
WELSH STATUTORY INSTRUMENTS

2017 No. 523

The Education (Postgraduate Master's
Degree Loans) (Wales) Regulations 2017

PART 2

ELIGIBILITY

Eligible students

3.—(1) An eligible student qualifies for a postgraduate master's degree loan in connection with a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) to (8), a person is an eligible student in connection with a designated course if in assessing the person's application for a postgraduate master's degree loan under regulation 9 the Welsh Ministers determine that the person falls within one of categories set out in Part 2 of Schedule 1.

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

- (a) A has reached the age of 60 on the first day of the academic year in which the designated course starts;
- (b) A is in breach of any obligation to repay any loan;
- (c) 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;
- (d) A has, in the opinion of the Welsh Ministers, shown by A's conduct that A is unfitted to receive a postgraduate master's degree loan;
- (e) A is a prisoner, unless A is an eligible prisoner;
- (f) A is enrolled on a course which is a designated course under regulation 5 (designated courses), 66 (designated distance learning courses) or 83 (designated part-time courses) of the student support regulations and is receiving support under the student support regulations for that course;
- (g) A has already obtained an equivalent or higher qualification;
- (h) A is already enrolled on a designated course and is in receipt of a postgraduate master's degree loan under these Regulations for that course;
- (i) subject to paragraph (8), A has previously received a postgraduate master's degree loan under these Regulations;
- (j) there has been bestowed on or paid to A in relation to A undertaking the course—
 - (i) a healthcare bursary;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);

(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, S.S.I. 2013/80 and S.S.I. 2016/82.

- (iii) any allowance, bursary or award of similar description made under section 67(4)(a) of the Care Standards Act 2000⁽²⁾ save to the extent that A is eligible for such a payment in respect of travel expenses; or
- (iv) any allowance, bursary or award of similar description made under section 116(2)(a) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽³⁾ save to the extent that A is eligible for such a payment in respect of travel expenses; or
- (k) A has previously received a loan in respect of a course other than under these Regulations, where that loan was provided out of funds provided by a government authority within the United Kingdom.

(4) Where the eligible student is undertaking a designated course which is a distance learning course, the student does not qualify for support in respect of that course unless the Welsh Ministers consider that the student is undertaking the course in Wales on the first day of the course, whether the course is a designated course at that date or is designated on a later date during the academic year.

(5) An eligible student ceases to be eligible for a postgraduate master's degree loan in respect of a distance learning course if the Welsh Ministers consider that the student is undertaking the course outside the United Kingdom notwithstanding whether that student has previously been considered by the Welsh Ministers to be undertaking their course within the United Kingdom.

(6) Paragraphs (4) and (5) do not apply to a person who is treated as being ordinarily resident in the United Kingdom by virtue of paragraph 1(4) of Schedule 1 on the basis of temporary employment falling within paragraph 1(5)(a) of Schedule 1.

(7) For the purposes of paragraph (3)(b) and (c), "loan" means a loan made under any provision of the student loans legislation.

(8) The Welsh Ministers may deem a person who has previously received a postgraduate master's degree loan under these Regulations in relation to a designated course to be an eligible student where the Welsh Ministers are of the view that the person had not been able to complete the designated course to which the previous postgraduate master's degree loan related due to compelling personal reasons.

(9) The Welsh Ministers may only exercise their discretion under paragraph (8) once in respect of a particular student.

Designated courses

4.—(1) Subject to paragraphs (5) and (6), a course is a designated course for the purposes of section 22(1) of the 1998 Act and regulation 3 if it is—

- (a) a course which falls within paragraph (2);
- (b) one of the following—
 - (i) wholly provided by a publicly funded institution;
 - (ii) provided by a publicly funded institution situated in the United Kingdom on behalf of a publicly funded institution; or
 - (iii) provided by a publicly funded institution in conjunction with an institution which is situated outside the United Kingdom;
- (c) substantially provided in the United Kingdom; and
- (d) a course which—

(2) 2000 c. 14. There are amendments not yet in force (*see* the Regulation and Inspection of Social Care (Wales) Act 2016, section 185, Schedule 3, Part 2, paragraphs 40 and 43(d)).

