

Explanatory Memorandum to the Assembly Learning Grants (European Institutions) (Wales) Regulations 2011

This Explanatory Memorandum has been prepared by the Engagement and Student Finance Division of the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Assembly Learning Grants (European Institutions) (Wales) Regulations 2011. I am satisfied that the benefits outweigh the costs.

Leighton Andrews

Minister for Children, Education, and Lifelong Learning, one of the Welsh Ministers

11 March 2011

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Description

1. The making of these Regulations will ensure that eligible students ordinarily resident in Wales receive support when attending either the Bologna Center or the College of Europe from the academic year (AY) 2011/12.
2. The Regulations provide support for one Welsh student (a student who is ordinarily resident in Wales) at any one time undertaking a designated post-graduate course at the College of Europe (Bruges, Belgium and Natolin, Poland) and one eligible student ordinarily resident in Wales at any one time undertaking such a course at the Bologna Center, Italy. Support is available for one academic year.

Matter of special interest to the Constitutional Affairs Committee

3. Revocation of the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 with effect from 31 August 2010 removed financial support from eligible students ordinarily resident in Wales attending either institution from AY 2010/11. At the time of revocation, it was considered that continuing financial support to those attending these institutions could unlawfully restrict rights under the Treaty on the Functioning of the EU (i.e. the preferential treatment given to the institutions operates as a restriction upon the right to move and reside freely within the EU and the ability of persons to obtain services in another EU Member State). Having reconsidered all the evidence, the Welsh Ministers have concluded that, on balance, reinstating funding to support one place at each institution from 2011/12 would be of benefit to Welsh students, and that this benefit outweighs the risks involved. Scottish and English ministers have also decided to retain temporary funding for their students at these institutions. The support made available will be reviewed annually.

Legislative Background

4. The Regulations are made under sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998 ("the 1998 Act"). These powers enable regulations to be made implementing the decision of the Welsh Ministers described in paragraph 2 above.
5. In June 2006, section 44 of the Higher Education Act 2004 ("the 2004 Act") 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 1998 Act). 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 section 44 into force is the Higher Education Act 2004 (Commencement No. 2

and Transitional Provision) (Wales) Order 2005 as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006. Functions under sections 22 and 23 of the 1998 Act are now vested in the Welsh Ministers by virtue of Schedule 11 of the Government of Wales Act 2006.

6. The functions of the Welsh Ministers under the Regulations will be delegated to the Student Loans Company under section 23 of the 1998 Act.

Purpose and intended effect of the legislation

7. The Regulations set out the level of support to be given to one eligible student ordinarily resident in Wales at any one time attending the College of Europe and one eligible student ordinarily resident in Wales at any one time attending the Bologna Center, in respect of academic years beginning on or after 1 September 2011. Grants are available to students for one academic year only. The Regulations set out the eligibility criteria for the grants, the application procedure and the method for calculating the amount of grant payable. The Regulations also set out the arrangements for payment of the grants and recovery of any overpayments.

8. The Regulations seek to encourage Welsh representation at the institutions where recruitment is competitive and robust. Successful applicants will benefit from the support.

Implementation

9. It is intended that this Instrument will come into force on 5 April 2011. The Regulations need to be in force in good time for the start of the 2011/12 academic year to enable support to be available to an eligible student ordinarily resident in Wales studying at the institutions in the 2011/12 academic year.

Consultation

10. There is no statutory requirement to consult on the Regulations. They reinstate financial support made available up to AY 2009/10 and affect, at most, only two students at the institutions at any one time. The nature of the Regulations is of a particularly specialised nature and affects very few stakeholders. No consultation has been undertaken on similar regulations in the past.

Regulatory Impact Assessment

11. Details of the proposed changes are set out in the *purpose and intended effect of the legislation* section.

Options

12. **Do nothing -**

If payment of the grants is not reinstated, funding will not be made available to successful students who seek to study at either of the two institutions.

13. Make the Legislation –

Making the Regulations will provide two eligible students ordinarily resident in Wales a year with an opportunity to receive support to undertake a post-graduate course at the specified institutions. The selection process at both institutions is competitive and rigorous in nature and this is a key factor in the decision to reinstate the support.

Benefits

14. Customers (students) of the Welsh Assembly Government will directly benefit from having student support at the institutions from the start of the 2011/12 academic year.

Costs

15. The financial costs for funding the two places at the College of Europe and the Bologna Center are minimal and can be met from existing resources within DCELLS budgets.

Competition Assessment

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

Post implementation review

17. The former Regulations were reviewed on an annual basis to ensure they were fit for purpose and met the needs of eligible students ordinarily resident in Wales wishing to apply for places at the institutions. Part of the 2009/10 annual review included legal advice received from Cabinet Office Legal Advisors (COLA) and Legal Services. The new Regulations will also undergo an annual review to ensure that the original intent and policy requirements remain, that the funding provided represents value for money; and that they continue to observe EU/Assembly Government legislative requirements.

Summary

18. Making the Regulations will reinstate the support available for one eligible student ordinarily resident in Wales at the College of Europe and for one eligible student ordinarily resident in Wales at the Bologna Centre, with effect from the academic year 2011/12. They will prescribe the support (including fees) available in respect of each institution.