
WELSH STATUTORY INSTRUMENTS

2009 No. 3359

The Assembly Learning Grants (European University Institute) (Wales) Regulations 2009

PART 1

GENERAL

Title, commencement, application and interpretation

1. The title of these Regulations is the Assembly Learning Grants (European University Institute) (Wales) Regulations 2009 and they come into force on 21 January 2010.

2. These Regulations apply in relation to Wales.

3. In these Regulations—

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

“the 2008 Regulations” (“*Rheoliadau 2008*”) means the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008(1);

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

“current course” (“*cwrs cyfredol*”) means the designated course in respect of which a person is applying for support or to be recognised as an eligible student;

“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 student” (“*myfyriwr cymwys*”) has the meaning given by regulation 8;

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

“grants for living and other costs” (“*grantiau at gostau byw a chostau eraill*”) means the grants payable under regulation 16;

“the Institute” (“*yr Athrofa*”) means the European University Institute;

“person with leave to enter or remain” (“*person sydd â chaniatâd i ddod i 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 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⁽²⁾); 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;

“qualifying course” (“*cwrs cymwys*”) means a course—

- (a) which is—
 - (i) a postgraduate or comparable course; and
 - (ii) of at least two academic years' duration; and
- (b) in respect of which the student received, for at least two academic years of the course, a statutory award other than an award intended to assist with additional expenditure that the student was obliged to incur in connection with his or her attendance on the course by reason of a disability to which he or she is or was subject;

“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⁽³⁾ as extended by the Protocol thereto which entered into force on 4 October 1967⁽⁴⁾;

“relevant date” (“*dyddiad perthnasol*”) means 31 January 2010;

“statutory award” (“*dyfarniad statudol*”) means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or the Education Act 1962⁽⁵⁾, or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

“student loans legislation” (“*y ddeddfwriaeth ar fenthyciadau i fyfyrwy*”) means the Education (Student Loans) Act 1990⁽⁶⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽⁷⁾, the Education (Scotland) Act 1980⁽⁸⁾ and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998⁽⁹⁾ and regulations made thereunder or the 1998 Act and regulations made thereunder;

“supplementary grants” (“*grantiau atodol*”) means the grants payable under Chapter 2 of Part 4.

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- (2) 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 200 (c.13), section 9.
 - (3) Cmnd. 9171.
 - (4) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Business, Innovation and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).
 - (5) 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.
 - (6) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.
 - (7) 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.
 - (8) 1980 c. 44; 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).
 - (9) S.I. 1998/1760 (N.I.14), to which there have been amendments not relevant to these Regulations.

Revocation and saving provisions

4. Subject to regulation 5, the following regulations are revoked on 1 September 2010—
 - (a) the 2008 Regulations;
 - (b) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) Regulations 2008(10);
 - (c) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) (No. 2) Regulations 2008(11);
 - (d) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) Regulations 2009(12).
5. The 2008 Regulations continue to apply to the provision of support to students in relation to an academic year beginning on or after 1 September 2009 but before 1 September 2010.
6. These Regulations apply in relation to the provision of support to an eligible student in relation to an academic year which begins on or after 1 September 2010 whether anything done under these Regulations is done before, on or after 1 September 2010.

PART 2

APPLYING FOR SUPPORT AND ELIGIBILITY

Applications

7.—(1) Unless a person seeking support under these Regulations is already an eligible student by virtue of regulation 8(9), he or she must submit an application to be considered as an eligible student and an application for support in such form as the Welsh Ministers may require to the Institute by the application deadline.

(2) Where a person seeking support under these Regulations is already an eligible student by virtue of regulation 8(9), he or she must notify the Welsh Ministers in writing by the application deadline that he or she wishes to apply for support under these Regulations.

(3) The application deadline in relation to an academic year beginning on or after 1 September 2010 is 31 January 2010.

(4) The Welsh Ministers may extend the application deadline if they consider that the circumstances of the case warrant it.

