

## **Explanatory Memorandum to the Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2026**

This Explanatory Memorandum has been prepared by the 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 for Further and Higher Education'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 2026. I am satisfied the benefits justify the likely costs.

**Vikki Howells MS**

**Minister for Further and Higher Education**

**3 February 2026**

## **Part 1**

### **1 Description**

1.1 The Education (Student Finance) (Miscellaneous Amendments) (No. 2) (Wales) Regulations 2026 (“the 2026 Regulations”) amend:

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

1.2 The 2026 Regulations:

- extend the current definition of a “person with leave to enter or remain as a relevant Afghan citizen” to enable persons who have indefinite leave to enter or remain in the UK granted via the Afghanistan Response Route (“ARR”), and their family members, to become eligible for student support and fee protections; and
- make technical changes to the wording of that definition so that such persons are required to have existing leave to enter or remain in the UK in order to be eligible for student support under the 2018 Regulations, the Doctoral Degree Loan Regulations and the 2019 Regulations, just as they are eligible for fee protections under the 2007 Regulations and the 2015 Regulations.

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

2.1 None

### **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 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.
- 4.2 The 2026 Regulations will extend the definition of a “person with leave to enter or remain as a relevant Afghan citizen” to include persons who have indefinite leave to enter or remain in the UK awarded under the Afghanistan Response Route. Providing eligibility for student support and fee protections under the

student support and fee protection regulations will ensure consistency of policy for all relevant Afghan citizens and their family members.

- 4.3 The current wording of that definition within the existing student support legislation (the 2018 Regulations, the Doctoral Degree Loan Regulations and the 2019 Regulations) only requires such 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. This contrasts with the equivalent definition in the fee protection legislation (the 2007 Regulations and the 2015 Regulations), and the definitions of other protection-based eligibility categories elsewhere in the student support and fee protection regulations, which explicitly require that the person “has” the relevant form of leave.
- 4.4 This means, under the existing student support legislation, a person will fall within the definition of a ‘person with leave to enter or remain as a relevant Afghan citizen’ even if their relevant form of leave is no longer valid, for example where it has lapsed or been revoked.
- 4.5 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.
- 4.6 The 2026 Regulations will therefore make amendments to ensure eligibility is established as intended.

## **5 Consultation**

- 5.1 A consultation has not been carried out. Amendments which extend eligibility 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:

- persons who have indefinite leave to enter or remain in the UK granted via the Afghanistan Response Route (ARR) and their family members would not become eligible for student support and fee protections;
- persons who fall under the definition of a “person with leave to enter or remain as a relevant Afghan citizen” would become eligible for student support even when they do not have existing leave to enter or remain in the UK.

#### *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 student support and tuition fee protections to persons who have indefinite leave to enter or remain in the UK granted via the Afghanistan Response Route (ARR), and their family members, ensures there is policy comparability with existing policy for supporting relevant Afghan citizens and their family members.

- 7.3 As of September 2025, approximately 7,300 individuals have been relocated to the UK under this scheme and granted indefinite leave to remain (ILR) in the UK, otherwise referred to as settled status. This figure is likely to increase as individuals who submitted an application prior to the scheme closing date are awarded leave. The number of individuals relocating to Wales is unknown, but likely to be small.
- 7.4 There is no reliable statistical basis for estimating the additional costs of changes such as these. If, for example, there were 20 undergraduate, 10 postgraduate masters and 10 doctoral new students in the 2026/27 academic year the impact on individual budgets would be less than 1% as summarised in the following table (which assumes the maximum cost scenario that students are eligible for full support).

<b>Costs for 20 undergraduate, 10 postgraduate Masters and 10 doctoral students £m</b>			
	<b>AY 2026/27 Additional Cost</b>	<b>Financial year split</b>	
		<b>FY 2026-27</b>	<b>FY 2027-28</b>
Total Near Cash (grants) – Student Support Grants BEL	0.162	0.108	0.054
Total AME (loans) – Student Loans (AME) BEL	0.774	0.437	0.337
Non-cash (RAB) – Student Loans Resource Budget Provision BEL	0.082	0.043	0.039

## **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.