

SL(6)365 – The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2023

Background and Purpose

These Regulations amend various Regulations which make provision about, and in connection with, student finance.

Amendments are made—

- (a) to the name that certain British overseas territories are now known by to be consistent with the British Nationality Act 1981, and
- (b) to the immigration status of certain Afghan citizens as a result of changes made to the immigration rules.

Amendments are also made to the Education (Student Support) (Wales) Regulations 2017 and the Education (Student Support) (Wales) Regulations 2018 to disapply early termination of eligibility for certain categories of eligible students in circumstances where a person has become a British or Irish citizen.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 11, there is a minor difference between the English and Welsh texts. In the English text, the new paragraph (12G) is to be inserted after “paragraph (12F)” but in the Welsh text it is described as being inserted after “paragraff 12(F)” in regulation 110 of the Education (Student Support) (Wales) Regulations 2017.



2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In Regulation 22(b) there is uncertainty as to whether the description of the location of the amendment to the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 is correct, or whether the new sub-paragraphs are incorrectly numbered. If the new sub-paragraphs are to be inserted after "sub-paragraph (ii)" by this amendment, they should have been numbered as sub-paragraphs "(ia)" and "(ib)" rather than "(i)" and "(ii)" as provided in Writing Laws for Wales paragraph 7.22(3) for the numbering of inserted text.

However, a parallel amendment in regulation 14(b) inserted new sub-paragraphs (ia) and (ib) after "sub-paragraph (i)" in paragraph 2ZA(4)(ea) of Schedule 2 to the Education (Student Support) (Wales) Regulations 2018.

Therefore, there is also doubt as to whether the intention was for regulation 22(b) to insert the new sub-paragraphs (ia) and (ib) after "sub-paragraph (i)" rather than "sub-paragraph (ii)" in paragraph 2A(4)(da) of Schedule 2 to the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019. Further explanation is required as to the intention of the amendment.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

"A consultation has not been carried as the amendments have not resulted from a change in policy but from a change in terminology or the immigration rules and to correct the student support regulations to remove a gap in provision as contained in legislation."

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

28th June 2023

