

**2008 No. 1273 (W. 130)**

**EDUCATION, WALES**

**The Assembly Learning Grants and  
Loans (Higher Education) (Wales)  
Regulations 2008**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for financial support for students who are ordinarily resident in Wales taking designated higher education courses in respect of academic years beginning on or after 1 September 2008. They consolidate, with some changes, the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007, as amended.

The Regulations revoke those 2007 Regulations. Regulation 3 sets out the extent of the revocation. Changes of substance made in these Regulations (other than rates of grants and loans) are highlighted below.

The distinction between old system eligible students and new system eligible students (introduced by the 2006 Regulations) in relation to financial support to students for full-time courses is retained (regulation 2(1)).

Old system eligible students are eligible students attending courses that started before 1 September 2006 and gap-year students starting courses before 1 September 2007, and certain other categories of student. The following grants and loans are available to old system eligible students subject to the specified conditions –

- grant for fees (Part 4);
- fee contribution loan (regulation 20);
- grant for disabled students' living costs (regulation 24);
- grant for dependants (regulations 25 to 30);

- grant for travel (regulations 31 to 33);
- higher education grant (regulation 35); and
- loans for living costs (Part 6).

A new system eligible student is an eligible student who starts their course on or after 1 September 2008 and who is not an old system eligible student. The following grants and loans are available to new system eligible students, subject to the specified conditions –

- new fee grant (regulation 18);
- fee loans (regulations 21 and 22);
- grant for disabled students' living costs (regulation 24);
- grant for dependants (regulations 25 to 30);
- grant for travel (regulations 31 to 33);
- maintenance grant (regulation 36);
- special support grant (regulation 37); and
- loans for living costs (Part 6).

To qualify for financial support a student must be an “eligible student”. Broadly, a person is an eligible student if he or she falls within one of the categories listed in Part 2 of Schedule 1 and the eligibility provisions in Part 2 of the Regulations. The Regulations apply to students ordinarily resident in Wales wherever they study on a designated course. For the purposes of these Regulations a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland, the Channel Islands or the Isle of Man as a result of having moved from one of those areas for the purpose of undertaking his or her course is considered ordinarily resident in the place from which that person moved (Schedule 1, paragraph 1(3)). An eligible student must also satisfy any requirements elsewhere in the Regulations; in particular the specific requirements applicable to each type of financial support.

Support is only available under the Regulations in respect of “designated” courses within the meaning of regulations 5, 64, 80, 93 and Schedule 2.

Part 3 of the Regulations makes provision for applications for support (regulation 9), time limits for applications (regulation 10) and regulation 11 and Schedule 3 specify the information that must be provided by applicants.

Part 4 of these Regulations provides for fee support, in the form of grants for fees and fee loans. Changes have been made to allow students on flexible post-graduate courses for the initial training of teachers starting on or after 1 September 2008 to qualify for fee support where

the course is at least six weeks in length. This means that for the first time a designated course (one which meets the criteria in Regulation 5) may be of less than one academic year's duration, providing that it is a flexible post-graduate course for the initial training of teachers.

Part 5 makes provision for grants for living costs which includes grants for travel for certain categories of eligible students. Regulations 31 and 32 have been amended to clarify the types of expenses in respect of which the travel grant for students studying overseas is payable, and the way in which the amount of that grant is calculated.

Part 6 makes provision for loans for living costs.

Part 7 sets out general provisions relating to loans made under the Regulations.

Part 8 and Schedule 4 make provision for "college fee loans". These are loans in respect of the college fees payable by a qualifying student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge in connection with attendance of a qualifying student on a qualifying course.

Part 9 and Schedule 5 continue to make provision for the means-testing of students taking designated full-time courses. A contribution from the student is calculated on the basis of household income. The contribution is to be applied to specified grants and loans until it is extinguished against the amount of the particular grants and loans for which the student qualifies.

Part 10 makes provision for payment of grants and loans.

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### PART 1

#### ELIGIBLE STUDENTS

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The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(1), and now exercisable by them(2) make the following Regulations:

## PART 1

### GENERAL

#### **Title, commencement and application**

**1.**—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008.

(2) These Regulations come into force on 30 May 2008 and apply in relation to Wales.

#### **Interpretation**

**2.**—(1) In these Regulations, except where the context otherwise requires —

“the 1962 Act” (“*Deddf 1962*”) means the Education Act 1962(3);

“the 1998 Regulations” (“*Rheoliadau 1998*”) means the Education (Student Support) Regulations 1998(4);

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(1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7..

(2) The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 (except so far as they relate to the making of any provision authorised by subsection (2)(a),(c)(j) or (k), (3)(e) or (f) or (5) of section 22) were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(C.79)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159)(C.56)). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2)(a) of Schedule 11 of the Government of Wales Act 2006 (c.32).

(3) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237), article 3.

(4) S.I. 1998/2003.

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Education (Student Support) Regulations 1999(1);

“the 2000 Regulations” (“*Rheoliadau 2000*”) means the Education (Student Support) Regulations 2000(2);

“the 2001 Regulations” (“*Rheoliadau 2001*”) means the Education (Student Support) Regulations 2001(3);

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Education (Student Support) Regulations 2002(4);

“the 2003 Regulations” (“*Rheoliadau 2003*”) means the Education (Student Support) (No. 2) Regulations 2002(5) as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003(6) and the Education (Student Fees and Support) (Switzerland) Regulations 2003(7);

“the 2004 Regulations” (“*Rheoliadau 2004*”) means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004(8), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004(9), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004(10), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(11), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(12), the Education (Student Support) (Amendment) Regulations 2005(13) and the Education (Student Support) (Amendment) (No.2) Regulations 2005(14);

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Education (Student Support) Regulations 2005(15);

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- (1) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
  - (2) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
  - (3) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
  - (4) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.
  - (5) S.I. 2002/3200.
  - (6) S.I. 2003/1065.
  - (7) S.I. 2003/3280.
  - (8) S.I. 2004/161.
  - (9) S.I. 2004/1602.
  - (10) S.I. 2004/2041.
  - (11) S.I. 2004/2598.
  - (12) S.I. 2005/5.
  - (13) S.I. 2005/1341.
  - (14) SI 2005/2084.
  - (15) S.I. 2005/52 as amended by S.I. 2005/1341, S.I. 2005/2084, S.I.2005/3482 and S.I. 2006/955..

“the 2006 Regulations” (“*Rheoliadau 2006*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(1) as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006(2);

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(3) as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2007(4), the Assembly Learning Grants and Loans (Higher Education) (Wales)(Amendment) (No.2) Regulations 2007(5) and the Assembly Learning Grants and Loans (Higher Education)(Wales)(Amendment)(No.3) Regulations 2007(6);

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

“academic year” (“*blwyddyn academaidd*”) means the period of twelve months beginning on 1 January, 1 April, 1 July or 1 September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1 January and before 1 April, on or after 1 April and before 1 July, on or after 1 July and before 1 August or on or after 1 August and on or before 31 December, respectively;

“accelerated course” (“*cwrs carlam*”) means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years’ duration;

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

“borrower” (“*benthyciwr*”) means a person to whom a loan has been made;

“bursary year” (“*blwyddyn bwrsari*”) means an academic year of a course—

- (a) in relation to which the student is eligible to receive any payment under a healthcare

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(1) S.I.2006/126 (W.19)  
(2) S.I. 2006/1863 (W.196)  
(3) S.I. 2007/1045 (W.104)  
(4) S.I. 2007/2312 (W.183)  
(5) S.I. 2007/ 2851 (W.248)  
(6) S.I.2007/3230 (W.282).

bursary the amount of which is calculated by reference to his or her income; or

- (b) in relation to which the student is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his or her income;

“college fee loan” (“*benthyciad at ffioedd coleg*”) means a loan for college fees payable to a qualifying student pursuant to regulations made by the Welsh Ministers under section 22 of the Act;

“compressed degree course” (“*cwrs gradd cywasgedig*”) means a course determined in accordance with paragraph (2) to be a compressed degree course;

“compressed degree student” (“*myfyriwr cwrs gradd cywasgedig*”) means an eligible student who—

- (a) is undertaking a compressed degree course in the United Kingdom ( the “course”);

(b) either—

- (i) began the course on or after 1 September 2006 and is continuing on that course after 31 August 2008; or

- (ii) begins the course on or after 1 September 2008; and

(c) either—

- (i) is required to be in attendance on the course for part of the academic year for which he or she is applying for support; or

- (ii) is a disabled student who is not required to be in attendance on the course because he or she is unable to attend because of a reason which relates to his or her disability;

“contribution” (“*cyfraniad*”) means an eligible student’s contribution calculated pursuant to regulation 53 and Schedule 5;

“course for the initial training of teachers” (“*cwrs ar gyfer hyfforddiant cychwynnol athrawon*”) includes such a course leading to a first degree unless otherwise indicated but excludes an employment-based teacher training scheme;

“designated course” (“*cwrs dynodedig*”) means a course designated by regulation 5 or by the Welsh Ministers under regulation 5;

“designated distance learning course” (“*cwrs dysgu o bell dynodedig*”) means a course designated by the Welsh Ministers under regulation 64;

“designated part-time course” (“*cwrs rhan amser dynodedig*”) means a course designated by regulation 80 or by the Welsh Ministers under regulation 80;

“designated postgraduate course” (“*cwrs ôl-raddedig dynodedig*”) means a course designated by regulation 93 or by the Welsh Ministers under regulation 93;

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004(1) on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” (“*gwladolyn y GE*”) means a national of a Member State of the European Community;

“electronic signature” (“*llofnod electronig*”) is so much of anything in electronic form as —

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

“eligible distance learning student” (“*myfyriwr dysgu o bell cymwys*”) has the meaning given in regulation 62;

“eligible part-time student” (“*myfyriwr rhan-amser cymwys*”) has the meaning given in regulation 79;

“eligible postgraduate student” (“*myfyriwr ôl-raddedig cymwys*”) has the meaning given in regulation 92;

“eligible student” (“*myfyriwr cymwys*”) has the meaning given in regulation 4;

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) means—

- (a) a scheme established by the Welsh Ministers for the purpose of regulation 8 of the Education (School Teachers’ Qualifications) (Wales) Regulations 2004 (2) whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a maintained school, an independent school or other institution except a pupil referral unit; or
- (b) a scheme established by the Secretary of State whereby a person may undertake initial teacher training in order to obtain qualified teacher training status while being employed to teach at a school,

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(1) OJ L158, 30.04.2004, p77-123.

(2) S.I. 2004/1729 (W.173).

city college, Academy, independent school or other institution except a pupil referral unit;

“end-on course” (“*cwrs pen-ben*”) means—

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a full-time course mentioned in paragraph 2 or 3 of Schedule 2 for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 or 2007 Regulations;
- (b) a full-time honours degree course beginning on or after 1 September 2006 which, disregarding any intervening vacation, a student starts to attend immediately after ceasing to attend a full-time foundation degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 or 2007 Regulations;
- (c) a course for the initial training of teachers beginning before 1 September 2006 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a first degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;

“Erasmus year” (“*blwyddyn Erasmus*”) means an academic year of a course during which a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(1) and where the student’s course is a course referred to in regulation 5 (1)(e) and all the periods of study during the academic year are at an institution outside the United Kingdom;

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

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(1)ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000,p1.

