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WELSH STATUTORY INSTRUMENTS

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**2015 No. 54**

**The Education (Student Support) (Wales) Regulations 2015**

**PART 5**

**GRANTS FOR LIVING COSTS**

**General qualifying conditions for grants for living costs**

- 24.**—(1) An eligible student qualifies for a grant under this Part provided that—
- (a) the eligible student is not excluded from qualification by any of the following paragraphs, regulation 6 or regulation 7; and
  - (b) the eligible student satisfies the qualifying conditions for the particular grant for which the eligible student is applying.
- (2) An eligible student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which the eligible student falls is paragraph 9.
- (3) An eligible student does not qualify for a grant under this Part in respect of—
- (a) an academic year which is a bursary year;
  - (b) an academic year of a course for the initial training of teachers which—
    - (i) began before 1 September 2010;
    - (ii) begins on or after 1 September 2010 where the eligible 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
    - (iii) 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,during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks;
  - (c) a flexible postgraduate ITT course which is of less than one academic year's duration.
- (4) Paragraph (3)(b) does not apply for the purposes of qualification for a grant for disabled students' living costs under regulation 25.
- (5) Subject to paragraph (6), a 2012 accelerated graduate entry student does not qualify for a grant under this Part.
- (6) Paragraph (5) does not apply for the purposes of regulations 25 to 31, to a 2012 accelerated graduate entry student who is undertaking their first year of study on an accelerated graduate entry course.
- (7) An eligible student does not qualify for a grant under this Part in respect of any academic year of a sandwich course where the periods of full-time study are in aggregate less than 10 weeks unless the periods of work experience constitute unpaid service.
- (8) For the purposes of paragraph (7), "unpaid service" ("*gwasanaeth di-dâl*") means—

- (a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to the care of children and young persons, health or welfare or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) unpaid research in an institution in the United Kingdom or, in the case of an eligible student attending an overseas institution as part of the eligible student's course, in an overseas institution; or
- (e) unpaid service with—
  - (i) a Special Health Authority established pursuant to section 28 of the National Health Service Act 2006<sup>(1)</sup>;
  - (ii) a Local Health Board established pursuant to section 11 of the National Health Service (Wales) Act 2006 or a Special Health Authority established pursuant to section 22 of that Act<sup>(2)</sup>;
  - (iii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(3)</sup>;
  - (iv) the Regional Health and Social Care Board or the Regional Agency for Public Health and Social Well-being established under sections 7 and 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009<sup>(4)</sup>;
  - (v) the National Health Service Commissioning Board established under section 1H of the National Health Service Act 2006 or a Clinical Commissioning Group established under section II of that Act<sup>(5)</sup>; or
  - (vi) the National Institute for Health and Care Excellence established under section 232 of the Health and Social Care Act 2012 or the Health and Social Care Information Centre established under section 252 of that Act<sup>(6)</sup>.

(9) Subject to paragraph (10), an eligible student does not qualify for a grant under regulations 36 to 43 in respect of an academic year of a designated course if the student does not qualify for relevant support in respect of that academic year.

(10) Paragraph (9) does not apply if the reason that the student does not qualify for relevant support in respect of an academic year of a designated course is because—

- (a) that academic year is an Erasmus year in accordance with regulation 18(2); or
- (b) the designated course is an old flexible postgraduate course for the initial training of teachers.

(11) In paragraph (9) “relevant support” (“*cymorth perthnasol*”) means, in the case of a grant under regulations 36 to 43, a fee loan.

(12) Where one of the events listed in paragraph (13) occurs in the course of an academic year, a student may qualify for a particular grant in accordance with this Part in respect of part of that academic year but that student does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.

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(1) 2006 c. 41.

(2) 2006 c. 42.

(3) 1978 c. 29 to which there have been amendments not relevant to these Regulations.

(4) 2009 c. 1 (N.I.).

(5) 2006 c. 41; sections 1H and II were inserted by the Health and Social Care Act 2012 (c. 7), sections 9 and 10.

(6) 2012 c. 7.

(13) The events are—

- (a) the student's course becomes a designated course;
- (b) the student, the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) 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 Union 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 the child of a Turkish worker;
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (g) the student becomes the child of a Swiss national.

(14) Subject to paragraph (15), an eligible student does not qualify for a grant under this Part if the eligible student is a prisoner.

(15) Paragraph (14) does not apply in respect of a grant for disabled students' living costs which is payable in connection with a designated course beginning before 1 September 2012.

(16) A student to whom this paragraph applies is treated as being in attendance on the designated course for the purpose of qualifying for the following grants—

- (a) grants for dependants;
- (b) grant for disabled students' living costs;
- (c) maintenance grant or special support grant;
- (d) higher education grant.

