

EXPLANATORY MEMORANDUM TO THE EDUCATION (EUROPEAN INSTITUTIONS) AND STUDENT SUPPORT (WALES) (REVOCAATION) REGULATIONS 2014

The Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of above Regulations.

Huw Lewis
Minister for Education and Skills

16 July 2014

DESCRIPTION

These Regulations revoke the existing Education (European Institutions) and Student Support (Wales) Regulations 2013 (2013/765) (“the 2013 Regulations”). This means that funding previously available for one student wishing to study at either the College of Europe or the Johns Hopkins SAIS Europe based in Bologna, Italy (“the Bologna Centre”) has been withdrawn.

MATTERS OF SPECIAL INTEREST TO THE CONSTITUTIONAL AND LEGISLATIVE AFFAIRS COMMITTEE

None.

LEGISLATIVE BACKGROUND

The powers that allow the Welsh Ministers to make these Regulations are contained in sections 22, 42(6) and 43(1) of 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 (except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22) were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004. Section 44 of the Higher Education Act 2004 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 Teaching and Higher Education Act 1998 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).

These Regulations will be subject to the negative resolution procedure of the National Assembly for Wales.

PURPOSE AND INTENDED EFFECT OF THE LEGISLATION

These Regulations discontinue the funding available for eligible students attending designated higher education courses at the College of Europe or the Bologna Centre. Currently funding is available for one student to study at each institution per academic year.

The funding for these courses is being discontinued as of academic year 2014/15 in light of the Welsh Government's obligations under Article 21 (freedom of movement) and 56 (provision of services) of the Treaty on the functioning of the European Union.

In conjunction with those obligations, section 80(8) of the Government of Wales Act 2006 provides that Welsh Ministers have no power to make subordinate legislation in so far as it is incompatible with EU law.

CONSULTATION

There is no statutory requirement to consult on these Regulations and they will affect a very small number of Welsh students. Under the current Regulations a maximum of two post graduate students may receive funding per academic year.

Making these Regulations ensures that Welsh Ministers are not acting in a way that is contrary to section 80(8) of the Government of Wales Act 2006.

The revocation is based on the principles of free movement and provision of services within the EU as set out in the Treaty on the functioning of the European Union. The College of Europe and the Bologna Centre have been informed of the discontinuation of funding.

REGULATORY IMPACT ASSESSMENT

Options

Two options have been considered in this RIA:

- **Do nothing** – If these Regulations are not made then current provision of student support in relation to the College of Europe and the Bologna Centre, as set out in the 2013 Regulations, will remain in place potentially in contravention of the Welsh Ministers' obligations under European Union Law.
- **Make the Legislation** – Implementing these Regulations will ensure that the 2013 Regulations are revoked and the funding currently available for one student per academic year to study at each of the College of Europe or the Bologna Centre is withdrawn.

BENEFITS

By making these Regulations the Welsh Ministers will ensure that they are not acting in a way that is contrary to their obligations under European Union law and section 80(8) of the Government of Wales Act 2006.

In addition, by making these Regulations, there would be a potential maximum saving of approximately £43,000. That is, £16,000 in fees and student support in respect of the College of Europe and a saving of approximately £27,000 in fees in respect of the Bologna Centre per academic year.

COSTS

There is no additional expenditure as a result of these Regulations.

COMPETITION ASSESSMENT

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

POST IMPLEMENTATION REVIEW

There is no intention to review these Regulations following their implementation unless relevant European Law changes.

SUMMARY

These proposed Regulations are required to revoke the existing Education (European Institutions) and Student Support (Wales) Regulations 2013 (2013/765) and will discontinue funding available for eligible students attending designated higher education courses at the College of Europe or the Bologna Centre from academic year 2014/15.