
WELSH STATUTORY INSTRUMENTS

2006 No. 1863 (W.196)

EDUCATION, WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006

Made - - - - *12 July 2006*
Coming into force - - *14 July 2006*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(1), makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006.

(2) These Regulations come into force on 14 July 2006 and apply in relation to Wales.

Interpretation

2. In these Regulations—

“The Principal Regulations” mean the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(2).

Amendment of Principal Regulations

3. The Principal Regulations are amended as follows.

4. In regulation 2(1)—

(a) omit the sub-paragraphs defining the following terms—

“EEA Agreement” (“*Cytundeb yr AEE*”);

“EEA migrant worker” (“*gweithiwr mudol yr AEE*”);

(1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), section 42. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), Schedule 12. The functions of the Secretary of State were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 (Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I.2005/1833 (W.149)(c.79)).

(2) S.I. 2006/126 (W.19).

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”); and
 “Switzerland Agreement” (“*Cytundeb y Swistir*”); and

(b) in the appropriate place in alphabetical order insert—

““College fee loan” (“*benthyciad ffioedd coleg*”) means a loan pursuant to regulations made by the National Assembly under section 22 of the Act in respect of the college fees payable by a student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge;” and

““fees” (“*ffioedd*”) has the meaning given in section 41(1) of the 2004 Act except in the case of college fees;”.

5. In regulation 2, omit paragraphs (2) to (5).

6. Insert after paragraph (4) of regulation 3, the following paragraph—

“(4A) For the purposes of paragraphs (2) to (4), any reference to the Secretary of State in relation to any function conferred on the Secretary of State by the Regulations referred to in those paragraphs, is to be read in relation to Wales as a reference to—

- (a) the National Assembly, in the case of a function referred to in section 44(1) of the Act; or
- (b) the National Assembly or the Secretary of State, in the case of a function referred to in section 44(2) of the Act.”.

7. In regulation 4(2)(a), before the words “Schedule 1” insert the words “Part 2 of”.

8. In regulation 6(4), after the words “Despite paragraph (1)” insert the words “and subject to paragraph 6(4B).”.

9. After regulation 6(4) insert—

“(4A) Paragraph (4B) applies to—

- (a) a new system eligible student who is on an end-on course of the kind described in paragraph (a) or (b) of the definition of “end-on course” in regulation 2;
- (b) a new system eligible student who has—
 - (i) completed a full-time course mentioned in paragraph 2 or 3 of Schedule 2;
 - (ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that he or she did not begin immediately after the course referred to in paragraph (i); and
 - (iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the present course;
- (c) a new system eligible student who has—
 - (i) completed a full-time foundation degree course;
 - (ii) is on a full-time honours degree course that he or she did not begin immediately after the course referred to in paragraph (i); and
 - (iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the present course; and
- (d) an old system eligible student who is a student on an end-on course of the kind described in paragraphs (a) and (b) of the definition of “end — on course” in regulation 2.”.

10. After regulation 6(4A) (as inserted by regulation 9 above), insert—

“(4B) Despite paragraph (1), an eligible student to whom this paragraph applies is only eligible for grants or loans for fees and grants for living costs in respect of the present course for the number of academic years equal to $(D + X) - Pr C$.”

11. In regulation 6(9) insert—

(a) after paragraph (a)—

“(aa) D is the greater of 3 and the number of academic years that make up the ordinary duration of the course;”;

(b) after paragraph (c) —

“(ca) X is 1 where the ordinary duration of the preliminary course was less than three years and where the ordinary duration of the preliminary course was three years;”;

(c) after paragraph (9)(d)—

“(da) PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons;”.

12. In regulation 7(1), for “paragraph (3)” substitute “paragraphs (3) and (3A)” and omit the words “or a grant for living costs”.

13. In regulation 7(2) for the words “paragraphs (3) and (4)” substitute the words “paragraphs (3A) and (4)”.

14. After regulation 7(3) insert—

“(3A) Where the present course is considered to be a single course because of regulations 5(4) and 5(5) and it leads to an honours degree from an institution in the United Kingdom being conferred on the eligible student before the final degree or equivalent qualification, the eligible student is not prevented from qualifying for support under paragraph (1) or (2) in respect of any part of the single course by virtue of having that honours degree.”.