(17) Paragraph (16) applies to—

- (a) a compressed degree student;
- (b) a disabled eligible student who—
  - (i) is not a compressed degree student; and
  - (ii) is undertaking a designated course in the United Kingdom but is not in attendance because the eligible student is unable to attend for a reason which relates to the eligible student's disability; and
- (c) an eligible student on a period of study or a period of work placement in an Erasmus year.

(18) An eligible student who is undertaking a distance learning course does not qualify for any grant under this Part other than (where appropriate) a grant for disabled students' living costs pursuant to regulation 25.

### **Grants for disabled students' living costs**

**25.—**(1) An eligible student qualifies in accordance with this regulation for a grant for disabled students' living costs to assist with the additional expenditure which the Welsh Ministers are satisfied the eligible student is obliged to incur by reason of a disability to which the student is subject in connection with the eligible student's attendance on, or undertaking of a designated course.

(2) Subject to the following paragraphs, the amount of grant for disabled students' living costs under this regulation is the amount that the Welsh Ministers consider appropriate in accordance with the eligible student's circumstances.

(3) Except where paragraph (4) applies, the amount of the grant for disabled students' living costs must not exceed—

- (a) £21,181 in respect of an academic year for expenditure on a non-medical personal helper;

- (b) £5,332 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
  - (c) the additional expenditure incurred—
    - (i) within the United Kingdom for the purpose of attending the institution;
    - (ii) within or outside the United Kingdom for the purpose of attending, as a part of the eligible student's course, any period of study at an overseas institution or for the purpose of attending the Institute;
  - (d) £1,785 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the maxima specified in those paragraphs.
- (4) The maximum amount of grant under paragraphs (3)(a) and (3)(d) is £15,885 and £1,338, respectively where—
- (a) an eligible student attends a course for the initial training of teachers which—
    - (i) began before 1 September 2010;
    - (ii) 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
    - (iii) 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
  - (b) in any academic year of that course, the periods of full-time study and full-time teaching practice are in aggregate less than 6 weeks.
- (5) An eligible student does not qualify for a grant for disabled students' living costs under this regulation in respect of a distance learning course unless the Welsh Ministers consider that the student is undertaking the course in Wales on the first day of the first academic year.
- (6) An eligible student who is undertaking a distance learning course will no longer qualify for a grant for disabled students' living costs under this regulation in respect of that course if the Welsh Ministers consider that the student is undertaking the course outside the United Kingdom.
- (7) Subject to paragraphs (8) and (9), a grant for disabled students' living costs is payable to an eligible student in respect of the four quarters of the academic year.
- (8) Where a grant for disabled students' living costs is used for expenditure on major items of specialist equipment (within the meaning of paragraph (3)(b)) it may be payable in respect of the whole academic year.
- (9) Where one of the events listed in regulation 24(13) occurs in the course of an academic year, an eligible student may only qualify for a grant for disabled students' living costs for the purposes specified in paragraph (3)(a), (c) and (d) in respect of such quarters as begin after the relevant event occurs.

### **Grants for dependants - general**

- 26.**—(1) The grants for dependants consist of the following elements—
- (a) adult dependants' grant;
  - (b) childcare grant;
  - (c) parents' learning allowance.
- (2) The qualifying conditions for each element and the amounts payable are set out in regulations 27 to 30.

(3) A deduction may be made from any element of the grants for dependants in accordance with regulation 61.

### **Grants for dependants - adult dependants' grant**

**27.**—(1) An eligible student qualifies for an adult dependants' grant in connection with the eligible student's 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 eligible student's partner; or
- (b) an adult dependant of the eligible student whose net income for the relevant year does not exceed £3,923.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 30, the basic amount being—

- (a) £2,732; or
- (b) where the person in respect of whom the eligible student is applying for adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,732 as the Welsh Ministers consider reasonable in the circumstances.

### **Grants for dependants - childcare grant**

**28.**—(1) An eligible student qualifies, in connection with the eligible student's attendance on a designated course, for a childcare grant in accordance with this regulation.

(2) Subject to paragraphs (3) and (4), the childcare grant is available in respect of an academic year in which the eligible student incurs prescribed childcare charges for—

- (a) a dependent child who is under the age of 15 immediately before the beginning of the academic year, including a dependent child who is born after the beginning of the academic year; or
- (b) a dependent child who has special educational needs within the meaning of section 312 of the Education Act 1996(7) and is under the age of 17 immediately before the beginning of the academic year, including a dependent child who is born after the beginning of the academic year.

(3) An eligible student does not qualify for a grant under this regulation if—

- (a) the eligible student or the eligible student's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002(8);
- (b) the eligible student or the eligible student's partner is entitled to an award of universal credit which includes an amount under regulation 31 of the Universal Credit Regulations 2013 (childcare costs element)(9); or
- (c) the eligible student's partner has elected to receive financial support for childcare under a healthcare bursary.

(4) An eligible student does not qualify for a grant under this regulation if the prescribed childcare charges that the eligible student incurs are paid or to be paid by the student to the eligible student's partner.

