

## **Explanatory Memorandum to the Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026**

This Explanatory Memorandum has been prepared by the Tertiary Education Directorate 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 (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026.

**Vikki Howells MS**  
**Minister for Further and Higher Education**  
**26 February 2026**

## **PART 1**

### **1. Description**

- 1.1 The Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026 ('the QCP Regulations') specify 'qualifying courses' of higher education and 'qualifying persons' and are made under provisions of the Tertiary Education and Research (Wales) Act 2022 ('the 2022 Act').
- 1.2 A qualifying person undertaking a qualifying course may not be charged a fee higher than a specified maximum amount.

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

- 2.1 None

### **3. Legislative background**

- 3.1 The QCP Regulations are made under sections 32(4), 32(9)(b) and 143(2) of the 2022 Act.
- 3.2 Sections 32(4) and 32(9)(b) enable the Welsh Ministers to make regulations specifying 'qualifying courses' and 'qualifying persons', respectively. In addition to being specified in regulations under section 32(4), a qualifying course must be provided:
  - at one or more places in Wales or elsewhere,
  - by means of correspondence, equipment or other facility that enables persons who are not in the same place (whether in Wales or elsewhere) to participate in teaching or studying the course, or
  - by a combination of the ways described above.
- 3.3 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.
- 3.4 Section 143(5) of the 2022 Act has the effect that regulations made under section 32(4), 32(9)(b) and 143(2) of the 2022 Act are subject to annulment in pursuance of a resolution of Senedd Cymru. As such, the QCP Regulations are subject to the Senedd annulment procedure, by virtue of section 37H of, and paragraph 5 of Schedule 1A to, the Legislation (Wales) Act 2019.
- 3.5 The Regulations come into force on 1 April 2026.

### **4. Purpose and intended effect of the legislation**

- 4.1 The regulation of tuition fees is intended to ensure that certain classes of persons ('qualifying persons') undertaking certain courses ('qualifying courses') may not be charged fees per academic year in excess of a specified maximum amount. The purpose of the QCP Regulations is to specify qualifying persons and qualifying courses for the purpose of the 2022 Act.

- 4.2 Currently, tuition fees are regulated through fee and access plans, under the Higher Education (Wales) Act 2015, which are required to specify (or provide for the determination of) the fees in relation to each 'qualifying course'. Fee and access plans are subject to approval by Medr and upon approval of their plan a provider becomes a 'regulated institution'.
- 4.3 The Welsh Government's policy is to provide for the continued regulation of fees following the establishment by Medr, of the register of tertiary education providers ('the register') as required under Part 2 of the 2022 on 31 July 2026, and the subsequent repeal of the 2015 Act at the end of academic year 2026/27.
- 4.4 To be eligible to apply for registration, providers must satisfy a range of initial conditions of registration and once registered, comply with a range of ongoing registration conditions, with Medr being required to monitor compliance with the ongoing registration conditions. Once registered a provider becomes a 'registered provider'.
- 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
  - delivering qualifying courses or having qualifying courses provided on its behalf.
- 4.6 The 'fee limit category' is specified by the Welsh Ministers, with regulation 5 of the Commission for Tertiary Education and Research (Registration and De-registration of Tertiary Education Providers in Wales) Regulations 2024 specifying the 'Higher Education Core' category as a fee limit category.
- 4.7 Providers subject to the fee limit condition are required to have a fee limit statement approved by Medr and ensure that the fees payable to the provider 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.
- 4.8 Section 46(6) of the 2022 Act provides that the fee limit statement cannot exceed what is specified in regulations made by the Welsh Ministers, whilst section 46 sets out what a fee limit statement must include, and section 47 makes provision in respect of the approval of fee limit statements by Medr.
- 4.9 Whilst the QCP Regulations will come into force on 6 March 2026, the fee limits 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.

#### Qualifying courses

- 4.10 Consistent with the provisions of the 2015 Regulations, regulation 3 of the QCP Regulations specify that a qualifying course is a course which:

- falls within the list set out at condition 1, and
- is designated by regulations ('the student support Regulations') made under section 22 of the Teaching and Higher Education Act 1998. A student undertaking a course designated under those regulations may apply for Welsh Government student support.

4.11 Regulation 3 provides for two exceptions. The first of which provides that a part-time course is not a qualifying course, which maintains the current policy.

4.12 The second exception has the effect that a course provided on behalf of a 'registered provider' is only a qualifying course if, in addition to the course meeting the two conditions detailed above, it is delivered by:

- a provider registered with Medr under either category of the register,
- a provider included in either category of the register established and maintained by the Office for Students (OfS), or
- a provider maintained or assisted by recurrent grants provided by Medr, this does not apply to a provider who is receiving funds as a 'collaborating body'.

4.13 The second exception is a change to the current provision within the 2015 Regulations whereby a course provided on behalf of a regulated institution is only a qualifying course if the provider is a charity. The specification of qualifying courses by the QCP Regulations will align with the provision that is intended to be made in the student support Regulations when they are amended in relation to academic year 2027/28.

4.14 The funding functions, in Part 3 of the 2022 Act, under which Medr would be providing recurrent grants include provision in relation to the passing of those funds to a 'collaborating body'. A collaborating body is a person to whom a registered provider proposes to pay all or some of the financial resources provided to it by Medr and who is:

- providing, proposing to provide or has provided an eligible course on behalf of the provider, or
- working, proposing to work or has worked in collaboration with the provider for the purpose for which the financial resources are provided.

#### Qualifying persons

4.15 In line with existing policy, regulation 4 specifies qualifying persons as being any person who falls within any of the categories set out in the Schedule on the first day of an academic year. A person is not a qualifying person if they meet one of five exceptions set out in paragraph (3) of regulation 4.

## **5. Consultation**

5.1 A 12-week public consultation was undertaken between 8 April 2025 and 4 July 2024.

- 5.2 Building on the matters addressed in an earlier Welsh Government consultation<sup>1</sup> undertaken in October 2023, this consultation sought feedback on policy proposals in respect of the QCP Regulations and the Fee Limit 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 addressed to 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 In relation to the policy proposals in respect of the QCP Regulations, there was broad support for the proposals from respondents to the consultation. Further details are available in the consultation documents and the summary of the responses, which are available at: [Regulation of higher education providers and designation for student support](#)

## **6. Regulatory Impact Assessment**

- 6.1 The QCP Regulations do not alter the current policy (or its impact) in any significant way or how it is applied in a given situation. The QCP Regulations have been developed in line with the existing policy and maintain the approach that provisions specifying qualifying courses and persons align with the student support regulations. The changes in the QCP Regulations are factual amendments which reflect the policy that will apply to the designation of courses for student support at the point they take effect in academic year 2026/27.
- 6.2 As such, 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, specifically the exception:
- Where factual amendments are being made to update subordinate legislation and which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation.

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<sup>1</sup> [Register of tertiary education providers: initial regulations](#)