

## **EXPLANATORY MEMORANDUM TO THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT) (No. 3) REGULATIONS 2018**

The Explanatory Memorandum has been prepared by the Higher Education Division and is laid before the National Assembly for Wales under Standing Order 27.1.

### **Cabinet Secretary's declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM  
Cabinet Secretary for Education  
6 July 2018

## **Description**

The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018 ('the Regulations') provide the repayment mechanisms to allow Welsh borrowers of doctoral loans to repay loans in respect of academic years beginning on or after 1 August 2018.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

The Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2018 ("the 2018 Regulations") further amend the Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470) ("the 2009 Regulations") as amended. The 2009 Regulations were made as composite regulations by the Welsh Ministers (in relation to Wales) and the Secretary of State and they govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which began on or after September 1998. The 2009 Regulations contain provisions (not devolved to the Welsh Ministers) which are made by the Secretary of State in relation to England and Wales which concern the tax system operated by Her Majesty's Revenue and Customs. Some other provisions are made by the Welsh Ministers in relation to Wales and the Secretary of State in relation to England.

This composite statutory instrument is subject to the negative resolution procedure in the National Assembly for Wales and in the UK Parliament. Given the composite nature of the regulations and that no routine Parliamentary processes exist by which to lay bilingual regulations before Parliament, these Regulations will exceptionally be made in English only.

## **Legislative background**

The relevant legal powers to make these Regulations are set out in sections 22 and 42 of the Teaching and Higher Education Act 1998.

The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 as regards to Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, except for those functions under section 22(2)(a), (c), (j) and (k), 3(e) and (f) and (5). Functions under sub-sections 22(2)(a), (c) and (k) are exercisable by Welsh Ministers concurrently with the Secretary of State in relation to Wales. The functions in sections 22(2)(j), 22(3)(e) and (f) and section 22(5) remain

Secretary of State functions in relation to Wales. The functions so transferred and which became exercisable concurrently subsequently became functions of the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument will follow the negative resolution procedure.

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

Loans are made available to support eligible students ordinarily resident in Wales undertaking designated courses of higher education. The 2009 Regulations provide for the repayment of those loans to Her Majesty's Treasury. The terms of the repayment are set in order to balance the need for adequate returns to the taxpayer while ensuring loans are not a disincentive to undertaking higher education. The 2009 Regulations make provision for the repayment of student loans and postgraduate degree loans in England and Wales.

Support in the form of loans is now available for those wishing to study doctoral programmes. The changes described below will ensure that loan repayments for doctoral loans are affordable for those repaying them, while providing a reasonable return to the taxpayer. These composite Regulations made by the Secretary of State and Welsh Ministers amend the 2009 Regulations, to make provision for the repayment of postgraduate doctoral degree loans provided by Welsh Ministers, under Regulation 13 of the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

A summary of the changes is set out below.

The 2018 Regulations set an income threshold for repayment, below which borrowers are not required to make repayments of their loans. Borrowers earning above that repayment threshold are required to make repayments of a set percentage of the portion of their income that falls above that threshold. The repayment terms for doctoral study are the same as those which apply to the repayment of postgraduate Master's loans. Borrowers will not be required to repay their loan until their income reaches the minimum threshold of £21,000 per year, with the interest rate on the loan balance currently set at 3% + RPI. Repayments will be 6% of an individual's income over £21,000. The borrower is not required to make repayments for doctoral loans before 6 April 2019. Repayments will be made concurrently with repayments on certain other loan balances, including undergraduate debt.

The 2018 Regulations amend the 2009 Regulations so that doctoral loans are repaid as postgraduate degree loans under those Regulations. Part 3 and 4 of the 2009 Regulations only apply to the loans if the Welsh Ministers determine that loan repayments are to be made through the tax system and give notice of this to the Secretary of State. If parts 3 and 4 are not applied by Welsh Ministers, those regulations in part 2 which also relate to repayments through the tax system will also cease to apply.

