

## **EXPLANATORY MEMORANDUM TO THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) REGULATIONS 2008.**

The Explanatory Memorandum has been prepared by the Student Finance Division and is laid before the National Assembly for Wales under Standing Order 24.1.

### **Description**

1. These Regulations are required to replace the existing *The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007 No. 1045 (W.104)*, which came into force on 1 April 2007, as well as the subsequent amending legislation [*SI 2007 No. 2312(W183)/ SI 2007 No. 2851(W248)/ SI 2007 No. 3230(W282)*]. These Regulations are made on an annual basis to underpin the higher education student support system in Wales.

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

2. None

### **Legislative Background**

3. These Regulations are made under 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 were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(c.79)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159)(C.56)). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30 (1) and 30(2)(a) of Schedule 11 of the Government of Wales Act 2006 (c.32).

4. This instrument will follow the Negative Resolution procedure.

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

5. The Welsh Assembly Government makes annual regulations governing the student support system. These Regulations set out the student support arrangements for students ordinarily resident in Wales and for EU students attending Welsh HEIs in designated higher education courses in the 2008/09 academic year and will enable the Welsh Ministers to make awards of grants and loans to eligible students.

6. These Regulations will consolidate the 2007 Statutory Instruments as well as introducing a limited number of policy and technical amendments to the existing system.

7. The details of the specific policy and technical changes incorporated within the draft legislation are set out below:

- a) **Disabled Student Allowances** – an increase in the maximum amounts available for non-medical helpers to £20,000 (full-time undergraduates), £15,000 (part-time undergraduates) and £10,000 (postgraduates). Associated costs of this change equate to £60k (split as £42K for FY 2008-09 and £18K for 2009-10);
- b) **Flexible Initial Teacher Training** – alignment of the support available to students undertaking flexible training with the package available to students on conventional PGCE courses. Associated costs of this change equate to £39k (split as £22K for FY 2008-09 and £17K for 2009-10);
- c) **Dependant grants means test** - a technical amendment to ensure the legislation correctly reflects the policy intent and the existing practise where a student couple each receives half of the Adults Dependants' Grant and Childcare Grants and where each is eligible for the full amount of Parents' Learning Allowance. There are no costs associated to this wording change within the Regulations;
- d) **Travel grant visas/medical tests** – a technical change to clarify that expenses incurred for visas and medical tests are not subject to the £295 disregard applied to other costs when a student makes an application for Travel Grant. There are no costs associated to this wording change within the Regulations;
- e) **Uprating for inflation** – the grants, loans and corresponding thresholds and taper levels have been uprated for inflation by 2.5%. Associated costs of this change equate to £5.3M (split as £3.1M for FY 2008-09 and £2.2M for 2009-10);
- f) **Prisoners** – an amendment which will bar prisoners from receiving maintenance support when they undertake for full-time study on temporary licence (day release). There are no costs associated with this change and results in a potential saving.

8. Due to very recent developments and some technical delivery issues there are a few additional policy changes which are also intended for introduction in the 2008/09 academic year. As it has not been possible to include these in the draft legislation they will be put forward for inclusion in an amending Regulation to be put in place this summer before the start of the 2008/09 academic year. These additional policy areas include:

- a) **Part-time** - alignment of the targeted support package with the package available to full-time students, in response to a

recommendation of the Graham Report. This will result in the introduction of the means-tested Childcare Grant, Adult Dependents' Grant and Parents' Learning Allowance for eligible part-time students studying an average of at least 60 credits (50% FTE).

- b) **Prisoners** – it is intended that further amendments will be proposed to enable students to receive pro-rated maintenance support for those who only spend part of the academic year in prison;
- c) **Residency** – to amend the legislation so that students who leave Wales to exercise a right of residence in the EEA or Switzerland are treated as if they are ordinarily resident in Wales for student support purposes, regardless of where they reside in the UK for 3 years after return. Similar changes are also being made by the other UK administrations and will ensure UK wide compliance with EC law.

