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WELSH STATUTORY INSTRUMENTS

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**2008 No. 3170**

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

**PART 2**

ELIGIBILITY

**Eligible students**

4.—(1) An eligible student qualifies for support in connection with a designated course subject to and in accordance with these Regulations.

(2) A person is an eligible student in connection with a designated course if—

- (a) in assessing his or her application for support the Welsh Ministers determine that the person falls within one of the categories set out in Part 2 of Schedule 1; and
- (b) the person is not excluded by paragraph (3).

(3) A person is not an eligible student if—

- (a) an old award has been bestowed on that person in respect of the person's attendance on the course;
- (b) the person is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on, or paid to, the person in relation to the person's attendance on the course—
  - (i) a healthcare bursary the amount of which is not calculated by reference to the person's income; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);
- (d) the person is in breach of any obligation to repay any loan;
- (e) the person has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18; or
- (f) the person has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support.

(4) For the purposes of paragraphs (3)(d) and (3)(e), "loan" ("*benthyciad*") means a loan made under the student loans legislation.

(5) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(e) only applies if the agreement was made—

- (a) before 25 September 1991, and

- (b) with the concurrence of the borrower’s curator or at a time when he or she had no curator.
- (6) An eligible student in respect of whom the first academic year of the course begins on or after 1 September 2000 does not, at any one time, qualify for support for—
  - (a) more than one designated course;
  - (b) a designated course and a designated part-time course;
  - (c) a designated course and a designated postgraduate course.
- (7) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (8), (9) or (10)—
  - (a) paragraphs (2) and (3) do not apply to him or her; and
  - (b) he or she is an eligible student for the purposes of these Regulations.
- (8) The conditions are—
  - (a) the person qualified as an eligible student in connection with an earlier academic year of the present course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
  - (b) the person was ordinarily resident in Wales on the first day of the first academic year of the present course; and
  - (c) the person’s status has not terminated.
- (9) The conditions are—
  - (a) the present 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 regulation 2) which the person is starting on or after 1 September 2006;
  - (b) the person qualified as an eligible student in connection with the course in relation to which the present course is an end-on course;
  - (c) the period of eligibility in respect of the course in sub-paragraph (b) only ceased on the grounds that the student had completed the course; and
  - (d) the person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (b).
- (10) The conditions are—
  - (a) the Welsh Ministers have previously determined that the person is—
    - (i) an eligible part-time student in connection with a designated part-time course; or
    - (ii) an eligible student in connection with a designated course other than the present course;
  - (b) the person’s status as an eligible part-time student or as an eligible student in connection with the course in sub-paragraph (a) has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made by the Welsh Ministers under section 22 of the Act;
  - (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
  - (d) the person’s status as an eligible student has not terminated.
- (11) Where—
  - (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was—
    - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which

the present course is an end-on course or an application for support in connection with a designated part-time course, a designated distance learning course or other designated course from which his or her status as an eligible part-time student, an eligible distance learning student or an eligible student has been transferred to the present course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support starts, the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002)(2),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(12) Where—

(a) the Welsh Ministers have determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was—

(i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his or her status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support starts, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Welsh Ministers determined that he or she was an eligible part-time student, an eligible student or a qualifying student, as the case may be, before 1 September 2007.

### **Designated courses**

5.—(1) Subject to paragraphs (2), (3) and (4), a course is a designated course for the purposes of section 22(1) of the Act and regulation 4 if it is—

(a) mentioned in Schedule 2;

(b) one of the following—

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(2) 2002 c. 41.

- (i) a full-time course;
  - (ii) a sandwich course; or
  - (iii) a part-time course for the initial training of teachers;
- (c) not a designated distance learning course;
- (d) of at least—
- (i) one academic year's duration; or
  - (ii) six weeks' duration in the case of a flexible postgraduate course for the initial training of teachers; and
- (e) wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.
- (2) A course falling within paragraph 6 or 7 of Schedule 2 is not a designated course where the governing body of a maintained school has arranged for the provision of such a course to a pupil of the school.
- (3) A course that is taken as part of an employment-based teacher training scheme is not a designated course.
- (4) Paragraph 1(c) does not apply where the person applying for support in connection with the course is—
- (a) a disabled student; and
  - (b) undertaking that course in the United Kingdom but not in attendance because he or she is unable to attend for a reason which relates to his or her disability.
- (5) For the purposes of paragraph (1)—
- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
  - (b) a university and any constituent college or institution in the nature of a college of a university is regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
  - (c) an institution is not regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(3).
- (6) A course to which this paragraph applies is considered to be a single course for a first degree or for an equivalent qualification even if—
- (a) the course leads to another degree or qualification being conferred before the degree or equivalent qualification; and
  - (b) part of the course is optional.
- (7) Paragraph (6) applies to a course the standard of which is not higher than a first degree which leads to a qualification as a medical doctor, dentist, veterinary surgeon, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.
- (8) For the purposes of section 22 of the Act and regulation 4(1) the Welsh Ministers may designate courses of higher education which are not designated under paragraph (1).

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(3) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

## Period of eligibility

6.—(1) An eligible student retains his or her status as an eligible student in connection with a designated course until the status terminates in accordance with this regulation or regulation 4.

(2) The period for which an eligible student retains the status is the “period of eligibility” (“*cyfnod cymhwysra*”).

(3) Subject to the following paragraphs and regulation 4, the “period of eligibility” terminates at the end of the academic year in which the student completes the designated course.

(4) The period of eligibility terminates when the eligible student—

- (a) withdraws from his or her designated course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert his or her status as an eligible student under regulation 74 or regulation 98; or
- (b) abandons or is expelled from his or her designated course.

(5) The Welsh Ministers may terminate the period of eligibility where the eligible student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the Welsh Ministers are satisfied that an eligible student has failed to comply with any requirement to provide information under these Regulations or has provided information which is inaccurate in a material particular, the Welsh Ministers may take such of the following actions as they consider appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulations 60, 78, 102, 111 and paragraph 16 of Schedule 4.

(7) Where the period of eligibility terminates before the end of the academic year in which the student completes the designated course, the Welsh Ministers may, at any time, renew the period of eligibility for such period as they determine.

(8) Despite paragraph (1), a new system eligible student or gap-year student who has not attended a previous course is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to **OD+R+1**.

(9) Despite paragraph (1) and subject to paragraph (6), a new system eligible student or gap-year student who has attended a previous course 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 **(OD+R+1)–PC**, except that—

- (a) no deduction equivalent to PC applies in the case of a teacher training student; and
- (b) one additional year is added in the case of an eligible student who did not complete successfully the latest previous course because of compelling personal reasons.

(10) Paragraph (6) 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—
  - (i) has 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—
- (i) has 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 before the present course; 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.
- (11) 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  $(D + X) - Pr C$ .
- (12) Despite paragraph (1), a continuing student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to  $(A+R+1)-Y$ .
- (13) Despite paragraph (1) and subject to paragraph (9), a transferring student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to  $(A+R+1)-Y$ .
- (14) A transferring student starting the first full academic year of a further course to which he or she transfers under regulation 8 after 1 September 2009 is only eligible for a grant or loan for fees or a grant for living costs in respect of the further course for the number of years equal to  $(A + R + 1) - Y - Z$ .
- (15) In any case where the number of academic years for which a grant or loan for fees or a grant for living costs is available in accordance with this regulation is less than the number of academic years that make up the period ordinarily required for the completion of the present course, the academic years in which the student is eligible for a grant or loan for fees or a grant for living costs are the latest years of the present course.
- (16) In this regulation—
- (a) **A** is the number of academic years from 31 August 2006 that make up the period ordinarily required for the completion of the present course or, in the case of a transferring student, the previous course;
  - (b) **D** is the greater of 3 and a number of academic years that make up the ordinary duration of the course;
  - (c) **OD** is the number of academic years that make up the period ordinarily required for the completion of the present course;
  - (d) **PC** is the number of years of attendance by the eligible student on a previous course;
  - (e) **X** is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years;
  - (f) **R** is the number of repeated academic years on the present course starting on or after 1 September 2006 that are repeats of preceding academic years that the eligible student was unable to complete successfully because of compelling personal reasons;
  - (g) **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;

- (h) **Y** is the number of years of the present course, or the previous course in the case of a transferring student, in respect of which it has been determined before 1 September 2006 under regulations made under section 22 of the Act that support was not available;
- (i) **Z** is the number of academic years spent on a previous course beginning on or after 1 September 2006;
- (j) “continuing student” (“*myfyriwr sy'n parhau*”) is an old system eligible student who started the present course before 1 September 2006;
- (k) “teacher training student” (“*myfyriwr ar gwrs hyfforddi athrawon*”) means a student attending a course for the initial training of teachers where the duration of the course does not exceed 2 years (the duration of a part-time course being expressed as its full-time equivalent) and the student is not a qualified teacher; and
- (l) “transferring student” (“*myfyriwr sy'n trosglwyddo*”) means an eligible student who starts the present course on or after 1 September 2009 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 pursuant to regulations made under section 22 of the Act from a designated course which he or she began before 1 September 2007.

(17) In calculating the number of years for the purpose of this regulation, attendance for part of an academic year is treated as a whole academic year.

(18) The Welsh Ministers may, at any time, renew or extend the period of eligibility for such further period as they determine.

(19) The Welsh Ministers may confer eligibility to grants and loans for fees and grants for living costs otherwise than in accordance with paragraphs (8) to (16).