Eligible students

8.—(1) An eligible student qualifies for financial support in connection with his or her attendance on a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) and (7), a person is an eligible student in connection with a designated course at the Institute if—

- (a) the academic authority notifies the Welsh Ministers in writing that the person has a reasonable chance of being offered a place on that course by the academic authority; and
- (b) the Welsh Ministers determine in connection with an application for support under these Regulations that he or she falls within one of the categories in Part 2 of Schedule 1.

(10) S.I. 2008/1324 (W.137).

(11) S.I. 2008/3114 (W.276).

(12) S.I. 2009/2157 (W.181).

- (3) A person is not an eligible student if—
- (a) subject to paragraph (4), he or she has attended a qualifying course;
 - (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 not ratified any agreement for a loan made with him or her when he or she was under the age of 18; or
 - (d) he or she has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support.
- (4) Paragraph (3)(a) does not apply where the person has attended a qualifying course but the Welsh Ministers have determined that having regard to the particular circumstances of that person's case it is appropriate to pay him or her support in connection with the current course.
- (5) For the purposes of paragraph (3)(b) and (c),
“loan” 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 (3)(c) 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.
- (7) The number of eligible students must not exceed one.
- (8) An eligible student in respect of whom the first academic year of the course begins on or after 1 September 2000 shall not, at any one time, qualify for support for more than one designated course.
- (9) Despite paragraphs (2) and (3) and subject to paragraphs (7), (10) and (11), a person is an eligible student in connection with a designated course at the Institute if—
- (a) he or she qualified as an eligible student in connection with—
 - (i) an earlier academic year of the current course; or
 - (ii) a designated course that he or she attended at the Institute and from which his or her status as an eligible student was transferred to the current course; and
 - (b) his or her status as an eligible student has not terminated.
- (10) Where—
- (a) the Welsh Ministers 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 student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course at the Institute from which his or her status as an eligible student has been transferred to the current course; and
 - (b) the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, is due to expire before the first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, 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 student terminates on the day before the first day of the academic year in respect of which he or she is applying for support.
- (11) Where—
- (a) the Welsh Ministers 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 an eligible student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course

at the Institute from which his or her status as an eligible student has been transferred to the current course; and

- (b) the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom is due to expire before the first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, 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 student terminates on the day before the first day of the academic year in respect of which he or she is applying for support.

(12) Paragraphs (10) and (11) do not apply where the student began the course in connection with which the Welsh Ministers determined that he or she was an eligible student before 1 September 2007.

(13) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether a person is an eligible student.

(14) The Welsh Ministers must inform a person who has been notified to them under paragraph (2) (a) whether he or she qualifies as an eligible student.

(15) A person who has received notification from the Welsh Ministers under paragraph (14) that he or she is an eligible student in connection with a course at the Institute and a person who is an eligible student at the Institute by virtue of paragraph (9) must, by the deadline for receipt of financial information, provide the Welsh Ministers with any information or documentation that they request in order to determine the amount of support payable under these Regulations in respect of the academic year.

(16) The deadline for receipt of financial information in relation to an academic year beginning on or after 1 September 2010, is 31 January 2010 or, in the case of grants payable under regulation 16(6), 31 January 2011.

(17) The Welsh Ministers must notify an eligible student of the amount of support payable in respect the academic year, if any.

Designated courses

9. A course is designated for the purposes of section 22(1) of the 1998 Act and regulation 8 if it is—

- (a) a postgraduate or comparable course;
- (b) a full-time course;
- (c) of at least one academic year's duration; and
- (d) provided by the Institute.

Period of eligibility

10.—(1) Subject to the following paragraphs and regulation 8, a student's status as an eligible student in connection with a designated course will terminate at the end of the academic year in which the Institute would ordinarily expect the student to complete the course ("period of eligibility").

(2) The student's period of eligibility terminates when the student—

- (a) withdraws from his or her designated course in circumstances in which the Welsh Ministers will not transfer his or her status as an eligible student in accordance with regulation 11; or
- (b) abandons or is expelled from his or her designated course.

(3) The Welsh Ministers may terminate the student's period of eligibility if they are satisfied that the conduct of the student has shown that he or she is unfitted to receive support.

(4) Where the student's period of eligibility will terminate before the end of the academic year in which the student will actually complete the course, the Welsh Ministers may, at any time, extend or renew the period of eligibility for such period as they determine.

