

EXPLANATORY MEMORANDUM TO THE HIGHER EDUCATION (FEE AND ACCESS PLANS) (WALES) REGULATIONS 2015

The Explanatory Memorandum has been prepared by the Department for Education and Skills of the Welsh Government 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's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Higher Education (Fee and Access Plans) (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

Huw Lewis

Minister for Education and Skills

15 June 2015

Description

1. The Regulations set out the information required in a fee and access plan, and the matters the Higher Education Funding Council for Wales ('HEFCW') will take into account when considering the plan for approval. Higher education institutions which want courses to be automatically designated for the purpose of student support (such that students may be eligible for fee grants and loans) must have an approved fee and access plan in place. Once a plan is approved, the institution becomes subject to the provisions of the Higher Education (Wales) Act 2015.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. None

Legislative background

3. The National Assembly for Wales has the legislative competence to make provision for, and in connection with, higher education by virtue of Part 4 of the Government of Wales Act 2006. The relevant provisions are set out in section 108 and Schedule 7. Paragraph 5 of Part 1 of Schedule 7 sets out the subjects on which the Assembly may legislate under the heading 'Education and Training'.

4. The subjects provide the National Assembly for Wales with the competence to make the provisions contained in the Act, which was granted Royal Assent in March 2015.

5. The Regulations are made under sections 2(4), 6(1), 7(3), 8(1) and 9(1) of the Higher Education (Wales) Act 2015 ('the Act').

6. Section 55 of the Act stipulates that the first regulations under section 2(4) and regulations under 6(1) and 7(3) may not be made 'unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales'.

Purpose and intended effect of the legislation

7. Fee and access plans must be submitted by higher education institutions to HEFCW for approval.

8. Approval of a fee and access plan leads to the automatic designation of an institution's courses for the purposes of statutory student support, so that students may be eligible for fee grants and loans. The institution becomes subject to the regulatory framework provided for by the Higher Education (Wales) Act 2015.

9. The purpose of these Regulations is to prescribe:

- the information that institutions applying for approval of a fee and access plan will need to provide to HEFCW;

- the information on the promotion of equality of opportunity and promotion of higher education that a fee and access plan must include;
- the matters to be taken into account by HEFCW in determining whether to approve or reject an application for a fee and access plan;
- how and when an approved fee and access plan is to be published by a regulated institution; and
- the process for the variation of an approved fee and access plan, and for a variation to take effect only once it has been approved by HEFCW.

Consultation

10. A formal consultation, 'Regulations as provided for by the Higher Education (Wales) Act 2015', took place between 17 March 2015 and 12 May 2015. The subject of the consultation was five sets of draft regulations, including these Regulations. The outcome is recorded in the Regulatory Impact Assessment below.