

Explanatory Memorandum to the Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2025

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'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 2025. I am satisfied the benefits justify the likely costs.

Vikki Howells MS

Minister for Further and Higher Education

10 January 2025

Part 1

1 Description

1.1 The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2025 (“the 2025 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 2025 Regulations:

- extend eligibility for student support, home fee status and the tuition fee cap to certain persons who become settled in the UK;
- extend eligibility for support, home fee status and the tuition fee cap to Ukrainian nationals and their family members granted leave under the Ukraine Permission Extension Scheme;
- ensure eligibility for fee support, home fee status and the tuition fee cap of some Chagossians who may not have three years’ residency in the UK, the Islands and the specified British overseas territories due to their inability to reside on the British Indian Ocean Territory;
- make technical changes to enable students undertaking a sandwich year to be eligible for a Disabled Student’s Grant to access technical support and repairs for equipment provided or approved in a previous academic year;
- make technical changes to preserve policy for certain other matters; and
- remove redundant references to the ‘KESS 2’ administrative scheme.

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

2.1 The 2025 Regulations make technical corrections to the Education (Student Support) (Wales) Regulations 2017 and the Education (Student Support) (Wales) Regulations 2018, in connection with amendments made to each of those

Regulations by the Education (Student Finance) (Miscellaneous Amendments) (No. 3) (Wales) Regulations 2023 which the Legislation, Justice and Constitution Committee reported upon ([SL\(6\)431](#) refers).

3 Legislative background

- 3.1 The 2025 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)(j), (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 negative resolution 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 upon becoming settled in the UK

- 4.2 The 2025 Regulations amend student support and fee protection legislation so that persons who become settled in the UK during an academic year of their course will become eligible for financial support and fee protections (that is, the tuition fee cap by way of the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015 and home fee status by way of the Education (Fees and Awards) (Wales) Regulations 2007). This provides for policy comparability between those settled by way of the EU Settlement Scheme, who may become eligible during an academic year of a course, and those who become settled by other routes.

Ukrainian nationals – the Ukraine Permission Extension Scheme

- 4.3 The 2025 Regulations amend student support and fee protection regulations to ensure continuity of support for Ukrainian nationals and their family members who are awarded leave to remain in the UK under the new 'Ukraine Permission Extension Scheme' which provides an additional 18 months of leave to remain in the UK to those previously granted permission to enter or remain under one of the existing Ukraine Schemes.

British Citizens born in the Chagos Islands and their direct descendants who are also British Citizens (referred to as Chagossians)

- 4.4 The British Government removed Chagossians from the British Indian Ocean Territory (BIOT) / Chagos Archipelago in the late 1960s and early 1970s. The British Overseas Territories Act 2002 conferred British citizenship on Chagossians born on BIOT and their children in recognition of their unique status, and the Nationality and Borders Act 2022 extended this so that all direct descendants of people born on BIOT could apply to become British Overseas Territories Citizens and British citizens.
- 4.5 Currently, students of Chagossian descent granted British Citizenship under the arrangements introduced in 2022 may not qualify for student support and fee

protections as they are unable to meet the requirement for three years' ordinary residency in the UK, the Islands and the specified British overseas territories, as they are, by definition, unable to reside on Chagos.

- 4.6 The 2025 Regulations amend student support and fee protection regulations to enable Chagossians to qualify for tuition fee support, home fee status and the tuition fee cap in line with existing policy for persons in the British Overseas Territories who are settled in the UK. This group of students will be treated as if they have been ordinarily resident in the specified British overseas territories for the three-year period when they have not been ordinarily resident in the UK and Islands, so removing the barrier to eligibility.

Travel grant for care-experienced students

- 4.7 The 2025 Regulations amend the Education (Student Support) (Wales) Regulations 2018 to reflect existing policy which does not require a care-experienced student to have their income assessed when applying for a grant toward their travel expenses, which is available in some circumstances. Students must make a contribution toward their travel expenses based on their household income. A care-experienced student will automatically qualify for the lower contribution of £303, rather than the higher contribution of £1,000 which is payable by those from higher income backgrounds.

The Knowledge Economy Skills Scholarship 2 ('KESS 2') scheme

- 4.8 The KESS 2 scheme provided funded PhD and Research Masters opportunities across Wales. The last round of funded projects commenced in January 2023 and ended in December 2023 and the scheme has now closed. Technical amendments remove redundant KESS 2 references in the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018 and the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

Non-UK domiciled individuals

- 4.9 The student support regulations contain references to income (for the purposes of calculating household income) which does not form part of an individual's taxable income because the individual is not domiciled in the UK for tax purposes.
- 4.10 At Spring Budget 2024, the Chancellor of the Exchequer announced that the Government would abolish the current tax system for non-domiciled individuals

and will replace it with a residency system. From 6 April 2025, the current remittance basis of taxation will be abolished for UK resident non-domiciled individuals.

