

## **EXPLANATORY MEMORANDUM TO THE HIGHER EDUCATION (DESIGNATION OF PROVIDERS OF HIGHER EDUCATION) (WALES) REGULATIONS 2015**

The Explanatory Memorandum has been prepared by the Department for Education and Skills of the Welsh Government 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 the Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

**Huw Lewis**

Minister for Education and Skills

15 June 2015

## **Description**

1. These Regulations make provision for the designation of certain providers of higher education as institutions for the purposes of the Higher Education (Wales) Act 2015.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

2. None.

## **Legislative background**

3. The National Assembly for Wales has the legislative competence to make provision for, and in connection with, higher education by virtue of Part 4 of the Government of Wales Act 2006. The relevant provisions are set out in section 108 and Schedule 7. Paragraph 5 of Part 1 of Schedule 7 sets out the subjects on which the Assembly may legislate under the heading 'Education and Training'.

4. The subjects provide the National Assembly for Wales with the competence to make the provisions contained in the Act, which was granted Royal Assent in March 2015.

5. The Regulations are made under section 3(4) of the Higher Education (Wales) Act 2015 ('the Act'). Section 55 of the Act stipulates that regulations under section 3(4) may not be made 'unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales'.

## **Purpose and intended effect of the legislation**

6. Section 3 of the Act makes provision for the Welsh Ministers to designate a provider of higher education which is a charity and provides higher education in Wales as an institution for the purpose of the Act in circumstances where a provider would not otherwise be considered an institution. Designation allows a provider to apply for the approval of a fee and access plan.

7. This allows, for example, the designation of a provider which is not able to award degrees but which provides other courses of higher education at a lower level on the credit and qualifications framework. Such a provider might not regard itself as an 'institution' for the purposes of section 2 of the Act but may nevertheless wish for courses to be automatically designated (for the purposes of student support from the Welsh Ministers) and to be able to apply for the approval of a fee and access plan under that section.

8. The purpose of the Regulations is to prescribe how an application is to be made and the documents and information required to support an application.

9. The Regulations also prescribe arrangements for the withdrawal of designation and continued applicability of certain parts of the Act in such circumstances. Provisions relating to fee limits, quality and the general requirements of the institution's fee and access plan will continue to apply in order that any students remaining at the institution after it has been de-designated will still be afforded the protections of the Act.

### **Consultation**

10. A formal consultation, 'Regulations as provided for by the Higher Education (Wales) Act 2015', took place between 17 March 2015 and 12 May 2015. The subject of the consultation was five sets of draft regulations, including these Regulations. The outcome is recorded in the Regulatory Impact Assessment below.

