

Draft Regulations laid before Senedd Cymru under section 143(3), (4)(b) and (c) of the Tertiary Education and Research (Wales) Act 2022, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2024 No. (W.)

EDUCATION, WALES

The Commission for Tertiary
Education and Research
(Registration of Tertiary Education
Providers in Wales) Regulations
2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of the registration of tertiary education providers in Wales by the Commission for Tertiary Education and Research (“the Commission”).

Part 1 contains the interpretation and general provisions.

Part 2 makes provision in respect of the categories of registration. The register established and maintained by the Commission must have a higher education core category and a higher education alternative category of registration. The higher education core category of registration is the fee limit category of registration for the purposes of section 32(2)(b) of the Tertiary Education and Research (Wales) Act 2022 (“the Act”). The Commission must not register a tertiary education provider in more than one category of the register at the same time.

Part 3 makes provision in respect of eligibility for funding. Tertiary education providers registered in the higher education core category of registration are specified providers for the purposes of sections 88(3) and 105(4) of the Act and are eligible for financial support for higher education, research or innovation.

Part 4 sets out further initial conditions of registration and further mandatory ongoing registration conditions.

Part 5 lists the information that must be contained in a tertiary education provider's entry in the register.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Made ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred on them by sections 25(2), 25(3), 25(5), 25(8), 27(6), 27(7)(b)(i), 27(7)(b)(ii), 32(2)(b), 34, 88(3), 105(4) and 143(2)(a) of the Tertiary Education and Research (Wales) Act 2022⁽¹⁾, make the following Regulations.

A draft of these Regulations was laid before, and approved by a resolution of Senedd Cymru, in accordance with section 143(3), (4)(b) and (c) of that Act⁽²⁾.

(1) 2022 asc 1.
(2) See also section 40 of the Legislation (Wales) Act 2019 (anaw 4) for provision about the procedure that applies to this instrument.

PART 1
TITLE, COMING INTO FORCE, AND
INTERPRETATION

Title and coming into force

1.—(1) The title of these Regulations is the Commission for Tertiary Education and Research (Registration of Tertiary Education Providers in Wales) Regulations 2024.

(2) These Regulations come into force on [to be confirmed].

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Tertiary Education and Research (Wales) Act 2022;

“assessment” (“*asesiad*”) includes examination and test;

“the Commission” (“*y Comisiwn*”) means the Commission for Tertiary Education and Research established by section 1 of the Act;

“franchise arrangements” (“*trefniadau breinio*”) means arrangements between a registered provider and another education provider under which the registered provider provides higher education to a student on behalf of the other provider or authorises the other provider to provide higher education to a student on its behalf;

“governing body” (“*corff llywodraethu*”)—

- (a) in relation to a training provider who but for the definition of “institution” in this regulation would not be regarded as an institution, means any persons responsible for the provider’s management;
- (b) in relation to a school, means its proprietor within the meaning given by section 579(1) of the Education Act 1996⁽¹⁾;
- (c) in relation to a provider designated under section 83 (designation of other providers of tertiary education) of the Act, means any persons responsible for the provider’s management;
- (d) in relation to any other institution, has the meaning given by section 90(1) of the Further

(1) 1996 c. 56. The definition of “proprietor” in section 579(1) was amended by the Education Act 2011 (c. 21), Schedule 13, paragraph 9(17)(c); the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraph 183(a)(iii); and S.I. 2005/2913, regulation 4.

and Higher Education Act 1992⁽¹⁾, but subject to any provision made by virtue of section 90(2) of that Act;

“higher education” (“*addysg uwch*”) means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988⁽²⁾;

“higher education alternative category” (“*categori amgen addysg uwch*”) means the category of registration set out in regulation 3(b);

“higher education core category” (“*categori craidd addysg uwch*”) means the category of registration set out in regulation 3(a);

“institution” (“*sefydliad*”) includes any training provider (whether or not the training provider would otherwise be regarded as an institution);

“the register” (“*y gofrestr*”) means the register established and maintained by the Commission under section 25(1) of the Act;

“registered provider” (“*darparwr cofrestredig*”) means a tertiary education provider which is registered in the register; and references to “registration” (“*cofrestru*”) are to be read accordingly;

“research award” (“*dyfarniad ymchwil*”) means any degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate programme of supervised research and satisfy an appropriate assessment;

“taught award” (“*dyfarniad a addysgir*”) means any degree including a foundation degree, diploma, certificate or other academic award or distinction granted to persons who complete an appropriate course of study and satisfy an appropriate assessment;

“tertiary education” (“*addysg drydyddol*”) means higher education, further education or training;

“tertiary education provider in Wales” (“*darparwr addysg drydyddol yng Nghymru*”) means an institution providing tertiary education, including tertiary education provided on its behalf, whose activities are wholly or mainly carried on in Wales;

“training provider” (“*darparwr hyfforddiant*”) means a person who provides training for members

(1) 1992 c. 13. Paragraph (a) of the definition of “governing body” in section 90(1) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraphs 1, 12(1) and (2).

(2) 1988 c. 40.

of the school workforce (within the meaning given by section 100 of the Education Act 2005⁽¹⁾);

“validation arrangements” (“*trefniadau dilysu*”) means arrangements between the registered provider and another education provider under which the registered provider awards a qualification to a student at the other provider or authorises the other provider to award a qualification on its behalf.

