
WELSH STATUTORY INSTRUMENTS

2015 No. 54

The Education (Student Support) (Wales) Regulations 2015

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) Subject to paragraph (7), a person is an eligible student in connection with a designated course if—

- (a) in assessing the person's application for support under regulation 9 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) Subject to paragraph (7), a person ("A" in this paragraph) is not an eligible student if—

- (a) an old award has been bestowed on A in respect of A's attendance on the course;
- (b) A 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, A in relation to A's attendance on the course—
 - (i) a healthcare bursary, other than a universal healthcare bursary, the amount of which is not calculated by reference to A's income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);
- (d) A is in breach of any obligation to repay any loan;
- (e) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18; or
- (f) A has, in the opinion of the Welsh Ministers, shown by A's conduct that A is unfitted to receive support under these Regulations.

(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

(1) S.S.I. 2007/151, as amended by S.S.I. 2007/503, S.S.I. 2008/206, S.S.I. 2009/188, S.S.I. 2009/309, S.S.I. 2012/72 and S.S.I. 2013/80.

- (b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.
- (6) An eligible student in respect of whom the first academic year of the specified designated course begins on or after 1 September 2000 does not, at any one time, qualify for support under these Regulations 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;
 - (d) a designated course and a designated distance learning course.
- (7) Subject to paragraphs (9) to (11), if a person satisfies the conditions in paragraph (8)(a),(b) or (c)—
 - (a) paragraphs (2) and (3) do not apply to the person; and
 - (b) the person is an eligible student for the purposes of these Regulations.
- (8) The conditions referred to in paragraph (7) are—
 - (a) the—
 - (i) 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 1998 Act;
 - (ii) person was ordinarily resident in Wales on the first day of the first academic year of the present course; and
 - (iii) person's status as an eligible student has not terminated;
 - (b) the—
 - (i) present course is an end-on course which the person is starting on or after 1 September 2006;
 - (ii) person qualified as an eligible student in connection with the course in relation to which the present course is an end-on course;
 - (iii) period of eligibility in respect of the course in sub-paragraph (b)(ii) only ceased on the grounds that the student had completed the course; and
 - (iv) person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (b)(ii);
 - (c) the—
 - (i) Welsh Ministers have previously determined that the person is an eligible—
 - (aa) part-time student in connection with a designated part-time course;
 - (bb) student in connection with a designated course other than the present course;or
 - (cc) distance learning student in connection with a designated distance learning course;
 - (ii) person's status as an eligible part-time student, an eligible distance learning student or as an eligible student in connection with the course in sub-paragraph (c)(i) 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 1998 Act;
 - (iii) person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (c)(i); and

(iv) person's status as an eligible student has not terminated.

(9) 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" in this paragraph) 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 A's 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 A's 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 A's spouse, civil partner, parent (as defined in Part 1 of Schedule 1) 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),

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

(10) 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" in this paragraph) 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 A's 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 A's 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 A is applying for support.

(11) Paragraphs (9) and (10) do not apply where the student began the course in connection with which the Welsh Ministers determined that A was an eligible part-time student, an eligible student or a qualifying student, as the case may be, before 1 September 2007.

(12) Subject to paragraph (13), a prisoner who begins the present course on or after 1 September 2012 will not be an eligible student unless—

- (a) they are an eligible prisoner;
- (b) they are an eligible student who has transferred to the present course on or after 1 September 2012 under regulation 8 from a course beginning before 1 September 2012; or
- (c) the present course is an end-on course.

(13) Paragraph (12) does not apply in respect of an academic year during which the student enters or is released from prison.

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 1998 Act and regulation 4 if it is—

- (a) listed in Schedule 2;
- (b) one of the following—
 - (i) a full-time course;
 - (ii) a sandwich course;
 - (iii) a course for the initial training of teachers which—
 - (aa) began before 1 September 2010;
 - (bb) begins on or after 1 September 2010 where the student transfers to the present course pursuant to regulation 8 from a course for the initial training of teachers which began before 1 September 2010; or
 - (cc) began on or after 1 September 2010 but before 1 September 2011 and in relation to which the student was a 2010 gap year student; or
 - (iv) a distance learning course other than a course to which regulation 71(5) applies;
- (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 ITT course;
- (e) wholly provided in the United Kingdom by a publicly funded educational institution in the United Kingdom or provided by such an institution in conjunction with an institution outside the United Kingdom; and
- (f) for a course beginning on or after 1 September 2012 which falls within paragraphs 1, 2, 4, 6, 7 or 8 of Schedule 2, a course leading to an award granted or to be granted by a body falling within section 214(2)(a) or (b) of the Education Reform Act 1988(2).

(2) A course falling within paragraph 7 or 8 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 under regulation 9 in connection with the course is—

- (a) a disabled eligible student; and

(2) 1988 c. 40; section 214(2) was amended by the Further and Higher Education Act 1992 (c. 13), section 93 and Schedule 8.

