutory requirement to consult on these Regulations and since the changes are very minor and technical in nature there has been no formal consultation in this instance.

Post Implementation Review

14. 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.

Summary

15. The making of these amending Regulations is necessary to establish a sound basis for, and to correct minor and typographical errors in the regulations governing the higher education student support system in Wales for the 2009/10 academic year.