

Explanatory Memorandum to the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2024

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

Cabinet Secretary 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 2024.

Lynne Neagle MS
Cabinet Secretary for Education

26 June 2024

1. Description

- 1.1 The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2024 (“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 2024/2025, 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

- 2.1 None.

3. Legislative background

- 3.1 These Regulations are made by the Welsh Ministers in exercise of the powers conferred upon the Secretary of State by sections 22(1)(a), (2)(g) and (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.
- 3.2 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 paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.
- 3.3 Undergraduate students who receive a living costs loan from the Welsh Ministers in academic year 2024/2025 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.
- 3.4 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.

3.5 This instrument will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

4.1 These Regulations make provision for students, who receive a maintenance (living costs) loan from the Welsh Ministers for academic year 2024/25 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.

4.2 A student can only receive a partial cancellation once; they cannot receive a partial cancellation in respect of academic year 2024/25 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.

Overpayment of student finance

4.3 An overpayment occurs when a student is paid more student finance than they are entitled to. This can happen if a student does not notify the Student Loans Company (SLC) they have left or taken a break from their course; or insufficient evidence was provided on time to prove their financial situation; or their circumstances have changed; all of which would necessitate a reassessment of the student's financial entitlement. SLC may recover an overpayment by deducting money from any future payments or setting up a repayment plan with the borrower. Recovery of an overpayment is treated separately to the repayment of student loans.

4.4 A technical clarification is being made to these Regulations to exclude overpayments from the meaning of outstanding liability (the total amount considered to be repayable by the borrower on the repayment date).

4.5 This clarification will make it clear that any overpayment of a maintenance loan will be treated separately from the principal loan amount to which a borrower is entitled, and therefore will not form part of the total amount to which a partial cancellation is applied.

5. Consultation

- 5.1 No consultation has been undertaken as these Regulations are a continuation of an existing policy which will apply to an academic year beginning on or after 1 August 2024.

6. Regulatory Impact Assessment (RIA)

- 6.1 The Welsh Ministers Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, an RIA has not been produced.
- 6.2 This statutory instrument falls within the exceptions set out in the code as only factual amendments are being made to update subordinate legislation and which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation.
- 6.3 This policy has continued in each academic year since 2010/11, through regulations made annually. There has been no policy change; this statutory instrument only updates the academic year for which this policy will operate, i.e. 2024/25, and clarifies the position on overpayments.