

Explanatory Memorandum to the Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2026

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) (Wales) Regulations 2026. I am satisfied the benefits justify the likely costs.

Vikki Howells MS
Minister for Further and Higher Education
16 January 2026

1. Description

1.1 The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2026 (“the 2026 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 2026 Regulations:

- extend eligibility for student support and fee protections for bereaved partners and children of Gurkha and Hong Kong military veterans discharged before 1 July 1997;
- exclude means tested NHS bursary students and students in their sandwich year from qualifying for the additional weeks loan;
- enable care-experienced students to apply for Grants for Dependents on a non-means tested basis;
- provide for termination provisions within postgraduate regulations for persons who cease to have leave to enter or remain as a protected partner;
- revoke the Education (European University Institute) (Wales) Regulations 2014;
- make additional technical amendments to improve clarity within regulations and/or remove provisions no longer required. These include:
 - removing obsolete references to the Oxbridge College Fee Loans;
 - amending references to overseas territories of the Netherlands;
 - removing coronavirus provisions;
 - inserting Immigration Rule references for the Ukraine Permission Extension Scheme within the ‘Protected Ukraine Nationals’ eligibility category and improving the existing drafting of that category;
 - clarifying first day requirements for students who are settled and ordinarily resident within the UK to be eligible for fee protections; and
 - removing an obsolete reference to the Regional Health and Social Care Board in Northern Ireland.

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

- 2.1 In accordance with section 37E(6) of the Legislation (Wales) Act 2019, the Llywydd has been notified that these Regulations will come into force less than 21 days after the instrument has been laid.

3. Legislative background

- 3.1 The 2026 Regulations are made under sections 1 and 2 of the Education (Fees and Awards) Act 1983; sections 22(1)(a), 22(2)(a) and (c), 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 Senedd annulment 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.

Eligibility for student support and fee protections for bereaved partners and children of Gurkha and Hong Kong military veterans discharged before 1 July 1997

4.2 The Home Office made changes to its Immigration Rules to include Gurkha and Hong Kong military unit veterans discharged before 1 July 1997 as a new Appendix within the Immigration Rules. This provides a route to settlement for partners (and bereaved partners) and dependants of these military veterans or of a deceased military veteran. Previously, the Home Office operated a concession outside the Immigration Rules for Gurkhas discharged before 1 July 1997, whereby they could apply for indefinite leave to enter or remain. There was no similar provision for Hong Kong military veterans. The Welsh student support and fee protection regulations currently make protected partners (which includes bereaved partners) eligible for student support. The regulations also provide for the child of such a person to be eligible.

4.3 The 2026 Regulations amend the student support and fee protection regulations to extend the scope of the protected partners eligibility category to include bereaved partners of Gurkha and Hong Kong military veterans discharged before 1 July 1997 and their children.

Increased maintenance loan for full-time students in extended years

4.4 Students undertaking a full-time undergraduate course can apply for an additional amount of maintenance loan when their academic year extends beyond 30 weeks and 3 days. Policy is that students on a sandwich year or those following certain NHS related courses and in receipt of a means tested NHS bursary for that course are not eligible for this additional maintenance loan. The NHS makes available additional support for its students in extended years. Support for full-time NHS students was increased in the 2024/25 academic year by making available the full rate of maintenance loan. In doing so, NHS bursary

students and sandwich year students were unintentionally brought into scope by the regulations for the additional weeks loan provision in extended years.

- 4.5 The 2026 Regulations amend the Education (Student Support) (Wales) Regulations 2018 (“the 2018 Regulations”) to ensure policy is implemented as intended.

Grants for Dependants for care-experienced students

- 4.6 The 2018 Regulations, allow for care-experienced students (aged under 25 at the start of their course) studying on a full-time or part-time course to receive the maximum amount of maintenance grant on a non means-tested basis; this means students are not required to submit details of household income (HHI) when applying for support. Similarly, care-experienced students (aged under 25 at the start of their course) studying on a full-time course can apply for a travel grant without the need to submit details of their HHI. Policy is for care-experienced students (aged under 25 at the start of their course) to also receive Grants for Dependants (if applicable) without the need to submit details of their HHI. The 2018 Regulations does not provide for this.