A further amendment is required to the 2009 Regulations so that loan repayments become due at the start of the tax year commencing on 6 April after the borrower ceases to be eligible for a loan under the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 or, if earlier, the start of the tax year commencing on 6 April after the fourth anniversary of the course start date. Interest at RPI +3 % will accrue on a loan from the date that the first payment is made in respect of that loan under the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

## **CONSULTATION**

There is no statutory requirement to consult on these Regulations. The doctoral policy which included full details on the repayment arrangements was consulted on between 8 December 2017 and 2 March 2018 (*Support for doctoral study, WG33258*). A wide range of stakeholders were invited to respond to the consultation. A summary of the responses is being prepared and will be published on the Welsh Government website once complete.

Responses to the consultation did not identify any significant concerns and as a result the policy remains largely unchanged from the original policy proposed in the consultation for the 2018/19 academic year.

## **REGULATORY IMPACT ASSESSMENT**

### **Options**

Two options have been considered. In order to deliver a system of support for doctoral loans in 2018/19 the Welsh Government is constrained by the need to operate a single unified repayment system for England and Wales by Her Majesty's Customs and Revenue. Consideration must also be given to the financial constraints imposed upon the Welsh Government when loan funding was made available for doctoral loans, which includes the acceptance of the terms and conditions of repayment provided for by the Regulations. There are, therefore, no further policy options realistically available at this time.

#### **Option 1: Do nothing**

The first option is to do nothing. In this case, the Regulations are not made and the repayment of loans made to support doctoral study would be on the basis of the terms provided for by the 2009 Regulations that apply to loans other than those made to support postgraduate Master's study.

#### **Option 2: Make the Regulations**

By amending the Regulations the Welsh Ministers will ensure that repayment of postgraduate doctoral loans is consistent with the policy established for the repayment of postgraduate Master's loans, implementing a consistent approach to the repayment of postgraduate loans. This policy is the same as that established by the UK government for the repayment of doctoral loans by students ordinarily resident in England.

The difference between the proposed doctoral repayments policy provided for in the Regulations and existing repayments policy (for post-2012 loans) is as follows.

	Postgraduate doctoral	Postgraduate Master's	Other student debt
Repayment rate	6%	6%	9%
Income threshold	£21,000	£21,000	£25,000
Interest rate during study	RPI +3%	RPI +3%	RPI +3%
Interest rate upon completion of study	RPI + 3%	RPI + 3%	Between RPI and RPI + 3%, depending upon income

Doctoral loan debt will be added to any postgraduate Master's debt to establish a single balance. This balance will be paid back concurrently with any other student debt.

## Costs and benefits

### Option 1: Do nothing

If Regulations are not amended then the repayment terms for postgraduate doctoral loans would default to those applicable to other student debt. This will mean repayments start at a higher income threshold, reducing the return to the taxpayer. Further, the loan balance would be added to any existing student debt, including any incurred by way of loans for undergraduate study. This would then be repaid as a single balance, reducing the likelihood that the loan will be repaid. This risks providing the taxpayer with a significantly lower value for money and will result in a lower return.

On the other hand, as students would pay back a single balance, then they would benefit by the increased likelihood of not repaying their loan.

### Option 2: Do the minimum – make the Regulations

#### Cost

Doctoral students, like postgraduate students, are known to earn more than those with undergraduate degrees alone<sup>1</sup>. Requiring them to pay back at a lower income threshold, that is, sooner, than those with undergraduate debt is

<sup>1</sup> <https://www.vitae.ac.uk/vitae-publications/reports/what-do-researchers-do-early-career-progression-2013.pdf/view>

commensurate with their higher average income. By lowering the repayment rate from 9% of income above the repayment threshold for undergraduate debt to 6% for postgraduate debt, affordability is given due regard, which is especially important given that many borrowers will have both undergraduate and postgraduate debt. The cumulative repayment rate is 15%. Making the Regulations therefore ensures that an adequate return is made to the taxpayer, at terms which are not a significant disincentive to those undertaking a postgraduate degree.

