

REGULATORY APPRAISAL

EDUCATION, WALES

THE ASSEMBLY LEARNING GRANTS (EUROPEAN INSTITUTIONS) (WALES) REGULATIONS 2006

Background

1. The Education (Student Support) (European Institutions) Regulations 2000, make provision on an England and Wales basis, for a small quota of up to 50 students taking designated postgraduate courses at one of three European Institutions: the Bologna Center in Bologna, Italy; the College of Europe in either Bruges, Belgium or Natolin, Poland; and the European University Institute in Florence, Italy to receive financial support. Funding arrangements differ between the European Institutions.
2. The devolution of student support policy to Wales has created the need for the Assembly to introduce new Regulations making provision for students ordinarily resident in Wales from the 2006/07 academic year who are taking designated postgraduate courses at one of these European Institutions. Four places across the three Institutions have been allocated to Welsh students.

Purpose and intended effect of the measure

3. The existing Education (Student Support) (European Institutions) Regulations 2000 make provision, on an England and Wales basis, for a small quota of up to 50 students taking designated postgraduate courses either at the Bologna Center in Bologna, Italy; the College of Europe in either Bruges, Belgium or Natolin, Poland; or the European University Institute in Florence, Italy to receive financial support. These Regulations will set out the conditions that students must satisfy to be eligible to receive support, along with the procedure to apply and the time limits involved.
4. In making these Regulations there is a requirement to ensure compliance with the European Union Directive on the Free Movement for EU Citizens and their Families 2004/38/EC. The Directive required Member States to implement any necessary changes by 30 April 2006 and to take these into account when drafting future legislation. The terms of the Directive widen the eligibility criteria for those EU Citizens who can demonstrate a connection to the UK have been widened and eligible citizens will be able to be assessed for student support along with other UK nationals.
5. Furthermore, introduction of the Regulations will ensure that no student ordinarily resident in Wales is disadvantaged as a result of the devolution of student support policy to Wales. At this time, there is only one Welsh student who will be studying at one of the three EU Institutions in the 2006/07 academic year.
6. The detail of the various provisions under each part of the Regulations is set out below:

- Part 1 sets out the relevant definitions, as well as transitional and saving provisions. Regulations 5 - 10 contain technical provisions dealing with the transition from the 2000 Regulations to the present regulations in relation to pre-existing students and those new students who had applied for support under the old Regulations before the new ones came into force;
- Part 2 sets out the conditions that a student must satisfy in order to be eligible for support at one of the European Institutions, for example; that the chosen course is full time and at least one year's duration. It also allows for transfer between courses provided by an Institution;
- Part 3 covers the time limits and procedure for applying for support and sets out the information that must be provided in connection with an application;
- Part 4 sets out the various types of grants available to students attending these Institutions and the conditions that a student must satisfy in order to qualify for them. Different provisions are made according to which of the Institutions the student is studying at and include grants for fees, living and other costs and other related support grants and allowances;
- Part 5 deals with the calculation and application of a financial contribution from the student when they are studying at the College of Europe or the European University Institute;
- Part 6 deals with the payments of support and the recovery of overpayments;
- Schedule 1 set out the specific eligibility criteria, with part 2 defining the categories of person who can apply for support under the terms of the European Union Directive on Free Movement for EU Citizens and their Families 2004/38/EC; and
- Schedule 2 covers the definitions and terms of the student's, parents or the student's partner residual income to be taken into account in the calculation of the student contribution to the support arrangements.

Risk Assessment

7. The legislation is required to ensure that students ordinarily resident in Wales are not disadvantaged following the devolution of student support to Wales and it will enable existing students, or students applying to study at these Institutions, to receive support in the 2006/07 academic year.
8. In addition, the Regulations will provide legal protection for the Assembly against a claim for race discrimination being brought by an overseas student under the terms of the EU Directive.

9. The delivery partners and stakeholders are aware of the intention to make these Regulations in relation to Wales prior to the start of the academic year and failure to do so will provide uncertainty during this period of devolution.

Options

Option 1 – Do Nothing

10. 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. Also, the Assembly will not have implemented the terms of the EU Directive in relation to this policy. This could potentially open the Assembly to legal challenge or to a claim for race discrimination being brought by an overseas student.

Option 2 – Make the Legislation

11. Implementing these Regulations would ensure that the continuing student is not disadvantaged and will enable the Assembly to incorporate the terms of the EU Directive. The provision of this support arrangement for Welsh Students and the revised eligibility criteria could be taken into account for the assessment of student applications for the 2006/07 academic year.

Benefits

12. By making these Regulations existing students, or students applying to study at these Institutions, will benefit as they will be able to receive support in the 2006/07 academic year. The Assembly will benefit by having the necessary provisions and legal assurances in place.

Costs

13. There are no financial implications to Local Government or the Student Loans Company (SLC) as a result of implementing these Regulations. The SLC will administer the application process and Officials within the Assembly's Student Finance Division will process the payment. The potential cost to provide all aspects of the available support for the 4 places is approximately £70- £80k per academic year. It should be noted that the type of and levels of support vary across the three institutions and that currently there is only one student, which will fall under the terms of these Regulations in the 2006/07 academic year. All costs will be accommodated within the Assembly's existing Learner & Student Finance Spending Programme Area budgets.

Consultation

With Stakeholders

14. No formal consultation was undertaken as the legislation is necessary to ensure that Welsh students are not disadvantaged and to ensure compliance with the EU Directive. However, representatives from the Local Education Authorities, Higher Education Institutions, the National Union of Students, the Student Loans Company (SLC) and colleagues from the Department for Education and Skills (DfES) have been made aware of the intention to introduce these Regulations via

the Devolution of Student Support Project Board meetings. No issues were raised, as these Regulations constitute a continuation of existing policy previously delivered by the DfES.

With Subject Committee

15. These Regulations were notified to the Education, Lifelong Learning and Skills Committee, via the list of forthcoming legislation, on 3 May 2006 (ELLS(2) 07-06, p.2, item no. ELL-13-06) and have remained on the list ever since. However, the title at that time was The Education (Student Support) (European Institutions) (Wales) Regulations 2006. They were not identified for detailed scrutiny.

Review

16. It is expected that these Regulations will require amendment for the 2007/08 academic year to ensure that the amount of support available, either using revised figures from the Institutions or uprating in line with inflation. This requirement will be assessed as part of the package of student support considered for 2007/08, which the Welsh Assembly Government's officials are continuing to work on over the coming summer months. Any revised Regulations will need to be in place by Spring 2007.

Summary

17. These Regulations will enable the Assembly to meet the needs of Welsh students studying at one of the three European Institutions and to incorporate the requirements of the EU Directive 2004.