PART 2

CATEGORIES OF REGISTRATION

Categories of registration

3. For the purposes of section 25(2) of the Act, the Commission must make provision in the register for the following categories of registration which relate to the provision of higher education—

- (a) higher education core category, and
- (b) higher education alternative category.

Registering in more than one category

4. The Commission must not register a tertiary education provider in more than one category of the register at the same time.

Fee limit category

5. The fee limit category for the purposes of section 32(2)(b) of the Act is the higher education core category.

PART 3

ELIGIBILITY FOR FUNDING

Financial support for higher education

6. A registered provider registered in the higher education core category is a specified provider for the purposes of section 88(3) of the Act.

(1) 2005 c. 18. The definition of “the school workforce” was amended by the Education Act 2011 (c. 21), section 15(4) and (9)(b). See also section 15(9)(d) of the Education Act 2011 which made further provision in respect of the meaning of the school workforce.

Financial support for research or innovation

7. A registered provider registered in the higher education core category is a specified provider for the purposes of section 105(4) of the Act.

PART 4

CONDITIONS OF REGISTRATION

Further initial conditions of registration for the higher education core category

8. It is an initial condition of registration in the higher education core category that the Commission is satisfied—

- (a) that the applicant tertiary education provider is a charity, and
- (b) as to the information provided by the applicant tertiary education provider to prospective students about the provider, its courses, and its terms and conditions of contracts with students.

Further initial conditions of registration for the higher education alternative category

9. It is an initial condition of registration in the higher education alternative category that the Commission is satisfied as to the information provided by the applicant tertiary education provider to prospective students about the provider, its courses, and its terms and conditions of contracts with students.

Further mandatory ongoing registration conditions for the higher education core category

10. The Commission must ensure that the ongoing registration conditions of each tertiary education provider registered in the higher education core category include—

- (a) a condition relating to the provider's continued status as a charity,
- (b) a condition relating to the information provided to prospective students about the provider, its courses, and its terms and conditions of contracts with students, and
- (c) a condition requiring the governing body of the provider to notify the Commission of any change of which it becomes aware which affects the provider's status as a tertiary education provider in Wales.

Further mandatory ongoing registration conditions for the higher education alternative category

11. The Commission must ensure that the ongoing registration conditions of each tertiary education provider registered in the higher education alternative category include—

- (a) a condition relating to the information provided to prospective students about the provider, its courses, and its terms and conditions of contracts with students, and
- (b) a condition requiring the governing body of the provider to notify the Commission of any change of which it becomes aware which affects the provider's status as a tertiary education provider in Wales.

PART 5

INFORMATION TO BE INCLUDED IN THE REGISTER

Information which must be included in a tertiary education provider's entry in the register

12. For the purposes of section 25(8) of the Act, a tertiary education provider's entry in the register must include the following information—

- (a) the provider's name, including any trading names or names granted by or by virtue of any enactment or Royal Charter,
- (b) where the provider's name includes the word "university", whether and, if so, when the use of that word was—
 - (i) authorised by Royal Charter,
 - (ii) consented to by the Privy Council under section 77(1) of the Further and Higher Education Act 1992⁽¹⁾,
 - (iii) approved by the Privy Council for the purposes of section 39(1)(b) or (2) of the Teaching and Higher Education Act 1998⁽²⁾, or
 - (iv) authorised by or by virtue of any other provision of an Act of the Parliament of the United Kingdom,

(1) 1992 c. 13. Section 77(1) was amended by the Higher Education and Research Act 2017 (c. 29), section 56(1) and (3).

(2) 1998 c. 30. Section 39(1) was amended by the Higher Education and Research Act 2017 (c. 29), section 57(1) and (3). Section 39(2) was amended by the Higher Education and Research Act 2017, section 57(1) and (4).

- (c) an address, e-mail address and telephone number at which the provider may be contacted,
- (d) the address of the provider's principal place of business, or which is otherwise suitable for the service of documents upon the provider,
- (e) the address of the principal website maintained by, or on behalf of, the provider,
- (f) the kind of tertiary education provided by, or on behalf of, the provider,
- (g) the category in which the provider is registered and the date the provider was registered in that category,
- (h) whether the provider's ongoing registration conditions include a fee limit condition and, if so, details of how to access the provider's fee limit statement as approved by the Commission under section 47 of the Act,
- (i) whether the provider is a charity and, if so—
 - (i) its charity registration number, or
 - (ii) if the provider is not registered with a charity regulator, the reason why registration with a charity regulator is not required,
- (j) whether the provider is a company and its company registration number (where applicable),
- (k) whether, and if so when, the provider was authorised to grant taught awards or research awards or both—
 - (i) by Royal Charter,
 - (ii) by an order of the Privy Council under section 76(1) of the Further and Higher Education Act 1992⁽¹⁾, or
 - (iii) by or under any other provision of an Act of the Parliament of the United Kingdom,
- (l) if the provider is authorised to grant taught awards or research awards or both by an authorisation referred to in paragraph (k) above, a description of the taught awards or research awards it is authorised to grant,
- (m) whether the provider has entered into validation arrangements, and
- (n) whether the provider has entered into franchise arrangements.

(1) 1992 c. 13. Section 76(1) was amended by the Further Education and Training Act 2007 (c. 25), section 19(1) and (2); and the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 259(1), 266 and Schedule 16 Part 11.

Name

Minister for Education and Welsh Language, one of
the Welsh Ministers

Date

DRAFT