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(7) 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23 and Schedule 8, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 59 and Schedule 2, the Children and Families Act 2014 (c. 6), Schedule 3 and S.I. 2010/1158.

(8) 2002 c. 21 to which there are amendments not relevant to these Regulations.

(9) S.I. 2013/376.

- (5) Subject to paragraphs (6), (7) and (8) the basic amount of childcare grant for each week is—
- (a) for one dependent child, 85 per cent of the prescribed childcare charges, subject to a maximum amount of £161.50 per week; or
  - (b) for two or more dependent children, 85 per cent of the prescribed childcare charges, subject to a maximum amount of £ 274.55 per week,

except that the eligible student does not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

- (6) For the purposes of calculating the basic amount of childcare grant—
- (a) a week runs from Monday to Sunday; and
  - (b) where a week in respect of which prescribed childcare charges are incurred falls partly within and partly outside the academic year in respect of which childcare grant is payable under this regulation, the maximum weekly amount of grant is calculated by multiplying the relevant maximum weekly amount in paragraph (5) by the number of days of that week falling within the academic year and dividing the product by seven.
- (7) Where an eligible student's application for a childcare grant does not identify a childcare provider, the Welsh Ministers may—
- (a) limit the amount of childcare grant paid to the student to 85 per cent of the prescribed childcare charges up to a maximum amount of £115 per week; and
  - (b) limit the payment of the childcare grant to one quarter of the academic year.
- (8) Subject to paragraph (9), a childcare grant is payable to an eligible student in respect of the four quarters of the academic year.
- (9) Where one of the events listed in regulation 24(13) occurs in the course of an academic year, an eligible student may only qualify for a childcare grant in respect of such quarters as begin after the relevant event occurs.

### **Grants for dependants - parents' learning allowance**

**29.**—(1) An eligible student qualifies in connection with the student's attendance on a designated course for the parents' learning allowance if the student has one or more dependants who are dependent children.

(2) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 30, the basic amount being £1,557.

### **Grants for dependants - calculations**

**30.**—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grants for dependants for which the eligible student qualifies under regulations 27 to 29 is the amount of that element remaining after applying, until it is extinguished, 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 27;
  - (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 28; and
  - (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 29.
- (2) In this regulation and subject to paragraph (11)—

**A** is the aggregate of—

- (a) the residual income of the eligible student's partner for the prior financial year;
- (b) the residual income of the eligible student's adult dependant for the prior financial year; and
- (c) subject to paragraphs (3), (4) and (5), the net income of the eligible student's dependent children for the prior financial year; and

**B** is—

- (a) £1,159 where the eligible student has no dependent child;
- (b) £3,473 where the eligible student is not a lone parent and has one dependent child;
- (c) £4,632 where the eligible student—
  - (i) is not a lone parent and has more than one dependent child; or
  - (ii) is a lone parent and has one dependent child;
- (d) £5,797 where the eligible student is a lone parent and has more than one dependent child.

(3) Where the Welsh Ministers are satisfied that the net income of the eligible student's dependent children in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent of the sterling value of their net income in the prior financial year the Welsh Ministers may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the dependent children's net income for the current financial year.

(4) In the event that paragraph (3) or this paragraph is applied in respect of the previous academic year of the present course and the Welsh Ministers are satisfied that the net income of the eligible student's dependent children in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent of the sterling value of their net income in the previous financial year the Welsh Ministers may, for the purposes of enabling the eligible student to attend the course without hardship, ascertain the dependent children's net income for the current financial year.

(5) In an academic year immediately following one in which the Welsh Ministers have ascertained the eligible student's dependent children's net income for the current financial year under paragraph (3), or where applicable under paragraph (4), the Welsh Ministers must ascertain the dependent children's net income in the preceding financial year.

(6) Subject to paragraphs (8), (9) and (16), where **B** is greater than or equal to **A**, the basic amount of each element of the grants for dependants for which the eligible student qualifies is payable.

(7) Where  $(\mathbf{A} - \mathbf{B})$  is equal to or exceeds the aggregate of the basic amounts of the elements of the grants for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.

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

- (a) the eligible 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 that partner is entitled under the statutory award.

(9) The amount of the childcare grant calculated under paragraph (1) is reduced by one half where—