“fees” (*ffioedd*) has the meaning given in section 28(1) of the Act except in references to college fees;

“fee support” (*cymorth ffioedd*) means grants in relation to fees pursuant to regulations made by the Welsh Ministers under section 22 of the Act and includes grants in relation to fees under Part 4;

“flexible postgraduate ITT course” (*cwrs HCA hyblyg i ôl-raddedigion*) means a postgraduate course of initial teacher training, the length and pattern of which is determined by reference to the eligible student’s experience and training requirements and which has been approved by the Training and Development Agency for Schools (1) or the Higher Education Funding Council for Wales(2);

“former Metropolitan Police District” (*cyn Ardal yr Heddlu Metropolitanaid*) means —

- (a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple;
- (b) in the county of Essex, in the district of Epping Forest —
  - the area of the former urban district of Chigwell,
  - the parish of Waltham Abbey;
- (c) in the county of Hertfordshire —
  - in the borough of Broxbourne, the area of the former urban district of Cheshunt,
  - the district of Hertsmere,
  - in the district of Welwyn Hatfield, the parish of Northaw; and
- (d) in the county of Surrey —
  - in the borough of Elmbridge, the area of the former urban district of Esher,
  - the boroughs of Epsom and Ewell and Spelthorne,
  - in the district of Reigate and Banstead, the area of the former urban district of Banstead;

“gap year student” (*myfyriwr sy’n cymryd blwyddyn i ffwrdd*) has the meaning given in paragraph (3)

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(1) This body was originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency. By virtue of section 74 of the Education Act 2005 (c.18), it continues in existence but is to be known instead as the Training and Development Agency for Schools.

(2) See sections 85 - 90 of the Education Act 2005 for HEFCW’s function in relation to teacher training.

“grant for disabled distance learning students’ living costs” (“*grant myfyrwyr dysgu o bell anabl*”) means the grant payable under regulation 69;

“grant for disabled part-time students’ living costs ” (“*grant at gostau byw myfyrwyr rhan-amser anabl*”) means the grant payable under regulation 83;

“grant for disabled students’ living costs” (“*grant at gostau byw myfyrwyr anabl*”) means the grant payable under regulation 24;

“grant for living costs” (“*grant at gostau byw*”) (without more) means a grant under any of the provisions of Part 5 of these Regulations;

“healthcare bursary” (“*bwrsari gofal iechyd*”) means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(1) or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(2);

“higher education course” (“*cwrs addysg uwch*”) means a course referred to in Schedule 2 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;

“household income” (“*incwm yr aelwyd, incwm aelwyd ac incwm sydd gan yr aelwyd*”) has the meaning given in Schedule 5;

“information” (“*gwybodaeth*”) includes documents;

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(1) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), S.I. 2004/288, article 7; the Children Act 2004 (c. 31), section 55; S.I. 2004/957, the Schedule; the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1 and S.I. 2007/961, the Schedule.

(2) S.I. 1972/1265 (N.I. 14) to which there have been amendments not relevant to these Regulations..

“Institute” (“*yr Athrofa*”) means the University of London Institute in Paris(1);

“intensive course” (“*cwrs dwys*”) means an accelerated course or a compressed degree course;

“Islands” (“*Ynysoedd*”) means the Channel Islands and the Isle of Man;

“loan” (“*benthyciad*”), except where otherwise indicated, means a loan pursuant to any regulations made by the Welsh Ministers under section 22 of the Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

“loan for living costs” (“*benthyciad at gostau byw*”) means a loan for living costs pursuant to regulations made by the Welsh Ministers under section 22 of the Act;

“maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“new fee grant” (“*grant newydd at ffioedd*”) means a grant made by the Welsh Ministers under regulation 18;

“new system eligible student” (“*myfyriwr cymwys o dan y drefn newydd*”) means an eligible student who —

(a) is not an old system eligible student; and

(b) either—

(i) started the present course on or after 1 September 2006 and is continuing on that course after 31 August 2008; or

(ii) starts the present course on or after 1 September 2008;

“old award” (“*hen ddyfarniad*”) is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(2);

“old flexible postgraduate course for the initial training of teachers” (“*hen gwrs ôl-radd hyblyg ar gyfer hyfforddiant cychwynnol i athrawon*”) means a flexible postgraduate course for the initial training of teachers, which a student started to attend, before 1 September 2008;

“old system eligible student” (“*myfyrwyr cymwys o dan yr hen drefn*”) means an eligible student who —

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(1) The University of London Institute in Paris was formerly known as the British Institute in Paris. The British Institute in Paris formally changed its name on 1 January 2005.

(2) S.I. 2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792, 2005/2083, 2005/3137, 2006/930 and 2007/1629.

- (a) started the present course before 1 September 2006 and who is continuing on that course after 31 August 2008;
- (b) is a gap-year student in relation to the present course;
- (c) started the present course on or after 1 September 2006 where that course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in this regulation) following on from a course that—
  - (i) he or she started before 1 September 2006; or,
  - (ii) he or she started before 1 September 2007 and in relation to which he or she was a gap-year student; or,
- (d) started the present course on or after 1 September 2006 having had his or her status as an eligible student transferred to that course as a result of one or more transfers of that status by the Welsh Ministers pursuant to regulations made under section 22 of the Act from a designated course which he or she began—
  - (i) before 1 September 2006; or,
  - (ii) before 1 September 2007 and in relation to which he or she was a gap year student;

“ordinary duration” (*“hyd arferol”*) means, in relation to a designated course, the number of academic years that a standard student would take to complete the designated course excluding any academic years of the course that are bursary years or Erasmus years;

“periods of work experience” (*“cyfnodau o brofiad gwaith”*) means —

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside that institution;
- (b) periods during which a student is employed and residing in a country whose language is one that he or she is studying for his or her course (provided that the period of residence in that country is a requirement of his or her course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

“person with leave to enter or remain” (*“person sydd a chaniatâd i ddod mewn neu i aros”*) means a person —

- (a) who has been informed by a person acting under the authority of the Secretary of State

for the Home Department that, although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;

- (b) who has been granted leave to enter or to remain accordingly;
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002<sup>(1)</sup>); and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain;

“preliminary course” (“*cwrs rhagarweiniol*”) means a course mentioned in paragraph 2 or 3 of Schedule 2 that is taken before a full-time degree course (other than a first degree course for the initial training of teachers) or a foundation degree course that is taken before a full-time honours degree course, as the case may be;

“present course” (“*cwrs presennol*”) means the designated course in respect of which a person is applying for support;

“present distance learning course” (“*cwrs dysgu o bell presennol*”) means the designated distance learning course in respect of which a person is applying for support;

“present part-time course” (“*cwrs rhan-amser presennol*”) means the designated part-time course in respect of which a person is applying for support;

“present postgraduate course” (“*cwrs ôl-radd presennol*”) means the designated postgraduate course in respect of which a person is applying for support ;

“private institution” (“*sefydliad preifat*”) means an institution which is not publicly funded;

“public funds” (“*cronfeydd cyhoeddus*”) means moneys provided by Parliament including funds provided by the Welsh Ministers;

“publicly-funded” (“*a ariennir yn gyhoeddus*”) means maintained or assisted by recurrent grants out of public funds, and related expressions are to be interpreted accordingly;

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(1) 2002 c.41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19), Schedules 2 and 4 and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9.

“qualified teacher” (“*athro neu athrawes cymwysedig*”) has the meaning given in section 132(1) of the Education Act 2002(1);

“qualifying course” (“*cwrs cymhwysol*”) means a full-time designated course which is provided by the University of Oxford or the University of Cambridge and—

- (i) is listed in regulation 5(7);
- (ii) leads to qualification as a social worker; or
- (iii) any academic year which is a bursary year;

“qualifying student” (“*myfyriwr cymhwysol*”) means a person who satisfies the criteria in paragraph 2 of Schedule 4;

“qualifying year of study” (“*blwyddyn astudio gymhwysol*”) means an academic year of a designated course—

- (a) in respect of which the student qualified for fee support (even if the amount was nil);
- (b) that was a bursary year; or
- (c) in respect of which the student would have qualified for fee support (even if the amount would have been nil) if he or she had been an eligible student or the present course had been designated at the beginning of that year;

“quarter” (“*chwarter*”) in relation to an academic year means a period in that year —

- (a) beginning on 1 January and ending on 31 March;
- (b) beginning on 1 April and ending on 30 June;
- (c) beginning on 1 July and ending on 31 August; or
- (d) beginning on 1 September and ending on 31 December;

“refugee” (“*ffoadur*”) means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28 July 1951(2) as extended by the Protocol thereto which entered into force on 4 October 1967(3);

“Research Council” (“*Cyngor Ymchwil*”) means any of the following research councils —

- (a) Arts and Humanities Research Council,

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(1) 2002 c. 32.  
(2) Cmnd. 9171.  
(3) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Innovation, Universities and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

- (b) Biotechnology and Biological Sciences Research Council,
- (c) Economic and Social Research Council,
- (d) Engineering and Physical Sciences Research Council,
- (e) Medical Research Council,
- (f) Natural Environment Research Council,
- (g) Particle Physics and Astronomy Research Council;

“right of permanent residence” (*“hawl i breswyllo’n barhaol”*) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“sandwich course” (*“cwrs rhyngosod”*) has the meaning given in paragraph (7);

“Scottish healthcare allowance” (*“lwfans gofal iechyd yr Alban”*) means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(1) granted in respect of a person attending a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

“specified designated course” (*“y cwrs dynodedig a bennir”*) has the meaning given in paragraph (8);

“standard academic year” (*“blwyddyn academaidd safonol”*), unless otherwise indicated, means an academic year of a designated course (other than an academic year that is a bursary year or an Erasmus year) that would be taken (in whole or in part) by a person who does not repeat any part of the course after 1 September 2006 and who enters the course at the same point as the eligible student;

“standard student” (*“myfyriwr safonol”*) is a student who is to be taken—

- (a) to have begun the designated course on the same date as the eligible student in question;
- (b) not to be excused any part of the course;
- (c) not to repeat any part of the course; and
- (d) not to be absent from the course other than during vacations;

“statutory award” (*“dyfarniad statudol”*) means any award bestowed, grant paid or other support provided by virtue of the Act or the 1962 Act, or any comparable award, grant or other support in

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(1) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the National Assembly were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

respect of undertaking a course which is paid out of public funds;

“student loans legislation” (*“ddeddfwriaeth ar fenthyciadau i fyfyrwyr”*) means the Education (Student Loans) Act 1990(1), the Education (Student Loans) (Northern Ireland) Order 1990(2), the Education (Scotland) Act 1980 and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998(3) and regulations made under that Order or the Act and regulations made under that Act;

“support” (*“cymorth”*) means financial support by way of grant or loan made by the Welsh Ministers pursuant to regulations made by them under section 22 of the Act;

“transitional award” (*“dyfarniad trosiannol”*) means an award made under the Education (Mandatory Awards) Regulations 1998(4) other than an old award;

“Turkish worker” (*“gweithiwr Twrcaidd”*) means a Turkish national who—

(a) is ordinarily resident in the United Kingdom and Islands; and

(b) is, or has been, lawfully employed in the United Kingdom;

“type 1 teacher training student” (*“myfyriwr math 1 ar gwrs hyfforddi athrawon”*) means a new system eligible student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he or she is applying for support are in aggregate at least 6 weeks but less than 10 weeks; and

“type 2 teacher training student” (*“myfyriwr math 2 ar gwrs hyfforddi athrawon”*) means a new system eligible student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he or she is applying for support are in aggregate 10 weeks or more.

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- (1) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.
  - (2) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6 and revoked, with savings, by SR (NI) 1998 No 306.
  - (3) S.I. 1998/1760 (N.I. 14) to which there have been amendments not relevant to these Regulations.
  - (4) S.I. 1998/1166, amended by S.I. 1998/1972 and revoked with savings by S.I. 1999/1494.

(2) The Secretary of State may determine that a course is a compressed degree course if, in his or her opinion, that course is—

- (a) a course for a first degree (other than a foundation degree);
- (b) a full-time course designated under regulation 5(1); and
- (c) of two academic years' duration.

(3) In these Regulations a person is a “gap-year student” (*“myfyriwr sy'n cymryd blwyddyn i ffwrdd”*) in relation to a course provided by or on behalf of an institution that was publicly funded as at 1 August 2005 if he or she meets the conditions in paragraphs (4) or (6).

(4) The conditions are —

- (a) the person had on or before 1 August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the present course or a similar course; and
- (b) the first academic year of the present course started on or after 1 September 2006 but before 1 September 2007.

(5) In paragraph (4), a course (“the original course”) is similar to the present course if —

- (a) it appears to the governing body of the institution providing the present course that the subject-matter of the course is in whole or in part the same as the subject-matter of the original course; and
- (b) except where the original course is no longer being provided, the present course is provided by the institution which was to have provided the original course.