### **Implementation**

9. The legislation will provide the framework for the 2008/09 student support system and will allow the various eligibility changes to be taken into account. The legislation needs to be in place in spring 2008 to enable the delivery partners (the Student Loans Company and the local authorities) to use the legislation as the basis of their assessment of a student's entitlement to support ready for entry into higher education in the autumn of 2008.

10. Except for the part-time aspects, similar changes have recently been or will be made by the Department of Innovations University and Skills (DIUS) and this legislation is necessary to ensure parity of treatment across the UK for students who fall under some of the eligibility requirements

### **Consultation**

11. There is no legal requirement to consult on these Regulations. However a consultation exercise was undertaken and the details are referred to in paragraph 18.

### **Regulatory Impact Assessment**

#### **Options**

12 **Do nothing** – by not making the legislation there would be no legal basis for the delivery partners, acting as agents of the Welsh Assembly Government, to make grant and loan payments to students for the 2008/09 academic year.

13. **Make the Legislation** – implementing these Regulations will ensure that the proper legislative framework is in place. They will also set out the specific eligibility criteria that the delivery partners must use in assessing a Welsh domiciled or EU student's eligibility to receive financial support.

## **Benefits**

14. By making the Regulations Welsh Ministers will benefit from the assurance that the Welsh student support system has a proper legal framework. The delivery partners will also benefit from the knowledge that they are acting within the requirements of the Welsh legislation. Students will benefit as the rules for eligibility are fully defined.

## **Costs**

15. The individual costs associated with each technical policy changes are set out in paragraph 7. The total cost to the Welsh Assembly Government of the changes contained within the draft legislation equate to £6.3M (split as £3.7M for the FY 2008-09 and £2.6M for the FY 2009-10) and can be met from existing budgets.

16. The delivery agents (the Student Loans Company and the local authorities) annually make assessments and payments of the loans and grants to students as specified by the relevant legislation. There are no additional burdens on the delivery agents created by the changes incorporated within the enclosed draft Regulations.

## **Competition Assessment**

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

## **Consultation**

18. Apart from the very recent technical amendments for prisoners and residency, the other proposed changes formed part of a consultation exercise with stakeholders and the delivery partners last autumn. The six week consultation took place between 17 September and 26 October 2007 and 15 responses were received. Annex A provides a list of the consultees and summary of the comments received is attached as annex B. The responses include a number of technical delivery questions though all respondents were in favour of the proposed changes.

19. The delivery partners and student advice bodies will also be notified of proposed additional changes and handling arrangements via Student Finance Wales Information Notices.

## **Post Implementation Review**

20. These Regulations are made annually and are continually subject to detailed review, both by policy officials and by the delivery partners in their practical implementation of the Regulations. Due to the alignment of the student support system with the UCAS timetable the 2009/10 legislation is scheduled to be in place in the autumn of 2008 and work on these regulations is currently underway.

## **Summary**

21. The making of these Regulations results in a £6.3M cost to the Welsh Assembly Government in order to apply the inflationary uplift and the minor technical policy changes. The legislation is necessary to provide the legal basis for the higher education student support system in Wales for the 2008/09 academic year.

**List of consultees**

**Further Education Institutions**

Barry College  
Bridgend College  
Ceredigion College  
Coleg Glan Hafren  
Deeside College  
Gorseinon College  
Gwent College  
Coleg Harlech  
Llandrillo College  
Llysfasi College  
Coleg Menai  
Coleg Meirion-Dwyfor  
Merthyr Tydfil College  
Coleg Morgannwg  
Neath Port Talbot College  
Pembrokeshire College  
Powys College  
Coleg Sir Gar  
St David's College  
Swansea College  
Swansea Institute of Higher Education  
Trinity College  
Yale College, Wrexham  
Ystrad Mynach College  
Welsh College of Horticulture  
Welsh College of Music and Drama

**Higher Education Institutions**

University of Wales, Aberystwyth  
University of Wales, Bangor  
Cardiff University,  
University of Wales Institute Cardiff  
University of Glamorgan  
University of Wales, Lampeter  
University of Wales, Newport  
North East Wales Institute of Higher Education  
University of Wales, Swansea  
Open University