(5) 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 do one or more of the following—

- (a) terminate the student's period of eligibility;
- (b) determine that the student no longer qualifies for any particular type of support or particular amount of support;
- (c) treat any support already paid to the student as an overpayment which may be recovered in accordance with regulation 31.

Transfer of eligibility

11.—(1) Where an eligible student transfers to another designated course at the Institute, the Welsh Ministers must transfer the student's status as an eligible student where—

- (a) they receive a request from the eligible student to do so;
- (b) they are satisfied that the eligible student has begun to attend that other course on the recommendation of the academic authority; and
- (c) the student's status as an eligible student has not terminated.

(2) An eligible student who transfers under paragraph (1) is 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.

(3) An eligible student who transfers under paragraph (1) after the Welsh Ministers have assessed support in connection with the academic year of the course from which the student is transferring but before the student completes that year may not, in connection with the academic year of the course to which he or she transfers, apply for another grant 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.

PART 3

PROVISION OF INFORMATION

Information

12. Every applicant and eligible student must, as soon as reasonably practicable after he or she is requested to do so, provide the Welsh Ministers with such information as the Welsh Ministers consider they require for the purposes of these Regulations.

13. Every applicant and eligible student must immediately inform the Welsh Ministers and provide the Welsh Ministers with particulars if—

- (a) he or she withdraws from, abandons or is expelled from the course;
- (b) he or she transfers to another course at the Institute;
- (c) he or she ceases to attend the course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) he or she is absent from the course for more than 60 days due to illness or for any period for any other reason;

- (e) the month for the start or the completion of the course changes;
- (f) his or her home or term-time address changes.

14. Information provided to the Welsh Ministers pursuant to these Regulations must be in the format required by the Welsh Ministers and, if the Welsh Ministers require the information to be signed by the person providing it, an electronic signature in such form as they may specify satisfies this requirement.

PART 4

FINANCIAL SUPPORT

General

15.—(1) Subject to paragraph (2), the general rule is that an eligible student who is attending a designated course provided by the Institute qualifies in connection with an academic year for—

- (a) grants for living and other costs in accordance with Chapter 1; and
- (b) supplementary grants in accordance with Chapter 2.

(2) If the academic year in respect of which the eligible student has applied for support is a year of repeat study the Welsh Ministers may determine that—

- (a) the student does not qualify for a particular type or amount of support in respect of the year of repeat study; or
- (b) the student does not qualify for any support in respect of the year of repeat study.

(3) In determining whether an eligible student should not qualify for some or any support in accordance with paragraph (2) the Welsh Ministers must have regard to the circumstances of the case and in particular the reasons for which the student has been required to repeat an academic year.

(4) For the purposes of this regulation, “year of repeat study” means an academic year which the student has previously attended but is required by the Institute to attend again.

CHAPTER 1

GRANTS FOR LIVING AND OTHER COSTS

Grants for living and other costs

16.—(1) Subject to paragraph (2), an eligible student qualifies in respect of an academic year for the grants for living and other costs specified in and calculated in accordance with paragraphs (3) to (7).

(2) An eligible student does not qualify for any of the grants payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

(3) An eligible student qualifies for a grant for living costs of 18,099 euro in relation to an academic year beginning on or after 1 September 2010.

(4) An eligible student qualifies for a grant for travel home of the amount determined by the Welsh Ministers to be the reasonable cost of one return journey from the student’s home address to the Institute.

(5) An eligible student qualifies for a grant for college travel of the amount determined by the Welsh Ministers to be the reasonable cost of travel from the student’s residence whilst attending the Institute to the Institute.

(6) Subject to the prior agreement of the Welsh Ministers before costs are incurred, an eligible student qualifies for a grant for research travel of the amount determined by the Welsh Ministers to be the reasonable cost of travel incurred for the purposes of completing periods of research authorised by the Institute during the academic year in respect of which support is being applied for.

(7) An eligible student qualifies for a grant for medical insurance of the amount determined by the Welsh Ministers to be the reasonable cost of insuring the student against liability for the cost of medical treatment provided outside the United Kingdom where the ordinary duration of the course is more than one academic year.

