

SL(6)324 – The Education (Student Loans) (Repayment) (Amendment) Regulations 2023

Background and Purpose

The Education (Student Loans) (Repayment) (Amendment) Regulations 2023 (“these Regulations”) amend the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) (“the Principal Regulations”), which make provision for the repayment of income contingent student loans in England and Wales.

Regulation 2 makes provision for a temporary reduction of the interest rate on undergraduate loans specified in regulation 21A, and in respect of postgraduate degree loans specified in regulation 21B, of the Principal Regulations.

The interest rate is set at 6.9% for the period beginning with 1 March 2023 and ending with 31 May 2023. After that date, the interest rate will revert to the original rate specified in the Principal Regulations.

Procedure

Composite Negative

The Regulations were made by both the Welsh Ministers and the Secretary of State, before being laid before both the Senedd and the United Kingdom Parliament.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd. The United Kingdom Parliament can also annul the Regulations, in accordance with the rules for annulment that apply to the United Kingdom Parliament.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

These Regulations have been made as a composite instrument, meaning the Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before both the Senedd and the United Kingdom Parliament. As a result, the Regulations have been made in English only.

The Explanatory Memorandum explains that:



“This composite statutory instrument will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually. Therefore, the 2023 Regulations are made in English only.”

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations and that no explanation has been provided in this regard. However, we note also the technical nature of these Regulations and the fact that they will reduce the repayment burden for the specified period on those who have undertaken relevant courses of study.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We are pleased to note that the relevant exemptions from the *Welsh Ministers’ regulatory impact assessment code for subordinate legislation*, together with supporting detail, have been set out in Part 2 of the Explanatory Memorandum to justify not undertaking a Regulatory Impact Assessment in relation to these Regulations. It is hoped this practice will be adopted for all future Explanatory Memoranda generally where an RIA is not undertaken.

However, we note also that a Regulatory Impact Assessment was carried out in relation to the Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations 2022 (“the 2022 Regulations”), which appear to have relied on identical financial data (see paragraph 4.3 of the Explanatory Memorandum to the 2022 Regulations and paragraph 4.2 of the Explanatory Memorandum to these Regulations). In view of this it is unclear why that Regulatory Impact Assessment was not reproduced or referred back to for the purpose of these Regulations.

Welsh Government response

Merit Scrutiny point 3:

In light of the current economic climate, the Regulations to set a flat interest rate for Plan 2 and Plan 3 student loans in line with the Prevailing Market Rate are now being made on a routine basis whereas previously they were somewhat novel.

Due to the increased regularity of these Regulations, the Welsh Government has reviewed the Welsh Ministers’ Code of Practice for carrying out Regulatory Impact Assessments (RIA) for subordinate legislation and noted that an RIA was not required.



The reasons for that are clearly set out within the Explanatory Memorandum (EM) to the Education (Student Loans) (Repayment) (Amendment) Regulations 2023 (“2023 Regulations”).

The Welsh Government recognises that an RIA was previously provided within the EM to the Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations 2022. However, as an RIA is not required under the Code, neither was there any requirement for a reproduction or referral to the earlier RIA within the EM to the 2023 Regulations.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 27 February 2023 and reports to the Senedd in line with the reporting points above.

