

## **EXPLANATORY MEMORANDUM AND REGULATORY IMPACT ASSESSMENT TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) REGULATIONS 2009**

1. 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**

2. 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 2010/11. These regulations amend and will replace the existing *Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008 (No.3170 (W.283))*. These main student support regulations are made on an annual basis.

### **Matters of special interest to the Subordinate Legislation Committee**

3. There are no matters of special interest to the subordinate committee.

### **Legislative Background**

4. 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. Each year, the relevant functions of the Welsh Ministers in regulations made under section 22 to the Teaching and Higher Education Act 1998 are transferred and delegated to Welsh local authorities and the Student Loans Company under section 23 of that 1998 Act.

5. This instrument will follow the Negative Resolution procedure.

### **Purpose and intended effect of the legislation**

6. 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 Regulations will amend and replace the existing legislation governing academic year 09/10 and the student support arrangements for students ordinarily resident in Wales, and for EU students attending Welsh Higher Education Institutions, undertaking designated higher education courses. These regulations will govern the 2010/11 academic year and will enable Welsh Ministers to make awards of grants and loans to eligible students. In replacing the existing legislation, these Regulations will introduce a number of policy changes together with some technical drafting amendments.

7. The specific policy changes incorporated within the regulations are set out below:

- a. **Minor amendments to the Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2008 (SI 2008/3170 (W.283)) governing academic year 09/10**

Whilst reviewing the Regulations, Legal Services noted a number of minor and typographical errors which need to be changed in the 09/10 Regulations. These changes will not have any financial implications for the 09/10 budget.

- b. **Re-modelling of student support arrangements following the policy review**

In AY 2010/11, there will be two different packages of maintenance support available to Welsh domiciled students:

- (i) the package available to eligible continuing current system students and gap year students, including tuition fee grant for Welsh students studying in Wales (essentially those students starting courses before 1 September 2010); and
- (ii) an enhanced package of maintenance support available to new 2010 cohort students (enhanced Assembly Learning Grant / maintenance grant, no tuition fee grant) as a result of the re-modelling of the student support system. These changes are reflected in these Regulations.

This results in the following key changes for academic year 2010/11:

For new students starting their studies in academic year 2010/11 (other than gap-year students):

- The level of a full Assembly Learning Grant will be £5,000;

- The household income threshold for a partial Assembly Learning Grant will rise to £50,020;
- No Tuition Fee Grant;
- A Tuition Fee Loan to cover the full amount of fees, thereby ensuring no full-time undergraduate student has to pay fees up front.;
- New substitution rate for remodelled support:

From 2010/11 onwards, the amount of maintenance loan for which a student normally living in Wales is eligible is to be reduced by 60p, rather than by £1, for every £1 of non-repayable Assembly Learning Grant the student receives, up to a maximum reduction of £2,844. (For a student who is entitled to maintenance grant, part of their maintenance needs as a maintenance loan recipient are already met by the non-repayable maintenance grant). In practice this means that when a student in receipt of the Assembly Learning Grant is being assessed for a maintenance loan, only 60p for every £1 of their maintenance grant will be taken into account when assessing their entitlement to the maintenance loan. Students receiving an Assembly Learning Grant will therefore be eligible for more total support than under the current arrangements.

For students continuing their studies and gap-year students starting their studies in academic year 2010/11:

- Uprating for Inflation: As part of the annual review an inflationary uplift has been applied to the Tuition Fee Grant (for eligible continuing students and eligible gap year students), the tuition fee loan, and certain grants available to part-time students and distance learner students (as described below). The rate of increase has been fixed at 2.04%.
- As for academic years 08/09 and 09/10, the amount of maintenance loan a student can receive is reduced by £1 for every £1 of Assembly Learning Grant they receive (up to a maximum reduction of £1,288).

This results in the following key changes for academic year 2010/11:

- Maximum Tuition Fee Grant of £1,980
- Maximum fee loan of £3,290
- Maximum means tested Assembly Learning Grant of £2,906.
- All the amounts and income thresholds for the full time student support package of maintenance loans, and targeted grants (such as childcare grant); as well as for maintenance grants are frozen for the academic year 2010/11.

- Part-time and distance learner fee grant and course grant amounts and thresholds are increased by 2.04%. The amounts and income thresholds for part-time targeted grants are frozen in line with the full-time student support package.

**c. Greater flexibility for part-time and distance learner students who hold a first degree below honours –**

Currently part-time and distance learner students who wish to top-up to a higher level qualification where they have a first degree (which is not an honours degree) from a UK institution can only top-up to an honours qualification if:

- there is no break in study,
- the 'top-up' course will be provided by the same institution, and
- it is in the same subject.

