

Explanatory Memorandum to the Education (Student Finance) (Miscellaneous Amendments) (No.2) (Wales) Regulations 2025

This Explanatory Memorandum has been prepared by the Tertiary Education Strategy and Funding Division and is laid before Senedd Cymru 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 Education (Student Finance) (Miscellaneous Amendments) (No.2) (Wales) Regulations 2025.

Vikki Howells MS

Minister for Further and Higher Education

24 June 2025

1. Description

1.1 The Education (Student Finance) (Miscellaneous Amendments) (No.2) (Wales) Regulations 2025 (“the 2025 Regulations”) amend:

- the Education (Fees and Awards) (Wales) Regulations 2007;
- the Education (European University Institute) (Wales) Regulations 2014;
- the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015;
- the Education (Student Support) (Wales) Regulations 2017;
- the Education (Student Support) (Wales) Regulations 2018;
- the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018; and
- the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019.

1.2 The 2025 Regulations make technical changes to ensure eligibility requirements and termination of support for certain categories of eligible students (‘protected Ukrainian nationals’ and ‘persons granted leave to enter or remain as a protected partner and their children’) accords with intended policy.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

2.1 None.

3. Legislative background

3.1 The 2025 Regulations are made under sections 1 and 2 of the Education (Fees and Awards) Act 1983; sections 22(1)(a) and (2)(a), and 42(6) of the Teaching and Higher Education Act 1998 (“the 1998 Act”); and sections 5(5)(b) and 55(2) of the Higher Education (Wales) Act 2015.

3.2 Section 22 of the 1998 Act provides the Welsh Ministers with the power to make regulations authorising or requiring the payment of financial support to students studying courses of higher or further education designated by or under those regulations. This power enables the Welsh Ministers to prescribe, amongst other things, the amount of financial support (grant or loan) and who is eligible to receive such support.

- 3.3 Section 44 of the Higher Education Act 2004 (“the 2004 Act”) provided for the transfer to the National Assembly for Wales of the functions of the Secretary of State under section 22 of the 1998 Act (except insofar as they relate to the making of any provision authorised by subsections (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22). Section 44 of the 2004 Act also provided for the functions of the Secretary of State in section 22(2)(a), (c) and (k) of the 1998 Act to be exercisable concurrently with the National Assembly for Wales.
- 3.4 The functions of the Secretary of State under section 42(6) of the 1998 Act were transferred to the National Assembly for Wales, so far as exercisable in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- 3.5 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.
- 3.6 Each year, a number of functions of the Welsh Ministers in regulations made under section 22 of the 1998 Act are delegated to the Student Loans Company under section 23 of the 1998 Act.
- 3.7 This instrument is subject to the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1 The Welsh Ministers make regulations to provide the basis for the system of financial support and tuition fee protections for students ordinarily resident in Wales taking designated courses of higher education in the UK, and certain other students taking designated courses of higher education in Wales.
- 4.2 The 2025 Regulations amend student support and fee protection regulations to correct an historical drafting flaw.
- 4.3 The current wording within existing student support and fee protection legislation for the definitions of a ‘protected Ukrainian national’ and a ‘person granted leave to enter or remain as a protected partner’ only require a person to have been “granted” the relevant form of leave, not that they must “have” it. Anyone granted leave, at whatever point, will therefore continue to fulfil the condition as an eligible student even if they no longer have existing leave. That contrasts with the definitions of other protection-based eligibility categories elsewhere in the regulations, which explicitly require that the person “has” the relevant form of leave.

- 4.4 This means, under the existing drafting, a person will fall within ‘the protected Ukrainian national’ or ‘person granted leave to enter or remain as a protected partner and their children’ eligibility categories as a new student even if their relevant form of leave has expired.
- 4.5 Further, under the existing drafting of the termination provisions in the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019, no person who falls within the ‘protected Ukrainian national’ eligibility category can possibly be made ineligible for support.
- 4.6 Only those with existing leave and who fall into the relevant eligibility category contained within the student support and fee protection regulations should be eligible for student support and/or fee protections (provided all other relevant criteria are met). This is existing policy.
- 4.7 These amendments will ensure eligibility is established as intended and that termination provisions can operate correctly.

5. Consultation

- 5.1 A consultation has not been carried out. These amendments are technical in nature and are required to implement existing policy.

6. Regulatory Impact Assessment (RIA)

- 6.1 The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, an RIA has not been produced.
- 6.2 This statutory instrument falls within one of the exceptions set out in the code: ‘where technical amendments are required to change the wording of the law rather than its purpose or effect’.
- 6.3 There has been no policy change. These amendments do not alter the policy, but only ensure eligibility is established as originally intended and that termination provisions can operate correctly.