(6) The conditions are—

- (a) the person had received an offer of a place on a designated course (whether or not at the same institution as the present course) the first academic year of which began before 1 September 2006;
- (b) he or she was unable to take up the offer because a specified qualification or grade was not awarded to him or her;
- (c) he or she appealed against the decision not to award him or her the qualification or grade;
- (d) the appeal was allowed after the last date on which he or she could have taken up the offer;
- (e) as a result, he or she was offered a place on the present course; and
- (f) the first academic year of the present course began on or after 1 September 2006 but before 1 September 2007.

(7) In these Regulations —

(a) a course is a “sandwich course” (*“cwrs rhyngosod”*) if —

- (i) it is not a course for the initial training of teachers;
  - (ii) it consists of alternate periods of full-time study in an institution and periods of work experience; and
  - (iii) taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year;
- (b) in calculating the student’s attendance for the purposes of sub-paragraph (a), the course is to be treated as beginning with the first period of full-time study and ending with the last such period; and
- (c) for the purposes of sub-paragraph (a), where periods of full-time study and work experience alternate within any week of the course, the days of full-time study are aggregated with each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.

(8) In these Regulations, the “specified designated course” (*“y cwrs dynodedig a bennir”*) means the present course subject to paragraphs (9) and (10).

(9) Where the student’s status as an eligible student has been transferred to the present course as a result of one or more transfers of that status by the Welsh Ministers from a course (the “initial course”) in connection with which the Welsh Ministers determined the student to be an eligible student pursuant to regulations made by them under section 22 of the Act, the specified designated course is the initial course.

(10) Where the present course is an end-on course, the specified designated course is the course in relation to which the present course is an end-on course (the “preceding course”). Where the preceding course is itself an end-on course, the specified designated course is the course in relation to which the preceding course is an end-on course.

(11) In these Regulations, the expression “student who qualifies for a new fee grant” (*“myfyniwr sydd â hawl i gael grant newydd at ffioedd”*), in relation to a qualifying designated course, and any reference to a student who does not qualify for a new fee grant are to be construed in accordance with regulation 18.

(12) In these Regulations, the expression “qualifying designated course” (*“cwrs dynodedig cymhwysol”*), in relation to a student who qualifies for a new fee grant, has the meaning given to it by regulation 18.

### **Revocation, savings and transitional provisions**

**3.**—(1) Subject to paragraphs (6) and (7), the 2007 Regulations are revoked on 1 September 2008.

(2) The 2003 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2003 but before 1 September 2004.

(3) The 2004 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2004 but before 1 September 2005.

(4) The 2005 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2005 but before 1 September 2006.

(5) The 2006 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2006 but before 1 September 2007.

(6) Paragraph (5) of regulation 3 of the 2007 Regulations continues to apply.

(7) The 2007 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2007 but before 1 September 2008.

(8) For the purposes of paragraphs (2) to (4), any reference to the Secretary of State in relation to any function conferred on the Secretary of State by the Regulations referred to in those paragraphs, is to be read in relation to Wales as a reference to —

- (a) the Welsh Ministers, in the case of a function referred to in section 44(1) of the Act; or
- (b) the Welsh Ministers or the Secretary of State, in the case of a function referred to in section 44(2) of the Act.

(9) These Regulations apply in relation to the provision of support to students in respect of an academic year which begins on or after 1 September 2008 whether anything done under these Regulations is done before, on or after 1 September 2008.

(10) Despite any other provision in these Regulations where a person—

- (a) attends a course in respect of which a transitional award was bestowed on him or her; or
- (b) had no award under the 1962 Act bestowed on him or her in respect of the course but a transitional award would have been bestowed on him or her if the person had applied for an award under the 1962 Act and his or her resources had not exceeded his or her requirements,

he or she is an old system eligible student for the purposes of Parts 4 and 5 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (11) applies he or she qualifies for support by way of loan for living costs under Part 6 only if he or she is an eligible student under these Regulations and if he or she satisfies the qualifying conditions for support under that Part .

(11) Despite any other provision in these Regulations, where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he or she is an old system eligible student for the purposes of Part 6 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) he or she starts immediately after ceasing that course, but unless paragraph (10) applies he or she qualifies for fee support under Part 4 and support by way of grant for living costs under Part 5 if he or she is an eligible student under these Regulations and if he or she satisfies the relevant qualifying conditions for support under Parts 4 and 5.

## 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) A person is an eligible student in connection with a designated course if —

- (a) in assessing his or her application for support 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) A person is not an eligible student if —

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

(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
- (b) with the concurrence of the borrower's curator or at a time when he or she had no curator.

(6) An eligible student in respect of whom the first academic year of the course begins on or after 1 September 2000 does not, at any one time, qualify for support 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.

(7) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (8), (9) or (10) —

- (a) paragraphs (2) and (3) do not apply to him or her; and
- (b) he or she is an eligible student for the purposes of these Regulations.

(8) The conditions are —

- (a) the 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 Act;

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(1) S.S.I. 2007/151, as amended by S.S.I. 2007/503.

- (b) the person was ordinarily resident in Wales on the first day of the first academic year of the present course; and
  - (c) the person's status has not terminated.
- (9) The conditions are –
- (a) the present course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in regulation 2) which the person is starting on or after 1 September 2006;
  - (b) the person qualified as an eligible student in connection with the course in relation to which the present course is an end-on course;
  - (c) the period of eligibility in respect of the course in sub-paragraph (b) only ceased on the grounds that the student had completed the course; and
  - (d) the person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (b).
- (10) The conditions are —
- (a) the Welsh Ministers have previously determined that the person is —
    - (i) an eligible part-time student in connection with a designated part-time course; or
    - (ii) an eligible student in connection with a designated course other than the present course;
  - (b) the person's status as an eligible part-time student or as an eligible student in connection with the course in sub-paragraph (a) 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 Act;
  - (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
  - (d) the person's status as an eligible student has not terminated.
- (11) Where—
- (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was—
    - (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 his or her status as an eligible part-time student, an eligible distance learning student or an eligible student has been transferred to the present course;

- (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 his or her 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 his or her spouse, civil partner, parent 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),(1)

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

(12) 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”) 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 his or her 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 his or her status as a qualifying student has been transferred to

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(1) 2002 c.41

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 he or she is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Welsh Ministers determined that he or she was an eligible part-time student, an eligible student or a qualifying student, as the case may be, before 1 September 2007.

### **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 Act and regulation 4 if it is —

- (a) mentioned in Schedule 2;
- (b) one of the following —
  - (i) a full-time course;
  - (ii) a sandwich course; or
  - (iii) a part-time course for the initial training of teachers;
- (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 course for the initial training of teachers; and
- (e) wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) A course falling within paragraph 6 or 7 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 in connection with the course is—

- (a) a disabled student; and
- (b) undertaking that course in the United Kingdom but not in attendance because he or she is unable to attend for a reason which relates to his or her 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(1).

(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 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)** An eligible student retains his or her status as an eligible student in connection with a designated course until the status terminates in accordance with this regulation or regulation 4.

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(1) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(2) The period for which an eligible student retains the status 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 his or her designated course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert his or her status as an eligible student under regulation 74 or regulation 88; or
- (b) abandons or is expelled from his or her designated course.

(5) The Welsh Ministers may terminate the period of eligibility where the eligible student has shown himself or herself by his or her conduct to be 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;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulations 60,78,91,100 and paragraph 16 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 gap-year student who has not attended a previous course is only eligible for a grant or loan for fees 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 (6), a new system eligible student or gap-year student who has attended a previous course is only eligible for grants or loans for fees and grants for living costs 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; and
- (b) one additional year is added in the case of an eligible student who did not complete successfully the latest previous course because of compelling personal reasons.

(10) Paragraph (6) applies to —

- (a) a new system eligible student who is on an end-on course of the kind described in paragraph (a) or (b) of the definition of “end-on course” in regulation 2;
- (b) a new system eligible student who —
  - (i) has completed a full-time course mentioned 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 he or she 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 he or she 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; and
- (d) an old system eligible student who is a student on an end-on course of the kind described in paragraphs (a) and (b) of the definition of “end-on course” in regulation 2.

(11) Despite paragraph (1), an eligible student to whom this paragraph applies is only eligible for grants or loans for fees and grants for living costs in respect of the present course for the number of academic years equal to  $(D + X) - Pr C$ .

(12) Despite paragraph (1), a continuing student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to  $(A+R+1)-Y$ .

(13) Despite paragraph (1) and subject to paragraph (9), a transferring student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to  $(A+R+1)-Y$ .

(14) A transferring student starting the first full academic year of a further course to which he or she

transfers under regulation 8 after 1 September 2008 is only eligible for a grant or loan for fees or a grant for living costs in respect of the further course for the number of years equal to  $(A+R+1)-Y-Z$ .

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

(16) In this regulation —

- (a) **A** is the number of academic years from 31 August 2006 that make up the period ordinarily required for the completion of the present course or, in the case of a transferring student, the previous course;
- (b) **D** is the greater of 3 and a number of academic years that make up the ordinary duration of the course;
- (c) **OD** is the number of academic years that make up the period ordinarily required for the completion of the present course;
- (d) **PC** is the number of years of attendance by the eligible student on a previous course; and
- (e) **X** is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years;
- (f) **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;
- (g) **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;
- (h) **Y** is the number of years of the present course, or the previous course in the case of a transferring student, in respect of which it has been determined before 1 September 2006 under regulations made under section 22 of the Act that support was not available;
- (i) **Z** is the number of academic years spent on a previous course beginning on or after 1 September 2006;
- (j) “continuing student” (“*myfyriwr syn parhau*”) is an old system eligible student who started the present course before 1 September 2006;

- (k) “teacher training student” (“*myfyriwr ar gwrs hyfforddi athrawon*”) means a student attending a course for the initial training of teachers where the duration of the course does not exceed 2 years (the duration of a part-time course being expressed as its full-time equivalent) and the student is not a qualified teacher;
- (l) “transferring student” (“*myfyriwr sy’n trosglwyddo*”) means an eligible student who starts the present course on or after 1 September 2008 having had his or her status as an eligible student transferred to that course as a result of one or more transfers of that status pursuant to regulations made under section 22 of the Act from a designated course which he or she began before 1 September 2007.

(17) 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.

(18) The Welsh Ministers may, at any time, renew or extend the period of eligibility for such further period as they determine.

(19) The Welsh Ministers may confer eligibility to grants and loans for fees and grants for living costs otherwise than in accordance with paragraphs (8) to (16).

(20) For the purposes of this regulation and subject to the exceptions in paragraphs (22), (23) and (24) 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 (21).

(21) The conditions 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.

(22) 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 ( the duration of a part-time course being expressed as its full-time equivalent); and

(c) the student is not a qualified teacher.

(23) 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.

(24) 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.

### **Previous study**

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

(2) Subject to paragraphs (4) and (5), an eligible student who starts his or her course on or after 1 September 2006 does not qualify for a loan for living costs if he or she has attained an honours degree from an institution in the United Kingdom.

(3) Paragraphs (1) and (2) do not apply to an eligible student attending a course for the initial training of teachers where the ordinary duration of the course does not exceed 2 years (the ordinary duration of a part-time course being expressed as its full-time equivalent) and 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 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;
- (b) the eligible student is to receive any payment—
  - (i) under a healthcare bursary the amount of which is calculated by reference to his or her income; or
  - (ii) under a Scottish healthcare allowance the amount of which is calculated by reference to his or her 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.

(6) In this regulation and regulation 6, the “ordinary duration of the course” (“*cyfnod arferol y cwrs*”) means the number of academic years that a standard student would take to complete the designated course and “standard student” (“*myfyriwr safonol*”) means a student who is to be taken —

- (i) to have started the designated course on the same date as the eligible student in question;
- (ii) not to be excused any part of the course on account of having attended another course;
- (iii) not to repeat any part of the course; and
- (iv) not to be absent from the course other than during vacations.

