

EXPLANATORY MEMORANDUM TO THE EDUCATION (POSTGRADUATE DOCTORAL DEGREE LOANS) (WALES) 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 (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Kirsty Williams AM
Cabinet Secretary for Education

23 May 2018

Description

The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 ('the Regulations') provide the basis for the system of financial support for students who are ordinarily resident in Wales (subject to some exceptions) and taking designated postgraduate doctoral degree courses in respect of academic years beginning on or after 1 August 2018. Support is provided through provision of loans.

Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

Legislative background

Section 22 of the Teaching and Higher Education Act 1998 ('the 1998 Act') provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. In particular, this power enables the Welsh Ministers to prescribe amounts of financial support (grant or loan) and categories of attendance on higher education courses. This provision, together with sections 42(6) and 43(1) of the 1998 Act, provide the Welsh Ministers with the power to make the Regulations.

Section 44 of the Higher Education Act 2004 ('the 2004 Act') provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2) (a), (c), (j) or (k), (3) (e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2) (a), (c) and (k) to be exercisable concurrently with the National Assembly for Wales.

The functions of the Secretary of State under sections 42(6) and 43(1) of the 1998 Act were transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.

This instrument will follow the Negative Resolution procedure.

Purpose and intended effect of the legislation

The Welsh Ministers intend to support students undertaking postgraduate doctoral degree courses. Postgraduate doctoral degrees are the highest academic qualification that an institution can award following an agreed course of study. The most common form of doctorate in the UK is the PhD or DPhil. Providing support for postgraduate doctoral degree study will ensure that finance is a less significant barrier to study, allowing students to pursue their studies to the very highest level. Increased high level skills for the economy in a way which provides value for money for the taxpayer, resulting economic growth and the value employers place on a highly skilled workforce provide the rationale for this support.

These regulations provide student support for students ordinarily resident in Wales (subject to some exceptions) studying postgraduate doctoral degree courses. The regulations apply to courses beginning on or after 1 August 2018 in line with the commitment made in the response to the Review of Higher Education and Student Finance ('the Diamond Review'). To qualify, a student must be an 'eligible student' studying a designated postgraduate doctoral degree course. The maximum amount of loan an eligible student can receive is £25,000 over the period of the doctoral course. The loan is intended as a contribution to the cost of study, rather than to specifically cover tuition fees or living costs. Students may use this to support their studies as they see fit.

Eligible prisoners may also apply for support. Support for eligible prisoners is limited to the lesser of the fee payable by the prisoner in respect of the course and £25,000.

Other key aspects are set out below:

- Available to those settled in the UK and ordinarily resident in Wales; to an EU national or family member of an EU national, to those with a residency status as a refugee, to stateless persons granted leave to

remain, or those with leave to enter or remain, including their family members who are ordinarily resident in Wales.

- Available to students up to 59 years of age on the first day of the course.
- Students must not have an equivalent qualification or a higher level qualification (including qualifications obtained outside the UK).
- Subject to one exception, students must not have had a doctoral loan from Welsh Ministers or another UK administration previously.
- To prevent duplication of funding, students must not be in receipt of certain other sources of funding related to their postgraduate doctoral degree course.
- Available for the study of postgraduate doctoral degree courses offered by providers based in the UK which meet certain designation criteria.
- Courses must be postgraduate doctoral degrees which may be full-time, part-time, or distance learning and which are between three and eight years in length.
- Loans are not means-tested.
- Payments to be made in instalments across the number of years of the doctoral programme.
- Payments to be made to the student upon confirmation of attendance by the relevant academic institution.

A similar support policy will be available in England from August 2018.

IMPLEMENTATION

The Regulations provide the basis for the implementation of the Welsh Ministers' policy for support for postgraduate doctoral degree study for courses starting in the 2018/19 academic year, which enables the Welsh Government's delivery partner (the Student Loans Company) to implement system changes, and allows applications for support to commence during 2018.

CONSULTATION

The postgraduate doctoral degree policy was consulted on between 8 December 2017 and 2 March 2018 (Support for doctoral study, WG33258). Details of the consultation are included in the Regulatory Impact Assessment section below.

REGULATORY IMPACT ASSESSMENT

Options

Option 1: Do nothing

In the event of the Regulations not being made the principal implications are:

- there would be no student finance available to students who are ordinarily resident in Wales and who wish to study for a postgraduate doctoral degree and who do not secure competitively awarded studentships through established mechanisms; and
- such students would be disadvantaged compared to their counterparts from England.