From academic year 2010/11 these restrictions will be removed. The Regulations will allow all new and continuing part-time and distance learning students, who hold a lower level qualification from a UK or an overseas qualification (e.g. ordinary bachelor degree) to 'top-up' their qualification to an honours degree, regardless of institution, subject and whether or not there is a break in study.

The restrictions are also removed for those part-time and distance learning students who withdraw from a top-up course which commenced prior to the academic year 2010/11 and then commence on a new top-up course. It will also apply to those transferring in academic year 2010/11 from a course in respect of which he/she was previously deemed ineligible.

Removing the restrictions will align the treatment of part-time and distance learning students with full-time students who are not restricted by these requirements when topping up to a higher level qualification. Part-time and distance learning students will as a result have greater flexibility in the way they are allowed to top-up to honours level qualification.

**d. Support for students on courses of initial teacher training**

From 1 September 2010, new students starting full-time postgraduate or equivalent teacher training (ITT) courses will be eligible for the same maintenance support package as full-time undergraduate students. New students on full-time postgraduate ITT courses will be eligible to apply for a fully means tested Assembly Learning Grant (maintenance grant) or special support grant of up to £5,000. As such, these Regulations remove the guaranteed maintenance / special support grant for new students starting full-time PGCE and similar ITT courses in 2010/11. Currently, the first £1,288 (2009/10) of the grant is non-means tested for PGCE students. Separate ITT incentives will

continue.

From 1 September 2010, new students starting part-time ITT courses (whether as a first degree or PGCE) will no longer be entitled to the full-time fee and maintenance support package. However, they will be entitled to the part-time package of student support from 2010/11, namely a part time means tested fee grant of up to £975 (the amount will depend upon the intensity of study on the course), a means tested course grant of up to £1,095 and targeted grants. Part-time PGCE students would receive an enhanced support package compared to other postgraduate students.

New students starting flexible postgraduate ITT courses of a year or more in length in the 2010/11 academic year will also be eligible for the part-time fee grant, course grant and targeted grants. However, flexible postgraduate courses of less than one year in length will no longer attract support.

Students who started their ITT course before 1 September 2010 who are continuing their course in 2010/11 will be eligible for the same package of support that they were receiving in 2009/10.

Similar provisions have been made in England, and by matching the policy in Wales, parity between affected students in the two countries will be maintained.

**e. Making in year reassessment of student support a statutory entitlement if household income falls significantly**

In calculating a student's household income, local authorities (LAs) have, until now, been able to exercise their discretion in deciding whether to accept a request from a student for an 'in-year reassessment' of statutory entitlement where, for example, the income of the student's parent or student's partner has decreased by 15% or more (as compared to the prior financial year). This discretion is removed in relation to academic year 10/11 and authorities are obliged to undertake an in-year reassessment in such cases. Similarly, local authorities' discretion in respect of undertaking 'in-year reassessments' for distance learning and part time students is also removed (where a student's financial resources in the current financial year are less than the student's resources in the preceding financial year by £1,000 or more).

**f. Care leavers Higher Education Grant under section 23C of the Children Act 1989:**

These Regulations ensure that any such payment is not to be taken into account in calculating the household income of the student, a student's financial resources and/or the income of a student's dependant for the purposes of assessing entitlement to support.

g. **Technical amendments**

Following the scrutiny of the Regulations by Legal Services, there are also a number of minor technical amendments required to ensure that the policy intent for student support arrangements is accurately reflected in the Regulations. A change has been made to increase eligibility for support of full-time and part-time students where they have already been determined as being eligible students in connection with a previous designated distance learning course and the student's status has been converted or transferred from that course.

### **Implementation**

8. This legislation updates the 2009/10 student support system and needs to be in place in before the start of December 2009 to enable applications for academic year 10/11 to be processed after that date. The delivery partners (the Student Loans Company and the Local Authorities) have been consulted and informed of the intended changes.

### **Consultation**

9. There is no statutory requirement to consult on these Regulations. However the changes were included in the consultation exercise for these Regulations and the details are referred in paragraphs 14-15.

### **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 and replacing the existing Regulations. This will mean that no legislation is in place for the payment of Higher Education student support (fee grants, fee loans, maintenance grants and maintenance loans) in academic year 10/11.
- **Make the Legislation** – implementing these Regulations will ensure that the proper legislative framework is in place for academic year 10/11 and that parity with other government administrations is achieved. They will also bring benefits to certain categories of students.