(7) Paragraphs (7) and (8) of regulation 23 extend the provisions of this regulation relating to qualification for fee loans and fee grants to the grants for living costs referred to in those paragraphs, subject to specified exceptions.

### **Transfer of status**

**8.**—(1) Where an eligible student transfers to another course, the Welsh Ministers must transfer the student’s status as an eligible student to that 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 course and starts to—
  - (i) attend another designated course at the institution;
  - (ii) undertake another compressed degree course at the institution; or
  - (iii) undertake a compressed degree course at the institution;
- (b) the eligible student starts to—
  - (i) attend a designated course at another institution; or
  - (ii) undertake a compressed degree course with 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 or subjects 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 he or she transfers the remainder of the support assessed by the Welsh Ministers in respect of the academic year of the course from which he or she transfers.

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

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

course from which he or she is transferring unless otherwise provided.

## PART 3

### APPLYING FOR SUPPORT AND PROVISION OF INFORMATION

#### **Applications for support**

**9.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated course by completing and submitting to the Welsh Ministers an application in such form and accompanied by such documentation as the Welsh Ministers may require.

(2) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether the applicant is an eligible student, whether the applicant qualifies for support and the amount of support payable, if any.

(3) The Welsh Ministers must notify the applicant of whether or not the applicant qualifies for support and, if the applicant does qualify, the amount of support payable in respect of the academic year, if any.

#### **Time limits**

**10.**—(1) The general rule is that the application must reach the Welsh Ministers within a period of nine months beginning with the first day of the academic year in respect of which it is submitted.

(2) The general rule does not apply where —

- (a) one of the events listed in regulation 14 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Welsh Ministers within a period of nine months beginning with the day on which the relevant event occurs.
- (b) the applicant is making a separate application for a fee loan under regulation 21 or regulation 22 or a fee contribution loan under regulation 20 or a loan for living costs under regulation 38 or a college fee loan under Schedule 4 or is applying for an additional amount of fee loan under regulation 21(3) or 21(7), an additional amount of fee contribution loan under regulation 20(6) or an additional amount of fee loan under regulation 22(3) or an additional amount of loan for living costs under regulation 50(3) or an additional amount of college fee loan under

Schedule 4 paragraph 11(2) in which case the application must reach the Welsh Ministers not later than one month before the end of the academic year to which the application relates;

- (c) the applicant is applying to borrow an additional amount of fee contribution loan under regulation 20(4) or an additional amount of loan for living costs under regulation 50(1), in which case the application must reach the Welsh Ministers not later than one month before the end of the academic year to which the application relates or within a period of one month beginning with the day on which the applicant receives notice of the increased maximum amount, whichever is the later;
- (d) the applicant is applying for a grant under regulation 24, in which case the application must reach the Welsh Ministers as soon as is reasonably practicable;
- (e) the Welsh Ministers consider that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Welsh Ministers not later than such date as they specify.

#### **Information**

- 11. Schedule 3 applies to the provision of information.

## **PART 4**

### **GRANTS AND LOANS FOR FEES**

#### **CHAPTER 1**

##### **GENERAL PROVISION**

#### **Fee Support Generally**

**12.**—(1) Support under this Part in respect of an academic year may not exceed the fees payable by the student in respect of that academic year.

(2) To receive a loan under these Regulations the student must enter into a contract with the Welsh Ministers on terms to be decided by the Welsh Ministers.

(3) For the purposes of calculating the amount of fee support under this Part, an institution that provides courses designated by regulation 4 of the Education (Student Support) (Dance and Drama) Regulations 1999(1) is not to be regarded as publicly funded by

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(1) S.I. 1999/2263, amended by S.I. 2001/2893.

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<sup>(1)</sup>.

(4) A student to whom paragraph (5) applies is treated as if he or she were in attendance on the designated course for the purpose of qualifying for fee support.

(5) This paragraph applies to—

- (a) a compressed degree student;
- (b) a disabled 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 he or she is unable to attend for a reason which relates to his or her disability.

### **Students becoming eligible during the course of an academic year**

13. Where any of the events listed in regulation 14 occurs in the course of an academic year —

- (a) a student may qualify for grants and loans under this Part in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) such grants and loans are not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

### **Events**

14. The events are —

- (a) the student's course becomes a designated course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) a state accedes to the European Community 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 EC national;
- (e) the student acquires the right of permanent residence;

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(1) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

- (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; or
- (h) the student becomes the child of a Swiss national.

## CHAPTER 2

### GRANTS FOR FEES

#### **Grants for fees: qualifying conditions for old system eligible students**

**15.**—(1) This regulation applies to an old system eligible student who began a designated course before 1 September 2006 and is continuing on that course after 31 August 2008 (a “continuing student”).

(2) Subject to paragraph (5) and regulations 6 and 7, an old system eligible student qualifies in accordance with this regulation for a grant in respect of the fees for an academic year payable by the student in respect of, or otherwise in connection with, the student’s attendance on a designated course.

(3) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 16 or 17.

(4) A continuing student does not qualify for support in respect of an academic year of a designated course if —

- (a) that year is bursary year or an Erasmus year; or
- (b) the designated course is a flexible postgraduate ITT course.

(5) A continuing student does not qualify for a grant for fees in respect of any academic year of the course that begins on or after 1 September 2008 where in the course of assessing an application for support in respect of an academic year of the designated course that began before 1 September 2006 the Welsh Ministers determined in accordance with regulations made by them under section 22 of the Act that the student did not qualify for fee support in respect of the designated course.

#### **Amount of grants for fees at a publicly funded institution and at a private institution on behalf of a publicly funded institution: old system eligible students**

**16.**—(1) Unless one of the following cases set out in paragraph (4) applies, the amount of the grant for fees for an old system eligible student in respect of an

academic year of a designated course at a publicly-funded institution is the lesser of—

- (a) £1,255; and
- (b) the fees payable by the student in connection with that year.

(2) The basic amount of the grant for fees for an old system eligible student in respect of an academic year in the cases in paragraph (4) is the lesser of—

- (a) £625; and
- (b) the fees payable by the student in connection with that year.

(3) Where a contribution exceeding nil is calculated under Schedule 5, a deduction will be made from the grant for fees determined under paragraph (1) or (2) in accordance with regulation 54.

(4) The cases are —

- (a) the final year of the course where that year is ordinarily required to be completed after less than 15 weeks' attendance;
- (b) in respect of a sandwich course, an academic year —
  - (i) during which any periods of full-time study are in aggregate less than 10 weeks; or
  - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution (disregarding intervening vacations) exceeds 30 weeks;
- (c) in respect of a course for the initial training of teachers (including a course leading to a first degree), an academic year during which any periods of full-time study are in aggregate less than 10 weeks;
- (d) in respect of a course provided in conjunction with an overseas institution, an academic year —
  - (i) during which the periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks; or
  - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution in the United Kingdom (disregarding intervening vacations) exceeds 30 weeks.

(5) In the case of a designated course at Heythrop College, the amount of the grant for fees in respect of an academic year is £2,245.

(6) In the case of a designated course at Guildhall School of Music and Drama, the amount of the grant for fees in respect of an academic year is £4,565.

(7) The basic amount of the grant for fees in respect of an academic year at a private institution providing a designated course on behalf of a public institution is the lesser of £1,175 and the fees payable by the student in connection with that year if—

- (a) the designated course began on or after 1 September 2001;
- (b) the designated course is provided on behalf of a publicly-funded institution; and
- (c) none of the circumstances in regulation 16(4) applies.

(8) The amount of the grant for fees in respect of an academic year at a private institution providing a designated course on behalf of a public institution is the lesser of £625 and the fees payable by the student in connection with that year if—

- (a) the designated course began on or after 1 September 2001;
- (b) the designated course is provided on behalf of a publicly-funded institution; and
- (c) one or more of the circumstances in regulation 16(4) applies.

(9) Where a contribution exceeding nil is calculated under Schedule 5, a deduction will be made from the amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 54.

**Amount of the grant for fees at a private institution: old system eligible students**

**17.**—(1) Subject to paragraph (2), the amount of the grant for fees in respect of an academic year of a designated course at a private institution is the lesser of—

- (a) £1,175; and
- (b) the fees payable by the student in connection with that year.

(2) In the case of a designated course at the University of Buckingham, the amount of the grant for fees in respect of an academic year is £2,975.

**New fee grant**

**18.**—(1) Subject to paragraph (2), a student who qualifies for a new fee grant may apply under this regulation for a new fee grant of an amount not exceeding the maximum available (in accordance with paragraph (3) or (4), as the case may be) in respect of, or otherwise in connection with, his or her attendance on a qualifying designated course.

(2) A new fee grant is not available in respect of an academic year if –

- (a) that year is a bursary year or an Erasmus year; or
- (b) the designated course is an old flexible postgraduate ITT course.

(3) The maximum amount of grant available under this regulation to an applicant in respect of an academic year of a qualifying designated course where none of the circumstances in regulation 16(4) applies is £1,890 or the amount by which the fees payable by him or her exceed £1,255, whichever is the lesser.

(4) The maximum amount of grant available in respect of such an academic year under this regulation to an applicant where one of the circumstances in regulation 16(4) applies is £945 or the amount by which the fees payable by him or her exceed £625, whichever is the lesser.

(5) In these Regulations, “student who qualifies for a new fee grant” (*“myfyriwr sydd â hawl i gael grant newydd at ffioedd”*), in relation to a qualifying designated course, means a new system eligible student who is a person whom the Welsh Ministers have determined in connection with the designated course falls within one of the categories set out in Part 2 of Schedule 1.

(6) In these Regulations, a student mentioned in paragraph (5) does not qualify for a new fee grant if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(7) In these Regulations, “qualifying designated course” (*“cwrs dynodedig cymhwysol”*), in relation to a student who qualifies for a new fee grant, means a designated course provided by a publicly-funded institution in Wales.

## CHAPTER 3

### LOANS FOR FEES

#### **General qualifying conditions for loans for fees**

**19.**—(1) An eligible student qualifies for a loan for fees in connection with the student’s attendance on a designated course under this Part provided that the student is not excluded from qualification by the following paragraph, regulation 6 or regulation 7.

(2) An eligible student does not qualify for a loan for fees in respect of an academic year if —

- (a) that year is a bursary year or an Erasmus year; or

- (b) the designated course is an old flexible postgraduate ITT course.

**Fee contribution loans (for old system eligible students)**

**20.**—(1) An old system eligible student qualifies for a fee contribution loan in respect of an academic year of a designated course if—

- (a) he or she qualifies for a grant for fees in respect of that year or would have qualified if he or she had applied for the grant (even if the amount would have been nil); and
- (b) the designated course is provided by or on behalf of an institution that was publicly funded as at 1 August 2005.

(2) Where an old system eligible student applies for a grant for fees and a fee contribution loan, the amount of the fee contribution loan in respect of an academic year of the designated course is the amount for which the student applies not exceeding the amount deducted from his or her grant for fees in accordance with regulation 54.

(3) Where the only fee support for which an old system eligible student applies is a fee contribution loan, the amount of that loan in respect of an academic year of the designated course is the amount for which the student applies not exceeding £1,255 or, if any of the circumstances in regulation 16(4) apply, £625.

(4) An old system eligible student may apply to borrow an additional amount of fee contribution loan where —

- (a) the Welsh Ministers determine that the maximum amount of fee contribution loan which has been notified to the student in relation to an academic year should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise; and
- (b) the Welsh Ministers consider that the increase in the maximum amount does not result from the old system eligible student —
  - (i) failing to provide information promptly which might affect his or her ability to qualify for a fee contribution loan for which he or she qualifies; or
  - (ii) providing information which is inaccurate in any material particular.

(5) The additional amount in paragraph (4) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(6) Where an old system eligible student has applied for a fee contribution loan of less than the maximum amount to which he or she is entitled in relation to the

academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his or her case.

**Fee loans: new system eligible students not qualifying for new fee grant**

21.—(1) Subject to paragraph (9), a new system eligible student qualifies in accordance with this regulation for a loan in respect of the fees payable by him or her in respect of, or otherwise in connection with his or her attendance on a designated course.

