

SL(6)510 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2024

Background and Purpose

The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2024 (“the Regulations”) amend various regulations which make provision about, and in connection with, eligibility requirements for student finance.

These Regulations amend student support and fee protection legislation to ensure continued eligibility for victims of domestic abuse or domestic violence, and bereaved partners, following changes to various provisions within the Immigration Rules by the Home Office.

The 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.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following four points are identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2 (v) that for any particular reason its form or meaning needs further explanation**



In regulation 6(b), in the Welsh text, the substitution does not appear to achieve the intended effect of amending the text in regulation 6(10D)(b) of the Education (European University Institute) (Wales) Regulations 2014, to include the amended definition “person granted leave to enter or remain as a protected partner”. This is partly due to an historical error in the existing Welsh text of that regulation in the 2014 Regulations where “person **granted** leave” has been translated as meaning “person **with** leave”, and also an additional preposition in the phrase “or remain” so that it means “or **to** remain” in the new amendment.

The Welsh text of the opening words in regulation 6(10D)(b) of the 2014 Regulations as amended reads as follows: “(b) y cyfnod y caniateir i berson **sydd â chaniatâd i ddod i mewn neu i aros** fel partner a ddiogelir...”.

However, the amended definition in regulation 3(1) of the 2014 Regulations is “person **y rhoddwyd caniatâd iddo ddod i mewn neu aros** fel partner a ddiogelir” which should have been used with a soft mutation in the Welsh text of the opening words of regulation 6(10D)(b) of those Regulations.

The same problem occurs in the amendments made by regulation 12(b) to regulation 4(10C)(b) of the Education (Student Support) (Wales) Regulations 2017, and by regulation 35(a) to regulation 16(1)(b)(viii) of the Education (Student Support) (Postgraduate Master’s Degrees) (Wales) Regulations 2019.

Could the Welsh Government explain why the amended definition of “person granted leave to enter or remain as a protected partner” has not been used in the amended Welsh text of these provisions?

2. Standing Order 21.2 (vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 9(a)(iii), the location for the insertion of the new paragraph (1) is incorrectly described as “before **sub-paragraph** (a)” in the existing definition of “person granted leave to remain as a protected partner” in paragraph 1(1) of the Schedule to the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015. However, it should be correctly described as “before **paragraph** (a)” of that definition in that paragraph of the Schedule to the 2015 Regulations. In addition, it is also inconsistent with the correct descriptions used in corresponding amendments made to the same definition in other Statutory Instruments by regulations 3(a)(iii), 5(c), 11(c) and 31(c) of these Regulations.

3. Standing Order Standing Order 21.2 (vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 16(a) and (b), the location of the text for amendment is incorrectly described as “in **paragraph** (a)” and “in **paragraph** (b)” respectively of regulation 81(10C) in the Education (Student Support) (Wales) Regulations 2017. However, both provisions should be correctly identified as “in **sub-paragraph** (a)” and “in **sub-paragraph** (b)” of regulation 81(10C) in the



2017 Regulations. The same error occurs in regulation 18(a) and (b) in relation to the amendments made to regulation 110(12C) of the 2017 Regulations.

4. Standing Order 21.2 (v) - that for any particular reason its form or meaning needs further explanation

There appears to be an existing historical error in the index of definitions found in Table 16 of paragraph 1 in Schedule 7 to the Education (Student Support) (Wales) Regulations 2018 which is not corrected by the amendment made by regulation 29 of these Regulations. In Table 16, the new definition as a result of the amendment made by regulation 29 is "leave to enter or remain as a protected partner" and in the related entry in the second column of that Table it is noted as found in Schedule 2, paragraph 2ZB. However, the amended definition found in Schedule 2, paragraph 2ZB, sub-paragraph (3)(b) to the 2018 Regulations, is "**person granted** leave to enter or remain as a protected partner". This is also noted as the amended term in regulation 80(3) of, and Schedule 4, paragraph 14(4) and Schedule 5, paragraph 4(3) to, the 2018 Regulations. The other definitions for categories of persons which are listed in the index of definitions in Table 16 of Schedule 7 are noted in full.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

Technical Scrutiny point 1: We agree that there is a historical error and an error made by these Regulations that require correction and will look to make the necessary amendments in the next appropriate instrument. We anticipate that being in early 2025.

Technical Scrutiny points 2 & 3: We note the minor typographical errors identified and we are currently liaising with the S.I. Registrar about the possibility of correcting them by way of a correction slip.

Technical Scrutiny point 4: We agree that there is a historical error that requires correction and will look to make the necessary amendment in the next appropriate instrument. We anticipate that being in early 2025.

Legal Advisers

Legislation, Justice and Constitution Committee

8 August 2024



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee