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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 13**

**SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES**

**Eligible postgraduate students**

**103.**—(1) An eligible postgraduate student qualifies, subject to and in accordance with this Part, for a grant to assist with the additional expenditure which the Welsh Ministers are satisfied he or she is obliged to incur by reason of a disability to which he or she is subject in respect of his or her undertaking a designated postgraduate course.

(2) A person is an eligible postgraduate student in connection with a designated postgraduate course if that person satisfies the conditions in paragraph (3) and is not excluded by paragraph (4).

(3) The conditions are —

- (a) the Welsh Ministers, in assessing a person's application for support, have determined in connection with the designated postgraduate course that the person falls within one of the categories set out in Part 2 of Schedule 1; and
- (b) the Welsh Ministers are satisfied that, by reason of a disability to which the person is subject, he or she will be obliged to incur additional expenditure in respect of his or her undertaking the course.

(4) A person is not an eligible postgraduate student if —

- (a) there has been bestowed on him or her or paid to him or her in relation to his or her undertaking the course —
  - (i) a healthcare bursary;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;
  - (iii) any allowance, bursary or award of similar description made by a Research Council;
  - (iv) any allowance, bursary or award of similar description made by his or her institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his or her disability; or
  - (v) any allowance, bursary or award of similar description made by the General Social Care Council under section 67(4)(a) of the Care Standards Act 2000(1) which includes payment for meeting additional expenditure incurred by the student by reason of his or her disability; or
- (b) he or she is in breach of an obligation to repay any loan;

- (c) he or she 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;
  - (d) that person has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support.
- (5) For the purposes of paragraphs (4)(b) and (4)(c), “loan” (“*benthyciad*”) means a loan made under the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(c) only applies if the agreement was made —
- (a) before the 25 September 1991; and
  - (b) with the concurrence of the borrower’s curator or at a time when he or she had no curator.
- (7) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.
- (8) An eligible postgraduate student does not qualify for a grant under this Part unless he or she is undertaking his or her course in the United Kingdom.
- (9) Despite paragraphs (3)(a) and (4), a person is an eligible postgraduate student for the purposes of this Part if he or she satisfies the conditions in paragraph (3) (b) and paragraph (10) or (11).
- (10) The conditions are—
- (a) the person qualified as an eligible postgraduate student in connection with an earlier academic year of the present designated postgraduate 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 academic year of the present designated postgraduate course; and
  - (c) the person’s status as an eligible postgraduate student has not terminated.
- (11) The conditions are—
- (a) the Welsh Ministers have previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the present designated postgraduate course;
  - (b) the student’s status as an eligible postgraduate student in connection with the course in sub-paragraph (a) has been transferred from that course to the present course as a result of one or more 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 academic year of the course referred to in sub-paragraph (a); and
  - (d) the person’s status as an eligible postgraduate student has not terminated.
- (12) 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 an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which his or her status as an eligible postgraduate student has been transferred to the present postgraduate course; 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 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 postgraduate student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(13) 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 an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which his or her status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support, 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 postgraduate student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(14) Paragraphs (12) and (13) do not apply where the student began the course in connection with which the Welsh Ministers determined that he or she was an eligible postgraduate student before 1 September 2007.

(15) An eligible postgraduate student does not, at any one time, qualify for support for—

- (a) more than one designated postgraduate course;
- (b) a designated postgraduate course and a designated distance learning course;
- (c) a designated postgraduate course and a designated course;
- (d) a designated postgraduate course and a designated part-time course.

(16) Where one of the events listed in paragraph (17) occurs in the course of an academic year—

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

(17) The events are—

- (a) the student's course becomes a designated postgraduate course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence;
- (e) the student becomes a child of a Turkish worker;
- (f) the student becomes a person described in paragraph 6(1)(a) of Part 2 of Schedule 1; or
- (g) the student becomes the child of a Swiss national.