17. A deduction may be made in accordance with Part 5 from the amount payable in respect of any of the grants calculated under paragraphs (3) to (6) of regulation 16.

CHAPTER 2

SUPPLEMENTARY GRANTS

Disabled student's allowance

18.—(1) Subject to paragraph (2), an eligible student qualifies for a disabled student's allowance to assist with the additional expenditure which the Welsh Ministers are satisfied that the student is obliged to incur by reason of a disability to which he or she is subject in respect of his or her attendance at a designated course.

(2) An eligible student does not qualify for a disabled student's allowance if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

Amount of disabled student's allowance

19.—(1) Subject to paragraph (2), the amount of the disabled student's allowance is the amount that the Welsh Ministers consider appropriate in accordance with the student's circumstances to assist with one or more types of eligible expenditure.

(2) The amount of disabled student's allowance must not exceed £10,260 in respect of an academic year.

(3) The "types of eligible expenditure" are—

- (a) expenditure on a non-medical personal helper;
- (b) expenditure on major items of specialist equipment;
- (c) any additional expenditure incurred—
 - (i) in Italy for the purpose of attending the Institute; and
 - (ii) within or outside the United Kingdom for the purpose of travelling to the Institute in order to attend the relevant course.

Grant for dependants

20.—(1) The grant for dependants consists of the following elements—

- (a) adult dependants' grant; and
- (b) parents learning allowance.

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 21 to 25.

Adult dependants' grant

21.—(1) Subject to paragraph (3), an eligible student qualifies for an adult dependants' grant in connection with his or her attendance on a designated course in accordance with this regulation.

(2) The adult dependants' grant is available in respect of one dependant of an eligible student who is either—

- (a) the student's partner; or
- (b) an adult dependant of the student whose net income does not exceed, £3,801.

(3) An eligible student does not qualify for the grant payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that

Schedule into which the student falls.

22. The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 24, the basic amount being—

- (a) in respect of the current academic year, £2,647; or
- (b) where the person in respect of whom the student is applying for adult dependants' grant is ordinarily resident outside of the United Kingdom, such amount not exceeding £2,647 as the Welsh Ministers consider reasonable in the circumstances.

Parents' learning allowance

23.—(1) Subject to paragraph (2), an eligible student qualifies in connection with his or her attendance on a designated course for the parents' learning allowance if he or she has one or more dependent children.

(2) An eligible student does not qualify for the grant payable under this regulation if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

(3) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 24, the basic amount being, £1,508.

Calculations

24.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which an eligible student qualifies under regulations 21 to 23 is the amount of that element remaining after applying, until it is extinguished or no element remains payable under regulations 21 to 23, an amount equal to (**A** – **B**) as follows and in the following order—

- (a) to reduce the basic amount of the adult dependants' grant where the eligible student qualifies for that element under regulation 21; and
- (b) to reduce the basic amount of parents' learning allowance where the eligible student qualifies for that element under regulation 23.

(2) Subject to paragraphs (4) and (5), where **B** is greater than or equal to **A**, the basic amount of each element of the grant for dependants for which the eligible student qualifies is payable.

(3) Where (**A** – **B**) is equal to or exceeds the aggregate of the basic amounts of the elements of the grant for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.

(4) The amount of adult dependants' grant calculated under paragraph (1) is reduced in respect of an adult dependant by one half where—

- (a) the student's partner—

- (i) is an eligible student; or
 - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he or she is entitled under the statutory award.
- (5) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.
- (6) For the purposes of this regulation—
- A** is the aggregate of the net income of each of the eligible student's dependants; and
- B** is—
- (a) £1,159 where the student has no dependent child;
 - (b) £3,473 where the student is not a lone parent and has one dependent child;
 - (c) £4,632 where the student is not a lone parent and has more than one dependent child;
 - (d) £4,632 where the student is a lone parent and has one dependent child;
 - (e) £5,797 where the student is a lone parent and has more than one dependent child.
- 25.** A deduction may be made in accordance with Part 5 from the amount payable in respect of a particular element of the grant for dependants calculated in accordance with regulations 21 to 24.

