

Explanatory Memorandum to the Education (Student Finance) (Miscellaneous Amendments) (No 2) (Wales) Regulations 2022

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 (Student Finance) (Miscellaneous Amendments) (No 2) (Wales) Regulations 2022.

Jeremy Miles MS
Minister for Education and Welsh Language
27 April 2022

Part 1

1 Description

- 1.1 The Education (Student Finance) (Miscellaneous Amendments) (No 2) (Wales) Regulations 2022 (“the Regulations”) amend the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 (SI 2015/1484) (“the 2015 Regulations”) and the Education (Student Support) (Wales) Regulations 2018 (SI 2018/191) (“the 2018 Regulations”).

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

- 2.1 The Legislation, Justice and Constitution Committee (LJCC) considered the Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022 (SI 2022/79), at their meeting of 8 February 2022 and issued a report containing merit and technical points. The Regulations make amendments to address one point made by the Committee. This Statutory Instrument is being issued free of charge to all known recipients.

3 Legislative background

- 3.1 The Regulations are made under sections 22(1)(a), 22(2)(a) and 42(6) of the Teaching and Higher Education Act 1998 (“the 1998 Act”).
- 3.2 Section 22 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 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.
- 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 (S.I. 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 This instrument will follow the negative resolution procedure.

4 Purpose and intended effect of the legislation

4.1 The Welsh Ministers make regulations to provide the basis for the system of financial support for students ordinarily resident in Wales who are taking designated courses of higher education in the UK, and other students studying in Wales. The student finance regulations contain eligibility criteria pursuant to which certain groups may be eligible for student support, home fee status and the tuition fee cap.

4.2 The 2015 Regulations prescribe the qualifying courses and qualifying persons for the purposes of section 5 of the Higher Education (Wales) Act 2015 which sets out that fee and access plans must specify (or provide for the determination of) fee limits in relation to qualifying courses each academic year. The 2018 Regulations provide for financial support for students taking designated higher education courses which begin on or after 1 August 2018. These are principally full and part-time undergraduate courses. The 2018 Regulations also provide support for courses which begin before 1 August 2018 and are subsequently converted from full-time to part-time or part-time to full-time on or after 1 August 2018.

Amendment to the 2015 Regulations

4.3 The Regulations amend the 2015 Regulations to reflect correct policy that Irish Citizens are qualifying persons under the 2015 Regulations if they are an Irish citizen on the first day of an academic year.

Amendment to the 2018 Regulations

4.5 The Regulations amend the 2018 Regulations to correct an issue identified by the Legislation, Justice and Constitution Committee. Schedule 4 makes reference to an eligible student but should make reference to an eligible postgraduate student.

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)

5.2 As these Regulations make factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.