

SL(6)012 – The Education (Student Loans) (Repayment) (Amendment) (No.2) Regulations 2021

Background and Purpose

The Education (Student Loans) (Repayment) (Amendment) (No.2) Regulations 2021 (“the Regulations”) amend the Education (Student Loans) (Repayment) Regulations 2009 (“the Principal Regulations”), which make provision for interest to be charged on, and for the repayment of, income contingent student loans in England and Wales. The enabling powers relied upon for the Regulations are sections 22(2)(g), (3)(a), (4)(a) and 42(6) of the Teaching and Higher Education Act 1998 (“the 1998 Act”).

Section 44 of the Higher Education Act 2004 (‘the 2004 Act’) provided for the transfer to the then National Assembly for Wales of the functions of the Secretary of State in relation to Wales under the relevant parts of section 22 of the 1998 Act.

The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred to the then National Assembly for Wales, so far as exercisable in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999.

The functions of the then 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.

The Welsh Ministers and Secretary of State are required by section 22(4) (a) of the 1998 Act to ensure that the student loan interest rate is either below the prevailing market rate (‘PMR’), or equal to the PMR with better terms and conditions.

Regulation 2(2) of the Regulations makes provision for a temporary reduction of the interest rates on undergraduate loans specified in regulation 21A of the Principal Regulations; regulation 2(3) makes similar provision in respect of postgraduate degree loans specified in regulation 21B of the Principal Regulations. The interest rate reduction is required because the Secretary of State has determined that the prevailing market rate has been below the interest rates specified in regulation 21A or 21B for 3 consecutive months.

The Regulations expire on 30 September 2021. The interest rates reduction is for 3 months, and after expiry of the Regulations, the interest rate on undergraduate loans and postgraduate degree loans will return to the 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:

“The 2021 Regulations are composite regulations and, as such, it should be noted that there are no routine parliamentary processes in place to lay bilingual regulations before Parliament. Therefore, the amending regulations are made in English only.”

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

15 June 2021