- (a) the eligible 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 that partner is entitled under the statutory award.
- (10) 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.
- (11) Paragraphs (12) to (15) apply where, in the course of the academic year, any of the following occurs—
- (a) there is a change in the number of the eligible student's dependants;
  - (b) a person becomes or ceases to be a dependant of the eligible student;
  - (c) the eligible student becomes or ceases to be a lone parent;
  - (d) a student becomes an eligible student as a result of an event referred to in regulation 24(13).
- (12) For the purposes of determining the respective values of **A** and **B** and whether adult dependants' grant or parents' learning allowance is payable, the Welsh Ministers must determine the following in relation to each relevant quarter by reference to the eligible student's circumstances in the relevant quarter—
- (a) how many dependants the eligible student is to be treated as having;
  - (b) who those dependants are;
  - (c) whether the student is to be treated as a lone parent.
- (13) The amount of grants for dependants for the academic year is the aggregate of the amounts of adult dependants' grant and parents' learning allowance calculated in respect of each relevant quarter under paragraph (14) and the amount of any childcare grant for the academic year.
- (14) The amount of adult dependants' grant and parents' learning allowance in respect of a relevant quarter is one third of what that grant or allowance would be for the academic year if the student's circumstances in the relevant quarter as determined under paragraph (12) applied for the duration of the academic year.
- (15) In this regulation, a "relevant quarter" (*"chwarter perthnasol"*) means—
- (a) in the case of an eligible student referred to in paragraph (11)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the Welsh Ministers, the longest of any vacation occurs;
  - (b) otherwise, a quarter other than the one quarter during which, in the opinion of the Welsh Ministers, the longest of any vacation occurs.
- (16) A deduction may be made in accordance with Part 9 from the amount payable in respect of a particular element of the grants for dependants calculated under this Part.

### **Grants for dependants - interpretation**

**31.—**(1) In regulations 27 to 30—

- (a) subject to paragraph (5), "adult dependant" (*"dibynnydd mewn oed"*) means, in relation to an eligible student, an adult person dependent on the eligible student other than the eligible student's child, the eligible student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible student is separated) or the eligible student's former partner;



- (b) “child” (“*plentyn*”) in relation to an eligible student includes any child of the eligible student’s partner who is dependent on the eligible student and any child for whom the eligible student has parental responsibility who is dependent on the eligible student;
- (c) “dependant” (“*dibynnydd*”) means, in relation to an eligible student, the eligible student’s partner, the eligible student’s dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) “dependent” (“*dibynno*”) means wholly or mainly financially dependent;
- (e) “dependent child” (“*plentyn dibynno*”) means, in relation to an eligible student, a child dependent on the eligible student;
- (f) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months in respect of which the income of a dependant (whose income is calculated under regulations 27 to 30) is computed for the purposes of the income tax legislation which applies to it;
- (g) “lone parent” (“*rhiant unigol*”) means an eligible student who does not have a partner and who has a dependent child;
- (h) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (i) “net income” (“*incwm net*”) has the meaning given in paragraph (7);
- (j) subject to sub-paragraphs (p), (q), (r) and paragraphs (3) and (4), “partner” (“*partner*”) means any of the following—
  - (i) the spouse of an eligible student;
  - (ii) the civil partner of an eligible student;
  - (iii) a person ordinarily living with an eligible student as if the person were the eligible student’s spouse where an eligible student falls within paragraph 2(1)(a) of Schedule 5 and began the designated course on or after 1 September 2000;
  - (iv) a person ordinarily living with an eligible student as if the person were the eligible student’s civil partner where an eligible student falls within paragraph 2(1)(a) of Schedule 5 and began the designated course on or after 1 September 2005;
- (k) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (l) “prior financial year” (“*blwyddyn ariannol gynharach*”) means the financial year immediately preceding the preceding financial year;
- (m) “relevant year” (“*blwyddyn berthnasol*”) means the academic year of the present course in respect of which the eligible student’s dependant’s income falls to be assessed;
- (n) “residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph (10) (in the case of an eligible student’s partner) or paragraph (11) (in the case of an eligible student’s adult dependant);
- (o) “taxable income” (“*incwm trehadwy*”) means, in respect of the prior financial year—
  - (i) the total income on which a person is charged to income tax as determined at Step 1 of the calculation in section 23 of the Income Tax Act 2007<sup>(10)</sup>, together with any payments and other benefits mentioned in section 401(1) of the Income Tax (Earnings and Pensions) Act 2003<sup>(11)</sup> (ignoring section 401(2) of that Act), received or treated as received by a person, to the extent that they are not a component of the total income on which a person is charged to income tax;

<sup>(10)</sup> 2007 c. 3; section 23 was amended by the Finance Act 2009 (c. 10), Schedule 1, paragraph 6(o)(i), and the Finance Act 2013 (c. 29), Schedule 3, paragraph 2(2).

<sup>(11)</sup> 2003 c. 1; section 401 was amended by S.I. 2005/3229, S.I. 2011/1037 and S.I. 2014/211.

- (ii) a person's total income from all sources as determined for the purposes of the income tax legislation of another Member State which applies to the person's income; or
- (iii) where the legislation of more than one Member State applies to the period, a person's total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person's total income in that period is greatest,

except that no account is taken of the income referred to in paragraph (2) which is paid to another party;

- (p) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (j) is not treated as a partner if—
  - (i) in the opinion of the Welsh Ministers, that person and the eligible student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;
- (q) for the purposes of the definition of “adult dependant” (“*dibynnydd mewn oed*”), a person is to be treated as a partner if the person would be a partner under sub-paragraph (j) but for the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;
- (r) for the purposes of the definitions of “child” (“*plentyn*”) and “lone parent” (“*rhiant unigol*”), a person is to be treated as a partner if the person would be a partner under sub-paragraph (j) but for the date on which the eligible student began the specified designated course or the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5.

