
WELSH STATUTORY INSTRUMENTS

2006 No. 1795 (W.190)

EDUCATION, WALES

**The Education (Fees and Awards)
(Amendment) (Wales) Regulations 2006**

Made - - - - 5 July 2006
Coming into force - - 7 July 2006

In exercise of the powers conferred on the Secretary of State by section 2 of the Education (Fees and Awards) Act 1983(1) and now vested in the National Assembly for Wales(2), the National Assembly for Wales hereby makes the following Regulations:

Title and commencement and interpretation

1.—(1) The title of these Regulations is the Education (Fees and Awards) (Amendment) (Wales) Regulations 2006 and they come into force on 7 July 2006.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the Principal Regulations” (“*y Prif Reoliadau*”) means the Education (Fees and Awards) Regulations 1997(3).

2. To the extent that the amendments made to the Principal Regulations by the Education (Fees and Awards) (Amendment) Regulations 2006(4) do not apply in relation to Wales(5), those amendments are hereby applied in relation to Wales subject to the further amendments made by this Order.

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- (1) 1983 c. 40; relevant amendments were made by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19; the Education Act 1994 (c. 30), Schedule 2, paragraph 7; the Education Act 1996 (c. 56), Schedule 37, paragraph 57 and by the Education Act 2005 (c. 18), Schedule 14, paragraph 9. The functions of the Secretary of State under the 1983 Act (except for those under section 1), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 with effect from 1 July 1999. The functions under section 1 were transferred to the Assembly with effect from 8 June 2006: S.I. 2006/1458.
- (2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- (3) S.I. 1997/1972 as amended by S.I. 1998/1965, S.I. 1999/229, S.I. 2000/2192, S.I. 2003/2945, S.I. 2003/3280, S.I. 2005/2114 and S.I. 2006/453.
- (4) S.I. 2006/453..
- (5) Those Regulations were made under sections 1 and 2 of the Education (Fees and Awards) Act 1983. The functions of the Secretary of State under section 2 have been transferred to the National Assembly (see footnote (1) on page 1), and so the amendments made by the Education (Fees and Awards) (Amendment) Regulations 2006 under that section do not apply in relation to Wales.

Amendment of Regulations

3. The Principal Regulations are amended as follows.
4. In regulation 2(1A), omit the words “in relation to England and in relation to Wales for the purposes of regulation 4 only”.
5. In regulation 2(1B), omit the words “in relation to England and in relation to Wales for the purposes of its application to regulation 4 only”.
6. Omit regulation 2(4).
7. In regulation 2(4B) omit the words “In relation to England and in relation to Wales for the purposes of regulation 4 only,”.
8. Omit regulation 2(5).
9. In regulation 2(5B), omit the words “In relation to England”.
10. Omit regulation 2(6).
11. In the heading to regulation 6A and in regulation 6A(1) and (2) omit the words “In relation to England”.
12. Omit regulation 8(2).
13. In the Schedule—
 - (a) omit paragraphs 1(1), 5(1), 6(1), 7, 8 and 9; and
 - (b) in paragraphs 1(2), 1(4), 5(2) and 6(2) omit the words “In relation to England and in relation to Wales for the purposes of regulation 4 only,”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6).

5 July 2006

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Fees and Awards) Regulations 1997 (“the 1997 Regulations”) in relation to Wales. The 1997 Regulations were made under sections 1 and 2 of the Education (Fees and Awards) Act 1983. The powers under section 2 (which relate to discretionary awards) were devolved to the National Assembly in relation to Wales in 1999 (when the Assembly acquired its first functions). The powers under section 1 (which relate to the charging of fees at further and higher education institutions) were not, however, transferred until June 2006.

The 1997 Regulations provide that, in specified cases, it is lawful to differentiate between the persons mentioned in the Schedule to those Regulations and persons not referred to in the Schedule in respect of the charging of fees and the making of awards. By virtue of section 26 of the Teaching and Higher Education Act 1998 and section 29 of the Higher Education Act 2004, no condition imposed to limit tuition fee amounts under those Acts applies in relation to any fees which are payable by students other than those who fall within the prescribed class of persons who have a specified connection with the United Kingdom under regulations made under section 1 of the Education (Fees and Awards) Act 1983. The Schedule to the Regulations (as amended) sets out the class of persons who have that specified connection with the United Kingdom.

Directive [2004/38/EC](#) of the European Parliament and of the Council of 29 April 2004 (OJ L158, 30.04.2004, p77-123) is about the rights of citizens of the Union and their family members to move and reside freely in the territory of the member states. Certain categories of person who were not formerly entitled to equal treatment with nationals of the United Kingdom in relation to tuition fees and maintenance support will be eligible as a result of the Directive.

The changes needed in order to give full effect to the Directive in relation to tuition fees and discretionary awards were implemented by the Education (Fees and Awards) (Amendment) Regulations 2006 made by the Secretary of State for Education and Skills. The changes made by those Regulations apply to Wales insofar as they relate to tuition fees (which were not devolved until June 2006). In their application to discretionary awards (where the power to make regulations had already been devolved), the changes apply only to England. The effect of the present Regulations is to apply those latter changes to Wales.