**Local Authorities**

Anglesey Council  
Blaenau Gwent Council  
Bridgend Council  
Caerphilly Council  
Cardiff Council  
Carmarthenshire Council  
Ceredigion Council  
Conwy Council  
Denbighshire Council  
Flintshire Council  
Gwynedd Council

Merthyr Council  
Monmouthshire Council  
Newport Council  
Neath Port Talbot Council  
Pembrokeshire Council  
Powys Council  
Rhondda Cynon Taff  
Swansea Council  
Torfaen Council  
Vale of Glamorgan Council  
Wrexham Council  
Welsh Local Government Association

**Organisations**

AMMOSHE  
Care Council for Wales  
fforwm  
NUS Wales  
Student Loan Company  
NASMA  
HEFCW  
UKCISA  
Citizens Advice Cymru

## Consultation Exercise

The web based consultation documents contained the details of the specific policy and technical changes that were being proposed rather than including the actual Regulations, which are approximately 150 pages in length.

Set out below is a summary of the responses received, which included a number of technical delivery questions, though all the proposed changes were supported. The delivery questions have been assessed and where possible additional information will be contained within the guidance that is issued in support of this legislation.

## Proposed changes

**a) Disabled Student Allowances** – an increase in the maximum amounts available for non-medical helpers to £20,000 (full-time undergraduates), £15,000 (part-time undergraduates) and £10,000 (postgraduates).

**8 Responses received** which were in support of the changes. Though a few technical points were also raised:

- The Non Medical Helper (NMH )PT DSA rate is £15,000 not £10,000.- *[there was a typographical error in the consultation documents and it should have stated £15,000.]*
- The increased PT NMH allowance for 2008/09 only represents 50% of the FT allowance. Under current Regulations the PT NMH allowance represents 75% of the FT value. In relative terms this represents a decrease in funding – *[this was due to the typographical error]*.
- A call for 2 levels of grant for Non Medical Helpers.
- Comments that students with the most complex/multiple needs may be discriminated against because of the maximum amount of money available.
- What is the definition of severely disabled? Is this based on medical or social model?
- Comment that care must be taken that the DSA only funds additional costs incurred by the student because of their disability.
- Concerns about conflict of interest in that those assessing dyslexia are those who are then offering support.
- Increasing numbers of students eligible for DSA funding - big business for universities, assessment centres and suppliers.
- Clearer guidelines called for and monitoring of application.
- Comment and concern that assessment centres might be using this allowance to enable a student to get a wish list of support rather than what was actually necessary for their needs.



**b) Flexible Initial Teacher Training** – alignment of the support available to students undertaking flexible training with the package available to students on conventional PGCE courses.

**6 responses received** supporting the changes, with a number of comments made:

- Is it discriminatory to treat differently those on Initial teacher training courses of between 6 weeks to 12 months and those on courses over 12 months when living costs are the same?
- Is the OU to fund flexible ITT courses instead of LAs?
- Clear guidelines are required in the regulations.
- HEIs to provide the correct information on the SLC Protocol database.

**c) Dependant grants means test** - a technical amendment to ensure the legislation correctly reflects the policy intent for a student couple to each receive half of the Adults Dependents' Grant and Childcare Grants and for each to be eligible for the full amount of Parents' Learning Allowance.

**2 Responses received**, with a couple of specific questions.

- It appears that the amount of the Parents Learning Grant that is allocated for the child doubles if both parents are students whereas, presumably, the cost of raising a child remains broadly similar?
- Clearer guidelines would be welcome.

**d) Travel grant visas/medical tests** – a technical change to clarify that expenses incurred for visas and medical tests are not subject to the £295 disregard applied to other costs when a student makes an application for Travel Grant.

**2 Responses received** just requesting clearer guidelines.

**e) Up-rating for inflation** – the grants, loans and corresponding thresholds and taper levels have been up-rated for inflation by 2.5%.

No specific comments were made on the inflationary uplift.