
WELSH STATUTORY INSTRUMENTS

2006 No. 126

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

PART 1

GENERAL

Interpretation

2.—(1) In these Regulations—

“the 1962 Act” (“*Deddf 1962*”) means the Education Act 1962**(1)**;

“the 1998 Regulations” (“*Rheoliadau 1998*”) means the Education (Student Support) Regulations 1998**(2)**;

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Education (Student Support) Regulations 1999**(3)**;

“the 2000 Regulations” (“*Rheoliadau 2000*”) means the Education (Student Support) Regulations 2000**(4)**;

“the 2001 Regulations” (“*Rheoliadau 2001*”) means the Education (Student Support) Regulations 2001**(5)**;

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Education (Student Support) Regulations 2002**(6)**;

“the 2003 Regulations” (“*Rheoliadau 2003*”) means the Education (Student Support) (No. 2) Regulations 2002**(7)** as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003**(8)** and the Education (Student Fees and Support) (Switzerland) Regulations 2003**(9)**;

“the 2004 Regulations” (“*Rheoliadau 2004*”) means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004**(10)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004**(11)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment)

(1) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I.1998/3237), article 3.

(2) S.I. 1998/2003.

(3) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.

(4) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.

(5) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.

(6) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.

(7) S.I. 2002/3200.

(8) S.I. 2003/1065.

(9) S.I. 2003/3280.

(10) S.I. 2004/161.

(11) S.I. 2004/1602.

(No. 3) Regulations 2004(12), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(13) and the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(14);

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Education (Student Support) Regulations 2005(15) as amended by the Education (Student Support) (Amendment) Regulations 2005 and the Education (Student Support) (Amendment) (No. 2) Regulations 2005.

“academic authority” (“*awdurdod academaidd*”) means, in relation to an institution, the governing body or other body having the functions of a governing body and includes a person acting with the authority of that body;

“academic year” (“*blwyddyn academaidd*”) means the period of twelve months beginning on 1 January, 1 April, 1 July or 1 September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1 January and before 1 April, on or after 1 April and before 1 July, on or after 1 July and before 1 August or on or after 1 August and on or before 31 December, respectively;

“accelerated course” (“*cwrs carlam*”) means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration;

“the Act” (“*Y Ddeddf*”) means the Teaching and Higher Education Act 1998;

“borrower” (“*benthyciwr*”) means a person to whom a loan has been made;

“contribution” (“*cyfraniad*”) means an eligible student's contribution calculated pursuant to regulation 45 and Schedule 4;

“course for the initial training of teachers” (“*cwrs ar gyfer hyfforddiant cychwynnol athrawon*”) includes such a course leading to a first degree unless otherwise specified and excludes an employment-based teacher training scheme;

“designated course” (“*cwrs dynodedig*”) means a course designated by regulation 5 or by the National Assembly under regulation 5;

“designated part-time course” (“*cwrs rhan amser dynodedig*”) means a course designated by regulation 51 or by the National Assembly under regulation 51;

“designated postgraduate course” (“*cwrs ôl-raddedig dynodedig*”) means a course designated by regulation 63 or by the National Assembly under regulation 63;

“EEA Agreement” (“*Cytundeb yr AEE*”) means the Agreement on the European Economic Area signed at Oporto on 2 May 1992(16) as adjusted by the Protocol signed at Brussels on 17 March 1993(17);

“EEA migrant worker” (“*gweithiwr mudol yr AEE*”) has the meaning given in paragraph (5);

“electronic signature” (“*llofnod electronig*”) is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

(12) S.I. 2004/2041.

(13) S.I. 2004/2598.

(14) S.I. 2005/5.

(15) S.I. 2005/52 as amended by S.I. 2005/1341 and S.I. 2005/2084.

(16) Cm 2073.

(17) Cm 2183.

“eligible part-time student” (“*myfyriwr rhan-amser cymwys*”) has the meaning given in regulation 50;

“eligible postgraduate student” (“*myfyriwr ôl-raddedig cymwys*”) has the meaning given in regulation 62;

“eligible student” (“*myfyriwr cymys*”) has the meaning given in regulation 4;

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means a scheme established by the National Assembly for the purpose of regulation 8 of the Education (School Teachers' Qualifications) (Wales) Regulations 2004 (18) whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a maintained school, an independent school or other institution except a pupil referral unit;

“end-on course” (“*cwrs pen-ben*”) means—

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a full-time course mentioned in paragraph 2 or 3 of Schedule 2 for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;
- (b) a full-time honours degree course beginning on or after 1 September 2006 which, disregarding any intervening vacation, a student starts to attend immediately after ceasing to attend a full-time foundation degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;
- (c) a course for the initial training of teachers beginning before 1 September 2006 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a first degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;

“European Community” (“*Y Gymuned Ewropeaidd*”) means the territory comprised by the Member States of the European Community as constituted from time to time;

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

“flexible postgraduate ITT course” (“*cwrs HCA hyblyg i ôl-raddedigion*”) means a postgraduate course of initial teacher training, the length and pattern of which is determined by reference to the eligible student’s experience and training requirements and which has been approved by the Training and Development Agency for Schools (19);

“former Metropolitan Police District” (“*cyn ardal yr Heddlu Metropolitanaid*”) means—

- (a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple;
- (b) in the county of Essex, in the district of Epping Forest—
the area of the former urban district of Chigwell,
the parish of Waltham Abbey;

(18) S.I. 2004/1729 (W.173).

