

EXPLANATORY MEMORANDUM TO THE STUDENT FEES (QUALIFYING COURSES AND PERSONS) (WALES) (AMENDMENT) REGULATIONS 2012

This Explanatory Memorandum has been prepared by the Department for Education and Skills 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 above listed Regulations. I am satisfied that the benefits outweigh any costs.

Leighton Andrews
Minister for Education and Skills

26 June 2012

Description

These regulations amend the Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011 ("the 2011 Regulations") by excluding from the prescribed meaning of qualifying courses, part-time courses. The 2011 Regulations prescribe the courses and persons in respect of which and to whom relevant institutions can charge qualifying fees from 1 September 2012.

Matters of special interest to the Constitutional and Legislative Affairs Committee

1. None

Legislative background

2. The relevant enabling power for the SI is the Higher Education Act 2004 sections 28(6) and 47(5).
3. This instrument follows the Negative Resolution procedure.

Purpose and intended effect of the legislation

4. These regulations amend the 2011 Regulations by excluding part-time courses from being qualifying courses. The 2011 Regulations were drafted at a time when the enabling power precluded the regulation of part-time fees. The Education Act 2011 amended section 41 of the Higher Education Act 2004 (which defines "course") to include part-time courses from 1 September 2012. The decision to postpone implementation of a revised system for part-time higher education tuition fees and student support until academic year 2013/14 was announced on 4 November 2011. As part-time courses will now not be regulated for academic year 2012/2013, it is necessary amend the definition of a "course of education" to exclude part-time courses from being qualifying courses.
5. The rationale for this policy is set out more fully in the Regulatory Impact Assessment (RIA) below.

Implementation

6. This legislation is required to come into force on 1 September 2012 and confirms the policy decision not to regulate fees in academic year 2012/13.

Regulatory Impact Assessment

7. Options
 - **Do nothing** – by not amending the existing regulations the fees for part-time courses will be regulated on the same basis as full-time

courses. This is not the Welsh Government's policy intent and may cause confusion amongst higher education institutions.

- **Make the Legislation** – implementing these Regulations will ensure that the fees for part-time courses will remain outside fee control until a revised system for part-time higher education tuition fees is introduced.

Benefits

8. By making the Regulations the Welsh Ministers are clarifying the position of part-time courses with regards to fee control.

Costs

9. There are no cost implications to making these Regulations.

Competition Assessment

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

Consultation

11. There is no statutory requirement to consult on these Regulations. The decision not to regulate part-time courses in 2012/13 was taken following consideration of the responses received from stakeholders to the Welsh Government's consultation on changes to part time support that took place in the autumn of 2011. The majority of respondents strongly advised delaying implementation of the new arrangements for part-time tuition fees and student support until the academic year 2013/14 to allow for further consideration of the changes and their impact.

Post Implementation Review

12. It is intended that the Regulations will be reviewed in line with the proposed introduction of a revised system for part time higher education tuition fees and student support.

Summary

13. The making of these Regulations is necessary to implement the Welsh Government's policy to not regulate the fees for part-time courses in 2012/13 academic year.