(2) The amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of –

- (a) £3,145 or, where one of the circumstances in paragraph 16(4) applies, £1,570; and
- (b) the fees payable by the student in respect of, or otherwise in connection with, that year.

(3) If the student's status as an eligible student is transferred from one designated course to another under these Regulations and one of the circumstances in paragraph (4) applies, the student may borrow an additional amount by way of fee loan in respect of the academic year of the course to which he or she transfers.

(4) The circumstances are —

- (a) the fees payable in respect of the academic year of the course to which the new system eligible student transfers exceed the fees payable in respect of the academic year of the course from which the student has transferred; and
- (b) the academic year of the course to which the new system eligible student transfers does not begin on a later date than the academic year of the course from which he or she has transferred.

(5) Where paragraph (4)(a) applies, the additional amount that the new system eligible student may borrow in respect of the academic year to which he or she transfers must not exceed an amount equal to the fees payable by him or her in respect of that academic year less the amount of any fee loan he or she has taken out in respect of the academic year from which he or she has transferred.

(6) Where paragraph (4)(b) applies, the additional amount that the new system eligible student may borrow in respect of the academic year to which he or she transfers must not exceed the lesser of —

- (a) £3,145 or, where one of the circumstances in regulation 16(4) applies, £1,570; and

(b) the fees payable by the student in respect of, or otherwise in connection with, that year.

(7) Where a new system eligible student has applied for a fee loan of less than the maximum amount available in relation to an academic year, he or she may apply to borrow an additional amount which when added to the amount already applied for does not exceed the relevant maximum applicable in his or her case.

(8) This regulation does not apply in relation to a student if he or she qualifies for a new fee grant and the course is a qualifying designated course.

### **Fee loans: Students qualifying for new fee grant**

**22.—**(1) A student who qualifies for a new fee grant may apply under this regulation for a loan in respect of his or her attendance on the qualifying designated course.

(2) The maximum amount of loan available under this regulation is the lesser of —

- (a) £1,255 or, where any of the circumstances in regulation 16(4) apply, £625; and
- (b) the remainder of the fees payable by the student less an amount equal to the new fee grant in respect of or otherwise in connection with that year.

(3) Where the student has applied for a fee loan of less than the maximum amount available in relation to an academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed that maximum.

(4) If the student's status as an eligible student is transferred from a qualifying designated course to another qualifying designated course under these Regulations and one of the circumstances in paragraph (5) applies, the student may borrow an additional amount by way of fee loan in respect of the academic year of the course to which he or she transfers.

(5) The circumstances are —

- (a) the fees payable in respect of the academic year of the course to which the eligible student transfers exceed the fees payable in respect of the academic year of the course from which the student has transferred; and
- (b) the academic year of the course to which the eligible student transfers does not begin on a later date than the academic year of the course from which he or she has transferred.

(6) Where paragraph (5) (a) applies, the additional amount that the eligible student may borrow in respect of the academic year to which he or she transfers must not exceed an amount equal to the fees payable by him or her in respect of that academic year less the amount of any fee loan he or she has taken out and/or any new

fee grant that he or she has received in respect of the academic year from which he or she has transferred.

(7) Where paragraph (5)(b) applies, the additional amount that the eligible student may borrow in respect of the academic year to which he or she transfers must not exceed the lesser of —

- (a) £3,145 or, where one of the circumstances in regulation 16(4) applies, £1,570; and
- (b) the remainder of fees payable by the student less an amount equal to the new fee grant in respect of, or otherwise in connection with, that year.

## PART 5

### GRANTS FOR LIVING COSTS

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

**23.**—(1) An eligible student qualifies for a grant under this Part provided that —

- (a) the student is not excluded from qualification by any of the following paragraphs, regulation 6 or regulation 7; and
- (b) the student satisfies the qualifying conditions for the particular grant for which he or she 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 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 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 course for the initial training of teachers which is of less than one academic year's duration.

(4) Paragraph (3)(b) does not apply for the purposes of regulation 24.

(5) 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.

(6) For the purposes of paragraph (5), “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 a student attending an overseas institution as part of his or her course, in an overseas institution; or
- (e) unpaid service with —
  - (i) a Strategic Health Authority established pursuant to section 13 of the National Health Service Act 2006 or a Special Health Authority established pursuant to section 28 of that Act<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>; or
  - (iv) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(4)</sup>.

(7) Subject to paragraph (8), an eligible student does not qualify for a grant under regulation 35, 36 or 37 in respect of an academic year of the designated course if the student does not qualify for relevant support in respect of that academic year.

(8) Paragraph (7) 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; or

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(1) 2006 c.41.

(2) 2006 c.42.

(3) 1978 c.29.

(4) S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these Regulations.

(b) the designated course is an old flexible postgraduate ITT course.

(9) In paragraph (7) “relevant support” (“*cymorth perthnasol*”) means, in the case of a grant under regulation 35, a grant for fees, or, in the case of a grant under regulations 36 or 37, a loan for fees.

(10) Where one of the events listed in paragraph (11) occurs in the course of an academic year, a student may qualify for a particular grant in accordance with this Part in respect of all or part of that academic year but he or she does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.

(11) The events are —

- (a) the student’s course becomes a designated course;
- (b) the student, the student’s spouse, the student’s civil partner or the student’s parent is recognised as a refugee or is granted leave to enter or remain;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence;
- (e) the student becomes 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.

(12) Subject to paragraph (13), an eligible student does not qualify for a grant under this Part in respect of an academic year during any part of which he or she is a prisoner.

(13) Paragraph (12) does not apply in respect of a grant for disabled students’ living costs.

(14) A student to whom this paragraph applies is treated as if he or she were 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.

(15) Paragraph (14) applies to —

- (a) a compressed degree student;
- (b) a disabled 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 he or she is unable to attend for a reason which relates to his or her disability.

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

**24.**—(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 student is obliged to incur in connection with his or her attendance on a designated course by reason of a disability to which the student is subject.

(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 student's circumstances.

(3) Except where paragraph (5) applies, the amount of the grant for disabled students' living costs must not exceed —

- (a) £20,000 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £5,035 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 his or her course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,685 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in subparagraph (a) or (b) which exceeds the maxima specified in those paragraphs.

(4) Where the eligible student has received payments to assist with expenditure on major items of specialist equipment in connection with the course by virtue of holding a transitional award, the maximum amount of grant under paragraph (3)(b) is reduced by the amount of those payments.

(5) The maximum amount of grant under paragraphs (3)(a) and (3)(d) is £15,000 and £1,260, respectively where —

- (a) an eligible student attends a course for the initial training of teachers; 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.

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

**25.**—(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 26 to 29.

(3) A deduction may be made from any element of the grants for dependants in accordance with regulation 54.

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

**26.**—(1) An eligible student qualifies for an adult dependants' grant in connection with his or her attendance on a designated course in accordance with this regulation.

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

- (a) the eligible student's partner; or
- (b) an adult dependant of the eligible student whose net income does not exceed £3,705.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 29, the basic amount being —

- (a) £2,580; 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 £2,580 as the Welsh Ministers consider reasonable in the circumstances.

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

**27.**—(1) An eligible student qualifies, in connection with his or her 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 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; or

- (b) a dependent child who has special educational needs within the meaning of section 312 of the Education Act 1996<sup>(1)</sup> and is under the age of 17 immediately before the beginning of the academic year.

(3) An eligible student does not qualify for a grant under this regulation if the student or the student's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002<sup>(2)</sup>.

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

(5) Subject to paragraph (6), 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 £157.25 per week; or
- (b) for two or more dependent children, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £ 267.75 per week

except that the 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 (4) by the number of days of that week falling within the academic year and dividing the product by seven.

(7) In this regulation “prescribed childcare charges” (*“costau gofal plant rhagnodedig”*) means childcare charges of a description prescribed for the purposes of section 12 of the Tax Credits Act 2002<sup>(3)</sup>.

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(1) 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31 and the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 56 and the Education and Inspections Act 2006 (c.40), Schedule 1, paragraph 3.

(2) 2002 (c. 21) to which there are amendments not relevant to these Regulations.

(3) Regulation 14 of the Working Tax Credit (Entitlement and Maximum Amount) Regulations 2002 (S.I. 2002/2005) as amended by S.I.

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

**28.**—(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 29, the basic amount being £1,470.

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

**29.**—(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 26 to 28 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 26;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 27; and
- (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 28.

(2) Subject to paragraphs (4), (5) and (13), 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.

(3) Where **(A - 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.

(4) 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 he or she is entitled under the statutory award.

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2003/701, S.I. 2003/2815, S.I. 2004/762, S.I. 2004/1276, S.I. 2004/2663, S.I. 2005/769, S.I. 2005/2919, S.I. 2006/766, S.I. 2007/824 and S.I.2007/2479) sets out the charges that are prescribed, and thus relevant childcare charges, for the purposes of section 12 of the Tax Credits Act 2002.

(5) 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 he or she is entitled under the statutory award.

(6) 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.

(7) In this regulation —

**A** is the aggregate of the net income of each of the eligible student's dependants; and

**B** is—

- (a) £1,130 where the eligible student has no dependent child;
- (b) £3,385 where the eligible student is not a lone parent and has one dependent child;
- (c) £4,515 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) £5,650 where the eligible student is a lone parent and has more than one dependent child.

(8) Paragraphs (9) to (12) 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 23(11).

(9) 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 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.

(10) 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 (11) and the amount of any childcare grant for the academic year.

(11) 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 (9) applied for the duration of the academic year.

(12) In this regulation, a "relevant quarter" (*"chwarter perthnasol"*) means —

- (a) in the case of a person referred to in paragraph (8)(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.

(13) 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**

**30.**—(1) In regulations 26 to 29 —

- (a) Subject to sub-paragraph (n), "adult dependant" (*"dibynnydd mewn oed"*) means, in relation to an eligible student, an adult person dependent on the student other than the student's child, the student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the student is separated) or his or her former partner;
- (b) "child" (*"plentyn"*) in relation to an eligible student includes any child of the student's partner who is dependent on him or her and any child for whom the student has parental responsibility who is dependent on him or her;
- (c) "dependant" (*"dibynnydd"*) means, in relation to an eligible student, the student's partner, the 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" (*"dibynnol"*) means wholly or mainly financially dependent;

- (e) dependent child” (“*plentyn dibynnol*”) means, in relation to an eligible student, a child dependent on the student;
- (f) “lone parent” (“*rhiant unigol*”) means an eligible student who does not have a partner and who has a dependent child or dependent children;
- (g) “net income” (“*incwm net*”) has the meaning given in paragraph (2);
- (h) subject to sub-paragraphs (h), (i), (j), (k), (l) and (m), “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 he or she were his or her 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 he or she were the 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;
- (i) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (h) 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;
- (j) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;
- (k) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the date on which the 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;
- (l) for the purposes of regulation 27 —
  - (i) sub-paragraph (i) does not apply; and

- (ii) a person is to be treated as a partner if he or she would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom he or she is ordinarily living does not fall within paragraph (2) (1) (a) of Schedule 5;
- (m) for the purposes of determining whether a person is the former partner of an eligible student's partner, "partner" in relation to an eligible student's partner means—
  - (i) the spouse of an eligible student's partner;
  - (ii) the civil partner of an eligible student's partner;
  - (iii) where the eligible student began the specified designated course on or after 1 September 2000, a person ordinarily living with an eligible student's partner as if he or she were his or her spouse;
  - (iv) where the eligible student began the specified designated course on or after 1 September 2005, a person ordinarily living with an eligible student's partner as if he or she were his or her civil partner;
- (n) subject to sub-paragraph (o), for the purposes of the definitions of "adult dependant" and "dependent child", the Welsh Ministers may treat an adult person or child as dependent on an eligible student if they are satisfied that the adult person or child—
  - (i) is not dependent on—
    - (aa) the eligible student; or
    - (bb) his or her partner; but
  - (ii) is dependent on the eligible student and his or her partner together;
- (o) the Welsh Ministers must not treat an adult person ("A") as dependent on an eligible student in accordance with sub-paragraph (n), if A is—
  - (i) the spouse or civil partner of the eligible student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible student's partner is separated); or
  - (ii) the former partner of the eligible student's partner.