Interpretation

- 26.—**(1) For the purposes of regulations 21 to 25—
- (a) “adult dependant” (“*dibynnydd mewn oed*”) means, in relation to an eligible student, an adult person dependent on the student other than his or her child, his or her partner (including a spouse or civil partner from whom the Welsh Ministers consider the student is separated) or his or her former partner;
 - (b) “child” (“*plentyn*”) in relation to an eligible student includes any child of the student's partner who is dependent on the student and any child for whom the student has parental responsibility who is dependent on him or her;
 - (c) “dependant” (“*dibynnydd*”) means, in relation to an eligible student, the student's partner, his or her dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
 - (d) “dependent” (“*dibynnol*”) means wholly or mainly financially dependent;
 - (e) “dependent child” (“*plentyn dibynnol*”) means, in relation to an eligible student, a child dependent on the student;
 - (f) “lone parent” (“*rhiant unigol*”) means an eligible student who does not have a partner and who has a dependent child or dependent children;
 - (g) “net income” (“*incwm net*”) has the meaning given in paragraph (2);
 - (h) subject to sub-paragraphs (i), (j), (k) and (l) “partner” (“*partner*”) means any of the following—
 - (i) the spouse of a student;
 - (ii) the civil partner of a student;
 - (iii) a person ordinarily living with a student as if that person were his or her spouse where that student—

- (aa) was aged 25 or over at the start of the academic year in respect of which the student's contribution falls to be assessed; and
 - (bb) started the designated course on or after 1 September 2000;
- (iv) a person ordinarily living with a student as if that person were his or her civil partner where that student—
 - (aa) was aged 25 or over at the start of the academic year in respect of which the student's contribution falls to be assessed; and
 - (bb) started the designated course on or after 1 September 2005;
- (i) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (h) is not to be treated as a partner if—
 - (i) in the opinion of the Welsh Ministers, that person and the student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the student;
- (j) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the fact that the student with whom he or she is living was not aged 25 or over at the start of the academic year in respect of which the student's contribution falls to be assessed;
- (k) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the date on which the student began the designated course or the fact that the student with whom he or she is ordinarily resident was not aged 25 or over at the start of the academic year in respect of which the student's contribution falls to be assessed.
- (l) subject to sub-paragraph (m), for the purposes of the definition of “adult dependant”, the Welsh Ministers may treat an adult person or child as dependent on an eligible student if they are satisfied that the adult person or child—
 - (i) is not dependent on—
 - (aa) the eligible student; or
 - (bb) his or her partner; but
 - (ii) is dependent on the eligible student and his or her partner together;
- (m) the Welsh Ministers must not treat an adult person (“A”) as dependent on an eligible student in accordance with sub-paragraph (l), if A is—
 - (i) the spouse or civil partner of the eligible student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible student's partner is separated); or
 - (ii) the former partner of the eligible student's partner.
- (n) for the purposes of determining whether a person is the former partner of an eligible student's partner, “partner” in relation to an eligible student's partner means—
 - (i) the spouse of an eligible student's partner;
 - (ii) the civil partner of an eligible student's partner;
 - (iii) where the eligible student began the specified designated course on or after 1 September 2000, a person ordinarily living with an eligible student's partner as if he or she were his or her spouse;
 - (iv) where the eligible student began the specified designated course on or after 1 September 2005, a person ordinarily living with an eligible student's partner as if he or she were his or her civil partner.

(2) Subject to paragraph (3), a dependant's net income is his or her income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992⁽¹³⁾;
- (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002⁽¹⁴⁾;
- (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992
- (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant for the purposes of section 23 of the Children Act 1989⁽¹⁵⁾;
- (f) any payment made to the dependant under section 23C(5A) of the Children Act 1989⁽¹⁶⁾;
- (g) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act⁽¹⁷⁾; and
- (h) any child tax credit to which the dependant is entitled under Part 1 of the Tax Credits Act 2002⁽¹⁸⁾.

(3) Where an eligible student or his or her partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course, the partner's net income is net income calculated in accordance with paragraph (2) reduced by—

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Welsh Ministers the obligation has been reasonably incurred; or
- (b) such lesser amount, if any, as the Welsh Ministers consider appropriate if, in their opinion, a lesser obligation could reasonably have been incurred.