15. For regulation 7(4) substitute—

“Paragraph (2) does not apply where—

(a) the designated course leads to qualification as a social worker;

(b) the eligible student is to receive any payment under a healthcare bursary the amount of which is calculated by reference to his or her income or a Scottish healthcare allowance the amount of which is calculated by reference to his or her income in respect of any academic year of the course; or

(c) the student is on a course for the initial training of teachers.”.

16. After regulation 7(7) insert—

“(8) Paragraphs (6A) and (6B) of regulation 18 extend the provisions of this regulation relating to qualification for fee loans and fee grants to the grants for living costs referred to in those paragraphs, subject to specified exceptions.”.

17. For regulation 10(2)(a), substitute the following—

“(a) one of the events listed in regulation 11C occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the National Assembly within a period of nine months beginning with the day on which the relevant event occurs.”.

18. Omit regulation 10(2)(b) and (c).

19. After regulation 11 insert the following new Part—

“PART 3A

APPLYING FOR GRANTS AND LOANS FOR FEES

Fee Support Generally

11A.—(1) No grant under Part 4 or loan under Part 5 in respect of an academic year may exceed the fees payable by the student in respect of that academic year.

(2) To receive a loan under these Regulations the student must enter into a contract with the National Assembly.

Students becoming eligible during the course of an academic year

11B. Where any of the events listed in regulation 11C occurs in the course of an academic year—

- (a) a student may qualify for grants and loans under Part 4 or 5 provided that the relevant event occurred within the first three months of the academic year; and
- (b) such grants and loans are not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

Events

11C. The events are—

- (a) the student’s course becomes a designated course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (g) the student becomes the child of a Swiss national.”.

20. In the headings for Part 6 and regulation 18 after the words “for living” insert the words “and other”.

21. In regulations 18(1), 18(2), 18(3), 18(5) and 18(7) omit the words “for living costs” wherever they appear.

22. In regulation 18(2) substitute for the words “from 1 to 8 of Schedule 1 into which the student falls is paragraph 7”, the words “in Part 2 of Schedule 1 into which the student falls is paragraph 9”.

23. After regulation 18(6) insert—

“(6A) Subject to paragraph (6B), an eligible student does not qualify for a grant under regulation 28, 29 or 30 in respect of an academic year of the designated course if the student does not qualify for relevant support in respect of that academic year .

(6B) Paragraph (6A) does not apply if the reason that the student does not qualify for relevant support is because—

- (a) he or she is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS and his or her course is a course referred to in regulation 5(1)(d); and all the periods of study during the academic year are at an institution outside the United Kingdom; or
- (b) the degree course is a flexible ITT course.

(6C) In paragraph (6A) “relevant support” means, in the case of a grant under regulation 28, a grant for fees, or, in the case of a grant under regulation 29 or 30, a loan for fees.”.

24. In regulation 18(8)(b) substitute for the words “mentioned in paragraph 3 of Schedule 1”, the words “defined in Part 1 of Schedule 1”, and omit the “or” preceding that sub-paragraph.

25. After regulation 18(8)(b) insert—

- “(c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss national.”.

26. In regulation 30(2) after “1992” insert the words “, or if he or she is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act”.

27. In regulation 30(5)(c), after “£26,500,” insert “or the student opts when applying for the grant not to provide the information needed to calculate the household income,”.

28. In regulation 30(6)(d) for the word “maintenance” substitute the words “special support”.

29. In regulation 31(3) substitute for the words “from 1 to 8 of Schedule 1 into which the student falls is paragraph 7”, the words “in Part 2 of Schedule 1 into which the student falls is paragraph 9”.

30. In regulation 39(2)(b) substitute for the words “mentioned in paragraph 3 of Schedule 1”, “defined in Part 1 of Schedule 1”.

31. After regulation 39(2)(b) insert—

- “(c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss National.”.

32. After regulation 44, insert—

“PART 8A

COLLEGE FEE LOANS

44A. A college fee loan is available to an eligible student in accordance with Schedule 3A.”.

33. After regulation 50(1), insert—

“(1A) The National Assembly may confer eligibility for support under this Part on a person who—

- (a) is not an eligible part-time student; or
- (b) is an eligible part-time student but does not qualify for support under this Part.”.

34. In regulation 50(2)(a), before the words “Schedule 1” insert the words “Part 2 of”.

35. In regulation 50(7) substitute for the words “from 1 to 8 of Schedule 1 into which he falls is paragraph 7”, the words “in Part 2 of Schedule 1 into which the student falls is paragraph 9”.