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

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>;
- (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<sup>(2)</sup>;
- (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<sup>(3)</sup>;
- (f) 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<sup>(4)</sup>; and
- (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002<sup>(5)</sup>.

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

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Welsh Ministers, the obligation 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.

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(1) 1992 c. 4 to which there are amendments not relevant to these Regulations.

(2) 2002 c. 38.

(3) 1989 c. 41. Section 23 was amended by the Courts and Legal Services Act 1990(c. 41), Schedule 6, paragraph 12, the Care Standards Act 2000 (c.14), Schedule 4, paragraph 14 and the Children Act 2004 (c.31), section 49 (3).

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

(5) 2002 c. 21 to which there are amendments not relevant to these Regulations.

(4) For the purposes of paragraph (2), where the dependant is a dependent child and payments are made to the eligible student towards the child's maintenance, those payments are to be treated as the child's income.

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

**31.**—(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 he or she is obliged to incur in an academic year for the purpose of attending in connection with his or her 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 he or she is obliged to incur in each qualifying quarter within or outside the United Kingdom for the purpose of attending as part of his or her course an overseas institution or the Institute.

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

**32.**—(1) The amount of grant payable under regulation 31 (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 £295.

(2) The amount of grant payable under regulation 31 (2) in respect of an academic year is calculated as follows—

$$(X - £295) + Y \text{ where—}$$

*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 31.

*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 he or she is attending the overseas institution or the Institute;
- (b) the cost of a visa or visas that the eligible student is obliged to obtain in order to attend the overseas institution or the Institute; 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 or the Institute is situated.

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

33. A deduction may be made from a grant under regulations 30 to 32 in accordance with Part 9.

### **Interpretation**

34. For the purposes of this Part-

- (a) any reference to expenditure incurred for the purpose of attending an institution or period of study—
  - (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 24.
- (b) “qualifying quarter” (“*chwarter cymhwysol*”) means a quarter during which the eligible student attends as part of his or her course an overseas institution or the Institute for at least half the period covered by that quarter.

### **Higher education grants**

35.—(1) An old system eligible student qualifies in accordance with this regulation for a higher education grant in connection with his or her attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) An old system eligible student does not qualify for a higher education grant unless he or she began the specified designated course on or after 1 September 2004.

(3) The maximum amount of higher education grant available in respect of an academic year is £1,000.

(4) An eligible student who qualifies for a higher education grant is entitled to receive an amount as follows —

- (a) in any case where the household income is £16,765 or less, he or she is entitled to receive the maximum amount of grant available;
- (b) in any case where the household income exceeds £16,765 and does not exceed £22,750, he or she receives an amount equal to  $M - A$ , where  $M$  is £1,000 and  $A$  is £1 for

every complete £6.30 by which the household income exceeds £ 16,765; and

- (c) in any case where the household income exceeds £22,750, no grant is payable under this regulation.

### **Maintenance grant**

**36.**—(1) A new system eligible student qualifies in accordance with this regulation for a maintenance grant for living costs in connection with his or her attendance on a designated course.

(2) A new system eligible student does not qualify for a maintenance grant if he or she qualifies for a special support grant.

(3) The maximum amount of maintenance grant available in respect of an academic year is —

- (a) in the case of a type 1 teacher training student, £1,415;
- (b) in the case of a type 2 teacher training student, £2,835; and
- (c) in the case of a new system eligible student other than a type 1 or type 2 teacher training student, £2,835.

(4) 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, he or she receives £1,415;
- (b) where household income exceeds £18,370 but does not exceed £ 27,850, he or she receives an amount equal to  $M-(A/2)$  where  $M$  is £1,415 and  $A$  is £1 for every £6 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,850, he or she receives £625.

(5) 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, he or she receives £2,835;
- (b) where the household income exceeds £18,370 but does not exceed £27,850, he or she receives an amount equal to  $M-A$  where  $M$  is £2,835 and  $A$  is £1 for every £6 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,850, he or she receives £1,255.

(6) A new system eligible student other than a type 1 or 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, he or she receives £2,835;
- (b) where the household income exceeds £18,370 but does not exceed £27,850, he or she receives an amount equal to  $M-A$  where  $M$  is £2,835 and  $A$  is £1 for every £6 by which the household income exceeds £18,370;
- (c) where the household income exceeds £27,850 but does not exceed £39,300, he or she receives an amount equal to  $RM - A$ , where  $RM$  is £1,255 and  $A$  is £1 for every complete £9.50 by which the household income exceeds £27,850;
- (d) where the household income exceeds £39,300, no maintenance grant is payable.

### Special Support Grant

**37.**—(1) A new system eligible student qualifies in accordance with this regulation for a special support grant in connection with his or her 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 qualifies for a special support grant if he or she falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992(1), or if he or she is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act(2).

(3) The maximum amount of special support grant available in respect of an academic year is —

- (a) in the case of a type 1 teacher training student, £1,415;
- (b) in the case of a type 2 teacher training student, £2,835; and
- (c) in the case of a new system eligible student other than a type 1 or type 2 teacher training student, £2835.

(4) 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 —

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(1) 1992 c 4. 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. 2000/1981 and S.I. 2006/2144; there are other amending instruments but none are relevant.

(2) 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. 2006/718).

- (a) where the household income is £18,370 or less, he or she receives £1,415;
- (b) where the household income exceeds £18,370 but does not exceed £27,850, he or she receives an amount equal to  $M-(A/2)$  where  $M$  is £1,415 and  $A$  is £1 for every £6 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,850, he or she receives £625.

(5) 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, he or she receives £2,835;
- (b) where the household income exceeds £18,370 but does not exceed £27,850, he or she receives an amount equal to  $M-A$  where  $M$  is £2,835 and  $A$  is £1 for every £6 by which the household income exceeds £18,370; and
- (c) where the household income exceeds £27,850, or the student opts when applying for the grant not to provide the information needed to calculate the household income he or she receives £1,255.

(6) A new system eligible student other than a type 1 or type 2 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, he or she receives £2,835;
- (b) where the household income exceeds £18,370 but does not exceed £27,850, he or she receives an amount equal to  $M-A$  where  $M$  is £2,835 and  $A$  is £1 for every £6 by which the household income exceeds £18,370;
- (c) where the household income exceeds £27,850 but does not exceed £39,300, he or she receives an amount equal to  $RM - A$ , where  $RM$  is £1,255 and  $A$  is £1 for every complete £9.50 by which the household income exceeds £27,850;
- (d) where the household income exceeds £39,300, no special support grant is payable.

## PART 6

### LOANS FOR LIVING COSTS

#### **Qualifying conditions for loans for living costs**

**38.**—(1) Subject to paragraph (6), an eligible student qualifies for a loan for living costs in connection with the student's attendance on a designated course if the student satisfies the condition in paragraph (2) and is not excluded by paragraph (3) or regulation 7.

(2) The condition is that the eligible student is under the age of 60 on the relevant date.

(3) An eligible student does not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(4) An eligible student does not qualify for a loan for living costs in connection with his or her attendance on a designated course if that course is a flexible postgraduate course for the initial training of teachers which is of less than one academic year's duration.

(5) An old system eligible student who falls within paragraph (a) or (d)(i) of the definition of "old system eligible student" in regulation 2 qualifies for a loan for living costs in connection with his or her attendance on a designated course if he or she satisfies the condition in paragraph (2) and is not excluded by paragraph (3).

(6) A student to whom this regulation applies is treated as if he or she were in attendance on the designated course for the purpose of qualifying for the loan for living costs.

(7) Paragraph (6) applies to —

(a) a compressed degree student; and

(b) a disabled 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 he or she is unable to attend for a reason which relates to his or her disability.

(8) To receive a loan for living costs, an old system eligible student must enter into a contract with the Welsh Ministers on terms to be decided by the Welsh Ministers.

(9) An eligible student does not qualify for a loan for living costs under this Part in respect of an academic year during any part of which he or she is a prisoner.

#### **Maximum amount of loans for old system eligible students with full entitlement**

**39.**—(1) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which an old system eligible student with full entitlement qualifies in respect of an academic year other than the

final year of a course that is not an intensive course is —

- (a) for a student in category 1, £3,580;
- (b) for a student in category 2, £6,480;
- (c) for a student in category 3, £5,515;
- (d) for a student in category 4, £5,515;
- (e) for a student in category 5, £4,625.

(2) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which an old system eligible student with full entitlement qualifies in respect of an academic year which is the final year of a course that is not an intensive course is —

- (a) for a student in category 1, £3,240;
- (b) for a student in category 2, £5,900;
- (c) for a student in category 3, £4,795;
- (d) for a student in category 4, £4,795;
- (e) for a student in category 5, £4,285.

#### **Maximum amount of loans for new system eligible students with full entitlement**

**40.**—(1) This regulation applies to a new system eligible student with full entitlement (other than a type 1 or type 2 teacher training student, whose contribution exceeds nil).

(2) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year other than a final year of a course that is not an intensive course is equal to **(X-Y)** where —

**X** is —

- (i) for a student in category 1, £3,580;
- (ii) for a student in category 2, £6,480;
- (iii) for a student in category 3, £5,515;
- (iv) for a student in category 4, £5,515;
- (v) for a student in category 5, £4,625;

**Y** is the maintenance grant amount.

(3) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an intensive course is equal to **(X-Y)** where —

**X** is —

- (i) for a student in category 1, £3,240;
- (ii) for a student in category 2, £5,900;
- (iii) for a student in category 3, £4,795;
- (iv) for a student in category 4, £4,795;
- (v) for a student in category 5, £4,795;

**Y** is the maintenance grant amount.

(4) In this regulation, “the maintenance grant amount” (*“swm y grant cynhaliaeth”*) is —

- (a) where the student qualifies under regulation 36 for an amount of maintenance grant not exceeding £1,255, the amount of maintenance grant payable;
- (b) where the student qualifies under regulation 36 for an amount of maintenance grant exceeding £1,255; and
- (c) where no maintenance grant is payable, nil.

**41.**—(1) This regulation applies to a type 1 or type 2 teacher training student whose contribution exceeds nil.

(2) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year other than the final year of a course that is not an accelerated course is —

- (a) for a student in category 1, £3,580;
- (b) for a student in category 2, £6,480;
- (c) for a student in category 3, £5,515;
- (d) for a student in category 4, £5,515;
- (e) for a student in category 5, £4,625.

(3) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year of a course that is the final year of a course that is not an accelerated course is —

- (a) for a student in category 1, £3,240;
- (b) for a student in category 2, £5,900;
- (c) for a student in category 3, £4,795;
- (d) for a student in category 4, £4,795;
- (e) for a student in category 5, £4,285.

### **Students with reduced entitlement**

**42.**—(1) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year of a course other than the final year of a course than is not an intensive course is —

- (a) where the student falls within regulation 23(3)(a) —

- (i) for a student in category 1, £1,700;
  - (ii) for a student in category 2, £3,185;
  - (iii) for a student in category 3, £2,265;
  - (iv) for a student in category 4, £2,265;
  - (v) for a student in category 5, £2,265.
- (b) where the student falls within regulation 23(3)(c) or 23(5) —
- (i) for a student in category 1, £1,700;
  - (ii) for a student in category 2, £3,185;
  - (iii) for a student in category 3, £2,710;
  - (iv) for a student in category 4, £2,710;
  - (v) for a student in category 5, £2,265.
- (c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to  $X-Y$  where —
- $X$  is —
- (i) for a student in category 1, £2,685;
  - (ii) for a student in category 2, £4,860;
  - (iii) for a student in category 3, £4,135;
  - (iv) for a student in category 4, £4,135;
  - (v) for a student in category 5, £3,470.
- $Y$  is the amount specified in paragraph (d).
- (d) the specified amount is —
- (i) £625 where the student is a type 1 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £625;
  - (ii) £1,255 where the student is a type 2 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £1,255;
  - (iii) nil where the student is not a type 1 or type 2 teacher training student.

