

EXPLANATORY MEMORANDUM TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) (No.2) (Amendment) REGULATIONS 2012

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

Minister's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Assembly Learning Grants and Loans (Higher Education) (Wales)(No.2) (Amendment) Regulations 2012. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Education and Skills

4 January 2012

Description

1. These Regulations are required in order to underpin the higher education student support system in Wales (fee grants, fee loans, maintenance grants and maintenance loans) in relation to full-time students, part-time students, distance learning students and certain postgraduate students for academic year 2012/13. These regulations amend the existing *Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011 No.886 (W.130)* ("the 2011 Regulations"). These main student support regulations are made on an annual basis.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. None

Legislative Background

3. Section 22 of the Teaching and Higher Education Act 1998 ("the 1998 Act") provides the Welsh Ministers with the power to make regulations on the payment of financial support to students studying courses of higher or further education designated by the Welsh Ministers. In particular, this power enables the Welsh Ministers to prescribe different types of student, financial support (grant or loan) and categories of attendance on higher education courses. This provision, together with section 42(6) of the 1998 Act provide the Welsh Ministers with the power to make the Assembly

Learning Grants and Loans (Higher Education) (Wales)
(No.2)(Amendment) Regulations 2012.

4. This instrument follows the Negative Resolution procedure.

Purpose and intended effect of the legislation

5. The Welsh Ministers make annual regulations governing the higher education student support system. Generally, each set of regulations relates to a particular academic year. These Regulations will amend the 2011 Regulations governing academic year 2012/13, which set out the student support arrangements for students ordinarily resident in Wales and EU students undertaking designated higher education courses at Welsh higher education institutions. The 2011 Regulations enable the Welsh Ministers to make awards of grants and loans to eligible students. In amending the existing legislation, these Regulations will introduce a number of policy changes together with some technical drafting amendments.
6. The specific policy changes incorporated within the regulations are set out below:

a. Timing of Payments to Higher Education Institutions (HEIs)

The 2011 Regulations have been amended to remove the restriction on the first payment to HEIs being no earlier than 3 months after the start date of the designated course, that is, 1 December. From academic year 2012/13 HEIs will be required to confirm the attendance of students on their courses in order to receive any tuition fee funding. An additional statutory duty has also been placed on institutions to inform the Welsh Ministers when students cease to attend their courses. This is required to safeguard public funds and ensure that payments are not released for students who have withdrawn or transferred from the course they were originally undertaking. This mechanism will be common across the United Kingdom and apply to all students who commenced their courses after 1 September 2006. It will enable the Student Loans Company (“SLC”) to release funds to HEIs at an earlier stage in the academic year if the attendance confirmation has been received.

b. Students studying at Private Institutions

Students ordinarily resident in Wales and commencing designated courses at private institutions from academic year 2012/13 onwards will be eligible to receive a non-means-tested tuition fee loan of up to £6000 per annum, depending on the fee charged. Continuing students at these institutions will still be eligible for the tuition fee loan of up to £3465 as in previous years.

c. Changes for students on graduate entry medical and dental courses

Students on graduate entry medical and dentistry courses currently self fund the tuition fees for their first year of study. As the fee is likely to rise significantly from academic year 2012/13, these students will be eligible to apply for a tuition fee loan of up to £5,535 to bridge the gap between the current 12/13 fee (£3,465) and the increased fee of up to £9,000. These students will still be required to self fund £3,465 of their tuition fee in year 1 of these courses. Fees during years 2-4 will be part funded by the NHS, with the tuition fee loan from Student Finance Wales being available for the rest, (up to £5535 per annum).

d. NHS students in receipt of £1,000 non-means-tested bursary

Currently students in receipt of any non-means-tested NHS bursary are excluded from receiving support under the 2011 Regulations. Changes to the NHS bursary scheme which endeavour to make the support available more equitable across the range of NHS funded students, will mean that the following students will receive £1,000 non-means-tested bursary from AY12/13:

- Student nurses, throughout their course
- Other health professionals, throughout their course
- Those on the undergraduate medical and dental courses during years 5 and 6
- Those on the graduate entry medical and dental courses during years 2-4

NHS students in receipt of this particular bursary will not be excluded from receiving support under the 2011 Regulations. This will only apply to NHS funded students who commence their courses of study in academic year 2012/13.