(2) The income referred to in this paragraph is any benefits under a pension arrangement pursuant to an order made under section 23 of the Matrimonial Causes Act 1973(12) which includes provision made by virtue of sections 25B(4) and 25E(3) of that Act or pension benefits under Part 1 of Schedule 5 to the Civil Partnership Act 2004(13) which includes provision made by virtue of Parts 6 and 7 of that Schedule.

(3) For the purposes of regulation 29—

- (a) paragraph (1)(p) does not apply; and
- (b) a person is to be treated as a partner if the person would be a partner under paragraph (1)(j) but for the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5.

(4) For the purposes of determining whether a person is the former partner of an eligible student's partner, “partner” (“*partner*”) in relation to an eligible student's partner means—

- (a) the spouse of an eligible student's partner;
- (b) the civil partner of an eligible student's partner;
- (c) where the eligible student began the specified designated course on or after 1 September 2000, a person (“A”) ordinarily living with an eligible student's partner (“B”) as if A were B's spouse;
- (d) where the eligible student began the specified designated course on or after 1 September 2005, a person (“A”) ordinarily living with an eligible student's partner (“B”) as if A were B's civil partner.

(12) 1973 c. 18, section 23 was amended by the Administration of Justice Act 1982 (c. 53), section 16 and by the Matrimonial and Family Proceedings Act 1984 (c. 42), section 21.

(13) 2004 c. 33, Schedule 5 was amended by the Crime and Courts Act 2013 (c.22), section 17 and Schedule 11.

(5) Subject to paragraph (6), for the purposes of the definitions of “adult dependant” (“*dibynnydd mewn oed*”) and “dependent child” (“*plentyn dibynnol*”), 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—

- (a) is not dependent on only—
  - (i) the eligible student; or
  - (ii) the eligible student’s partner; but
- (b) is dependent on the eligible student and the eligible student’s partner together.

(6) The Welsh Ministers must not treat an adult person (“A”) as dependent on an eligible student in accordance with paragraph (5), if A is—

- (a) 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
- (b) the former partner of the eligible student’s partner.

(7) A dependant’s net income is the dependant’s income from all sources (for the relevant year for the purposes of regulation 27(2)(b) and for the prior financial year for the purposes of regulation 30(2)) 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(14);
- (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(15);
- (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 in pursuance of section 23 of the Children Act 1989(16);
- (f) any payment made to the dependant under section 23C(5A) of the Children Act 1989(17);
- (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(18);
- (h) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002(19); and
- (i) in the case of a dependant who is entitled to an award of universal credit—
  - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has

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(14) 1992 c. 4 to which there are amendments not relevant to these Regulations.

(15) 2002 c. 38.

(16) 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), the Children and Young Persons Act 2008 (c. 23), section 39 and Schedule 3, paragraphs 1 and 7 and the Children and Families Act 2014 (c. 6), Schedule 2.

(17) 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. Subsections (5A) to (5C) were inserted into section 23C in relation to Wales and S.I. 2010/1329 (W. 112) (C. 81) and S.I. 2011/824 (W. 123) (C. 32) refer.

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

(19) 2002 c. 21 to which there are amendments not relevant to these Regulations.

limited capability for work or limited capability for work and work related activity;  
and

- (ii) any amount or additional amount that is included in the calculation of the award under regulation 20 of those Regulations (the child element).

(8) Where an eligible student or the eligible student's partner makes any recurrent payments which were previously made by the eligible student in pursuance of an obligation incurred before the first academic year of the eligible student's course, the eligible student's partner's residual income is 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 had 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.

(9) For the purposes of paragraph (7), where the dependant is a dependent child and payments are made to the eligible student towards the dependent child's maintenance, those payments are to be treated as the dependent child's income.

(10) An eligible student's partner's residual income is determined in accordance with paragraph 6 of Schedule 5.

(11) An eligible student's adult dependant's residual income is determined in accordance with paragraph 5 of Schedule 5 (other than sub-paragraphs (9), (10), or (11) of paragraph 5) with references to the parent being construed as references to the eligible student's adult dependant.

### **Interpretation of regulations 33 to 35**

**32.** For the purposes of regulations 33 to 35—

- (a) any reference to expenditure incurred for the purpose of attending an institution or period of study or period of overseas work placement in an Erasmus year—
  - (i) includes expenditure both before and after so attending; and
  - (ii) does not include any expenditure in respect of which a grant is payable under regulation 25;
- (b) “qualifying quarter” (“*chwarter cymhwysol*”) means a quarter during which the eligible student attends as part of the eligible student's course an overseas institution, the Institute or overseas work placement in an Erasmus year for at least half the period covered by that quarter.