(2) Subject to regulations 43 to 48, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year that is the final year of a course that is not an intensive course is —

- (a) where the student falls within regulation 23(3)(a) —

- (i) for a student in category 1, £1,290;
  - (ii) for a student in category 2, £2,435;
  - (iii) for a student in category 3, £1,765;
  - (iv) for a student in category 4, £1,765;
  - (v) for a student in category 5, £1,765.
- (b) where the student falls within regulation 23(3)(b) or 23(5) —
- (i) for a student in category 1, £1,290;
  - (ii) for a student in category 2, £2,435;
  - (iii) for a student in category 3, £1,980;
  - (iv) for a student in category 4, £1,980;
  - (v) for a student in category 5, £1,765.
- (c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to  $X-Y$  where —

$X$  is—

- (i) for a student in category 1, £2,430;
- (ii) for a student in category 2, £4,425;
- (iii) for a student in category 3, £3,595;
- (iv) for a student in category 4, £3,595;
- (v) for a student in category 5, £3,215;

$Y$  is the amount specified in paragraph (d).

- (d) the specified amount is—
- (i) £ 625 where the student is a type 1 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £ 625;
  - (ii) £ 1,255 where the student is a type 2 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £ 1,255;
  - (iii) nil where the student is not a type 1 or type 2 teacher training student.

### **Students residing with parents**

**43.**—(1) Subject to paragraph (2), where an eligible student resides at his or her parents' home and the Welsh Ministers are satisfied that in all the circumstances the student's parents by reason of age, incapacity or otherwise cannot reasonably be expected to support the student and that it would be appropriate for the amount of loan payable to a student in a category other than category 1 to apply in his or her

case, the student must be treated as if the student were not residing at the student's parents' home.

(2) Paragraph (1) does not apply to an eligible student who begins a course on or after 1 September 2004.

#### **Loans for living costs payable in respect of three quarters of the academic year**

**44.**—(1) Subject to regulation 46, the loan for living costs is payable in respect of three quarters of the academic year.

- (2) The loan for living costs is not payable —
- (a) in the case of a compressed degree student, in respect of the quarter nominated by the Welsh Ministers;
  - (b) in any other case, in respect of the quarter in which, in the opinion of the Welsh Ministers, the longest of any vacation occurs.

#### **Students falling into more than one category**

**45.**— Where an eligible student falls into more than one of the categories in regulation 49 in the course of the academic year —

- (a) the maximum amount of loan for living costs for the academic year is the aggregate of the maximum amount of loan for living costs for each quarter in respect of which the loan is payable;
- (b) the maximum amount of loan for living costs for each such quarter is one third of the maximum amount of loan for living costs which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year; and
- (c) the category which applies to a quarter is —
  - (i) the category into which the student falls for the longer or longest period in that quarter; or
  - (ii) if the student falls into more than one category for an equal period in that quarter, the category with the higher or highest rate of loan for living costs for the academic year.

#### **Students becoming eligible during the course of an academic year**

**46.**—(1) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (2), the student may qualify for a loan for living costs in respect of such quarters of that academic year in respect of which a

loan for living costs is payable as begin after the relevant event in paragraph (2) occurs.

(2) The events are —

- (a) the student's course becomes a designated course;
- (b) the student, the student's spouse, the student's civil partner or the student's parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence;
- (e) the student becomes 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.

(3) An eligible student to whom paragraph (1) applies does not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The maximum amount of loan for living costs payable is the aggregate of the maximum amount of loan for each quarter in respect of which the student qualifies for support under this regulation.

(5) The maximum amount of loan for living costs for each such quarter is one third of the maximum amount of loan for living costs which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year.

#### **Increases in maximum amount**

**47.—**(1) Where an eligible student is required to attend his or her course for a period exceeding 30 weeks and 3 days in an academic year, the maximum amount of loan for living costs specified in regulations 39 to 41 must be increased for each week or part week of attendance in that academic year beyond 30 weeks and 3 days as follows:

- (a) for a student in category 1, by £54;
- (b) for a student in category 2, by £103;
- (c) for a student in category 3, by £112;
- (d) for a student in category 4, by £112;

(e) for a student in category 5, by £81.

(2) Where an eligible student attends his or her course for a period of not less than 45 weeks in any continuous period of 52 weeks the amount of loan for living costs specified in regulations 39 to 41 is increased for each week in the 52 week period during which the student did not attend by the amounts referred to in paragraph (1).

(3) This regulation does not apply in the case of a student with reduced entitlement.

### **Deductions from loans for living costs**

**48.**—(1) A deduction from the amount of loan for living costs calculated under this Part in respect of an old system eligible student with full entitlement or a new system eligible student with full entitlement may be made in accordance with regulation 54.

(2) A deduction from the amount of loan for living costs calculated under this Part in respect of a student with reduced entitlement may not be made under regulation 54.

### **Interpretation of Part 6**

**49.**—(1) In this Part —

- (a) a student is in category 1 if the student resides at his or her parents' home while attending the designated course or if he or she is a member of a religious order who resides in a house of that order;
- (b) a student is in category 2 if he or she is not in category 1 and attends one or more of the following —

- (i) a course at the University of London;
- (ii) a course at an institution which requires attendance for at least half the time in aggregate of any quarter of the course in the academic year at a site wholly or partly within the area comprising the City of London and the former Metropolitan Police District; or
- (iii) a sandwich course at an institution which requires the eligible student to undertake work experience or a combination of work experience and study provided that the student undertakes such work experience or combination of work experience and study for at least half the time in aggregate of any quarter of the course in the academic year at a site or sites wholly or partly within the area comprising the City of London and the former Metropolitan Police District;
- (c) a student is in category 3 if the student is not in category 1 and the student attends an overseas institution as part of his or her course;
- (d) a student is in category 4 if the student is not in category 1 and attends the Institute;
- (e) a student is in category 5 if the student is not in categories 1 to 4;
- (f) a “new system eligible student with full entitlement” (*myfyriwr cymwys o dan y drefn newydd sydd â hawlogaeth lawn*) is a new system eligible student other than a student with reduced entitlement;
- (g) an “old system eligible student with full entitlement” (*“myfyriwr cymwys o dan yr hen drefn sydd â hawlogaeth lawn”*) is an old system eligible student other than a student with reduced entitlement;
- (h) the “relevant date” (*“dyddiad perthnasol”*) means the first day of the first academic year of the specified designated course;
- (i) a “student with reduced entitlement” (*“myfyriwr sydd â hawlogaeth wedi’i gostwng”*) is an eligible student who—
  - (i) is not eligible for a grant for living costs in respect of the academic year by virtue of regulation 23(3)(a)(b) or (c) or regulation 23(5); or
  - (ii) opts when applying for a loan for living costs not to provide the information needed to calculate the household income;
- (j) where the duration of a graduate-entry or postgraduate-level course for the initial

training of teachers is only one academic year, that year is not to be treated as the final year.

## PART 7

### GENERAL LOAN PROVISIONS

#### **Additional amount of loans**

**50.**—(1) An eligible student may apply to borrow an additional amount of loan for living costs where —

- (a) the Welsh Ministers determine that the maximum amount of loan for living costs which has been notified to the student in relation to an academic year should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise; and
- (b) the Welsh Ministers consider that the increase in the maximum amount does not result from the eligible student —
  - (i) failing to provide information promptly which might affect his or her ability to qualify for a loan or the amount of loan for which he or she qualifies; or
  - (ii) providing information which is inaccurate in any material particular.

(2) The additional amount under paragraph (1) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(3) Where an eligible student has applied for a loan of less than the maximum amount to which he or she is entitled in relation to the academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his or her case.

#### **Interest**

**51.**—(1) Subject to paragraph (2), loans bear interest at the rate which will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980<sup>(1)</sup> equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2007 and that index so published for March 2008.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the

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(1) S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177.

Consumer Credit Act 1974(1) loans bear interest at the rate so specified.

(3) Interest is calculated on the principal outstanding daily and is added to the principal monthly.

(4) The index of prices to which the Welsh Ministers are required by section 22(8) of the Act to have regard in prescribing the rate of interest which loans bear is the retail prices all items index mentioned in paragraph (1).

## PART 8

### COLLEGE FEE LOANS

**52.** A college fee loan is available to an eligible student in accordance with Schedule 4.

## PART 9

### FINANCIAL ASSESSMENT

#### **Calculation of contribution**

**53.**—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 5.

(2) For the purposes of the exercise of the Welsh Ministers' functions under the Act and regulations made under it, the Welsh Ministers may require an eligible student to provide from time to time such information as they consider necessary as to the income of any person whose means are relevant to the assessment of the student's contribution.

#### **Application of contribution**

**54.**—(1) Subject to paragraph (4), an amount equal to the contribution or the remainder of the contribution, as the case may be, calculated under Schedule 5, is to be applied until it is extinguished against the amount of the particular grants and loans for which the eligible student qualifies as follows —

- (a) first, to reduce **GFF**;
- (b) second, to reduce **ADG**;
- (c) third, to reduce **CCG**;
- (d) fourth, to reduce **PLA**;
- (e) fifth, to reduce **LLC** to no less than the minimum level for the academic year;
- (f) sixth, to reduce **GFT**.

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(1) 1974 c. 39.

(2) In the case of an old system eligible student, subject to paragraph (4), where the basic amount of the grant for fees has been calculated in accordance with regulation 16(1) and 16(7), to determine the actual amount of grant for fees that is payable, the Welsh Ministers must apply the contribution in accordance with paragraph (1).

(3) In the case of an old system eligible student where the basic amount of the grant for fees has been calculated in accordance with regulation 16 (2) or 16 (8) and one of the cases set out in regulation 16(4) (b) or (d) applies, to determine the actual amount of fees payable the Welsh Ministers must —

- (a) first, apply the contribution to reduce the basic amount of the grant for fees;
- (b) second, if the contribution is not extinguished, deduct an amount equal to the basic amount of the grant for fees from what is left of the contribution reducing the remainder of the contribution to no less than nil; and
- (c) third, if the contribution is still not extinguished, apply the remainder first to reduce **ADG** in accordance with paragraph (1).

(4) Where the course is a course for the initial training of teachers (other than a course for a first degree), there is no deduction from the basic amount of the grant for fees under this regulation and the contribution is first applied to reduce **ADG** in accordance with paragraph (1).

(5) In the case of an Erasmus year, the Welsh Ministers must apply the amount by which the contribution exceeds £1,255, first to reduce **ADG** in accordance with paragraph (1).

(6) Where the student does not qualify for a grant for fees for any other reason, **GFF** is nil and the contribution is applied first to reduce **ADG**.

(7) In the case of a new system eligible student, **GFF** is nil and the contribution is applied first to reduce **ADG**.

(8) In this regulation —

- (a) **ADG** is the amount, if any, of the adult dependants' grant calculated in accordance with regulation 29;
- (b) **CCG** is the amount, if any, of the childcare grant calculated in accordance with regulation 29;
- (c) **GFT** is the amount of the grant for travel for which the eligible student qualifies under regulation 31, if any;
- (d) **LLC** is the amount of loan for living costs, if any, for which the eligible student (other than a student with reduced entitlement) qualifies under Part 6 to no less than the minimum

level for the academic year specified in paragraph (9);

- (e) **PLA** is the amount, if any, of the parents' learning allowance calculated under regulation 29 (except the first £50 of the allowance).

(9) Subject to paragraphs (10) and (11), the “minimum level for the academic year” (“*lefel isaf am y flwyddyn academaidd*”) in regulation 54 (1) (d) is —

- (a) £2,685, in the case of a student in category 1;
- (b) £4,860, in the case of a student in category 2;
- (c) £4,135, in the case of a student in category 3;
- (d) £4,135, in the case of a student in category 4;
- (e) £3,470, in the case of a student in category 5.

