
WELSH STATUTORY INSTRUMENTS

2008 No. 3170

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2008

PART 1

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2008.

(2) These Regulations come into force on 9 January 2009 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires—

“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 by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003⁽⁸⁾ and the Education (Student Fees and Support) (Switzerland) Regulations 2003⁽⁹⁾;

(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 The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching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.

“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) (No. 3) Regulations 2004⁽¹²⁾, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004⁽¹³⁾, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005⁽¹⁴⁾, the Education (Student Support) (Amendment) Regulations 2005⁽¹⁵⁾ and the Education (Student Support) (Amendment) (No.2) Regulations 2005⁽¹⁶⁾;

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Education (Student Support) Regulations 2005⁽¹⁷⁾;

“the 2006 Regulations” (“*Rheoliadau 2006*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006⁽¹⁸⁾ as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006⁽¹⁹⁾;

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007⁽²⁰⁾ as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2007⁽²¹⁾, the Assembly Learning Grants and Loans (Higher Education) (Wales)(Amendment) (No.2) Regulations 2007⁽²²⁾ and the Assembly Learning Grants and Loans (Higher Education) (Wales)(Amendment)(No.3) Regulations 2007⁽²³⁾;

“the 2008 Regulations” (“*Rheoliadau 2008*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008⁽²⁴⁾ as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008⁽²⁵⁾;

“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;

(9) S.I. 2003/3280.

(10) S.I. 2004/161.

(11) S.I. 2004/1602.

(12) S.I. 2004/2041.

(13) S.I. 2004/2598.

(14) S.I. 2005/5.

(15) S.I. 2005/1341.

(16) S.I. 2005/2084.

(17) S.I. 2005/52 as amended by S.I. 2005/1341, S.I. 2005/2084, S.I.2005/3482 and S.I. 2006/955.

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

(19) S.I. 2006/1863 (W.196).

(20) S.I. 2007/1045 (W.104).

(21) S.I. 2007/2312 (W.183).

(22) S.I. 2007/ 2851 (W.248).

(23) S.I. 2007/3230 (W.282).

(24) S.I. 2008/1273 (W.130) as amended by regulation 112 of these Regulations.

(25) S.I. 2008/ 2140 (W.189).

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

“bursary year” (*“blwyddyn bwrsari”*) means an academic year of a course—

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

“college fee loan” (*“benthyciad at ffioedd coleg”*) means a loan for college fees payable to a qualifying student pursuant to regulations made by the Welsh Ministers under section 22 of the Act;

“compressed degree course” (*“cwrs gradd cywasgedig”*) means a course determined in accordance with paragraph (2) to be a compressed degree course;

“compressed degree student” (*“myfyriwr cwrs gradd cywasgedig”*) means an eligible student who—

- (a) is undertaking a compressed degree course in the United Kingdom (the “course”);
- (b) either—
 - (i) began the course on or after 1 September 2006 and is continuing on that course after 31 August 2009; or
 - (ii) begins the course on or after 1 September 2009; and
- (c) either—
 - (i) is required to be in attendance on the course for part of the academic year for which he or she is applying for support; or
 - (ii) is a disabled student who is not required to be in attendance on the course because he or she is unable to attend because of a reason which relates to his or her disability;

“contribution” (*“cyfraniad”*) means in relation to—

- (a) an eligible student, the student’s contribution calculated pursuant to regulation 53 and Schedule 5;
- (b) an eligible part-time student, the student’s contribution calculated pursuant to regulation 91 and Schedule 6;

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

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

“designated distance learning course” (*“cwrs dysgu o bell dynodedig”*) means a course designated by the Welsh Ministers under regulation 64;

“designated part-time course” (*“cwrs rhan amser dynodedig”*) means a course designated by regulation 80 or by the Welsh Ministers under regulation 80;

“designated postgraduate course” (*“cwrs ôl-raddedig dynodedig”*) means a course designated by regulation 104 or by the Welsh Ministers under regulation 104;

“Directive 2004/38” (*“Cyfarwydddeb 2004/38”*) means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004(26) 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;

“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;

“eligible distance learning student” (“*myfyriwr dysgu o bell cymwys*”) has the meaning given in regulation 62;

“eligible part-time student” (“*myfyriwr rhan-amser cymwys*”) has the meaning given in regulation 79;

“eligible postgraduate student” (“*myfyriwr ôl-raddedig cymwys*”) has the meaning given in regulation 103;

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

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means—

- (a) a scheme established by the Welsh Ministers for the purpose of regulation 8 of the Education (School Teachers' Qualifications) (Wales) Regulations 2004⁽²⁷⁾ 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; or
- (b) a scheme established by the Secretary of State whereby a person may undertake initial teacher training in order to obtain qualified teacher training status while being employed to teach at a school, city college, Academy, 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, 2005, 2006, 2007 or 2008 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, 2005, 2006, 2007 or 2008 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;

(27) S.I. 2004/1729 (W.173), as amended by S.I. 2007/2811 (W.238) and S.I. 2008/215 (W.26).

