

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (STUDENT LOANS) (REPAYMENT) (AMENDMENT) (NO. 3)**  
**REGULATIONS 2018**

**2018 No. 810**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Education (Student Loans) Repayment Regulations 2009 (S.I. 2009/470) (“the Repayment Regulations”) so as to provide for the repayment of postgraduate doctoral degree loans paid by the Welsh Ministers, from August 2018, under the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 (S.I. 2018/656 (W. 124)) (“the Doctoral Loans (Wales) Regulations”).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 The Repayment Regulations have been amended twice this year: The Education (Student Loans) (Repayment) (Amendment) Regulations 2018 (S.I. 2018/284) amended the repayment threshold for undergraduate student loans. The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599) (“the Doctoral Loans Regulations”) made provision for the repayment of doctoral loans made by the Secretary of State under those Regulations.
- 3.2 The Department considered combining these Regulations with the Doctoral Loans Regulations. However, this would have necessitated a delay in the launch of doctoral loans in England. Such delay would place at risk the Student Loans Company’s ability to process the volumes of applications it is expected to receive for English doctoral loans before the start of the academic year. 10,000 applications are forecast for the academic year and a delay may have jeopardised the ability of students to obtain funding promptly at the start of their course. The Welsh Government is expecting much lower volumes of applications, around 200 for the academic year, and so is able launch its application service to a slower timetable. The approach taken also has the benefit of ensuring repayment terms are in force before students apply for a Welsh or English doctoral loans.

*Other matters of interest to the House of Commons*

- 3.3 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument makes provision for the repayment of postgraduate doctoral degree loans issued to eligible students, ordinarily resident in Wales, starting postgraduate

doctoral degree courses on or after 1 August 2018. (Those loans are made by the Welsh Ministers under the Doctoral Loans (Wales) Regulations.) It does so by amending the Repayment Regulations.

## **5. Extent and Territorial Application**

- 5.1 The instrument extends to England and Wales because it sets out the repayment terms in respect of loans made to borrowers ordinarily resident in Wales.
- 5.2 However, the administrative work of collecting student loan repayments is managed on a UK-wide basis by the Student Loans Company, working in partnership with Her Majesty's Revenue and Customs (HMRC). This instrument thus extends to all of the UK insofar as the Repayment Regulations impose any obligation or confer any power on HMRC, an employer or a borrower in relation to repayment under Parts 3 or 4 of those Regulations, or on any other person in relation to the retention or production of information or records. In addition to this, Regulation 80(3) of the Repayment Regulations ("Effect of borrower insolvency on student loans") extends to Northern Ireland.
- 5.3 The territorial application of this instrument is primarily England and Wales only.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 Doctoral loans were a 2015 manifesto commitment that was formally announced at Budget 2016. This was driven by the need to expand doctoral study in the UK and to provide an opportunity for capable students to earn a doctorate.
- 7.2 Higher Education is a devolved matter and the Welsh Government made the Doctoral Loans (Wales) Regulations – which came into force on 25 June 2018 - to provide for the payment of these loans. (These loans are based on the English doctoral loan that was launched earlier this year.)
- 7.3 Providing for the recovery of the loans through the tax system is a function that remains with the Secretary of State. Some functions that relate to the repayment of these loans are vested in the Welsh Ministers. Therefore, these amending composite Regulations are required to provide for the repayment of Welsh doctoral loans, on the same terms as the English doctoral loans, via the current repayment system.
- 7.4 This ensures the system is sustainable and provides value for money for the taxpayer.

### *Consolidation*

- 7.5 DfE does not consider that consolidation of the 2009 Regulations is necessary at this time, but will keep the position under review

## **8. Consultation outcome**

- 8.1 A public consultation was carried out in England from 4 November 2016 to 16 December 2016, to gather views on the final policy specification of the English doctoral loan. The government response to this consultation, published in March 2017

on the Gov.uk website<sup>1</sup>, sets out the full policy objectives and rationale for the scope of the loan, and the basis on which the loans are to be provided and repaid.

- 8.2 The English product formed the basis for the Welsh Government's initial doctoral loans policy. The Welsh Government consulted on this policy in Wales, including full details on the repayment arrangements, between 8 December 2017 and 2 March 2018. A wide range of stakeholders were invited to respond to the consultation. Responses to the consultation did not identify any significant concerns and, as a result, the repayment terms for the Welsh doctoral loan mirror the repayment terms of the English doctoral loan.
- 8.3 A summary of the responses to the Welsh Government consultation is currently being prepared and will be published on the Welsh Government website once complete.

*Doctoral Loan Repayment Terms:*

- 8.4 The doctoral loan will be repaid at 6% of eligible income above the £21,000 repayment threshold - the same rules apply to postgraduate master's degree loans. For students with an existing master's loan, the doctoral and master's loans will be subject to one combined repayment. Any outstanding balance on the doctoral loan will be written off 30 years after the loan becomes subject to repayment.
- 8.5 The repayment terms for Doctoral Loan in Wales mirror the terms for Doctoral Loans issued in England.

*Equality Analysis*

- 8.6 An initial Equality Analysis (EA) covering the English doctoral loan was published on the GOV.UK website in March 2017, following the 2016 November / December consultation, and was issued in March 2017 along with the government response.
- 8.7 The Welsh Government has carried out a separate Equality Analysis, which will be published on the National Assembly for Wales website.
- 8.8 DfE has considered the Welsh Government analysis and agree that these composite Regulations raise no further equalities implications

## **9. Guidance**

- 9.1 Students, universities, colleges and others will be given information on changes to student support in Wales for 2018/19 on Student Finance Wales' student and practitioners' websites. Guidance materials are also being produced by Student Finance Wales for students intending to apply for the postgraduate doctoral loan for 2018/19 and these will be available in both hard copy and electronic formats.
- 9.2 HMRC provides guidance to employers on matters relating to the collection of student loan repayments from employees.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

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<sup>1</sup> <https://www.gov.uk/government/consultations/postgraduate-doctoral-loans>

10.4 The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to the exercise of the Welsh Ministers' functions in these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

12.1 DFE, the Welsh Government, SLC and HMRC will continue to monitor the collection of student loan repayments as part of their ongoing work in this area.

**13. Contact**

13.1 Miles Simpson at the Department for Education Telephone: 07388 372579 or email: miles.simpson@education.gov.uk can answer any queries regarding the instrument.