



Mick Antoniw AM  
Chair  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

21 February 2019

Dear Mick

**The Education (Student Finance) (Amendment) (EU Exit) (Wales) Regulations 2019**

I intend to lay the above regulations in the National Assembly on or around 8 March 2019. The regulations will ensure support for EU students continues uninterrupted after the UK leaves the EU on 29 March 2019. The regulations will be subject to the negative procedure and will be made using powers under the Education (Fees and Awards) Act 1983, the Teaching and Higher Education Act 1998 and the Higher Education (Wales) Act 2015, rather than the European Union (Withdrawal) Act 2018 ("the Withdrawal Act"). I thought a note in advance of the regulations being laid setting out the reasons why these regulations are being made under those powers rather than under the Withdrawal Act would assist you.

Student support has been made available by the Welsh Ministers to higher education students from the EU for some time. A student who falls into certain residence categories will, subject to meeting other criteria, be eligible for support from the Welsh Ministers and will benefit from home student status in relation to fees charged. The policy of the Welsh Ministers to support these students is not directly affected by the UK's exit from the EU. I issued a Written Statement on 2 July 2018 to announce a continuation of existing policy for the 2019/20 academic year.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Kirsty.Williams@llyw.cymru](mailto:Gohebiaeth.Kirsty.Williams@llyw.cymru)  
[Correspondence.Kirsty.Williams@gov.wales](mailto:Correspondence.Kirsty.Williams@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Student finance legislation employs various territorial and institutional descriptions. These include references to the EU and EEA and nationals of both. As the UK exits the EU, technical amendments are required to ensure the language of the legislation will continue to implement existing policy effectively.

Paragraph 1(1) of Schedule 2 to the Withdrawal Act contains a power for the Welsh Ministers to make regulations to “prevent, remedy or mitigate” any failure of “retained EU law” to operate effectively arising from the UK’s withdrawal from the EU. There is an argument to be made that the proposed amendment regulations should be made under this power. However, I believe that the usual education law powers cited above are more appropriate for these purposes.

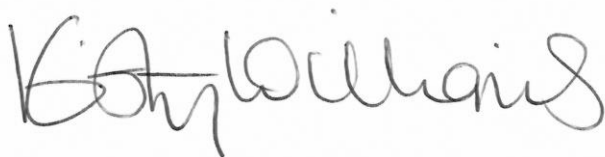
No new policy is being introduced and the proposed regulations will not do anything to recreate or replace EU law in domestic legislation. These amendments are in line with other technical amendments routinely made to student finance legislation using the cited powers.

An important consideration in this decision was accessibility of the law. The Committee noted the importance of maintaining the accessibility of the law in the EU Exit SI programme in its recent report on scrutiny of legislation to leave the EU. Student support legislation is extremely complex and often amended. Regulations made under the Withdrawal Act will not be directly connected to education legislation, making discovery of the appropriate legislation more difficult than it ought to be for the public. Equally, in terms of accessibility, the title of the regulations will include “EU Exit” therefore making it clear that there is a link to the departure of the UK from the EU.

I note that the Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019 (SI 2019/139) which apply in England were laid before Parliament on 31 January 2019 and use education law powers rather than those contained in the Withdrawal Act.

I hope this assists your Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams', written in a cursive style.

**Kirsty Williams AC/AM**

Y Gweinidog Addysg  
Minister for Education