

## **Explanatory Memorandum and Regulatory Impact Assessment to the Assembly Learning Grants (European Institutions) (Wales) (Amendment) (No.2) Regulations 2008.**

This Explanatory Memorandum has been prepared by the Funding and Student Finance Division and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Description**

1. These Regulations are required to amend the existing Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 (Statutory instrument No. 18 (W.7), as amended by SI No 2008/1324 (W.137), referred to as the “Primary Regulations”, which came into force on 1 February 2008. Under the Primary Regulations, financial support was provided for a small quota of up to 4 Welsh students taking designated postgraduate courses at one of three European Institutions: the Bologna Centre in Bologna, Italy; the College of Europe in either Bruges, Belgium or Natolin, Poland; and the European University Institute in Florence, Italy. Funding arrangements differ between the European Institutions. There is a continuing need to amend and uprate the Primary Regulations (which currently apply to academic year 2008/09) to make financial provision for students ordinarily resident in Wales for the 2009/10 academic year who are taking designated postgraduate courses at one of these European Institutions. The changes are required to incorporate inflationary uplifts and the fees charged by each institution.

### **Matter of special interest to the Subordinate Legislation Committee**

2. The Subordinate Legislation Committee meeting of 10 June 2008 reported a defect in the Welsh text of Regulation 3 of the Assembly Learning Grants (European Institutions) (Wales) (Amendment) Regulations 2008, SI No 2008/1324 (W.137). The making of these No. 2 Amendment Regulations rectifies the flaw and provides for consistency between the English and Welsh meanings of the earlier amendment regulations.

### **Legislative Background**

3. These Regulations are made on an annual basis under sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998 and follow the negative resolution procedure. In June 2006, section 44 of the Higher Education Act 2004 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 Teaching and Higher Education Act 1998). 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 into force the various subsections of section 44 is the Higher Education Act 2004 (Commencement Order No. 2 and Transitional Provision) (Wales) Order 2005 as amended by the Higher Education Act 2004 (Commencement Order No. 2 and Transitional Provision)

(Wales) (Amendment) Order 2006. Those National Assembly 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. Each year, the relevant functions of the Welsh Ministers in regulations made under section 22 of the Teaching and Higher Education Act 1998 are transferred and delegated to the Welsh Local Authorities and the Student Loans Company under section 23 of that 1998 Act.

### **Purpose and intended effect of the legislation**

4. These Regulations amend the existing Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 SI No 18 (W.7) as amended by SI No 2008/1324 (W.137) (“the Primary Regulations”), to provide the correct support for eligible students taking designated higher education courses at the Bologna Centre, the College of Europe or the European University Institute in respect of an academic year beginning on or after 1 September 2009. The Primary Regulations set out the eligibility criteria for the grants, the application procedure and the method for calculating the amount of grant payable. The Primary Regulations also set out the arrangements for payment of the grants and recovery of any overpayments. There is a continuing need for the Welsh Assembly Government to ensure provision for graduate students attending any of the three European Institutions.

### **Implementation**

5. It is intended that certain provisions of this Instrument will come into force on 31 December 2008. These provisions will prescribe (amongst others) the deadlines for applications for support in relation to academic year 2009/10, which precede the start of that year. The remaining provisions will commence on 1 September 2009.

6. Broadly similar Regulations are expected to come into force in England at the same time. In drafting these Regulations, it was essential to ensure parity with the Department for Innovation, Universities and Skills (DIUS) Regulations, so that full coverage can be ensured.

### **Consultation**

7. There is no statutory requirement to consult on these Regulations. They are made annually and are technical in nature. They uprate or amend various fees, grants and allowances and correct a typographical error in SI 2008/1324 (W.137) They affect a very small number of students (four) and historically, there has been no consultation in previous years.

### **Regulatory Impact Assessment**

#### **Options**

8. **Do nothing** - If these Regulations are not made, there would be a lack of clarity for delivery partners - Local Authorities, Institutions and the Student Loans Company (SLC) on the areas where the technical, typographical /

formatting, amendments, inflationary uplifts and fees charged are required ensuring the continuing operational requirements of student support front line services. If the Regulations are not made prior to the start of the academic year, students ordinarily resident in Wales will not be able to receive support for study undertaken at one of these European Institutions.

**Make the Legislation as a minimum** – Implementing these Regulations will meet the Welsh Ministers obligations in ensuring the regulatory framework is in place prior to the start of the academic year. To ensure there is equity and fairness, there is a continuing need to provide support and not to disadvantage existing student cohorts or other new applicants. The technical corrections and revisions to published figures as laid out in statutory instrument No. 18 (W.7), as amended by SI No 2008/1324 (W.137), will need to be taken into account by delivery agents assessing applications for 2009/10.

### **Benefits**

9. The Regulations will provide certainty to the Welsh Assembly Government's delivery partners i.e. the Student Loan Company; Higher and Further Education Institutions, and Local Authorities as the Regulations will provide consistency with the DIUS Regulations for the 2009/10 academic year. Delivery agents and customers (students) of the Welsh Assembly Government will directly benefit from having a complete set of Regulations governing student support at the three European Institutions from the start of the 2009/10 academic year.

### **Costs**

10. Currently (academic year 2008/09), there are three Welsh domiciled students attending the institutions concerned, all of whom are due to complete their studies. Recruitment for all three institutions for 2009/10 entry is currently underway. The increased inflationary costs can be contained within the existing Learner and Student Finance SPA baseline and therefore, it is expected to lead to no significant additional expenditure for 2009/10 or 2010/11. In view of the demand led nature of this activity and current take up, data will continue to be re-visited and refined as more accurate numbers become known.

### **Competition Assessment**

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

### **Post implementation review**

12. There is an ongoing process of continual review of the Regulations that govern the support provided to Welsh students studying at any of the three EU institutions. It is expected that these Regulations will require further amendment for the 2010/11 academic year to ensure that the amount of support available, either using revised figures from the Institutions or up rating

in line with inflation. Any revised Regulations will need to be in place later in 2009.

### **Summary**

13. These proposed Regulations are required to amend and clarify the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 No. 18 (W.7), as amended by SI No 2008/1324 (W.137) which came into force on 1 February 2008 and to make provision for support for academic year 2009/10.