

Explanatory Memorandum to the Higher Education (Qualifying Courses and Qualifying Persons) (Wales) (Amendment) 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 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) (Amendment) Regulations 2026.

Vikki Howells MS
Minister for Further and Higher Education
25 March 2026

PART 1

1. Description

- 1.1 The Higher Education (Qualifying Courses and Qualifying Persons) (Wales) (Amendment) Regulations 2026 ('the Regulations') amend the Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026 (the QCP Regulations).
- 1.2 The Regulations correct an error in the English language text of the QCP Regulations.

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

- 2.1 These Regulations make amendments to the Higher Education (Qualifying Courses and Qualifying Persons) (Wales) Regulations 2026 SL(6)783¹ as agreed to in response to the Legislation, Justice and Constitution Committee's report
- 2.2 In accordance with section 37E(6) of the Legislation (Wales) Act 2019, the Llywydd has been informed that the Regulations will come into force on 31 March 2026, less than 21 days after the instrument has been laid.
- 2.3 The Regulations are being brought into force before 1 April 2026 (so that the QCP Regulations are corrected before they come into force).

3. Legislative background

- 3.1 The Regulations are made under sections 32(4) of the Tertiary Education and Research (Wales) Act 2022 ('the 2022 Act').
- 3.2 Sections 32(4) enable the Welsh Ministers to make regulations specifying 'qualifying courses'. 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 The Regulations come into force on 31 March 2026.

4. Purpose and intended effect of the legislation

- 4.1 The QCP Regulations specify qualifying courses and qualifying persons in connection with the regulation of tuition fee limits under the 2022 Act. A qualifying person undertaking a qualifying course may not be charged a fee higher than a specified maximum amount.

¹ <https://business.senedd.wales/mgIssueHistoryHome.aspx?IId=47263>

4.2 The QCP Regulations specify that a qualifying course is a course which:

- is listed within condition 1 of regulation 3 of those Regulations, and
- is designated by 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.

4.3 The courses for the purposes of condition 1 of regulation 3 are:

- a) a course of initial teacher training, including where the course leads to a first degree
- b) a course for the further training of teachers or youth and community workers,
- c) a first degree course,
- d) a course for the Diploma of Higher Education,
- e) a course for the Higher National Diploma (HND) or Higher National Certificate (HNC) of the Business & Technician Education Council, or the Diploma in Management Studies,
- f) a course for the Certificate in Education,
- g) a course in preparation for a professional examination at higher level, or
- h) a course providing education at a higher level (whether or not in preparation for an examination)

4.4 Whilst the Welsh language text of the QCP Regs set out the above list accurately, the entry for 'a course for the Diploma of Higher Education' is duplicated in the English language text being referenced in both paragraph 1(d) and 1(e) of condition 1 within regulation 3(2).

4.5 The Regulations amend the English language text of the QCP Regulations by replacing the duplicate entry with 'a course for the Higher National Diploma or Higher National Certificate of the Business & Technician Education Council, or the Diploma in Management Studies'.

5. Consultation

5.1 No formal consultation has taken place as the Regulations provides for an amendment to correct on error in the English version of the QCP Regulations and does not deliver any policy changes.

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.