Option 2: Make the Regulations

The support currently available for students wishing to study on a postgraduate doctoral degree course is generally in the form of fully funded scholarships and studentships, sponsored by research councils and other organisations, made available competitively to the strongest research proposals and most able students. Some students that are not successful in gaining a funded place choose to fund themselves through their doctoral studies. Making the Regulations will allow the Welsh Ministers to provide a loan to students who wish to study for a postgraduate doctoral degree, but have not obtained support through existing arrangements. It is proposed that repayment of the loan will be income contingent and ensures that only those that can afford to repay do so.

Costs and benefits

Option 1: Do nothing

Doing nothing would mean that no additional costs are incurred via the student support system. However, support that will be made available to students who are ordinarily resident in England will not be made available to students who are ordinarily resident in Wales and expected benefits to the economy not realised.

Option 2: Make the Regulations

Making the regulations will benefit those that do not have an alternative source of funding for their postgraduate doctoral degree studies and may otherwise not undertake such a course. Making the regulations will ensure parity of support between students from Wales and those from England. There is uncertainty around the size, characteristics and take-up behaviour among the eligible population. The eligible population has been estimated based on data from the Higher Education Statistics Agency Student Record for the 2016/17 academic year, using available variables relating to the eligibility criteria outlined above.

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. Forecasts for the introduction of postgraduate Master's loans in academic year 2017/18 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 limited arrangements already (and will continue to) exist for the funding of the most competitive doctoral students and research projects. It is, therefore, difficult to estimate the scale of the anticipated increase in the number of doctoral students who will take out a loan.

Any additional demand, as a result of support being made available, could increase the estimate of the eligible number, which equates to between 15% and 20% of new doctoral research students. A 10% increase in demand (around 20 students on the basis of the estimated population) is within the inherent margin of uncertainty, with regards to eligibility and take-up. There is an equal gender split in the estimated eligible population. Around 90% are ordinarily resident in Wales, and the remainder are non-UK students from elsewhere in the EU, studying at universities in Wales. This estimate does not account for any effect on demand of the UK's exit from the EU.

Making the Regulations is intended to increase the number of students from Wales gaining postgraduate doctoral degrees. It is recognised that £25,000 is unlikely to alone be sufficient to cover all costs associated with a full doctoral study programme (tuition fees, living costs and research-related costs), which will be undertaken over a period of at least three years. As a comparison, Research Councils UK has announced a minimum doctoral stipend (in effect, the tax-free living costs allowance provided to research council funded

doctoral students) of £14,777, and an indicative fee level of £4,260¹, for the 2018/19 academic year. Over three years, these elements amount to almost £60,000 of funding. Whilst this is more generous than the doctoral loan, the loan will provide an alternative route to qualification for those who are not in receipt of the limited quantum of Research Council funding.

The subject profile of the estimated population eligible for doctoral loans is provided below (Table 1). Biological sciences are the largest subject area (16%), followed by Education (11%) and Subjects allied to medicine (10%).

Table 1: Subject profile of the estimated eligible population

| Subject group | Proportion |
|---------------------------------------|-------------------|
| Medicine and dentistry | 6% |
| Subjects allied to medicine | 10% |
| Biological sciences | 16% |
| Agriculture and related subjects | 2% |
| Physical sciences | 5% |
| Mathematical sciences | 1% |
| Computer science | 2% |
| Engineering and technology | 5% |
| Architecture, building and planning | 4% |
| Social studies | 8% |
| Law | 4% |
| Business and administrative studies | 6% |
| Mass communications and documentation | 2% |
| Languages | 7% |
| Historical and philosophical studies | 6% |
| Creative arts and design | 5% |
| Education | 11% |

Source: Welsh Government analysis of the HESA Student Record, 2016/17

The aim of the policy is to increase the number of individuals with high levels skills, who then contribute to the economy in a way which provides value for money for the taxpayer. The contribution to the economy is evidenced by

¹ <http://www.rcuk.ac.uk/media/news/180118/>

statistics on UK graduates from higher education, which demonstrates a clear advantage to doctorate leavers, compared with other postgraduate leavers, with respect to employment and average salaries. 86% 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 degree².

Highly educated individuals are important to a modern knowledge-based economy, and wider benefits are expected to having more doctoral graduates in the workforce. The link between higher levels of educational attainment and increased productivity is well established, through both a direct effect on the individual's own capabilities and the indirect effect of facilitating innovation. Many doctoral graduates go on to use their skills within academia or research-intensive industrial occupations and some apply the skills gained through doctoral studies in a wide variety of other sectors and roles, which are highly valued by employers.