- (b) undertaking that course in the United Kingdom but not in attendance because the person is unable to attend for a reason which relates to the person's 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 1998 Act and regulation 4(1) the Welsh Ministers may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

- 6.—(1) A student's status as an eligible student is retained in connection with a designated course until that status terminates in accordance with this regulation or regulation 4.
- (2) The period for which an eligible student retains the status referred to in paragraph (1) 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 the eligible student's designated course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert the eligible student's status as an eligible student under regulation 8, regulation 81 or regulation 108; or
 - (b) abandons or is expelled from the eligible student's designated course.
- (5) The Welsh Ministers may terminate the period of eligibility where the eligible student has shown by the eligible student's conduct that the eligible student is 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 under these Regulations;

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

(c) treat any support paid to the student under these Regulations as an overpayment which may be recovered under regulations 67, 85, 114, 124 and paragraph 15 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 2006 gap year student who has not attended a previous course is only eligible for a fee grant, new fee grant, fee loan 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 (11), a new system eligible student or 2006 gap year student who has attended a previous course is only eligible for a fee grant, new fee grant, fee loan, grant for travel, maintenance grant or a special support grant 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 or a 2012 accelerated graduate entry student;
- (b) in the case of an eligible student who did not successfully complete the latest previous course because of compelling personal reasons—
 - (i) one additional year is added; and
 - (ii) a further additional year may be added if the Welsh Ministers consider it appropriate to do so having regard to those reasons; and
- (c) in the case of an eligible student to whom paragraph (22) applies, one or more additional years may be added by the Welsh Ministers if they consider it appropriate to do so.

(10) Paragraph (11) applies to—

- (a) a new system eligible student who is on an end-on course;
- (b) a new system eligible student who—
 - (i) has completed a full-time course listed 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 the student 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 the student 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.

(11) Despite paragraph (1), an eligible student to whom this paragraph applies is only eligible for a fee grant, new fee grant, fee loan or a grant for living costs in respect of the present course for the number of academic years equal to **(D + X) – PrC**, except that in the case of an eligible student to whom paragraph (22) applies, one or more additional years may be added by the Welsh Ministers if they consider it appropriate to do so.

(12) In any case where the number of academic years for which a fee grant, new fee grant, fee loan 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 such a grant or loan for fees or a grant for living costs are the latest years of the present course.

- (13) In this regulation—
- (a) **D** is the greater of 3 and the number of academic years that make up the ordinary duration of the course;
 - (b) **OD** is the number of academic years that make up the period ordinarily required for the completion of the present course;
 - (c) **PC** is the number of years of attendance by the eligible student on a previous course;
 - (d) **X** is 1 where the ordinary duration of the preliminary course was less than three years and where the ordinary duration of the preliminary course (or preliminary courses in total) was three years or more, the ordinary duration minus 1;
 - (e) **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;
 - (f) **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;
 - (g) “teacher training student” (“*myfyriwr ar gwrs hyfforddi athrawon*”) means a student who is not a qualified teacher attending a course for the initial training of teachers where the duration of the course does not exceed 2 years and where the course is—
 - (i) a full-time course; or
 - (ii) a part-time course (the duration of which being expressed as its full-time equivalent) and either the course—
 - (aa) began before 1 September 2010;
 - (bb) begins on or after 1 September 2010 where the student transfers to the course pursuant to regulation 8 from a course for the initial training of teachers beginning before 1 September 2010; or
 - (cc) began on or after 1 September 2010 but before 1 September 2011 and in relation to which the student is a 2010 gap year student.
- (14) 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.
- (15) The Welsh Ministers may, at any time, renew or extend the period of eligibility for such further period as they determine.
- (16) The Welsh Ministers may confer eligibility to a fee grant, new fee grant, fee loan or a grant for living costs otherwise than in accordance with paragraphs (8) to (13).
- (17) For the purposes of this regulation and subject to the exceptions in paragraphs (19), (20) and (21) 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 (18).
- (18) The conditions referred to in paragraph (17) 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.
- (19) 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 where the present course is—
 - (i) a full-time course; or
 - (ii) a part-time course (the duration of which being expressed as its full-time equivalent) and either the present course—
 - (aa) began before 1 September 2010;
 - (bb) begins on or after 1 September 2010 where the student transfers to the present course pursuant to regulation 8 from a course for the initial training of teachers beginning before 1 September 2010; or
 - (cc) began on or after 1 September 2010 but before 1 September 2011 and in relation to which the student is a 2010 gap year student; and
 - (c) the student is not a qualified teacher.
- (20) 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.
- (21) 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.
- (22) This paragraph applies where the Welsh Ministers determine that the following conditions are satisfied in relation to an eligible student—
- (a) the eligible student has provided all information required by the Welsh Ministers in relation to a previous course attended or undertaken by the student and any qualifications which are held by the student;
 - (b) that information is accurate; and
 - (c) the Welsh Ministers have incorrectly provided notification of the eligible student's period of eligibility under this regulation.