(4) For the purposes of paragraph (2), where—

- (a) the dependant is a dependent child; and
- (b) payments are made to the student towards the child's maintenance;

those payments are to be treated as the child's income.

⁽¹³⁾ 1992 c. 4 to which there are amendments not relevant to these Regulations.

⁽¹⁴⁾ 2002 c. 38.

⁽¹⁵⁾ 1989 c. 41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 12, the Care Standards Act 2000 (c. 14), Schedule 4, paragraph 14, the Children Act 2004 (c. 31), section 49(3) and the Children and Young Persons Act 2008 (c. 23), Schedule 3, paragraphs 1 and 7.

⁽¹⁶⁾ Subsections (5A) to (5C) of section 23C of the Children Act 1989 were inserted, in relation to England, by section 21 of the Children and Young Persons Act 2008 and S.I. 2009/268 and S.I. 2009/2273 refer.

⁽¹⁷⁾ There are amendments to sections 15 and 24 and Schedule 1 which are not relevant to these Regulations.

⁽¹⁸⁾ 2002 c. 21 to which there are amendments not relevant to these Regulations.

PART 5

CONTRIBUTIONS

Student's contribution

27.—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 2.

(2) For the purposes of the exercise of the Welsh Ministers' functions under these Regulations the Welsh Ministers may require a student to provide from time to time such information as they require in order to assess the student's contribution.

Application of the student's contribution

28. The contribution calculated in accordance with regulation 27 must be applied in accordance with regulation 29.

29.—(1) The Welsh Ministers must apply the eligible student's contribution—

- (a) first, to reduce the amount of grant for living costs calculated in accordance with regulation 16(3);
- (b) second—
 - (i) in the case of a student who is eligible for the grant for dependants, to reduce in the following order—
 - (aa) the amount of any adult dependants' grant calculated in accordance with regulation 24;
 - (bb) the amount of any parents' learning allowance calculated in accordance with regulation 24; and
 - (cc) the amount of any grant for travel home calculated in accordance with regulation 16(4);
 - (ii) in any other case, to reduce the amount of grant for travel home calculated in accordance with regulation 16(4);
- (c) third, to reduce the amount of grant for college travel calculated in accordance with regulation 16(5).
- (d) fourth, subject to paragraph (2), to reduce the amount of grant for research travel calculated in accordance with regulation 16(6).

(2) Where the contribution available to reduce the amount of grant for research travel in accordance with paragraph (1)(d) exceeds the amount of that grant calculated under regulation 16(6), the amount of that grant payable to the student is nil.

PART 6

PAYMENTS

Payment of grants for living and other costs and supplementary grants

30.—(1) The Welsh Ministers may pay the grants for living and other costs and the supplementary grants for which an eligible student qualifies in such instalments and at such times as they consider appropriate.

(2) The Welsh Ministers may, if they consider it appropriate to do so, pay the grant payable under regulation 16(3) to the academic authority for the authority to pay the grant on their behalf.

(3) Where a final assessment of the amount of grants for living and other costs or supplementary grants payable to an eligible student cannot be made on the basis of the information provided by the student, the Welsh Ministers may make provisional payments of those grants pending the final assessment.

(4) The Welsh Ministers may, if they consider it appropriate to do so, make a payment of disabled student's allowance before the start of the academic year in respect of which that payment is due.

(5) Where the circumstances in regulation 13(a) or regulation 13(c) apply, the Welsh Ministers must not make any payments of support to a student after the date on which he or she stops attending his or her course unless they consider it appropriate to do so taking into account the circumstances of the student's case.

(6) The Welsh Ministers must not make any payments of support to a student who is absent from the course—

- (a) for more than 60 days due to illness; or
- (b) for any period for any other reason, unless they consider that it is appropriate to do so taking into account the circumstances of the student's case.

Overpayments

31. An eligible student must, if required to do so by the Welsh Ministers, repay any amount paid to that student under Part 4 which for whatever reason exceeds the amount of support to which he or she is entitled under Part 4.

17 December 2009

Leighton Andrews
Minister for Children, Education and Lifelong
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