“Erasmus year” (“*blwyddyn Erasmus*”) means an academic year of a course during which a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(28) and where the student’s course is a course referred to in regulation 5(1)(e) and all the periods of study during the academic year are at an institution outside the United Kingdom;

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

“fees” (“*ffioedd*”) has the meaning given in section 28(1) of the Act except in references to college fees;

“fee support” (“*cymorth ffioedd*”) means grants in relation to fees pursuant to regulations made by the Welsh Ministers under section 22 of the Act and includes grants in relation to fees under Part 4;

“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 (29) or the Higher Education Funding Council for Wales(30);

“former Metropolitan Police District” (“*cyn Ardal yr Heddlu Metropolitanaidd*”) 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;
- (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;

“gap year student” (“*myfyriwr sy’n cymryd blwyddyn i ffwrdd*”) has the meaning given in paragraph (3);

“grant for disabled distance learning students’ living costs” (“*grant myfyrwyr dysgu o bell anabl*”) means the grant payable under regulation 69;

“grant for disabled part-time students’ living costs” (“*grant at gostau byw myfyrwyr rhan-amser anabl*”) means the grant payable under regulation 83;

“grant for disabled students’ living costs” (“*grant at gostau byw myfyrwyr anabl*”) means the grant payable under regulation 24;

“grant for living costs” (“*grant at gostau byw*”) (without more) means a grant under any of the provisions of Part 5 of these Regulations;

(28) ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000, p.1.

(29) 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.

(30) See sections 85 — 90 of the Education Act 2005 for HEFCW’s function in relation to teacher training.

“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⁽³¹⁾ or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽³²⁾;

“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*”) in relation to—

(a) an eligible student, has the meaning given in Schedule 5;

(b) an eligible part-time student, has the meaning given in Schedule 6;

“information” (“*gwybodaeth*”) includes documents;

“Institute” (“*yr Athrofa*”) means the University of London Institute in Paris⁽³³⁾;

“intensive course” (“*cwrs dwys*”) means an accelerated course or a compressed degree course;

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

“loan” (“*benthyciad*”), except where otherwise indicated, means a loan pursuant to any regulations made by the Welsh Ministers under section 22 of the Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

“loan for living costs” (“*benthyciad at gostau byw*”) means a loan for living costs pursuant to regulations made by the Welsh Ministers under section 22 of the Act;

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

“new fee grant” (“*grant newydd at ffioedd*”) means a grant made by the Welsh Ministers under regulation 18;

“new system eligible student” (“*myfyriwr cymwys o dan y drefn newydd*”) means an eligible student who—

(a) is not an old system eligible student; and

(b) either—

(i) started the present course on or after 1 September 2006 and is continuing on that course after 31 August 2009; or

(ii) starts the present course on or after 1 September 2009;

(31) 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), S.I. 2004/288, article 7; the Children Act 2004 (c. 31), section 55; S.I. 2004/957, the Schedule; the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1 and S.I. 2007/961, the Schedule.

(32) S.I. 1972/1265 (N.I. 14) to which there have been amendments not relevant to these Regulations.

(33) The University of London Institute in Paris was formerly known as the British Institute in Paris. The British Institute in Paris formally changed its name on 1 January 2005.

“old award” (“*hen ddyfarniad*”) is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(34);

“old flexible postgraduate course for the initial training of teachers” (“*hen gwrs ôl-radd hyblyg ar gyfer hyfforddiant cychwynnol i athrawon*”) means a flexible postgraduate course for the initial training of teachers, which a student started to attend, before 1 September 2008;

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

- (a) started the present course before 1 September 2006 and who is continuing on that course after 31 August 2009;
- (b) is a gap-year student in relation to the present course;
- (c) started the present course on or after 1 September 2006 where that course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in this regulation) following on from a course that—
 - (i) he or she started before 1 September 2006; or
 - (ii) he or she started before 1 September 2007 and in relation to which he or she was a gap-year student; or
- (d) started the present 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 Welsh Ministers pursuant to regulations made under section 22 of the Act from a designated course which he or she began—
 - (i) before 1 September 2006; or
 - (ii) before 1 September 2007 and in relation to which he or she was a gap year student;

“ordinary duration” (“*hyd arferol*”) means, in relation to a designated course, the number of academic years that a standard student would take to complete the designated course excluding any academic years of the course that are bursary years or Erasmus years;

