

Explanatory Memorandum to the Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021

This Explanatory Memorandum has been prepared by the Higher Education Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister for Education and Welsh Language's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021. I am satisfied that the benefits justify the likely costs.

Jeremy Miles MS
Minister for Education and Welsh Language
23 November 2021

Part 1

1. Description

- 1.1 The European University Institute ('the Institute'), located in Florence, Italy, is an international postgraduate and post-doctoral teaching and research institute established by European Union member states by way of the 1976 *Convention Setting up a European University Institute*. It aims to contribute to cultural and scientific development in the social sciences, in a European perspective.
- 1.2 Article 17 of the Convention provides that 'Each of the Contracting States shall, to the extent of the funds available, encourage the award of grants to those of its nationals admitted to the Institute'. Support for an eligible student who attends the Institute is provided for by the Education (European University Institute) (Wales) Regulations 2014 (SI 2014/3037). Regulation 14 specifies that the Welsh Ministers may only award support to one eligible student in each academic year.
- 1.3 The Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021 ('the Regulations') amend the Education (European University Institute) (Wales) Regulations 2014 to ensure compliance with the EU Withdrawal Agreement, the EEA EFTA separation agreement, the Swiss citizens' rights agreement ('the Agreements') and the Common Travel Area arrangement.

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

- 2.1 There are no matters of special interest to the Legislation, Justice and Constitution Committee.

3. Legislative background

- 3.1 The Regulations are made under sections 22(1)(a), 22(2)(a), 22(2)(e) and 42(6) of the Teaching and Higher Education Act 1998 ("the 1998 Act").
- 3.2 Section 22(1) of the 1998 Act provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. This power enables the Welsh Ministers to prescribe, amongst other things, the amount of financial support (grant or loan) and who is eligible to receive such support.
- 3.3 Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of

State in relation to Wales under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(j), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales in relation to Wales.

- 3.4 The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred to the National Assembly for Wales, so far as exercisable in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).
- 3.5 The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
- 3.6 The Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1 The Regulations make amendments to the Education (European University Institute) (Wales) Regulations 2014 which are necessary as a result of the UK's withdrawal from the EU.
- 4.2 The Regulations remove eligibility for support from EU nationals and accommodate those with citizens' rights under the Agreements.
- 4.3 A single student may be eligible for financial support to study at the Institute each academic year. The amendments do not change that.

5. Consultation

- 5.1 There is no statutory requirement to consult on these regulations and no consultation has been undertaken.

Part 2 – Regulatory Impact Assessment (RIA)

An RIA has been conducted for the Regulations.

6. Options

Option 1: Business as usual

6.1 If these amendments to regulations are not made, the eligibility conditions for financial support to study at the Institute would not be compliant with the Agreements and the Common Travel Area arrangement.

Option 2: Make the Regulations

6.2 Making these regulations ensures compliance with the Agreements and the Common Travel Area arrangement. As the same changes have been made to regulations which provide for student support at other higher education institutions, the amendments ensure parity across the student support system.

7. Costs and benefits

Option 1: Business as usual

7.1 There are no additional costs or particular benefits in continuing with business as usual.

Option 2: Make the Regulations

7.2 There are no additional costs to making these regulations as the position in the regulations remains that Welsh Ministers may only award support to one eligible student in each academic year.

8. Competition Assessment

8.1 The making of these Regulations has no impact on the competitiveness of businesses, charities or the voluntary sector.

9. Post-Implementation Assessment

9.1 The regulations governing the student support system are revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the regulations.