### **Qualifying conditions for the grant for travel**

**33.—(1)** A grant is available to an eligible student attending a course in medicine or dentistry (a necessary part of which is a period of study by way of clinical training) in respect of the reasonable expenditure which the eligible student is obliged to incur in an academic year for the purpose of attending in connection with the eligible student's course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided other than expenditure incurred for the purpose of residential study away from the institution.

(2) A grant is available to an eligible student in respect of the reasonable expenditure which the eligible student is obliged to incur in each qualifying quarter within or outside the United Kingdom for the purpose of attending as part of the eligible student's course an overseas institution, the Institute or overseas work placement in an Erasmus year.

(3) Subject to paragraph (4), a grant under this regulation is payable to an eligible student in respect of the four quarters of the academic year.

(4) Where one of the events listed in regulation 24(13) occurs in the course of an academic year, an eligible student may only qualify for a grant under this regulation in respect of such quarters as begin after the relevant event occurs.

### **Amount of the grant for travel**

**34.**—(1) The amount of grant payable under regulation 33(1) in respect of an academic year is equal to the reasonable expenditure that the Welsh Ministers determine the eligible student is obliged to incur for the purposes set out in that regulation less £303.

(2) The amount of grant payable under regulation 33(2) in respect of an academic year is calculated as follows—

$(X - £303) + Y$  where—

*X* is the aggregate of the reasonable travel costs that the eligible student is obliged to incur in each qualifying quarter for the purposes set out in regulation 33.

*Y* is the aggregate of the expenditure incurred in each qualifying quarter specified in paragraph (3).

(3) The expenditure specified in paragraph (2) is—

- (a) expenditure that the eligible student reasonably incurs in insuring against liability for the cost of medical treatment provided outside the United Kingdom for any illness or personal injury contracted or suffered during the period the eligible student is attending the overseas institution, the Institute or overseas work placement in an Erasmus year (“the placement” in this paragraph);
- (b) the cost of a visa or visas that the eligible student is obliged to obtain in order to attend the overseas institution, the Institute or placement; and
- (c) medical costs that the eligible student reasonably incurs in order to fulfil a mandatory condition of entry into the territory, country or state in which the overseas institution, the Institute or placement is situated.

### **Deductions from the grant for travel**

**35.** A deduction may be made from a grant under regulations 33 and 34 in accordance with Part 9.

### **Maintenance grant**

**36.**—(1) A new system eligible student who is not a new cohort student qualifies in accordance with regulation 37 for a maintenance grant for living costs in connection with that eligible student’s attendance on a designated course.

(2) A new system eligible student who is a 2010 cohort student or a 2012 cohort student qualifies in accordance with regulation 38 for a maintenance grant for living costs in connection with that eligible student’s attendance on a designated course.

(3) A new system eligible student who is a 2011 cohort student qualifies in accordance with regulation 39 for a maintenance grant for living costs in connection with that eligible student’s attendance on a designated course.

(4) A new system eligible student does not qualify for a maintenance grant if that eligible student qualifies for a special support grant.

(5) Subject to paragraph (6), a maintenance grant for living costs is payable to a new system eligible student in respect of the four quarters of the academic year.

(6) Where one of the events listed in regulation 24(13) occurs in the course of an academic year, a new system eligible student may only qualify for a maintenance grant for living costs in respect of such quarters as begin after the relevant event occurs.

### **Maintenance grant – new system eligible students who are not new cohort students**

**37.**—(1) The maximum amount of maintenance grant available to a new system eligible student who is not a new cohort student in respect of an academic year is—

- (a) in the case of a type 1 teacher training student, £1,500;
- (b) in the case of a type 2 teacher training student, £3,000;
- (c) in the case of a type 3 teacher training student, £1,500; and
- (d) in the case of a new system eligible student other than a type 1, type 2 or type 3 teacher training student, £3,000.

(2) A type 1 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £1,500;
- (b) where household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - (A/2)$  where  $M$  is £1,500 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,852, or the eligible student opts when applying for the grant not to provide the information needed to calculate the household income, the eligible student receives £664.

(3) A type 2 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £3,000,;
- (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - A$  where  $M$  is £3,000 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,852, or the eligible student opts when applying for grant not to provide the information needed to calculate the household income, the eligible student receives £1,329.

(4) A type 3 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £1,500;
- (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - (A/2)$ , where  $M$  is £1,500 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370;
- (c) where the household income exceeds £27,852 but does not exceed £39,329 the eligible student receives an amount equal to  $RM - (A/2)$ , where  $RM$  is £664 and  $A$  is £1 for every £8.97 by which the household income exceeds £27,852;
- (d) where the household income exceeds £39,329, no maintenance grant is payable.