(19) This body was originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency. By virtue of section 74 of the Education Act 2005 (c. 18), it continues in existence but is to be known instead as the Training and Development Agency for Schools.

- (c) in the county of Hertfordshire—
in the borough of Broxbourne, the area of the former urban district of Cheshunt,
the district of Hertsmere,
in the district of Welwyn Hatfield, the parish of Northaw; and
- (d) in the county of Surrey—
in the borough of Elmbridge, the area of the former urban district of Esher,
the boroughs of Epsom and Ewell and Spelthorne,
in the district of Reigate and Banstead, the area of the former urban district of Banstead;

“healthcare bursary” (“*bwrsari gofal iechyd*”) means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968⁽²⁰⁾ or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²¹⁾;

“higher education course” (“*cwrs addysg uwch*”) means a course referred to in Schedule 2 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;

“household income” (“*incwm yr aelwyd, incwm aelwyd ac incwm sydd gan yr aelwyd*”) has the meaning given in Schedule 4;

“Islands” (“*Ynysoedd*”) means the Channel Islands and the Isle of Man;

“loan” (“*benthyciad*”), except where otherwise indicated, means a loan towards a student’s maintenance or course fees pursuant to any regulations made under section 22 of the Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

“maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“new system eligible student” (“*myfyriwr cymwys dan y drefn newydd*”) means an eligible student who starts the current course on or after 1 September 2006 and who is not an old system eligible student;

“old award” (“*hen ddyfarniad*”) is an award within the meaning of the Education (Mandatory Awards) Regulations 2003⁽²²⁾;

“old system eligible student” (“*myfyrywyr cymwys dan yr hen drefn*”) means an eligible student who—

- (a) started the current course before 1 September 2006,

(20) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

(21) S.I. 1972/1265 (N.I. 14).

(22) S.I. 2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.

- (b) is a gap-year student,
- (c) starts the current course on or after 1 September 2006 where that course is an end-on course in relation to a course that he or she started before 1 September 2006 or, in the case of a gap-year student, before 1 September 2007, or
- (d) starts the current course on or after 1 September 2006 having had his or her status as an eligible student transferred to that course as a result of one or more transfers of that status by the National Assembly pursuant to regulations made under section 22 of the Act from a designated course which he or she began before 1 September 2006 or, in the case of a gap-year student, before 1 September 2007 and in connection with which the National Assembly determined him or her to be an eligible student;

“periods of work experience” (“*cyfnodau o brofiad gwaith*”) means—

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside that institution;
- (b) periods during which a student is employed and residing in a country whose language is one that he or she is studying for his or her course (provided that the period of residence in that country is a requirement of his or her course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

“present course” (“*cwrs presennol*”) means the designated course in respect of which a person is applying for support;

“private institution” (“*sefydliad preifat*”) means an institution which is not publicly funded;

“public funds” (“*cronfeydd cyhoeddus*”) means moneys provided by Parliament including funds provided by the National Assembly for Wales;

“publicly-funded” (“*a ariennir yn gyhoeddus*”) means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

“qualified teacher” (“*athro neu athrawes gymwysiedig*”) has the meaning given in section 132(1) of the Education Act 2002(23);

“quarter” (“*chwarter*”) in relation to an academic year means a period in that year—

- (a) beginning on 1 January and ending on 31 March;
- (b) beginning on 1 April and ending on 30 June;
- (c) beginning on 1 July and ending on 31 August; or
- (d) beginning on 1 September and ending on 31 December;

“refugee” (“*ffoadur*”) means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28 July 1951(24) as extended by the Protocol thereto which entered into force on 4 October 1967(25) and any reference to the child of a refugee includes a reference to a step-child;

“Research Council” (“*Cyngor Ymchwil*”) means any of the following research councils—

- (a) Arts and Humanities Research Council,
- (b) Biotechnology and Biological Sciences Research Council,
- (c) Economic and Social Research Council,

(23) 2002 c. 32.

(24) Cmnd. 9171.

(25) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

- (d) Engineering and Physical Sciences Research Council,
- (e) Medical Research Council,
- (f) Natural Environment Research Council,
- (g) Particle Physics and Astronomy Research Council;

“sandwich course” (“*cwrs rhyngosod*”) has the meaning given in paragraph (6);

“Scottish healthcare allowance” (“*lwfans gofal iechyd yr Alban*”) means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980⁽²⁶⁾ granted in respect of a person attending a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

“statutory award” (“*dyfarniad statudol*”) means any award bestowed, grant paid or other support provided by virtue of the Act or the 1962 Act, or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

“student loan account number” (“*Rhif cyfrif benthyciad myfyiwr*”) means the account number assigned by the lender to a loan made under the student loans legislation;