Previous study

7.—(1) Subject to paragraphs (3), (4), (6) and (7) an eligible student who has attained an honours degree from an institution in the United Kingdom does not qualify for a fee grant, new fee grant or a fee loan.

(2) Subject to paragraphs (4), (5) and (7) an eligible student (“A” in this paragraph) who starts A’s designated course on or after 1 September 2006 does not qualify for a loan for living costs if A has attained an honours degree from an institution in the United Kingdom.

- (3) Paragraph (1) does not apply to an eligible student attending a designated course where—
 - (a) the course is a course for the initial training of teachers;
 - (b) the duration of the course does not exceed two years where the course is—
 - (i) a full-time course; or

- (ii) a part-time course (the duration of which being expressed as its full-time equivalent) and either the course—
 - (aa) began before 1 September 2010;
 - (bb) begins on or after 1 September 2010 where the student transfers to the course pursuant to regulation 8 from a course for the initial training of teachers beginning before 1 September 2010; or
 - (cc) began on or after 1 September 2010 but before 1 September 2011 and in relation to which the student is a 2010 gap year student; and
 - (c) 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 these Regulations by virtue of 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, medical doctor, dentist, veterinary surgeon or architect;
 - (b) the eligible student is to receive any payment under a—
 - (i) healthcare bursary the amount of which is calculated by reference to the student's income; or
 - (ii) Scottish healthcare allowance the amount of which is calculated by reference to the student's 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 which is—
 - (i) a full-time course; or
 - (ii) a part-time course which—
 - (aa) began before 1 September 2010;
 - (bb) begins on or after 1 September 2010 where the student transfers to the present course pursuant to regulation 8 from a course for the initial training of teachers beginning before 1 September 2010; or
 - (cc) began on or after 1 September 2010 but before 1 September 2011 and in relation to which the student is a 2010 gap year student.
- (6) Paragraph (1) does not apply to an eligible student attending a designated course which is an accelerated graduate entry course.
- (7) Paragraphs (1) and (2) do not apply where the Welsh Ministers determine that the following conditions are satisfied in relation to an eligible student—
- (a) the eligible student has provided all information required by the Welsh Ministers relating to an honours degree previously attained by the student from an institution in the United Kingdom;
 - (b) that information is accurate; and
 - (c) the Welsh Ministers have incorrectly provided notification that the eligible student qualifies for a fee grant, new fee grant, fee loan or a loan for living costs in accordance with these Regulations.
- (8) Where paragraph (7) applies an eligible student may qualify for a fee grant, new fee grant, fee loan or a loan for living costs in accordance with paragraphs (9) to (11).

(9) Subject to paragraph (11), if the Welsh Ministers make the determination under paragraph (7) before the first day of the first academic year of the present course then the eligible student may qualify for a fee grant, new fee grant, fee loan or a loan for living costs in respect of the first academic year of the present course.

(10) Subject to paragraph (11), if the Welsh Ministers make the determination under paragraph (7) on or after the first day of the first academic year of the present course then the eligible student may qualify for a fee grant, new fee grant, fee loan or a loan for living costs in respect of—

- (a) the academic year of the present course during which the Welsh Ministers make the determination; and
- (b) an academic year of the present course which the student has completed prior to the Welsh Ministers making the determination.

(11) An eligible student subject to a determination under paragraph (7) may qualify for a fee grant, new fee grant, fee loan or a loan for living costs otherwise than in accordance with paragraphs (9) and (10), where the Welsh Ministers consider this to be appropriate as a result of the exceptional circumstances of a particular case.

Transfer of status

8.—(1) Where an eligible student transfers from a designated course to another designated course, the Welsh Ministers must transfer the student's status as an eligible student to that other 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 designated course and starts to—
 - (i) attend another designated course at the same institution;
 - (ii) undertake another compressed degree course at the same institution; or
 - (iii) undertake a compressed degree course at the same institution;
- (b) the eligible student starts to—
 - (i) attend a designated course at another institution; or
 - (ii) undertake a compressed degree course at 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 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 the student transfers the

remainder of the support assessed by the Welsh Ministers under these Regulations in respect of the academic year of the course from which the student transfers.

(4) The Welsh Ministers may re-assess the amount of support payable under these Regulations after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Welsh Ministers have assessed the eligible student's support in connection with the academic year of the course from which the eligible student is transferring but before the eligible student completes that year may not, in connection with the academic year of the course to which the eligible student transfers, apply for another grant or loan of a kind that the eligible student has already applied for under these Regulations in connection with the academic year of the course from which the eligible student is transferring unless otherwise provided.