“part-time adult dependants' grant” (“*grant rhan-amser ar gyfer dibynyddion mewn oed*”) means the grant payable under regulation 86;

“part-time childcare grant” (“*grant rhan-amser ar gyfer gofal plant*”) means the grant payable under regulation 87;

“part-time grants for dependants” (“*graniau rhan-amser ar gyfer dibynyddion*”) means the grants and allowance listed in regulation 85(1);

“part-time parents' learning allowance” (“*lwfans dysgu rhan-amser ar gyfer rhieni*”) means the allowance payable under regulation 88;

“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);

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

- (a) who has been informed by a person acting under the authority of the Secretary of 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) who has been granted leave to enter or to remain accordingly;
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002⁽³⁵⁾); and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain;

“preliminary course” (“*cwrs rhagarweiniol*”) means a course mentioned in paragraph 2 or 3 of Schedule 2 that is taken before a full-time degree course (other than a first degree course for the initial training of teachers) or a foundation degree course that is taken before a full-time honours degree course, as the case may be;

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

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

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

“present postgraduate course” (“*cwrs ôl-radd presennol*”) means the designated postgraduate 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 Welsh Ministers;

“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 cymhwysedig*”) has the meaning given in section 132(1) of the Education Act 2002⁽³⁶⁾;

“qualifying course” (“*cwrs cymhwysol*”) means a full-time designated course which is provided by the University of Oxford or the University of Cambridge and—

- (a) leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;
- (b) where it began before 1 September 2009, leads to qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner; or
- (c) consists of at least one academic year which is a bursary year;

“qualifying student” (“*myfyriwr cymhwysol*”) means a person who satisfies the criteria in paragraph 2 of Schedule 4;

“qualifying year of study” (“*blwyddyn astudio gymhwysol*”) means an academic year of a designated course—

- (a) in respect of which the student qualified for fee support (even if the amount was nil);

(35) 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), Schedules 2 and 4 and the Immigration, Asylum and Nationality Act 2006 (c. 13), section 9.

(36) 2002 c. 32.

- (b) that was a bursary year; or
- (c) in respect of which the student would have qualified for fee support (even if the amount would have been nil) if he or she had been an eligible student or the present course had been designated at the beginning of that year;

“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⁽³⁷⁾ as extended by the Protocol thereto which entered into force on 4 October 1967⁽³⁸⁾;

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

“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;

“sandwich course” (*cwrs rhyngosod*) has the meaning given in paragraph (7);

“Scottish healthcare allowance” (*lwfans gofal iechyd yr Alban*) means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980⁽³⁹⁾ 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;

“specified designated course” (*y cwrs dynodedig a bennir*) has the meaning given in paragraph (8);

“standard academic year” (*blwyddyn academaidd safonol*), unless otherwise indicated, means an academic year of a designated course (other than an academic year that is a bursary year or an Erasmus year) that would be taken (in whole or in part) by a person who does not repeat any part of the course after 1 September 2006 and who enters the course at the same point as the eligible student;

“standard student” (*myfyriwr safonol*) is a student who is to be taken—

- (a) to have begun the designated course on the same date as the eligible student in question;
- (b) not to be excused any part of the course;

⁽³⁷⁾ Cmnd. 9171.

⁽³⁸⁾ Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Innovation, Universities and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

⁽³⁹⁾ 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 (asp 6), 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 Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(c) not to repeat any part of the course; and

(d) not to be absent from the course other than during vacations;

“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 loans legislation” (“*ddeddfwriaeth ar fenthyciadau i fyfyrwyr*”) means the Education (Student Loans) Act 1990⁽⁴⁰⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽⁴¹⁾, the Education (Scotland) Act 1980 and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998⁽⁴²⁾ and regulations made under that Order or the Act and regulations made under that Act;

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

“transitional award” (“*dyfarniad trosiannol*”) means an award made under the Education (Mandatory Awards) Regulations 1998⁽⁴³⁾ other than an old award;

“Turkish worker” (“*gweithiwr Twrcaid*”) means a Turkish national who—

(a) is ordinarily resident in the United Kingdom and Islands; and

(b) is, or has been, lawfully employed in the United Kingdom;

“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;

“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; and

“type 3 teacher training student” (“*myfyriwr math 3 ar gwrs hyfforddi athrawon*”) means a new system eligible student on a course for a first degree for the initial training of teachers whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which the student is applying for support are in aggregate at least 6 weeks but less than 10 weeks.

(2) The Secretary of State may determine that a course is a compressed degree course if, in his or her opinion, that course is—

(a) a course for a first degree (other than a foundation degree);

(b) a full-time course designated under regulation 5(1); and

(c) of two academic years' duration.