### **Benefits**

11. By making the Regulations Welsh Ministers will benefit from the assurance that the Welsh student support system has a proper legal framework and are covered against the possibility of legal challenge.

The delivery partners will also benefit from the knowledge that they are acting within the requirements of the Welsh legislation.

### **Costs**

12. 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 Regulations.
13. The costs to the Welsh Assembly Government will be met from existing budgets.

### **Competition Assessment**

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

### **Consultation**

15. The majority of the changes were included in the limited four week technical consultation covering the Regulations which took place between 23 March and 27 April 2009, in relation to which 5 responses were received. A number of the proposals implemented in these regulations concern the re-modelling of student support which were the subject of a separate consultation paper following on from the Assembly Government's student finance policy review. Annex A provides a list of the consultees and a summary of the comments received in relation to the technical consultation is attached as annex B. The consultees were all in support of the changes. Concerns about the administration of the changes raised by the Local Authorities will be addressed during implementation.
16. The delivery partners and student advice bodies will be notified of the further amendment legislation via 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 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 Welsh domiciled students and EU students studying in Wales for the 2010/11 academic year.



## **Annex A**

### **List of consultees**

#### **Further Education Institutions**

Aberdare College  
Barry College  
Bridgend College  
Coleg Ceredigion  
Coleg Glan Hafren  
Coleg Harlech  
Coleg Gwent  
Coleg Llandrillo Cymru  
Coleg Llysfasi  
Coleg Meirion-Dwyfor  
Coleg Menai  
Coleg Morgannwg  
Coleg Powys  
Coleg Sir Gar  
Deeside College  
Gorseinon College  
Merthyr Tydfil College  
Neath Port Talbot College  
Pembrokeshire College  
St David's College  
Swansea College  
Yale College, Wrexham  
Ystrad Mynach College  
Welsh College of Horticulture

#### **Higher Education Institutions**

Aberystwyth University  
Bangor University  
Cardiff University,  
University of Wales Institute Cardiff  
University of Glamorgan  
University of Wales, Lampeter  
University of Wales, Newport  
Glyndŵr University Wrexham  
University of Wales, Swansea  
Open University  
Swansea Metropolitan University  
Swansea University  
Trinity University College  
Royal Welsh College of Music and Drama

## **Local Authorities**

Blaenau Gwent County Borough Council  
Bridgend County Borough Council  
Caerphilly County Borough Council  
Cardiff County Council  
Carmarthenshire County Council  
Ceredigion County Council  
Conwy County Borough Council  
Denbighshire County Council  
Flintshire County Council  
Cyngor Gwynedd Council  
Merthyr County Borough Council  
Monmouthshire County Council  
Newport County Borough Council  
Neath Port Talbot County Borough Council  
Pembrokeshire County Council  
Powys County Council  
Rhondda Cynon Taf County Borough Council  
City and County of Swansea  
Torfaen County Borough Council  
Vale of Glamorgan County Borough Council  
Wrexham County Borough Council  
Ynys Mon Isle of Anglesey  
Welsh Local Government Association

## **Organisations**

AMMOSHE  
Care Council for Wales  
Fforwm  
NUS Wales  
Student Loan Company  
NASMA  
HEFCW  
UKCISA  
Citizens Advice Cymru

## **Annex B**

### **Consultation Exercise**

Set out below is a summary of the responses received on the proposals to replace the *Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2008 (SI 2008/3170 (W.283))*, which came into force on 9th January 2009.

### **Summary**

Five responses were received. The respondents agreed with the majority of the proposals. Some offered comments about their implementation, mostly relating to making students aware of the changes and their implications. There were also some issues raised around gap year qualification and a Student Finance Wales Information Notice was issued on 24<sup>th</sup> June 2009 regarding gap year policy. There were no issues which respondents completely disagreed with.

Set out below is a brief summary of the responses received, including a number of the technical delivery questions. These issues have been addressed and wherever possible additional information will be contained within the guidance that is issued in support of the legislation.

### **Responses to the policy changes to be included in the Regulations for academic year 2010/11:**

#### **Annual uprating of grants and loans by inflation as yet unconfirmed**

- Those respondents who expressed a preference agreed to the annual uprating.

#### **Provision for academic year 2009/10 Gap Year Students**

- Respondents agreed with the proposal; one respondent requested further clarification on the policy and another for clear student information to be provided for students on gap year status.

#### **Greater flexibility for part-time students who hold a first degree below Honours**

- Respondents welcomed this initiative and recognised that it reflects the Welsh Assembly Government's continuing recognition of the recommendations made in the Graham Report.