

Explanatory Memorandum to the Assembly Learning Grants (European University Institute) (Wales) Regulations 2009

This Explanatory Memorandum has been prepared by the Funding and Student Finance Division of the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Assembly Learning Grants (European University Institute) (Wales) Regulations 2009. I am satisfied that the benefits outweigh the costs.

Leighton Andrews A.M

Minister for Children, Education and Lifelong Learning

21 December 2009

Description

1. These Regulations revoke and replace the existing Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 (SI No. 18 (W.7)) (as amended), which came into force on 1 February 2008. Unlike in previous academic years, funding available for one student wishing to attend the Bologna Centre and for up to two students wishing to attend the College of Europe has been withdrawn. Funding for living costs remains available for one Welsh student (a student who is ordinarily resident in Wales) at the European University Institute.

Matters of special interest to the Subordinate Legislation Committee

2. There are no matters of special interest to the Subordinate Legislation Committee.

Legislative Background

3. The powers enabling this Instrument to be made are contained in sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998. The functions of the Secretary of State in those sections transferred to the National Assembly for Wales under the Education Act 2004. These powers have been transferred to Welsh Ministers under paragraphs 30(1) and 30 (2) (c) of the Government of Wales Act 2006. These Regulations will follow the negative resolution procedure.

Purpose and intended effect of the legislation

4. These Regulations revoke and replace the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 (SI 2008/18) (as amended). They will ensure that the correct level of living cost support is given to a student attending the European University Institute in respect of an academic year beginning on or after 1 September 2010. These Regulations set out the eligibility criteria for the grants, the application procedure and the method for calculating the amount of grant payable. The Regulations also set out the arrangements for payment of the grants and recovery of any overpayments.

5. By revoking the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008, these Regulations effectively discontinue the funding available for eligible students attending designated higher education courses at the Bologna Centre and the College of Europe. Currently, funding is available for up to one student at the Bologna Centre and up to two students at the College of Europe each academic year. The funding of those courses is being discontinued as of academic year 2010/11 in light of the Assembly Government's obligations under Articles 21 (freedom of movement) and 56 (provision of services) of the Treaty on the functioning of the European Union (previously Articles 18 and 21 of the EC Treaty, respectively). In conjunction with those obligations, section 80(8) of the Government of Wales Act 2006 provides that Welsh Ministers have no power to make any subordinate legislation in so far as it is incompatible with EU law.

6. It is intended that the provisions of this Instrument will come into force on 21 January 2010. The Regulations need to be in force before the start of the 2010/11 academic year and the closing date for 2010/11 applications. This will enable the appropriate levels of support to be available to any successful student applying to study at the European University Institute in the 2010/11 academic year.

Consultation

7. There is no statutory requirement to consult on these Regulations and they will affect a very small number of Welsh student places. Under the current regulations a maximum of four post graduate students may receive funding each academic year between the European University Institute, Bologna Centre and College of Europe. As indicated above these Regulations will ensure that the Welsh Ministers are not acting in a way that is contrary to section 80(8) of the Government of Wales Act 2006. The changes are based on the principles of free movement and provision of services within the EU as set out in the Treaty on the functioning of the European Union. The Bologna Centre and the College of Europe have been informed of the intended changes.

Regulatory Impact Assessment

8. These Regulations have no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006). Nor do they impose any additional burdens upon the statutory partners (sections 73-75 Government of Wales Act 2006).

Options

9. **Do nothing** - If these Regulations are not made, there would be a lack of clarity for the delivery partner: i.e. the Student Loans Company (SLC) concerning the levels of support which remain available for postgraduate students for academic year 2010/11. The current regulations apply in respect of academic year 2009/10 and as such doing nothing would mean that there is no statutory basis for the payment of any support in 2010/11. If the Regulations are not made prior to the start of the academic year, a student ordinarily resident in Wales will not be able to receive the correct amount of support for study undertaken at the European University Institute.

Make the Legislation – Implementing these Regulations will ensure that a clear regulatory framework is in place at the start of academic year 2010/11, which does not conflict with European Union law.

Benefits

10. The Regulations will provide certainty to the Welsh Assembly Government's delivery partner: i.e. the Student Loan Company and will provide consistency with the Regulations due to come into force in relation to

England for the 2010/11 academic year. Delivery partners and customers (student applicants) of the Welsh Assembly Government will directly benefit from having a complete set of Regulations governing student support in relation to the European University Institute from the start of the 2010/11 academic year.

Costs

11. Currently (academic year 2009/10), there is one student who is ordinarily resident in Wales attending one of the three institutions (Bologna). The funding for that student is for one academic year only and will cease for a new student for 2010/11. Recruitment has begun at the European University Institute. The cost of funding any successful candidate can be met from existing resources and there is no additional expenditure for 2010/11 as a result of these Regulations.

Competition Assessment

12. The making of these Regulations has no impact on any UK business, charities and/or the voluntary sector.

Post implementation review

13. There is an ongoing process of continual review of the Regulations that govern the support provided to Welsh students studying at the European University Institute. These new Regulations have been substantially updated to make the necessary policy changes and to align them with the main student support Regulations. It is therefore, not expected that these Regulations will require further amendment for the 2011/12 academic year unless amendments are required to the amount of support available. In view of the demand led nature and the take up of the available place being dependent on the success of Welsh applicants, data will continue to be revisited and refined.

Summary

14. These proposed Regulations are required to revoke and replace the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008 No. 18 (W.7) as amended, and will come into force on 21 January 2010 and to make provision for support for academic year 2010/11.