Age restriction

The Regulations restrict support to those under 60 years of age on the first day of the academic year in which the designated course starts. An age limit is discriminatory under the Equality Act 2010 and the European Convention on Human Rights (article 14 – prohibition on discrimination). Age discrimination can be justified if it meets a legitimate aim and is proportionate. The aim of the scheme is to increase, in the context of finite resources, high level skills for the economy. The Welsh Government considers that it is necessary to ensure value for money for the taxpayer and takes the view that the imposition of the age limit is rationally connected to that aim. To ensure value for money, sustainable funding is required and the age limit of 60 mitigates against the risk that loans are disproportionately taken out by older students who will be unlikely to repay the loan in full or make significant repayments and who would have a limited number of working years in which their skills would be available to the economy.

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

Analysis by the Welsh Government indicates that, on average, a borrower entering repayment even at age 50 would not be expected to fully repay a £25,000 loan but such a borrower could conceivably continue to make an economic contribution for up to or over 15 years. A borrower beginning a new course at the age of 60 would not be expected to re-enter the workforce and become eligible to repay until they were aged at least 63, based on the minimum duration of study for a postgraduate doctoral degree. The average repayment estimated for a borrower entering repayment at age 63 is less than £6,500 (a 26% return), dropping to £5,000 by age 65 (a 20% return).

Although those aged 60 years and over increasingly remain in work, thereby making an economic contribution, it is nevertheless evident that employment falls off after age 60, from almost 80% of those aged 50–59, to around 50% for those aged 60–64, to around 10% for those aged 65 and over (source: employment rates for year ending 31 March 2016, Annual Population Survey, ONS).

The possibility of a less intrusive measure to achieve the Welsh Government's aim has been considered. The conclusion was that a system which required individual investigation and assessment would create a heavy administrative burden which could consume scarce resources. Such a system might also introduce scope for inconsistent decision-making.

Taking into account the evidence concerning not only repayment rates of loans but also employment rates (it is not the purpose of the loan to facilitate the uptake of doctoral degree courses by students who have no particular intention to return to the workplace), the Welsh Government considers that the age restriction strikes a fair balance and is justified.

Financial costs

The provision of doctoral loans will require loan cover (annually managed expenditure) from Her Majesty's Treasury. The estimated value of loan provision in the 2018-19 financial year is £0.8m, but there is 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 Resource Accounting and Budgeting charge (RAB) in the region of 35%, reflecting forecast non-repayment of doctoral loans, has been estimated. RAB is the amount of student loan paid out in a given year

that will ultimately not be repaid. Based on modelling, provision is made in the accounts to “write off” a proportion of the loans given to students during the given year. 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.

This RIA is assuming that the relevant composite repayment regulations will be made by the Department for Education and Welsh Ministers in July 2018. Should composite repayment regulations not be in force by 1st August, then the rate of and threshold on repayment may be different from that stated for doctoral loan borrowers but only until the relevant repayment regulations do come into force.

An Equality Impact Assessment has been completed and is available on request from hepolicy@gov.wales

CONSULTATION

The proposed postgraduate doctoral degree policy 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 which generated 28 responses, consisting of 11 organisations and 17 individuals. A summary list of stakeholders invited to respond and those which responded is attached at Annex 1.

Stakeholders were generally positive about and welcomed the policy proposals. All but one respondent agreed that support should be provided for doctoral study and a number of key themes relating to the questions emerged. It was recognised that there were other sources of funding available for a limited number of courses but access was limited further due to the very competitive nature of application.

Respondents were aware that funding would be made available for English students in the 2018/19 academic year and welcomed the same opportunity for students in Wales. It was suggested that the policy could contribute to the expansion of Welsh medium courses over the course of time. A number of respondents indicated that the age restriction was not ideal but many understood the rationale provided in the document; a more detailed rationale for maintaining the restriction is set out above.

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.

COMPETITION ASSESSMENT

There is no wider impact on the competitiveness of business, charities or the voluntary sector in making these Regulations.

POST IMPLEMENTATION ASSESSMENT

The Regulations governing the student support system are revised annually and are subject to detailed review by both the Welsh Government and delivery partners.

SUMMARY

The making of these Regulations is necessary to establish the basis for the higher education student support system for students ordinarily resident in Wales and EU students who are starting a postgraduate doctoral degree course in the 2018/19 academic year.

Annex A

List of consultees:

Higher education institutions
Universities Wales
Further education colleagues in Wales
Colegau Cymru/ College Wales
NUS Wales
Student Loans Company
Higher Education Funding Council for Wales
UCAS
NIACE
NASMA
Charities with an interest in higher education
Other representative organisations with an interest in higher education
The general public

List of respondents:

Crocels Community Media Group
University of South Wales
UCAC Cymru
Cardiff University
Open University
Royal College of Nursing
HEFCW
University and College Union (Wales)
Universities Wales
Swansea University
Aberystwyth University
The general public