- 4.11 The 2025 Regulations make technical amendments to the student support regulations to remove reference to non-domiciled tax status. There is no change to policy as all overseas income is already assessed as being part of an applicant's household income for the purposes of determining entitlement to student support.

Disabled Student's Grants (DSG) for students during a sandwich year

- 4.12 The 2025 Regulations make amendments to the Education (Student Support) (Wales) Regulations 2018 to enable students previously in receipt of DSG and now undertaking a sandwich year, to qualify for a DSG to be able to access technical support for items of equipment previously approved or provided by the Welsh Ministers under a DSG in relation to an academic year of their current course, or during a previous course where the student has received confirmation from Welsh Ministers that their DSG will be transferred to their current course.
- 4.13 Students will also be able to have any item of equipment previously approved or provided (including equipment purchased by the student but approved for DSG use), to be repaired or replaced with like for like (or comparable where like for like is not available), and the costs associated with the technical support, repairs, and/or replacement items, will be funded within the academic year they are required.

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. 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 2025 Regulations.

6. Options

Option 1: Business as usual

6.1 If the 2025 Regulations are not made then the policy implications would be as follows:

- persons who become settled in the UK during an academic year of their course would not be eligible for support, the tuition fee cap or home fee status. There would be no policy comparability between those settled by way of the EU Settlement Scheme who may become eligible during an academic year of a course, and those who become settled by other routes;
- persons granted leave to remain in the UK under the new Ukraine Permission Extension Scheme and their family members would not be eligible for student support, the tuition fee cap or home fee status, potentially precluding them from starting a course of higher education. Continuing students on existing courses of higher education would be prevented from being eligible for support once their leave (under one of the existing Ukraine Schemes) expires, contrary to the Welsh Government's policy of supporting those fleeing the war;
- Chagossians may be ineligible for tuition fee support, home fee status or the tuition fee cap fee due to circumstances beyond their control;
- the regulations would not implement existing policy correctly, leading to unintended outcomes; and
- students in receipt of Disabled Student's Grants would not qualify for such grants during a sandwich year to be able to access technical support, repairs or replacement for necessary equipment that had previously been provided or approved for them under such grants.

Option 2: Make the Regulations

6.2 Making the 2025 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 2025 Regulations

7.2 The extension of eligibility for support, home fee status, and the tuition fee cap, to persons who become settled in the UK during an academic year of their course ensures policy comparability between those settled by way of the EU Settlement Scheme who may become eligible during an academic year of a course, and those who become settled by other routes. The benefits of a higher education are extended appropriately, and there is equal treatment between groups. 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 The extension of eligibility for student support, home fee status, and the tuition fee cap, ensures continuity of support for Ukrainian nationals and their family members who are awarded leave to remain in the UK under the 'Ukraine Permission Extension Scheme'.

7.4 Data on the number of visas issued under the Ukraine Schemes¹ is published by the Home Office. As of 8 October 2024, the number of visas issued where the sponsor was in Wales was:

- 5,291 sponsored by an individual; and
- 4,621 sponsored by the Welsh Government.

7.5 The current volumes of Welsh-domiciled students who have had funding approved by Student Loans Company under the Ukraine Schemes category, split by student support type, are as follows (as of 12 September 2024):

	Academic Year		
	2022/23	2023/24	2024/25
Full-time undergraduate	22	65	92

¹ <https://www.gov.uk/guidance/ukraine-sponsorship-scheme-visa-data-by-country-upper-and-lower-tier-local-authority>

Part-time undergraduate	4	8	7
Postgraduate	8	14	7
Postgraduate Disabled Student's Grant	1	0	0

- 7.6 It is thought unlikely that there will be a significant impact on the numbers of students supported by the Welsh Government.
- 7.7 The extension of eligibility for tuition fee support, home fee status, and the tuition fee cap to Chagosians ensures that there is policy comparability with existing policy for persons from the British Overseas Territories who are settled in the UK. Volumes and costs are not expected to be large (and there is no reliable way of estimating any increase).
- 7.8 Enabling students in receipt of DSGs to qualify for such grants during a sandwich year, to be able to access technical support, repairs or replacement for equipment previously provided or approved for them under such grants, may incur some additional administrative costs for the Student Loans Company. However, the costs are anticipated to be small as the volume of students likely to access this service in their sandwich year is expected to be minimal. Fewer than 1% of students receive DSG (78,000 applications, 3,500 DSG awards) and, since 2020, only 4 DSG recipients have undertaken a sandwich year.
- 7.9 There are no additional costs associated with the amendments in relation to travel grants for care-experienced students, non-UK domiciled individuals and the removal of redundant KESS 2 references.

8. Competition Assessment

- 8.1 The making of the 2025 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.