36. For paragraphs (13) and (14) of regulation 50, substitute—

“(13) Where one of the events listed in paragraph (14) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(13A) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) or (h) of paragraph (14) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(14) The events are—

- (a) the student’s course becomes a designated part-time course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or

- (h) the student becomes the child of a Swiss national.”.
37. In regulation 53(5)(g) for the figure “£9.50” substitute the figure of “£2.00”.
38. In regulation 53(6)(a), for the figures “£9.50”, “£7.63” and “£5.93”, substitute the figures “£15.92”, “£12.79” and “£9.94”, respectively.
39. Omit regulation 55(3)(a) and for regulation 55 (3)(b) substitute the following—
- “(b) one of the events listed in paragraph (14) of regulation 50 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the National Assembly within a period of six months beginning with the date on which the event occurs.”.
40. In regulation 62(3)(a), before the words “Schedule 1” insert the words “Part 2 of”.
41. In regulation 62(7), substitute for the words “from 1 to 8 of Schedule 1 into which he or she falls is paragraph 7”, the words “in Part 2 of Schedule 1 into which the student falls is paragraph 9”.
42. For Schedule 1, substitute the Schedule set out in Schedule 1 to these Regulations.
43. After Schedule 3, insert Schedule 3A as set out in Schedule 2 to these Regulations.
44. For paragraph 3(4) of Schedule 4 substitute—
- “(4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student’s partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner’s child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student’s partner or of both”.
45. For paragraph 4(2) of Schedule 4 substitute—
- “(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.”.
46. In paragraphs 10(4)(b) and (c) of Schedule 4 insert after the words “exceeds £22,560” the words “where the student is an old system student or exceeds £37,900 where the student is a new system student.”.
47. After paragraph 10 of Schedule 4 insert the following new paragraph—

“Split contributions— independent eligible students

11.—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) of this sub-paragraph is held by the independent eligible student’s partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the National Assembly after consultation with any other authority involved considers just;

- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003⁽³⁾ or section 63 of the Health Services and Public Health Act 1968⁽⁴⁾ (and no other statutory award) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;
 - (c) if, as a result of the apportionment under paragraph (b) of this sub-paragraph, the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his or her partner if they are both old system students or if they are both new system students.
- (2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his or her statutory award any sum remaining—
- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
 - (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his or her children under this Schedule.
- (3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁵⁾

12 July 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

⁽³⁾ S.I. 2003/1994.
⁽⁴⁾ 1968 c. 46.
⁽⁵⁾ 1998 c. 38.

SCHEDULE 1

Regulation 42

Schedule substituted for Schedule 1 to the Principal Regulations

“SCHEDULE 1 Regulations 3(3), 4(2), 10(2)(b), 10(2)(c), 18(2), 18(8)(b), 26(2)(f), 31(3), 38, 39(2)(b), 50(2)(a), 50(7), 50(14)(b), 55(3)(b), 62(3)(a), 62(7) and Schedule 4(4)(a)

Eligible Students

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004⁽⁶⁾ on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” (“*gwladolyn y GE*”) means a national of a Member State of the European Community;

“EEA Agreement” (“*Cytundeb yr AEE*”) means the Agreement on the European Economic Area signed at Oporto on 2 May 1992⁽⁷⁾ as adjusted by the Protocol signed at Brussels on 17 March 1993⁽⁸⁾;

“EEA frontier self-employed person” (“*person hunan-gyflogedig*”) means an EEA national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” (“*gweithiwr y ffin o'r AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” (“*gweithiwr mudol o'r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwaldolyn GE*”) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (“*person hunan-gyflogedig o'r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*Gwladwriaeth AEE*”) means a Member State of the European Economic Area;

⁽⁶⁾ OJ L158, 30.04.2004, p.77— 123.

⁽⁷⁾ Cm. 2073.

⁽⁸⁾ Cm. 2183.

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“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“family member” (“*aelod o deulu*”) means (unless otherwise indicated)—

- (a) in relation an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) his or her spouse or civil partner;
 - (ii) his or her child or the child of his or her spouse or civil partner; or
 - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) his or her spouse or civil partner; or
 - (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who is not self sufficient—
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who is self sufficient—
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;
 - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;

“person with leave to enter or remain” (“*person sydd â chaniatâd ganddo i ddod i mewn neu aros*”) means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of the State for the Home Department that, although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain;

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“right of permanent residence” (“*Hawl i breswyllo 'n barhaol*”) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” (“*person hunan-gyflogedig*”) means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“self-sufficient” (“*hunangynhaliol*”) means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971⁽⁹⁾;

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999⁽¹⁰⁾ and which came into force on 1st June 2002;

“Swiss employed person” (“*person cyflogedig Swisaid*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person cyflogedig Swisaid y ffin*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” (“*person hunan-gyflogedig Swisaid y ffin*”) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” (“*person hunan-gyflogedig Swisaid*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“United Kingdom national” (“*gwladolyn y Deyrnas Unedig*”) means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

“worker” (“*gweithiwr*”) means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(2) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

(3) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the present course; or

⁽⁹⁾ 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

⁽¹⁰⁾ Cm. 4904.