(3) 2016 anaw 2. This provision is not yet in force.

- (i) leads 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⁽⁴⁾; and
 - (ii) the teaching and supervision which comprise the course has been approved by that body.
- (2) For the purpose of paragraph (1)(a) the course must be one of the following—
 - (a) a full-time course of one or two academic years' duration;
 - (b) a part-time course which is ordinarily possible to complete in no more than twice the period ordinarily required to complete its one or two academic year full-time equivalent; or
 - (c) a part-time course that does not have a full-time equivalent and which it is ordinarily possible to complete in up to three academic years.
- (3) For the purposes of paragraph (1)(b) and (c)—
 - (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 course is substantially provided in the United Kingdom where at least half of the teaching and supervision which comprise the course is provided in the United Kingdom;
 - (c) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded;
 - (d) an institution is not to be 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⁽⁵⁾; and
 - (e) a course is not to be regarded as provided on behalf of a publicly funded educational institution where a part of the course is provided by a private institution.
- (4) The designated course may, but need not, be a distance learning course.
- (5) A course is not a designated course for the purposes of regulation 3 if it is recognised as a designated course for the purposes of regulations 5 or 83 of the student support regulations.
- (6) For the purposes of section 22 of the 1998 Act⁽⁶⁾ and regulation 3, the Welsh Ministers may designate courses of higher education which are not designated under paragraph (1).
- (7) The Welsh Ministers may revoke or suspend the designation of a course which is designated under paragraph (6).

Period of eligibility

- 5.—**(1) A student's status as an eligible student is retained in connection with a designated course until the status terminates in accordance with this regulation or regulation 3.
- (2) The period for which an eligible student retains the status referred to in paragraph (1) is the "period of eligibility".
- (3) Subject to the following paragraphs and regulation 3, 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—

⁽⁴⁾ 1988 c. 40; section 214(2) was amended by the Further and Higher Education Act 1992 (c.13), section 93 and Schedule 8.

⁽⁵⁾ 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

⁽⁶⁾ 1998 c. 30.

- (a) the eligible student (“A”) withdraws from A’s designated course in circumstances where the Welsh Ministers are not obliged under regulation 6 to transfer A’s status as an eligible student to another course; or
 - (b) A abandons or is expelled from A’s designated course.
- (5) The Welsh Ministers may terminate the period of eligibility where A has shown by A’s conduct that A is unfitted to receive a postgraduate master’s degree loan.
- (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 a postgraduate master’s degree loan;
 - (c) treat any postgraduate master’s degree loan paid to the student as an overpayment which may be recovered under regulation 17.
- (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.

Transfer of status

- 6.—(1) Where an eligible student (“A”) transfers to another course, the Welsh Ministers must transfer A’s status as an eligible student to that course where—
- (a) the Welsh Ministers receive a request from the eligible student to do so;
 - (b) the Welsh Ministers are satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
 - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) on the recommendation of the academic authority A ceases one designated course and starts to undertake another designated course at the same institution; or
 - (b) A starts to undertake a designated course at another institution.
- (3) Where A transfers under paragraph (1), A is entitled to receive in connection with the course to which A transfers, the remainder of the postgraduate master’s degree loan, if any, in accordance with regulation 13 and, where relevant, regulation 16, in respect of the course from which A transfers.

Students becoming eligible during a course

7. Where one of the events listed in regulation 8 occurs during the currency of a student’s course, a student may qualify for a postgraduate master’s degree loan, provided the student complies with the application provisions set out in Part 3.

Events

8. The events are—
- (a) the student’s course becomes a designated course;
 - (b) the student or the student’s spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;
 - (c) a state accedes to the EU where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;

- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EU national;
- (e) the student acquires the right of permanent residence;
- (f) the student becomes the child of a Turkish worker;
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
- (h) the student becomes the child of a Swiss national; or
- (i) the student commences a designated course after the start date of the designated course as the relevant academic authority has permitted the student to commence the course at this later start date.