

Explanatory Memorandum to the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the Senedd Cymru 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 Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2020.

Kirsty Williams MS
Minister for Education

25 June 2020

1. Description

These Regulations provide for up to £1,500 of a full-time undergraduate student's living costs loan (also known as a maintenance loan) for academic year 2020/2021, to be cancelled in certain circumstances. The cancellation will take effect from the day after the date on which the student's first loan repayment is received.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

These Regulations are made by the Welsh Ministers in exercise of the powers conferred upon the Secretary of State by sections 22(2)(g), (3)(d) and 42(6) of the Teaching and Higher Education Act 1998 ("THEA") and which are now exercisable by them in relation to Wales.

Section 44 of the Higher Education Act 2004 transferred the relevant functions of the Secretary of State under section 22 of THEA to the National Assembly for Wales established by the Government of Wales Act 1998. The functions of the Secretary of State under section 42(6) of THEA were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. All of these functions were then transferred to the Welsh Ministers by virtue of section 162 of and paragraphs 30(1) and 30(2)(c) of Schedule 11 to the Government of Wales Act 2006.

Undergraduate students who receive a living costs loan from the Welsh Ministers in academic year 2020/2021 will do so under the Education (Student Support) (Wales) Regulations 2017 (S.I. 2017/47 (W. 21)) or the Education (Student Support) (Wales) Regulations 2018 (S.I. 2018/191 (W. 42)), depending on when their course starts.

Provisions relating to the repayment of living costs loans are contained in the Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470), (as amended) which are made on a composite basis by the Welsh Ministers and the Secretary of State under sections 22 and 42 of THEA and sections 5 and 6 of the Sale of Student Loans Act 2008.

This instrument will follow the Negative Resolution procedure.

4. Purpose & intended effect of the legislation

These Regulations make provision for students, who receive a living costs loan from the Welsh Ministers for academic year 2020/21 in respect of a full-time

undergraduate course, to benefit from a reduction in the balance of their loan of up to £1,500 when they start repaying their loan. This will not be in the form of a cash lump sum; rather the balance of an individual's loan will be reduced by the appropriate amount the day after a borrower's first repayment is made.

A student can only receive a partial cancellation once; they cannot receive a partial cancellation in respect of academic year 2020/21 if they have already received a cancellation in respect of any previous academic year. A student will not be entitled to a partial cancellation if there are any outstanding charges or penalties or if they are in breach of their loan agreement or any regulations made under section 22 of THEA.

5. Consultation

No consultation has been undertaken as these Regulations are technical in nature and simply update the academic year for which this scheme will operate.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted for these Regulations as the changes relate to technical amendments that are necessary to update the applicable academic year.