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- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which he or she moved.

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he or she would have been so resident but for the fact that—

- (a) he or she;
- (b) his or her spouse or civil partner;
- (c) his or her parent; or
- (d) in the case of a dependent direct relative in the ascending line, his or her child or child's spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area and Switzerland includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the European Economic Area and Switzerland as members of such forces.

(6) For the purposes of this Schedule an area which—

- (a) was previously not part of the European Community or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area;

PART 2

Categories

Persons who are settled in the United Kingdom

2.—(1) A person who on the first day of the first academic year of the course—

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

3. A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her residence as referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence as referred to in paragraph (c).

Refugees and persons with leave to enter or remain

- 4. A person who
 - (a) is either—
 - (i) a refugee ordinarily resident in the United Kingdom and Islands who has not ceased to be so resident since he or she was recognised as a refugee; or
 - (ii) the spouse, civil partner, child or step-child of a person mentioned in paragraph (i); and
 - (b) is ordinarily resident in Wales on the first day of the first academic year of the course.
- 5. A person who—
 - (a) is either—
 - (i) a person with leave to enter or remain; or
 - (ii) the spouse, civil partner, child or step-child of a person with leave to enter or remain;
 - (b) is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

Workers, employed persons, self-employed persons and their family members

- 6.—(1) A person who—
 - (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
 - (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

- 7. A person who—

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- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers⁽¹¹⁾, as extended by the EEA Agreement.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;
- (c) is ordinarily resident in Wales on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his or her ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if he or she is a United Kingdom national, a family member of a United Kingdom National for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

EC nationals

9.—(1) A person who—

- (a) is either—
 - (i) an EC national on the first day of the first academic year of the course; or
 - (ii) a family member of a such a person;
- (b) is—
 - (i) attending a designated course in Wales; or
 - (ii) undertaking a designated part-time course or designated postgraduate course in Wales;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

⁽¹¹⁾ OJ No L257, 19.10.1968, p.2 (OJ/SE 1968 (II) p.475).

- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

10.—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

Children of Swiss nationals

11. A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

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SCHEDULE 2

Regulation 43

“SCHEDULE 3A

Regulation 44A

COLLEGE FEE LOANS

Interpretation

1. In this Schedule—

- (a) “qualifying course” (“*cwrs cymhwysol*”) means a full-time designated course that is provided by the University of Oxford or the University of Cambridge and—
 - (i) is listed in regulation 5(5);
 - (ii) leads to qualification as a social worker; or
 - (iii) in respect of any academic year of which the student is eligible to receive a payment under a healthcare bursary the amount of which is calculated by reference to his or her income or a Scottish healthcare bursary the amount of which is calculated by reference to his or her income;
- (b) “qualifying student” (“*myfyriwr cymhwysol*”) means a person who meets the conditions in paragraph 3;
- (c) “standard academic year” (“*blwyddyn academaidd safonol*”) means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

Availability of college fee loans

2. A person qualifies for a college fee loan in connection with his or her attendance on a qualifying course in accordance with this Schedule.

3. A person qualifies for a college fee loan if he or she meets the following conditions—

- (a) he or she is an eligible student who is not excluded from qualifying by paragraph 4;
- (b) he or she has an honours degree from an institution in the United Kingdom;
- (c) he or she is taking a qualifying course which he or she begins on or after 1 September 2006;
- (d) he or she is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge; and
- (e) he or she is under the age of 60 on the first day of the first academic year of the qualifying course.

4. An eligible student who falls within paragraph 9 of Schedule 1 does not qualify for a college fee loan under these Regulations if he or she is ordinarily resident in England, Scotland or Northern Ireland.