(5) A new system eligible student other than a type 1, type 2 or type 3 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £3,000;

- (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - A$  where  $M$  is £3,000 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370;
- (c) where the household income exceeds £27,852 but does not exceed £39,329, the eligible student receives an amount equal to  $RM - A$ , where  $RM$  is £1,329 and  $A$  is £1 for every £8.97 by which the household income exceeds £27,852;
- (d) where the household income exceeds £39,329, no maintenance grant is payable.

**Maintenance grant – new system eligible students who are 2010 cohort students or 2012 cohort students**

**38.**—(1) The maximum amount of maintenance grant available to a new system eligible student who is a 2010 cohort student or a 2012 cohort student in respect of an academic year is £5,161.

(2) A new system eligible student who is a 2010 cohort student or a 2012 cohort student and who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £5,161;
- (b) where the household income exceeds £18,370 but does not exceed £26,500, the eligible student receives an amount equal to  $M - A$ , where  $M$  is £5,161 and  $A$  is £1 for every £3.653 by which the household income exceeds £18,370;
- (c) where the household income exceeds £26,500 but does not exceed £34,000, the eligible student receives an amount equal to  $RM - A$ , where  $RM$  is £2,936 and  $A$  is £1 for every £4.18 by which the household income exceeds £26,500;
- (d) where the household income exceeds £34,000 but does not exceed £50,020, the eligible student receives an amount equal to  $SM - A$ , where  $SM$  is £1,142 and  $A$  is £1 for every £14.67 by which the household income exceeds £34,000;
- (e) where the household income is £50,020, the eligible student receives £50; and
- (f) where the household income exceeds £50,020, no maintenance grant is payable.

**Maintenance grant – new system eligible students who are 2011 cohort students**

**39.**—(1) The maximum amount of maintenance grant available to a new system eligible student who is a 2011 cohort student in respect of an academic year is £5,780.

(2) A new system eligible student who is a 2011 cohort student and who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £5,780;
- (b) where the household income exceeds £18,370 but does not exceed £26,500, the eligible student receives an amount equal to  $M - A$ , where  $M$  is £5,780 and  $A$  is £1 for every £3.653 by which the household income exceeds £18,370;
- (c) where the household income exceeds £26,500 but does not exceed £34,000, the eligible student receives an amount equal to  $RM - A$ , where  $RM$  is £3,555 and  $A$  is £1 for every £4.18 by which the household income exceeds £26,500;
- (d) where the household income exceeds £34,000 but does not exceed £50,020, the eligible student receives an amount equal to  $SM - A$ , where  $SM$  is £1,761 and  $A$  is £1 for every £9.36 by which the household income exceeds £34,000;
- (e) where the household income is £50,020, the eligible student receives £50;
- (f) where the household income exceeds £50,020, no maintenance grant is payable.

**Special support grant**

40.—(1) A new system eligible student who is not a new cohort student qualifies in accordance with regulation 41 for a special support grant in connection with that eligible student's attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) A new system eligible student who is a 2010 cohort student or a 2012 cohort student qualifies in accordance with regulation 42 for a special support grant in connection with that eligible student's attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(3) A new system eligible student who is a 2011 cohort student qualifies in accordance with regulation 43 for a special support grant in connection with that student's attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

- (4) A new system eligible student qualifies for a special support grant if that eligible student—
- (a) falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992<sup>(20)</sup>;
  - (b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act<sup>(21)</sup>; or
  - (c) is liable, or treated as being liable to make payments in respect of the accommodation they occupy as their home under regulation 25(3) of the Universal Credit Regulations 2013.

(5) Subject to paragraph (6), a special support grant is payable to a new system eligible student in respect of the four quarters of the academic year.

(6) Where one of the events listed in regulation 24(13) occurs in the course of an academic year, a new system eligible student may only qualify for a special support grant in respect of such quarters as begin after the relevant event occurs.

**Special support grant – new system eligible students who are not new cohort students**

41.—(1) The maximum amount of special support grant available to a new system eligible student who is not a new cohort student in respect of an academic year is—

- (a) in the case of a type 1 teacher training student, £1,500;
- (b) in the case of a type 2 teacher training student, £3,000;
- (c) in the case of a type 3 teacher training student, £1,500; and
- (d) in the case of a new system eligible student other than a type 1, type 2 or type 3 teacher training student, £3,000.

(2) A type 1 teacher training student who qualifies for special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £1,500;
- (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - (A/2)$  where  $M$  is £1,500 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370; and

(20) 1992 c. 4. There are amendments to section 124 which are not relevant to these Regulations. Categories under section 124(1)(e) are prescribed by regulations. The relevant regulation is regulation 4ZA of the Income Support (General) Regulations 1987 (S.I. 1987/1967). Regulation 4ZA was inserted by S.I. 1996/206, amended by S.I. 1997/2197, S.I. 2000/1981, S.I. 2001/3070, S.I. 2008/1826, S.I. 2009/2655, S.I. 2009/3152 and S.I. 2013/2536.