A further consequence of these new arrangements will be that nursing students commencing their courses on or after 1 September 2012 will require access to the reduced maintenance loan from Student Finance Wales once the non-means-tested bursary of £6701 has been replaced by the means-tested bursary of £4395 in line with other healthcare students. This amendment will ensure that they are eligible to apply.

e. Amendment to the *Assembly Learning Grants and Loans (Higher Education) (Wales)(No.2) Regulations 2011 No.886 (W.130) governing AY12/13*

A typographical error in the English text of the 2011 Regulations is corrected in Regulation 19 of these Regulations.

Implementation

7. This legislation updates the current student support system for academic year 2012/13 and by putting it in place at the beginning of 2012, it will enable the Welsh Ministers' delivery partners (the Student Loans Company and Local Authorities in Wales) to implement the system

changes in time for the application cycle for academic year 2012/13 to commence.

Regulatory Impact Assessment

10. These Regulations have no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or impose any additional burdens upon the statutory partners (sections 73-75 Government of Wales Act 2006).

Options

- **Do nothing** – by not amending the existing Regulations several student groups would be affected.
 - Students on graduate entry medical and dentistry courses would have to self-fund the tuition fees for their first year of study of up to £9,000. This may be prohibitive for many prospective students and would potentially restrict access to these courses on the basis of income rather than ability.
 - Any NHS students who were eligible for the £1,000 non-means-tested bursary from AY12/13 onwards would be unable to claim any student support from Student Finance Wales. This would have the effect of introducing a significant disparity between Welsh and English students pursuing the same or similar courses.
 - Students attending private institutions will be eligible to apply for a higher non-means-tested tuition fee loan than they have been able to in previous academic years. However, if the legislation were to remain in its current form they would be entitled to the new fee grant. This may have a significant impact on the public purse, and ultimately put courses at other public institutions at risk.
 - If the changes to the payment mechanisms and timings are not introduced there is likely to be a significant impact on the financing and cash flow of the higher education sector in the United Kingdom.
- **Make the Legislation** – implementing these Regulations will ensure that the proper legislative framework is in place for academic year 2012/13. They will also bring benefits to certain categories of students as outlined above.

Benefits

11. By making these Regulations the Welsh Ministers are ensuring that the Welsh student support system has a proper underpinning legal framework. The delivery partners will also benefit from the knowledge that they are acting within the requirements of the Welsh Government's legislation. The groups of students directly affected by this amendment will benefit as explained above.

Costs

12. The delivery partners (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 latest set of regulations made by the Welsh Ministers. Although HEIs will have to formally report which students are in attendance on a more regular basis to the SLC, this burden should be offset by the benefit of receiving their payments for fees earlier in the academic year. The costs to the Welsh Government will be met from existing budgets.

Competition Assessment

14. The making of these Regulations is not expected to have any detrimental impact on business, charities or the voluntary sector. Students attending the Private Institutions within Wales will have access to more support than in previous cohorts.

Consultation

15. There is no statutory requirement to consult on these Regulations. However, a Student Finance Wales Information Notice relating to the changes outlined above, was issued to all stakeholders and interested parties on 25 July and was open for four weeks. No responses were received.
16. The delivery partners and student advice bodies were further consulted on 1 November at a partnership event, and will be notified of the legislation via further Student Finance Wales Information Notices.

Post Implementation Review

17. 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 terms of their practical implementation of the Regulations.

Summary

18. 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 for the 2012/13 academic year.

