

Explanatory Memorandum to the Education Maintenance Allowances (Wales) (Revocation) Regulations 2009

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

Description

1. These Regulations revoke the Education Maintenance Allowances (Wales) Regulations 2007 (S.I. 2007/2311) ("the 2007 Regulations"). The 2007 Regulations provided the basis for the Education Maintenance Allowances (Wales) Scheme during academic year 2007/2008. For academic year 2008/2009 a modified scheme has operated and continues to operate under a different statutory basis.

Matter of special interest to the Secondary Legislation Committee

2. None. The making of these Regulations satisfies the 21 day rule. The regulations do not address any reporting points previously identified by the Secondary Legislation Committee.

Legislative Background

3. These Regulations are made under section 181 of the Education Act 2002, which was the power under which the 2007 Regulations were made. By way of background, section 14 of the Interpretation Act 1978 provides that where an Act confers power to make regulations, it implies a power, exercisable in the same manner, to revoke any instrument made under that power.

Purpose and intended effect of the legislation

4. For academic year 2007/2008 the basis of the Education Maintenance Allowances (Wales) scheme was the *Education Maintenance Allowances (Wales) Regulations 2007* (SI 2007/2311) ("the 2007 Regulations"). For academic year 2008/2009 the scheme operates under section 14 of the Education Act 2002 ("the 2002 Act").

5. For all intents and purposes, the 2007 Regulations are now 'spent'. The operation of the current EMA (Wales) scheme for 08/09 under section 14 of the 2002 Act does not require regulations to be made. In order that the 'spent' 2007 Regulations do not remain on the statute book, those regulations are now being revoked. It is generally regarded as good practice to remove obsolete and spent legislation from the statute book. If spent or obsolete regulations remain in place then people might reasonably assume that the

regulations still mean something. Revoking such obsolete/spent regulations also helps reduce the size of the statute book.

Implementation

6. It is intended that this Instrument will come into force on **24 April 2009**. There is no parallel legislation being made in relation to England. (Schemes in England which are similar in nature to the EMA (Wales) Scheme have operated under section 14 of the Education Act 2002 for a number of years).

Consultation

7. There is no statutory requirement to consult on the *Education Maintenance Allowances (Wales) (Revocation) Regulations 2009*. Because of the wholly technical nature of the Regulations, no consultation exercise has been undertaken.

Regulatory Impact Assessment

Options

8. Details of the proposed changes are set out in the *purpose and intended effect of the legislation* section. The options of making or not making the Regulations are:

9. **Do nothing** - If these Revocation Regulations are not made, a set of 'spent' Regulations will remain on the statute book. If spent regulations remain on the statute book, the general public might reasonably assume that those regulations are to have some effect (when in fact they do not).

10. **Make the legislation** - Implementing these Revocation Regulations will remove a set of spent regulations from the statute book. It is generally regarded as good practice to remove spent legislation from the statute book.

11. **Benefits** - By making the Revocation Regulations the size of the statute book is reduced and the possibility of the public assuming that the 2007 Regulations are still intended to have some effect is avoided. There is no impact on Welsh Ministers powers with regard to the current EMA (Wales) scheme.

Costs

12. The making of these Regulations involves no costs (indirect or direct) on any sectors or the outputs or activities of those sectors, on consumers or the public in general. Equally there is no impact on the costs associated with the EMA (Wales) scheme.

13. There are no additional Financial Implications arising for the DCELLs MEG or Welsh Ministers

Competition Assessment

14. The making of these Regulations will have no impact on businesses, charities and/or the voluntary sector.

Consultation

15. There is no statutory requirement to consult on these Regulations. Because of the wholly technical nature of the Regulations, no consultation exercise has been undertaken.

Post implementation review

16. There are no plans to monitor the effect of the Regulations due to their wholly technical nature.

Summary

17. The proposed regulations are needed to remove spent legislation from the statute book. In doing so, the size of the statute book will be reduced. The making of this instrument is cost neutral to the Welsh Assembly Government and officials recommend these Regulations are put in place.