- 4.7 The 2026 Regulations amend the 2018 Regulations to ensure policy is implemented as intended.

Termination provisions for persons who cease to have leave to enter or remain as a protected partner

- 4.8 To be eligible for student support and fee protections, a person must have a sufficiently strong and current connection to the UK. All those who fall within the protection-based eligibility categories under the relevant student support and fee protection regulations must have existing leave to be an eligible student. If a person no longer has leave, then termination provisions will apply and their eligibility will terminate (immediately before the first day of the academic year in respect of which the person is applying for support or support is to be provided).
- 4.9 The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 include the eligibility category “persons granted leave to enter or remain as a protected partner and their children”. However, the corresponding termination provision is absent from these postgraduate regulations.
- 4.10 The 2026 Regulations amend the postgraduate regulations to ensure the termination of support can operate correctly.

First day requirements for students who are settled and ordinarily resident within the UK

- 4.11 A person on a qualifying course who falls within a ‘settled category’ (contained in the Schedule of the Education (Fees and Awards) (Wales) Regulations 2007 and the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015) and meets the relevant residency criteria will qualify for home fee status and the tuition fee limit. The ordinary residence requirements set out within these fee protection regulations are clear. However, there is potential for the meaning of “academic year” to be misunderstood.
- 4.12 The 2026 Regulations amend the fee protection regulations to clarify that a person who is settled need only be resident in the UK on the actual course start date (i.e. the first day of the first academic year of their course), and not before (i.e. the first day of the standard academic year: 1 January, 1 April, 1 July, 1 September) to be eligible for home fee status / tuition fee limits.

Protected Ukrainian Nationals Eligibility Category

- 4.13 Certain wording of provisions within the ‘protected Ukrainian nationals’ eligibility category can potentially be misinterpreted. The 2025 Regulations amend existing wording of student support and fee protection regulations to ensure clear understanding of the requirements for eligibility. Additionally, the 2026 Regulations insert the relevant Immigration Rules paragraph references. There is no change to policy arising from these changes.

Oxbridge College Fee Loans

- 4.14 The Education (Student Support) (Wales) Regulations 2017 (“2017 Regulations”) and the 2018 Regulations allow for college fee loans to be provided for students undertaking a designated full-time Oxbridge course leading to a qualification as a social worker, medical doctor, dentist, veterinary surgeon, or architect, or a course which attracts a means-tested bursary/award made under section 63 of the Health Services and Public Health Act 1968 or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972. These courses were previously subject to separate charges by the college and the university providing the course; there is now only a single standard tuition fee charge. These provisions are no longer required.

- 4.15 The 2026 Regulations remove the Oxbridge College Fee Loans provisions and any associated references from the 2017 Regulations and 2018 Regulations.

Coronavirus provisions

- 4.16 The student support regulations continue to include provisions relating to the coronavirus pandemic, where the course is a distance learning course. These provisions provide exceptions that allow a person who is unable to be in Wales on the first day of the first academic year of the course for a reason related to coronavirus to qualify for tuition fee loan, living costs loans and various grants. Similarly, a person's eligibility for student support will not terminate where a person is unable to be in the UK for a reason related to coronavirus. As there are no longer travel restrictions into the UK or into Wales for reasons related to coronavirus, these provisions within student support regulations are no longer required.
- 4.17 The 2026 Regulations remove coronavirus provisions and associated references from all student support regulations.

European University Institute Regulations

- 4.18 The Education (European University Institute) (Wales) Regulations 2014 ("the EUI Regulations") provided for maintenance support for up to one Welsh student per academic year to undertake postgraduate study at the European University Institute. However, the UK's membership of the European University Institute Convention ceased as a result of the UK exiting the European Union. Following the UK's cessation of its formal participation in the European University Institute, the regulatory regime provided for under the EUI Regulations is no longer required. The 2026 Regulations revoke the EUI Regulations and revoke or remove related provisions.