5. To receive a college fee loan, a qualifying student must enter into a contract with the National Assembly.

6. A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because he or she is unable to attend for a reason which relates to his or her disability is treated as if he or she were in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

7. Where one of the events listed in paragraph 8 occurs in the course of an academic year—

- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
 - (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- 8.** The events are—
- (a) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
 - (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;
 - (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
 - (d) the student acquires a right of permanent residence as defined in Part 1 of Schedule 1;
 - (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
 - (f) the student becomes the child of a Swiss national.
- 9.** A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.
- 10.** Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

Amount of the college fee loan

11.—(1) The amount of the college fee loan in respect of an academic year of a qualifying course is an amount equal to the college fees payable by the student to his or her college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee loan of less than the maximum amount available in relation to the academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

Transfers

12. Despite regulation 8, where a qualifying student transfers from one qualifying course to another—

- (a) the National Assembly must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 14 are met and he or she cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he or she cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he or she transfers.

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Contribution

13. Where the only support that a qualifying student is applying for is the college fee loan, no contribution is calculated.

Payment

14.—(1) The National Assembly must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The National Assembly must pay the college fee loan in one lump sum.

(3) The National Assembly must not pay the college fee loan before—

- (a) it has received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) The college or permanent private hall is required to send confirmation of attendance to the National Assembly in such form as the Assembly may require and the National Assembly must not pay the college fee loan in respect of the academic year until it has received that confirmation unless it determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation.

(5) The National Assembly must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending again during the academic year in respect of which the college fees are payable or at all.

Overpayment

15. Any overpayment of college fee loan is recoverable by the National Assembly from the college or permanent private hall.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006 (“the Principal Regulations”). The effect of the principal changes is summarised below.

Changes made to implement EU requirements

(Regulations 4(a), 5, 7, 17 — 22, 24, 25, 29 — 31, 34 — 36, 39 — 42 and Schedule 1).

Students must satisfy certain eligibility criteria to be potentially eligible for support towards either their tuition fees only or their tuition fees and maintenance support. These criteria have been revised and include changes made in implementing EU Directive 2004/38 on the rights of EC nationals and

their families to move and reside in other Member States. The new criteria are set out in the revised Schedule 1 to the Principal Regulations as substituted by these Regulations.

The changes introduce new categories of students who may potentially be eligible for support. These include:

- EC nationals and their family members who acquire the right of permanent residence in the UK (after a continuous period of five years residence in the UK) (tuition fee and living costs support);
- Family members of economically inactive EC nationals who have yet to acquire the right of permanent residence (tuition fee support only);
- European Economic Area (EEA) or Swiss self-employed persons and their family members (tuition fee and living costs support);
- Dependent direct relatives in the ascending line of EEA or Swiss migrant workers (tuition fee and living costs support);
- “Frontier” workers and “frontier” self-employed persons (tuition fee and living costs support);
- Children of Swiss nationals/spouses or civil partners of Swiss nationals (tuition fee and maintenance support).

Change also enables payments of support where students acquire the right of permanent residence or become an EEA or Swiss: worker; self-employed person; frontier worker or frontier self-employed person or are a family member of such a person or the child of a Swiss national during the course of an academic year.

The Regulations also make a number of other changes which are consequential upon the changes in the new Schedule 1.

College fee loans

(Regulations 4(b), 32, 43 and Schedule 2).

Amendments to the Principal Regulations introduce a new form of support namely a loan in respect of the college fees payable by a qualifying student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge in connection with his or her attendance on a qualifying course.

Other changes

The following provisions of the Principal Regulations are amended, and new provisions, added as follows—

- Regulation 3 (Transitional provisions); amended to make it clear that references in the earlier regulations to the Secretary of State are to be read as (or as including) references to the National Assembly for Wales (regulation 6);
- Regulation 6 (duration of period of eligibility): amended in relation to certain categories of eligible students (regulations 8 — 11);
- Regulation 7: some changes to the previous study rules (regulations 12 —16 and 23);
- New regulation 11A: provides that a grant or loan for fees may not exceed the fees payable by the student, and that to receive a loan the student must enter into a contract with the National Assembly (regulation 19);
- Regulation 30: changes made to rules about eligibility for special support grant (regulations 26 — 28);
- Regulation 50: changes made to rules about eligibility of part-time students so that the National Assembly now has a reserve power to confer eligibility in a case not otherwise expressly covered (bringing the rules in this respect in line with those for full-time students) (regulation 33);

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- Regulation 53: changes to certain amounts to be deducted when calculating support for part-time courses (regulations 37 — 38);
- Schedule 4: changes to the rules governing financial assessment of students' contributions to financial support (regulations 44 —47).