“student loans legislation” (“*y ddeddfwriaeth ar fenthyciadau i fyfyrwyr*”) means the Education (Student Loans) Act 1990⁽²⁷⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽²⁸⁾, the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998⁽²⁹⁾ and regulations made thereunder or the Act and regulations made thereunder;

“support” (“*cymorth*”) means financial support by way of grant or loan made by the National Assembly pursuant to regulations made under section 22 of the Act;

“Switzerland 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⁽³⁰⁾ and which came into force on 1 June 2002;

“transitional award” (“*dyfarniad trosiannol*”) means an award made under the Education (Mandatory Awards) Regulations 1998⁽³¹⁾ other than an old award;

“type 1 teacher training student” (“*myfyriwr math 1 ar gwrs hyfforddi athrawon*”) means a new system eligible student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he or she is applying for support are in aggregate at least 6 weeks but less than 10 weeks; and

“type 2 teacher training student” (“*myfyriwr math 2 ar gwrs hyfforddi athrawon*”) means a new system eligible student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he or she is applying for support are in aggregate 10 weeks or more.

(26) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the National Assembly were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(27) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

(28) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6.

(29) S.I. 1998/1760 (N.I. 14).

(30) Cm. 4904.

(31) S.I. 1998/1166, amended by S.I. 1998/1972.

(2) For the purposes of these Regulations, 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) his or her present course; or
- (b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his or her present course,

is considered to be ordinarily resident in the place from which that person moved.

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971⁽³²⁾, a person is treated as ordinarily resident in Wales, the United Kingdom and Islands or in the European Economic Area or Switzerland if he or she would have been so resident but for the fact that the person, the person's spouse or civil partner or the person's parent, guardian or any other person having parental responsibility for him or her or any person having care of him or her when the person is a child is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the European Economic Area or Switzerland and paragraph 9(c) of Schedule 1 does not apply in the case of such person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the United Kingdom as members of such forces.

(4) For the purposes of these Regulations, 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 considered to have always been part of the European Economic Area.

(5) In these Regulations, a reference to an EEA migrant worker is a reference to a person who is a national of a Member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community⁽³³⁾, as extended by the EEA Agreement or the Switzerland Agreement; or
- (b) in circumstances where as a national of the United Kingdom the person has an enforceable Community right to be treated no less favourably than a national of another Member State in relation to matters which are the subject of the above-mentioned Council Regulation.

(6) In these Regulations —

- (a) a course is a “sandwich course” (“*gwrs rhyngosod*”) if—
 - (i) it is not a course referred to in paragraph 4 of Schedule 2;
 - (ii) it consists of alternate periods of full-time study in an institution and periods of work experience; and
 - (iii) taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year;
- (b) for the purposes of calculating the student's attendance, the course is treated as beginning with the first period of full-time study and ending with the last such period; and
- (c) where periods of full-time study and work experience alternate within any week of the course, the days of full-time study are aggregated with each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.

⁽³²⁾ 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

⁽³³⁾ OJ No L257, 19.10. 1968, p 2 (OJ/SE 1968 (II) p 475).

(7) Except in the case of regulation 27 (grant for travel), a reference in these Regulations to the “attendance” of an eligible student on a designated course includes the undertaking of a course by distance learning if the eligible student is unable to physically attend by reason of his or her disability.

(8) In these Regulations a “gap-year student” (“*myfyriwr sy'n cymryd blwyddyn i ffwrdd*”) means an eligible student to whom paragraphs (9) or (10) apply and who starts a designated course (“the present course”) on or after 1 September 2006.

(9) This paragraph applies to an eligible student who

- (a) had on or before 1 August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the present course or a similar course, and
- (b) starts the first academic year of the present course before 1 September 2007.

(10) This paragraph applies to an eligible student—

- (a) who had received an offer of a place on a designated course (whether or not at the same institution as the present course) the first academic year of which begins before 1 September 2006,
- (b) who was unable to take up the offer because a specified qualification or grade was not awarded to him or her,
- (c) who appealed against the decision not to award him or her the qualification or grade,
- (d) where the appeal was allowed after the last date on which he or she could have taken up the offer,
- (e) where as a result he or she was offered a place on the present course, and
- (f) where the first academic year of the relevant course begins after 31 August 2006 but before 1 September 2007.

(11) For the purpose of paragraph (2)(a) a course (“the original course”) is similar to the present course if—

- (a) it appears to the governing body of the institution providing the present course that the subject-matter of the course is in whole or in part the same as the subject-matter of the original course, and
- (b) except where the original course is no longer being provided, the present course is provided by the institution which was to have provided the original course.

(12) In these Regulations, the “specified designated course” (“*y cwrs dynodedig a bennir*”) means the present course subject to paragraphs (13) and (14).

(13) Where the student’s status as an eligible student has been transferred to the present course as a result of one or more transfers of that status by the National Assembly from a course (the “initial course”) in connection with which the National Assembly determined the student to be an eligible student pursuant to regulations made under section 22 of the Act, the specified designated course is the initial course.

(14) Where the present course is an end-on course, the specified designated course is the course in relation to which the current course is an end-on course (the “preceding course”). Where the preceding course is itself an end-on course, the specified designated course is the course in relation to which the preceding course is an end-on course.