(3) In these Regulations a person is a “gap-year student” (“*myfyriwr sy'n cymryd blwyddyn i ffwrdd*”) in relation to a course provided by or on behalf of an institution that was publicly funded as at 1 August 2005 if he or she meets the conditions in paragraphs (4) or (6).

(4) The conditions are—

⁽⁴⁰⁾ 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

⁽⁴¹⁾ 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 and revoked, with savings, by SR (NI) 1998 No 306.

⁽⁴²⁾ S.I. 1998/1760 (N.I. 14) to which there have been amendments not relevant to these Regulations.

⁽⁴³⁾ S.I. 1998/1166, amended by S.I. 1998/1972 and revoked with savings by S.I. 1999/1494.

- (a) the person 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) the first academic year of the present course started on or after 1 September 2006 but before 1 September 2007.
- (5) In paragraph (4), 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.
- (6) The conditions are—
 - (a) the person 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 began before 1 September 2006;
 - (b) he or she was unable to take up the offer because a specified qualification or grade was not awarded to him or her;
 - (c) he or she appealed against the decision not to award him or her the qualification or grade;
 - (d) the appeal was allowed after the last date on which he or she could have taken up the offer;
 - (e) as a result, he or she was offered a place on the present course; and
 - (f) the first academic year of the present course began on or after 1 September 2006 but before 1 September 2007.
- (7) In these Regulations—
 - (a) a course is a “sandwich course” (“*cwrs rhyngosod*”) if—
 - (i) it is not a course for the initial training of teachers;
 - (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) in calculating the student’s attendance for the purposes of sub-paragraph (a), the course is to be treated as beginning with the first period of full-time study and ending with the last such period; and
 - (c) for the purposes of sub-paragraph (a), 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.
- (8) In these Regulations, the “specified designated course” (“*y cwrs dynodedig a bennir*”) means the present course subject to paragraphs (9) and (10).
- (9) 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 Welsh Ministers from a course (the “initial course”) in connection with which the Welsh Ministers determined the student to be an eligible student pursuant to regulations made by them under section 22 of the Act, the specified designated course is the initial course.
- (10) Where the present course is an end-on course, the specified designated course is the course in relation to which the present 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.

(11) In these Regulations, the expression “student who qualifies for a new fee grant” (“myfyniwr sydd â hawl i gael grant newydd at ffioedd”), in relation to a qualifying designated course, and any reference to a student who does not qualify for a new fee grant are to be construed in accordance with regulation 18.

(12) In these Regulations, the expression “qualifying designated course” (“cwrs dynodedig cymhwysol”), in relation to a student who qualifies for a new fee grant, has the meaning given to it by regulation 18.

Revocation, savings and transitional provisions

3.—(1) Subject to paragraph (7), the following regulations are revoked in relation to Wales on 1 September 2009—

- (a) the 2008 Regulations; and
- (b) the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008.

(2) The 2003 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2003 but before 1 September 2004.

(3) The 2004 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2004 but before 1 September 2005.

(4) The 2005 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2005 but before 1 September 2006.

(5) The 2006 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2006 but before 1 September 2007.

(6) The 2007 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2007 but before 1 September 2008.

(7) The 2008 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2008 but before 1 September 2009.

(8) 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 Welsh Ministers, in the case of a function referred to in section 44(1) of the Higher Education Act 2004⁽⁴⁴⁾; or
- (b) the Welsh Ministers or the Secretary of State, in the case of a function referred to in section 44(2) of the Higher Education Act 2004.

(9) These Regulations, except regulation 112, apply in relation to the provision of support to students in respect of an academic year which begins on or after 1 September 2009 whether anything done under these Regulations is done before, on or after 1 September 2009.

(10) Despite any other provision in these Regulations where a person—

- (a) attends a course in respect of which a transitional award was bestowed on him or her; or
- (b) had no award under the 1962 Act bestowed on him or her in respect of the course but a transitional award would have been bestowed on him or her if the person had applied for an award under the 1962 Act and his or her resources had not exceeded his or her requirements,

(44) 2004 c. 8.

he or she is an old system eligible student for the purposes of Parts 4 and 5 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (11) applies he or she qualifies for support by way of loan for living costs under Part 6 only if he or she is an eligible student under these Regulations and if he or she satisfies the qualifying conditions for support under that Part.

(11) Despite any other provision in these Regulations, where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he or she is an old system eligible student for the purposes of Part 6 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) he or she starts immediately after ceasing that course, but unless paragraph (10) applies he or she qualifies for fee support under Part 4 and support by way of grant for living costs under Part 5 if he or she is an eligible student under these Regulations and if he or she satisfies the relevant qualifying conditions for support under Parts 4 and 5.