

Explanatory Memorandum to the Education (Student Support) (Wales) (Amendment) 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.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Support) (Wales) (Amendment) Regulations 2025. I am satisfied the benefits justify the likely costs.

Lynne Neagle MS
Cabinet Secretary for Education
29 August 2025

1. Description

- 1.1 The Education (Student Support) (Wales) (Amendment) Regulations 2025 (“the Regulations”) amend the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”).
- 1.2 The Regulations describe the courses to be designated by the 2018 Regulations and provides for a maximum tuition fee loan, up to £9,535, to eligible students on those affected courses.

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

- 2.1 In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations will come into force on 31 August 2025, less than 21 days after the instrument has been laid. The Regulations need to be in force before 1 September 2025 (the first day of the academic year). This legislation is necessary to enable students beginning or continuing a course with a course start date between the 1 September 2025 and the 31 December 2025 to be eligible for tuition fee and maintenance support.

3. Background

- 3.1 Student Loans Company Limited (SLC), who provides the Student Finance Wales (SFW) service on behalf of the Welsh Ministers, reviewed franchised courses uploaded by higher education providers (and delivered by private institutions in England) to its Courses Management Service (CMS) system. These courses are described on CMS as being designated for the purpose of attracting statutory student support for Welsh students. Designation enables financial support to be paid to students and higher education providers.
- 3.2 The lead providers for all courses concerned are institutions registered with the Office for Students (OfS) with Approved (Fee Cap) status in England. A registered provider can enter into a validation and franchise agreement with a franchisee provider who may or may not be registered with OfS and courses will be designated for student support by the UK Government.
- 3.3 Welsh Government policy requires both lead provider and franchisee to be registered with the OfS; if they are not, the provider must apply to Welsh Ministers for specific designation, via Medr. As such, while these courses are designated for support from the UK Government, they are not designated for support from the Welsh Government. A Welsh student is not entitled to support in connection with these affected (undesigned) courses.

- 3.4 The 2018 Regulations make provision for both automatic designation (courses in categories that are designated by the 2018 Regulations with no further action required) and specific designation (which requires the Welsh Ministers to make a further decision to designate specific courses, under the Regulations).
- 3.5 The process for a provider to apply for specific designation via Medr generally takes up to 12 weeks to complete. There is insufficient time for providers to do this before the 1 September (the first day of the academic year).
- 3.6 Whilst the Welsh Ministers have the power to specifically designate the affected courses and so provide tuition fee and maintenance support to those students who are eligible under the 2018 Regulations, designating specific courses provided by private institutions only provides for a reduced value tuition fee loan to eligible undergraduate students. For full-time undergraduate students, this would be a maximum tuition fee loan of £6,355 compared with the full rate of £9,535. For part-time students, the reduced tuition fee loan for those studying in England is £4,765 loan, compared with the full rate of £7,145. Providers of affected courses are charging up to the maximum tuition fee permissible in England. A student on one of the affected courses would, then, face a shortfall in meeting their tuition fee obligation for the 2025/26 academic year in the absence of any further intervention.
- 3.7 Welsh students on courses that are automatically designated by the 2018 Regulations are eligible for the maximum tuition fee loan of up to £9,535.
- 3.8 This legislation is necessary to automatically designate the affected courses to enable students beginning or continuing a course with a course start date between the 1 September and the 31 December to be eligible for support, including provision of the maximum tuition fee loan, up to £9,535.
- 3.9 The Regulations ensure no students on affected courses are disadvantaged by circumstances outside their control.

4. Legislative background

- 4.1 The Regulations are made under sections 22(1) and 42(6) of the Teaching and Higher Education Act 1998 (“the 1998 Act”).
- 4.2 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; and to designate courses of higher education for the purposes of attracting that financial support.

- 4.3 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.
- 4.4 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).
- 4.5 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.
- 4.6 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.
- 4.7 This instrument is subject to the negative resolution procedure.