Making the Regulations also establishes a consistent policy for the repayment of postgraduate loans. The terms are those to be offered to students ordinarily resident in England, ensuring the same treatment.

### **Participation rates**

Take up of loans is expected to be relatively low. Around 200 new doctoral students are expected to be eligible for a loan in 2018/19, based on the latest population and existing funding routes. It is not known how many additional doctoral students will enrol as a result of the regulations being made or will take up the offer of the loan.

Forecasts for the introduction of postgraduate Master's loans in the 2017/18 academic year assumed a 10% increase in participation. It is too early to draw any conclusion regarding the accuracy of this assumption and the context for the introduction of doctoral loans is not comparable with that for any other type of student loan previously introduced. This is because arrangements already (and will continue to) exist for the funding of the most competitive doctoral students and research projects. There is, therefore, no basis for an estimate of the scale of increase, nor how much of any increase will be realised in the first year of provision.

### **Benefits and student debt**

There are clear economic returns for those with a higher degree as graduates are more likely to be in employment, than those with just an undergraduate degree. Statistics on UK graduates from higher education demonstrate a clear advantage to doctorate leavers, compared with other postgraduate leavers, with respect to employment and average salaries. Eighty-six percent of 2015/16 doctoral leavers were in employment (UK or overseas), compared with 81% of other postgraduates, six months after graduation. This difference largely reflects the higher proportion of other postgraduate leavers that go on to further study, rather than employment. More than 60% of 2015/16 doctoral

graduates employed full-time were earning an annual salary of at least £30,000, compared with less than 50% of other postgraduate leavers, six months after graduation. Previous research has suggested an overall earnings premium of 9% for doctoral graduates, compared to those with a Masters degree.<sup>2</sup>

If the Regulations are made then there will be a consistent approach across Wales and England for doctoral loan borrowers. Repayment of the loan is income contingent and ensures that only those that can afford to repay do so. This will directly benefit borrowers, particularly those on a low income, as a number of students may never enter repayment at all.

### **Financial costs**

The estimated value of loan provision in the 2018-19 financial year is £0.8m, but there is considerable uncertainty around potential demand and take-up. This figure is based on the estimated eligibility within the latest population; any increase in participation resulting from the availability of loans may increase the value of provision. For example, a 10% increase (in line with the forecasting assumption for the introduction of postgraduate Master's loans) would result in an estimated cost of £0.9m in 2018-19. A RAB charge in the region of 35%, reflecting forecast non-repayment of doctoral loans, has been estimated. There is uncertainty around the RAB charge, relating to the number, characteristics and future earning potential of potential doctoral loan borrowers. The estimate provided would result in a 2018-19 financial year RAB cost of £0.3m, when applied to the estimated value of loan.

Costs will increase year on year while a full cohort eligible for doctoral loans phases in. A full cohort will take up to eight years to phase in (2025-26), and it is unclear whether demand will increase during that time. Based on the current estimated eligible population, a full cohort would require around £6m of loan cover, with an associated RAB cost of around £2m. These estimates could, however, be subject to marked change during the intervening time, as real data on demand and loan repayments become available.

An Equality Impact Assessment has been completed and is available on request from [hepolicy@gov.wales](mailto:hepolicy@gov.wales)

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<sup>2</sup> <https://www.vitae.ac.uk/vitae-publications/reports/what-do-researchers-do-early-career-progression-2013.pdf/view>



## **COMPETITION ASSESSMENT**

There is no wider impact on the competitiveness of business, charities or the voluntary sector in making these Regulations. An impact assessment has not been produced for this instrument by English counterparts as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

## **POST IMPLEMENTATION ASSESSMENT**

The regulations governing the student support system are subject to periodic review by the Welsh Government and its delivery partners.

## **SUMMARY**

The making of these Regulations is necessary to establish the basis for the repayment of doctoral loans for student support.