

Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (Coronavirus) Regulations 2020

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's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (Coronavirus) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams
Minister for Education
28 August 2020

Part 1

1. Description

The Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (Coronavirus) Regulations 2020 ('the Regulations') amend the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ('the 2019 Regulations')

The Regulations amend provision in the 2019 Regulations to enable students to receive support for distance learning courses if coronavirus prevents them being in Wales on the first day of the first academic year of the course (1 September 2020).

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

The Regulations will come into force on 1 September 2020, before 21 days have elapsed since laying. The Minister for Minister for Finance and Trefnydd has written to the Llywydd as required by Section 11A(4) of the Statutory Instruments Act 1946. The coming into force date will ensure students remain eligible for support during a time of global pandemic.

3. Legislative background

The Regulations are made under sections 22(2)(a) and 42(6) of the Teaching and Higher Education Act 1998 ('the 1998 Act'). Section 22 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.

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.

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).

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.

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Welsh Ministers make regulations to provide the basis for the system of financial support for students ordinarily resident in Wales and EU students studying in Wales taking designated courses of higher education. The 2019 Regulations provide for financial support for students taking designated postgraduate Master's courses which begin on or after 1 September 2019.

The coronavirus pandemic continues to affect all aspects of life. A new student undertaking a distance learning postgraduate Master's course in Wales may find themselves unable to be present in Wales on the first day of the first academic year, as the 2019 Regulations require, through no fault of their own. The 2019 Regulations are amended to enable new students to receive support for their distance learning course if reasons connected to the coronavirus pandemic prevent them from being in Wales on the first day of the academic year. This applies in relation to courses the first year of the first academic year of which begin on or after 1 September 2020.

These amendments ensure that no students are disadvantaged by circumstances outside their control.

5. Consultation

No consultation has been undertaken.

6. Regulatory Impact Assessment

An RIA has been conducted for the Regulations.

Options

Option 1: Business as usual

If the Regulations are not made the implication is that distance learning students who are unable to travel due to the coronavirus pandemic will not be eligible for student support, contrary to policy and existing eligibility provisions.

Option 2: Make the Regulations

Making the Regulations ensures that the implication noted above is avoided resulting in a legislative framework that correctly reflects the Welsh Ministers' policy for student support, ensuring all students are able to receive appropriate support.

Costs and benefits

Option 1: Business as usual

There are no additional costs to option one. There may be a small financial saving in the event that students are unable to be in Wales on the first day of the first academic year and thus are ineligible for student support.

Option 2: Make the Regulations

Distance learners whose ability to travel to Wales for the first day of the first academic year is affected by coronavirus would be ineligible for support. The amendment preserves the current policy intent and imposes no additional costs. The benefit to the student is the ability to receive support, as expected, to undertake their course.

Competition Assessment

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

Post-Implementation Assessment

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.

Summary

The making of the Regulations is necessary to update aspects of the higher education student support system for students ordinarily resident in Wales and EU students studying in Wales in the 2020/21 academic year.