5. Purpose and intended effect of the legislation

- 5.1 The Welsh Ministers make regulations to provide the basis for the system of financial support 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. Eligible students are entitled to receive support when undertaking a designated course.
- 5.2 The Regulations describe 100 courses to be automatically designated by the 2018 Regulations and provides for a maximum tuition fee loan, up to £9,535 to eligible students on those affected courses.
- 5.3 The Regulations apply only to academic years starting on or after 1 September 2025, provided the course begins before 1 January 2026. This means that students attending courses which begin during the period 1 September to 31

December, as well as those continuing into their second or subsequent years during that period will be eligible for tuition fee and maintenance support.

6. Consultation

- 6.1 Given the urgent nature of these changes, a consultation has not been carried out.

PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

An RIA has been conducted for the Regulations.

7. Options

Option 1: Business as usual

7.1 If the 2025 Regulations are not made, then the implications would be as follows:

- Providers of affected courses would need to apply to the Welsh Ministers for specific designation under the 2018 Regulations. Providers would incur costs to apply. This would cause delays for Welsh students starting a course on or after 1 September 2025 to access tuition fee and maintenance support. It would reduce the amount of maintenance support that Welsh students would receive, which is calculated pro-rata across the academic year.
- If Welsh Ministers were to grant specific designation, a full-time Welsh student would be eligible for a maximum tuition fee loan of £6,355, which is what the 2018 Regulations provide for. Providers of affected courses are charging up to the maximum tuition fee permissible in England, £9,535. A student would then face a shortfall in meeting their tuition fee obligation for the 2025/26 academic year. A similar position applies to part-time students studying in England, where the maximum tuition fee loan available is £4,765 compared to the maximum fee permissible of up to £7,145. Any shortfall would need to be met by the student. This is likely to be difficult for many students.
- If a provider of an affected course decided not to apply for specific designation, any Welsh student taking such a course would have no recourse to tuition fee and maintenance support and would have to fund their course privately. If private funding were not available, students would have no choice but to abandon the course. Course choice would be lessened.
- Where students are forced off courses due to a lack of private funding, they would incur considerable costs, tangible, including loan debt incurred, accommodation costs for 2025/26, equipment, books, and search costs for new courses/providers, and intangible, in the form of considerable distress.

Option 2: Make the Regulations

- 7.2 Making the Regulations ensures that the implications outlined above are avoided and Welsh students can access the maximum tuition fee loan available (up to £9,535). This is the preferred option.

8. Costs and benefits

Option 1: Business as usual

- 8.1 There are no additional costs to the student support system associated with option one.
- 8.2 If Welsh Ministers were to grant specific designation under the 2018 Regulations for the affected courses, any shortfall in the tuition fee obligation would fall to the student to cover, and so their course choice narrowed, in the absence of any further intervention from Welsh Government.

Option 2: Make the Regulations

- 8.3 Making the Regulations ensures that the implications outlined above are avoided.
- 8.4 The difference in cost between support to students under a specific designation arrangement – option one – and the arrangements provided by option two arises from the difference between the lower and higher fee rates. This has been calculated at £748,680 for the 2025/26 academic year based on what is known about the numbers of full and part-time students on these courses. The additional, and likely considerable, tangible and intangible costs to students described above would be avoided.

9. Competition Assessment

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

10. Post-Implementation Assessment

- 10.1 The regulations governing the student support system are revised annually and are continually subject to detailed review, both by policy officials and delivery partners in their practical implementation of the regulations.

- 10.2 A new system of course designation is being developed and has been the subject of consultation ([Regulation of higher education providers and designation for student support](#)). Depending on how a new system is implemented, the scope for incorrect designations should narrow. The UK Government is also tightening its designation arrangements, which will complement future Welsh designation arrangements.
- 10.3 SLC administers the 'Course Management System' and will continue to monitor courses with a Welsh designation.