Overseas territories of the Netherlands

- 4.19 The Netherlands Antilles dissolved on October 10, 2010. Curacao and Sint Maarten (the Dutch two-fifths of the island of Saint Martin) became autonomous territories of the Kingdom of the Netherlands. Bonaire, Saba, and Sint Eustatius now fall under the direct administration of the Netherlands. The Netherlands Antilles (and its current definition: Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten) are referenced within the student support and fee protection regulations and are incorrect. The 2026 Regulations replaces references to Netherlands

Antilles with the correct terminology for the overseas territories of the Netherlands.

5. Consultation

- 5.1 A consultation has not been carried out. A number of amendments are technical in nature and are required to implement current policy or to remove redundant regulatory provision/references. Amendments to extend eligibility for bereaved partners and children of Gurkha and Hong Kong military veterans discharged before 1 July 1997, support the Welsh Government's existing 'Nation of Sanctuary' policy.

PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

An RIA has been conducted for the 2026 Regulations.

6. Options

Option 1: Business as usual

6.1 If the 2026 Regulations are not made then the policy implications would be as follows:

- bereaved partners and children of Gurkha and Hong Kong military veterans discharged before 1 July 1997 would not be eligible for student support, the tuition fee cap or home fee status. There would be no eligibility comparability between Wales and England for this group;
- persons who are eligible for student support under the category “Person granted leave to enter or remain as a protected partner and their children”, would not have their entitlement terminated when they no longer have existing leave. A person who falls into this category would be treated differently to those who fall into other protection-based categories where their existing leave has expired, and no further leave has been granted;
- persons who fall within a ‘settled category’ could be considered by a higher education provider to not meet the ordinary residence requirements and charged a higher tuition fee rate. This would be to the detriment of the student, and
- the regulations would not implement existing policy correctly, leading to unintended outcomes.

Option 2: Make the Regulations

6.2 Making the 2026 Regulations ensures that the implications outlined above are avoided and the Welsh Government’s policy is updated and implemented correctly. This is the preferred option.

7. Costs and benefits

Option 1: Business as usual

7.1 Leaving the existing student support regulations in place would mean no additional costs are incurred via the student support system.

Option 2: Make the 2026 Regulations

- 7.2 The extension of eligibility for support, home fee status, and the tuition fee cap, to bereaved partners and children of Gurkha and Hong Kong military veterans discharged before 1 July 1997 will ensure equality of eligibility for student support and fee protections between students domiciled in Wales and those domiciled in England. The benefits of a higher education to the individual, to the economy and to society are well established. Volumes and costs incurred by the Welsh Government in extending eligibility are expected to be minimal, however there is no reliable statistical basis for estimating any additional costs.
- 7.3 Enabling care-experienced students to apply for Grants for Dependents on a non-means tested basis will not incur any additional costs. Regulatory amendments reflect existing agreed practice. Care-experienced students are not required (by the Education (Student Support) (Wales) Regulations 2018) to submit details of household income (HHI) for maintenance grant or travel grant and, as per agreed policy, the Student Loans Company have not been requesting HHI information to assess the entitlement to GfDs for care experienced students.
- 7.4 There are no additional costs associated with the amendments in relation to
- excluding NHS bursary students and students in their sandwich year from qualifying for the additional weeks loan;
 - providing termination provisions within postgraduate regulations for persons who cease to have leave to enter or remain as a protected partner;
 - making any of the technical amendments to regulations; or
 - revoking the Education (European University Institute) (Wales) Regulations 2014 and associated provisions.

8. Competition Assessment

- 8.1 The making of the 2026 Regulations has no impact on the competitiveness of businesses, charities, or the voluntary sector.

9. Post-Implementation Assessment

- 9.1 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.