

Explanatory Memorandum to the Higher Education (Fee Limits) (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Education, Culture and Welsh Language Department 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 Higher Education (Fee Limits) (Wales) Regulations 2026

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

PART 1

1 Description

- 1.1 The Higher Education (Fee Limits) (Wales) Regulations 2026 ('the Regulations') specify the maximum amount of fees a 'qualifying person' undertaking a 'qualifying course' of higher education may be charged for the purposes of section 46(6) of the Tertiary Education and Research (Wales) Act 2022 ('the 2022 Act')

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

- 2.1 None.

3 Legislative Background

- 3.1 The Regulations are made pursuant to sections 32(11), 46(6) and 143(2) of the 2022 Act.
- 3.2 Section 32(11) of the 2022 Act provides that the Welsh Ministers may make regulations specifying the circumstances in which fees paid for a course at an external provider (i.e. on behalf of a registered provider) are to be treated as regulated course fees paid to the registered provider and therefore subject to a fee limit.
- 3.3 Section 46(6) of the 2022 Act enables the Welsh Ministers to prescribe in regulations the "maximum amount" a registered provider subject to the fee limit condition may charge for a "qualifying course" being undertaken by a "qualifying person" in any academic year. "Qualifying course" and "qualifying person" are specified for the purposes of the 2022 Act in Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026.
- 3.4 Section 143(2) enables regulations made under the 2022 Act to make different provision for different purposes or areas or to make incidental, supplementary, consequential, transitory, transitional or saving provision.
- 3.5 Sections 46(6), 143(3) and 143(4)(b) of the 2022 Act, read with section 37C of and paragraph 3 of Schedule 1A to the Legislation (Wales) Act 2019 ("the 2019 Act"), provide for the Regulations to be subject to the Senedd approval procedure and to be made by Welsh statutory instrument (section 37A of the 2019 Act).
- 3.6 Sections 32(11) and 143(5) of the 2022 Act, read with section 37E of the 2019 Act and paragraph 5 of Schedule 1A to the 2019 Act provide for the Regulations to be subject to the Senedd annulment procedure and to be made by Welsh statutory instrument (section 37A of the 2019 Act).

3.7 Under section 40 of the 2019 Act, provision subject to the annulment procedure may be combined in the same instrument as provision subject to the approval procedure. Section 40(1) of the 2019 Act provides that where such provisions are combined in one instrument, the Senedd approval procedure applies.

3.8 The Regulations will come into force on 1 March 2026 subject to agreement by the Senedd.

4 Purpose and intended effect of the legislation

4.1 The regulation of tuition fees is intended to ensure that certain persons undertaking certain courses may not be charged fees in respect of an academic year in excess of a specified maximum amount. The category of courses and of persons are specified for the purposes of 2015 Act in the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 (“the 2015 Regulations”).

4.2 The purpose of the Regulations is to regulate the fees charged to qualifying persons undertaking qualifying courses for the purposes of the 2022 Act.

4.3 Part 2 of the 2022 Act makes provision for Medr to establish and maintain a register of tertiary education providers in Wales (“the register”). The register, which will be established on 31 July 2026, will replace the higher education regulatory regime under the 2015 Act and provide for regulatory oversight of registered tertiary education providers in Wales.

4.4 To be eligible to apply for registration, providers must satisfy a range of initial conditions and, once registered, providers must comply with a range of ongoing registration conditions. Medr is required to monitor compliance with the ongoing registration conditions.

4.5 Section 32 of the 2022 Act requires Medr to ensure that a fee limit condition is included within the ongoing registration conditions applied to each registered provider that is:

- registered in a ‘fee limit category’, and
- providing qualifying courses or having qualifying courses provided on its behalf.

4.6 The ‘fee limit category’ is specified by the Welsh Ministers in the Commission for Tertiary Education and Research (Registration and De-registration of Tertiary Education Providers in Wales) Regulations 2024 (being the ‘Higher Education Core’ category).

4.7 Providers subject to the fee limit condition are required to have a fee limit statement approved by Medr¹ and ensure that the fees payable to the provider

¹ Section 46 of the 2022 Act sets out what a fee limit statement must include, whilst section 47 of the Act makes provision in respect of the approval of fee limit statements by Medr.

by a qualifying person undertaking a qualifying course do not exceed the applicable fee limit specified in, or determined in accordance with, the fee limit statement. Section 46(6) of the 2022 Act provides that the fee limit specified in a fee limit statement cannot exceed what is specified in regulations made by the Welsh Ministers.

4.8 Whilst the Regulations will come into force on 1 March 2026, the fee limit statements approved under the 2022 Act will first take effect in respect of courses for academic year 2027/28. It is anticipated the statements in respect of academic year 2027/28 will be approved by Medr ahead of the register being established on 31 July 2026.

4.9 The Regulations (regulation 2) set the maximum annual amount that can be charged for full-time undergraduate courses as £9,790. This is subject to regulations 3, 4 and 5 which specify lower maximum amounts in respect of certain courses, as set out below:

- Regulation 3 sets £4,895 as the maximum annual amount that can be charged for the final year of a course that requires less than 15 weeks attendance, or for any initial teacher training courses where the periods of full-time study over the year total less than 10 weeks.
- Regulation 4 sets £1,955 as the maximum annual amount that can be charged for a sandwich course where either:
 - any periods of full-time study (combined) total less than 10 weeks; or
 - in the current and previous academic years, the combined total time spent attending the course in ways other than full-time study at the higher education institution (not counting holiday breaks) adds up to more than 30 weeks.
- A sandwich course is a course which consists of alternate periods of work experience and full-time study in an institution where, taking the course as a whole, the student attends the periods of full-time study no less than 18 weeks in each year (on average)
- Regulation 5 sets £1,465 as the maximum annual amount that can be charged for a course provided in conjunction with an overseas institution² where either:
 - any periods of full-time study (combined) at the UK institution total less than 10 weeks; or
 - in the current and previous academic years, the combined total periods of attendance which are not periods of full-time study at

² An overseas institution is an institution not located in Wales, England, Scotland, Northern Ireland, the Channel Islands or the Isle of Man.

the institution in the United Kingdom (disregarding holiday breaks) is more than 30 weeks.

- 4.10 Regulation 6 sets out how fees for qualifying courses provided on behalf of a registered provider are treated as being paid, with the fees being treated as payable to the registered provider rather than the body delivering the course.

5 Consultation

- 5.1 A 12-week public consultation was undertaken between 8 April 2025 and 4 July 2025
- 5.2 Building on the matters addressed in an earlier Welsh Government consultation³ undertaken in October 2023, this consultation sought feedback on policy proposals in respect of the Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026 and these Regulations and set out the Welsh Government's proposed policy in respect of the automatic designation of higher education courses for the purposes of Welsh Government student support.
- 5.3 The consultation was drawn to the attention of a wide audience of key stakeholders with an interest in post-compulsory education and training.
- 5.4 Respondents were invited to review the consultation questions via e-mail, postal questionnaire or an online form. A total of 30 consultation responses were received.
- 5.5 The consultation documents and a summary of the responses are available at: [Regulation of higher education providers and designation for student support](#)

6 Regulatory Impact Assessment

- 6.1 As the Regulations do not alter the relevant policy (or its impact) in any significant way or how it is applied in a given situation, a Regulatory Impact Assessment is not required. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

³ [Register of tertiary education providers: initial regulations](#)