(21) There are amendments to section 130 which are not relevant to these Regulations. The relevant regulation is regulation 56 of the Housing Benefit Regulations 2006 (S.I. 2006/213 as amended by S.I. 2008/1042, S.I. 2008/1082, S.I. 2012/757, S.I. 2013/630 and S.I. 2013/2070).



- (c) where the household income exceeds £27,852, or the student opts when applying for grant not to provide the information needed to calculate the household income, the eligible student receives £664.
- (3) A type 2 teacher training student who qualifies for special support grant in respect of an academic year receives an amount as follows in respect of that year—
  - (a) where the household income is £18,370 or less, the eligible student receives £3,000;
  - (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - A$  where  $M$  is £3,000 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370; and
  - (c) where the household income exceeds £27,852, or the student opts when applying for the grant not to provide the information needed to calculate the household income the eligible student receives £1,329.
- (4) A type 3 teacher training student who qualifies for special support grant in respect of an academic year receives an amount as follows in respect of that year—
  - (a) where the household income is £18,370 or less, the eligible student receives £1,500;
  - (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - (A/2)$  where  $M$  is £1,500 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370;
  - (c) where the household income exceeds £27,852 but does not exceed £39,329, the eligible student receives an amount equal to  $RM - (A/2)$ , where  $RM$  is £664 and  $A$  is £1 for every £8.97 by which the household income exceeds £27,852; and
  - (d) where the household income exceeds £39,329, no special support grant is payable.
- (5) A new system eligible student other than a type 1, type 2 or type 3 teacher training student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—
  - (a) where the household income is £18,370 or less, the eligible student receives £3,000;
  - (b) where the household income exceeds £18,370 but does not exceed £27,852, the eligible student receives an amount equal to  $M - A$  where  $M$  is £3,000 and  $A$  is £1 for every £5.674 by which the household income exceeds £18,370;
  - (c) where the household income exceeds £27,852 but does not exceed £39,329, the eligible student receives an amount equal to  $RM - A$ , where  $RM$  is £1,329 and  $A$  is £1 for every £8.97 by which the household income exceeds £27,852;
  - (d) where the household income exceeds £39,329, no special support grant is payable.

**Special support grant – new system eligible students who are 2010 cohort students or 2012 cohort students**

42.—(1) The maximum amount of special support grant available to a new system eligible student who is a 2010 cohort student or a 2012 cohort student in respect of an academic year is £5,161.

(2) A new system eligible student who is a 2010 cohort student or a 2012 cohort student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £5,161;
- (b) where the household income exceeds £18,370 but does not exceed £26,500, the eligible student receives an amount equal to  $M - A$ , where  $M$  is £5,161 and  $A$  is £1 for every £3.653 by which the household income exceeds £18,370;

- (c) where the household income exceeds £26,500 but does not exceed £34,000, the eligible student receives an amount equal to  $\mathbf{RM} - \mathbf{A}$ , where  $\mathbf{RM}$  is £2,936 and  $\mathbf{A}$  is £1 for every £4.18 by which the household income exceeds £26,500;
- (d) where the household income exceeds £34,000 but does not exceed £50,020, the eligible student receives an amount equal to  $\mathbf{SM} - \mathbf{A}$ , where  $\mathbf{SM}$  is £1,142 and  $\mathbf{A}$  is £1 for every £14.67 by which the household income exceeds £34,000;
- (e) where the household income is £50,020, the eligible student receives £50; and
- (f) where the household income exceeds £50,020, no special support grant is payable.

### **Special support grant – new system eligible students who are 2011 cohort students**

**43.**—(1) The maximum amount of special support grant available to a new system eligible student who is a 2011 cohort student in respect of an academic year is £5,780.

(2) A new system eligible student who is a 2011 cohort student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £18,370 or less, the eligible student receives £5,780;
- (b) where the household income exceeds £18,370 but does not exceed £26,500, the eligible student receives an amount equal to  $\mathbf{M} - \mathbf{A}$ , where  $\mathbf{M}$  is £5,780 and  $\mathbf{A}$  is £1 for every £3.653 by which the household income exceeds £18,370;
- (c) where the household income exceeds £26,500 but does not exceed £34,000, the eligible student receives an amount equal to  $\mathbf{RM} - \mathbf{A}$ , where  $\mathbf{RM}$  is £3,555 and  $\mathbf{A}$  is £1 for every £4.18 by which the household income exceeds £26,500;
- (d) where the household income exceeds £34,000 but does not exceed £50,020, the eligible student receives an amount equal to  $\mathbf{SM} - \mathbf{A}$ , where  $\mathbf{SM}$  is £1,761 and  $\mathbf{A}$  is £1 for every £9.36 by which the household income exceeds £34,000;
- (e) where the household income is £50,020, the eligible student receives £50; and
- (f) where the household income exceeds £50,020, no special support grant is payable.