(20) For the purposes of this regulation and subject to the exceptions in paragraphs (22), (23) and (24) a “previous course” is any full-time higher education course or any part-time course for the initial training of teachers which the student began to attend or, in the case of a compressed degree course or a designated distance learning course, undertake before the present course and which meets one or both of the conditions in paragraph (21).

(21) The conditions are—

- (a) the course is provided by an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the student took the course; or
- (b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student’s attending or, in the case of a compressed degree course or a designated distance learning course, undertaking the course to defray fees was from public funds or funds attributable to public funds.

(22) A course which would otherwise be a previous course will not be treated as such if—

- (a) the present course is a course for the initial training of teachers;
- (b) the duration of the present course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and
- (c) the student is not a qualified teacher.

(23) A course for the Certificate in Education which would otherwise be a previous course will not be treated as such if—

- (a) the present course is a course for the degree (including an honours degree) of Bachelor of Education;
- (b) the student transferred to the present course from the course for the Certificate in Education before the completion of that course or began the present course on completion of the course for the Certificate in Education.

(24) A course for the degree (other than an honours degree) of Bachelor of Education will not be treated as a previous course if—

- (a) the present course is a course for the honours degree of Bachelor of Education;
- (b) the student transferred to the present course from the course for the degree (other than an honours degree) of Bachelor of Education before the completion of that course or began the present course on completion of the course for the degree (other than an honours degree) of Bachelor of Education.

### **Previous study**

7.—(1) Subject to paragraphs (3) and (4), an eligible student who has attained an honours degree from an institution in the United Kingdom does not qualify for a grant or loan for fees.

(2) Subject to paragraphs (3), (4) and (5), an eligible student who starts his or her course on or after 1 September 2006 does not qualify for a loan for living costs if he or she has attained an honours degree from an institution in the United Kingdom.

(3) Paragraphs (1) and (2) do not apply to an eligible student attending a course for the initial training of teachers where the ordinary duration of the course does not exceed 2 years (the ordinary duration of a part-time course being expressed as its full-time equivalent) and the eligible student is not a qualified teacher.

(4) Where the present course is considered to be a single course because of regulations 5(6) and 5(7) 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 qualifications, 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.

(5) Paragraph (2) does not apply where—

- (a) the present course leads to qualification as a social worker;
- (b) the eligible student is to receive any payment—
  - (i) under a healthcare bursary the amount of which is calculated by reference to his or her income; or
  - (ii) under 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 present course; or
- (c) the present course is a course for the initial training of teachers.

(6) In this regulation and regulation 6, the “ordinary duration of the course” (*“cyfnod arferol y cwrs”*) means the number of academic years that a standard student would take to complete the designated course and “standard student” (*“myfyriwr safonol”*) means a student who is to be taken—

- (i) to have started the designated course on the same date as the eligible student in question;
- (ii) not to be excused any part of the course on account of having attended another course;
- (iii) not to repeat any part of the course; and
- (iv) not to be absent from the course other than during vacations.

(7) Paragraphs (7) and (8) of regulation 23 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.

### **Transfer of status**

8.—(1) Where an eligible student transfers to another course, the Welsh Ministers must transfer the student’s status as an eligible student to that course where—



- (a) they receive a request from the eligible student to do so;
  - (b) they are satisfied that one or more of the grounds of transfer in paragraph (2) applies; and
  - (c) the period of eligibility has not terminated.
- (2) The grounds of transfer are—
- (a) on the recommendation of the academic authority the eligible student ceases one course and starts to—
    - (i) attend another designated course at the institution;
    - (ii) undertake another compressed degree course at the institution; or
    - (iii) undertake a compressed degree course at the institution;
  - (b) the eligible student starts to—
    - (i) attend a designated course at another institution; or
    - (ii) undertake a compressed degree course with another institution;
  - (c) after commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a designated course for the degree (including an honours degree) of Bachelor of Education either at the same institution or at another institution;
  - (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the eligible student is, on or before completion of that course, admitted to a designated course for the honours degree of Bachelor of Education either at the same institution or at another institution; or
  - (e) after commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a designated course for an honours degree in the same subject or subjects at the institution.
- (3) Subject to paragraph (4), an eligible student who transfers under paragraph (1) is entitled to receive in connection with the academic year of the course to which he or she transfers the remainder of the support assessed by the Welsh Ministers in respect of the academic year of the course from which he or she transfers.
- (4) The Welsh Ministers may re-assess the amount of support payable after the transfer.
- (5) An eligible student who transfers under paragraph (1) after the Welsh Ministers have assessed his or her support in connection with the academic year of the course from which he or she is transferring but before he or she completes that year may not, in connection with the academic year of the course to which he or she transfers, apply for another grant or loan of a kind that he or she has already applied for under these Regulations in connection with the academic year of the course from which he or she is transferring unless otherwise provided.