(10) Subject to paragraph (11), where the academic year in question is the final year of a course other than an intensive course, the “minimum level for the academic year” (“*lefel isaf am y flwyddyn academaidd*”) is —

- (a) £2,430, in the case of a student in category 1;
- (b) £4,425, in the case of a student in category 2;
- (c) £3,595, in the case of a student in category 3;
- (d) £3,595, in the case of a student in category 4;
- (e) £3,215, in the case of a student in category 5.

(11) Where different categories apply for different quarters of the academic year, the minimum levels in paragraphs (9) and (10) are the aggregate of the amounts determined under paragraph (12) for each of the three quarters in respect of which a loan is payable.

(12) The amount determined for each quarter is one third of the amount in paragraph (9) or (10) which corresponds to the rate applicable for the quarter.

(13) The loan for living costs payable in respect of an academic year to a type 1 teacher training student who has a household income exceeding £39,780 is the amount left after deducting £625 from the amount of loan for living costs left after applying the contribution in accordance with this regulation.

(14) This paragraph applies to type 1 and type 2 teacher training students who qualify for a maintenance grant and whose contribution exceeds nil.

(15) The loan for living costs payable in respect of an academic year to a student to whom paragraph (14) applies is calculated as follows—

$$A - B$$

where

*A* is the amount of loan for living costs left after applying the contribution in accordance with this Part; and

*B* is the amount of maintenance grant payable to the student.

(16) Categories 1 to 5 have the meaning given in regulation 49.

## PART 10 PAYMENTS

### **Payment of grants or loans for fees**

**55.**—(1) The Welsh Ministers must not pay the grant or loan for fees for which a student qualifies unless they have received a request for payment from the relevant academic authority and in the case of a loan for fees, the Welsh Ministers must not pay the loan before a period of three months beginning with the first day of the academic year has expired.

(2) The Welsh Ministers must pay the loan for fees for which a student qualifies to an academic authority to which the student is liable to make payment.

(3) The Welsh Ministers must pay the grant for fees to the academic authority —

- (a) not before the expiry of a period of three months beginning with the first day of the academic year; and
- (b) not later than 10 weeks after the expiry of the period in sub-paragraph (a), or promptly after a valid request for payment has been received, if that is later.

(4) Where assessment of the student's contribution or other matters has delayed the final calculation of the amount of grant for which the student qualifies, the Welsh Ministers may make a provisional assessment and payment.

(5) The Welsh Ministers may pay the fee loan in instalments.

(6) Where assessment of an old system eligible student's contribution or other matters have delayed the final calculation of the amount of fee contribution loan for which the student qualifies under regulation 20, the Welsh Ministers may make a provisional assessment and payment.

(7) No payment of the grant or loan for fees may be made in respect of a designated course if —

- (a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend or, in the case of a student who is treated as in attendance under regulation 12(4) and 12(5), undertake the course; and
- (b) the academic authority has determined or agreed that the student will not commence

attending or as the case may be, undertaking in the United Kingdom, the course again during the academic year in respect of which the fees are payable or at all.

### **Payment of grants for living costs**

**56.**—(1) Subject to the following paragraphs, the Welsh Ministers may pay support under Part 5 in such instalments (if any) and at such times as they consider appropriate.

(2) An institution is required to send an attendance confirmation to the Welsh Ministers.

(3) The Welsh Ministers must not pay the first instalment or, where it has been determined not to pay support under Part 5 by instalments, make any payment of support under that Part to an eligible student before they have received an attendance confirmation unless an exception applies.

(4) An exception applies if—

- (a) a grant for disabled students' living costs is payable in which case that particular grant may be paid before the Welsh Ministers have received an attendance confirmation; or
- (b) the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(5) Where a final assessment cannot be made on the basis of the information provided by the student, the Welsh Ministers may make a provisional assessment and payment of support under Part 5.

(6) Payments of support under Part 5 are to be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(7) No support under Part 5 is due in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(8) Where an eligible student's period of eligibility terminates on or after the relevant date, the Welsh Ministers must determine—

- (a) the amount of each grant for living costs for which the student qualifies that would be payable in respect of the relevant payment period if the eligible student's period of eligibility had not terminated (the "full amount"); and
- (b) how much of the full amount is due in respect of the period which runs from the first day of the relevant payment period up to and

including the day on which the eligible student's period of eligibility terminated ( the "partial amount").

(9) In this regulation, the "relevant date" (" *y dyddiad perthnasol*") is the date on which the first term of the academic year in question actually begins.

(10) If the Welsh Ministers have made a payment of grant for living costs in respect of the relevant payment period before the point in that period at which the eligible student's period of eligibility terminated and that payment exceeds the partial amount of that grant—

- (a) they may treat the excess as an overpayment of that grant; or
- (b) if they consider that it is appropriate to do so they may extend the student's period of eligibility in respect of that grant until the end of the relevant payment period and determine that the full amount of the grant is due in respect of that payment period.

(11) Subject to paragraph (12), if a payment of a grant for living costs in respect of the relevant payment period is due to be made or is made after the eligible student's period of eligibility has terminated, the amount of that grant due is the partial amount unless the Welsh Ministers consider it appropriate to extend the period of eligibility in respect of that grant until the end of the relevant payment period and to determine that the full amount of that grant is due in respect of that payment period.

(12) Paragraph (11) does not apply to a payment of grant for disabled students' living costs in respect of specialist equipment.

(13) No support under Part 5 is due in respect of a payment period during any part of which an eligible student is absent from his or her course, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(14) In deciding whether it would be appropriate for support to be due under paragraph (13) the circumstances to which the Welsh Ministers must have regard include the reason for the student's absence, the length of the absence and the financial hardship which not paying the support would cause.

(15) An eligible student is not to be considered absent from his or her course if he or she is unable to attend due to illness and his or her absence has not exceeded 60 days.

(16) Where, after the Welsh Ministers have made any payment of support under Part 5 or Part 6, they make a determination of the amount of a grant for living costs for which the student qualifies either for the first time or by way of revision of a provisional or other determination of that amount—

- (a) if the determination increases the amount of that grant for which the student qualifies they must pay the additional amount in such instalments (if any) and at such times as they consider appropriate;
- (b) if the determination decreases the amount of that grant for which the student qualifies they must subtract the amount of the decrease from the amount of that grant which remains to be paid;
- (c) if the amount of the decrease is greater than the amount of that grant remaining to be paid the latter amount is reduced to nil and the balance subtracted from any other grant for living costs for which the student qualifies in respect of the academic year;
- (d) any remaining overpayment is recoverable in accordance with regulation 60.

#### **Provision of United Kingdom national insurance number**

**57.**—(1) The Welsh Ministers may make it a condition of entitlement to payment of any loan that an eligible student must provide them with his or her United Kingdom national insurance number.

(2) Where the Welsh Ministers have imposed a condition under paragraph (1), they must not make any payment of the loan to the eligible student before they are satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Welsh Ministers may make a payment of loan to an eligible student if they are satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the eligible student having complied with the condition imposed under paragraph (1).

#### **Information requirements**

**58.**—(1) The Welsh Ministers may at any time request from an applicant information that they consider is required to recover a loan.

(2) The Welsh Ministers may at any time request from an applicant sight of his or her valid national identity card, his or her valid passport issued by the state of which he or she is a national or his or her birth certificate.

(3) Where the Welsh Ministers have requested information or documents under this regulation, they may withhold any payment of a loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

### **Payment of loans for living costs**

**59.**—(1) The Welsh Ministers may pay support under Part 6 in instalments.

(2) Subject to paragraph (3), the Welsh Ministers may pay support under Part 6 at such times as they consider appropriate.

(3) An institution is required to send an attendance confirmation to the Welsh Ministers.

(4) The Welsh Ministers must not pay the first instalment, or where they have determined not to pay support under Part 6 by instalments, make any payment of support under Part 6 to the eligible student before they have received an attendance confirmation from the relevant institution unless an exception applies.

(5) An exception applies if the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(6) Where a final assessment cannot be made on the basis of the information provided by the student, the Welsh Ministers may make a provisional assessment and payment of support under Part 6.

(7) Payments of support under Part 6 are to be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(8) Where the Welsh Ministers have made any payment of support under Part 5 or Part 6 and a student who qualifies for a loan for living costs under Part 6 applies for such a loan or applies for an additional amount of loan for living costs in respect of an academic year, the Welsh Ministers may pay that loan or that additional amount of loan in such instalments (if any) and at such times as they consider appropriate as soon as is reasonably practicable after a satisfactory application has been received.

(9) No support under Part 6 is payable in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(10) No support under Part 6 is due in respect of a payment period during part of which an eligible student is absent from his or her course, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(11) In deciding whether it would be appropriate for support to be due under paragraph (10) the circumstances to which the Welsh Ministers must have regard include the reasons for the student's absence, the length of absence and the financial hardship which not paying the student would cause.

(12) An eligible student is not to be considered absent from his or her course if he or she is unable to attend due to illness and his or her absence has not exceeded 60 days.

(13) Where, after the Welsh Ministers have made any payment of loan for living costs for which a student qualifies in respect of an academic year under Part 6, they make a determination that the amount of loan for living costs for which the student qualifies is less than the amount previously determined either by way of a revision of a provisional assessment or otherwise —

- (a) they must subtract such amount as is necessary to ensure that the student does not borrow an amount of loan for living costs which is greater than that for which he or she qualifies from any amount of loan for living costs which remains to be paid;
- (b) if the amount to be subtracted is greater than the amount of loan for living costs remaining to be paid, the latter is reduced to nil;
- (c) any remaining overpayment is recoverable in accordance with regulation 60.

### **Overpayments**

**60.**—(1) Any overpayment of a grant or loan for fees may be recovered by the Welsh Ministers from the academic authority.

(2) An eligible student must, if so required by the Welsh Ministers, repay any amount paid to the student under Part 5 or 6 which for whatever reason exceeds the amount of support to which the student is entitled under Part 5 or 6.

(3) The Welsh Ministers must recover an overpayment of any grant for living costs unless they consider it is not appropriate to do so.

(4) A payment of any grant for living costs made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(5) In the circumstances in paragraph (6) or (7), there is an overpayment of the grant for disabled students' living costs unless the Welsh Ministers decide otherwise.

(6) The circumstances are—

- (a) the Welsh Ministers apply all or part of the grant for disabled students' living costs to the purchase of specialist equipment on behalf of the eligible student;
- (b) the student's period of eligibility terminates after the relevant date; and

- (c) the equipment has not been delivered to the student before his or her period of eligibility terminates.

(7) The circumstances are—

- (a) the eligible student's period of eligibility terminates after the relevant date; and
- (b) a payment of the grant for disabled students' living costs in respect of specialist equipment is made to the student after the student's period of eligibility terminated.

(8) Where there is an overpayment of the grant for disabled students' living costs, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so.

(9) Any overpayment of any grant under Part 5 may be recovered in whichever one or more of the following ways the Welsh Ministers consider appropriate in all the circumstances —

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to them.

(10) Any overpayment of a loan for living costs in respect of any academic year may be recovered if in the opinion of the Welsh Ministers —

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect whether he or she qualifies for a loan or the amount of loan for which he or she qualifies; or
- (b) any information which the student has provided is inaccurate in a material particular; or
- (c) the student has failed to provide information which the Welsh Ministers consider to be material in the context of the recovery of the loan.

(11) Where an overpayment of a loan for living costs is recoverable in accordance with paragraph (4), it may be recovered in whichever one or more of the following ways the Welsh Ministers consider appropriate in all the circumstances —

- (a) by subtracting the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to them.

(12) Where there has been an overpayment of a loan for living costs which is not recoverable under paragraph (4), the Welsh Ministers may subtract the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act.

(13) In this regulation “the relevant date” (“*y dyddiad perthnasol*”) is the date on which the first term of the academic year in question actually begins.

### **Payments - interpretation**

**61.**—(1) In this Part—

(a) “attendance confirmation” (“*cadarnhad o bresenoldeb*”) means—

(i) confirmation from the institution that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student has a disability; and

(cc) the student is undertaking the course but not attending (regardless of whether the reason for not attending relates to his or her disability);

(ii) confirmation from the institution that the student has presented himself or herself at the institution and begun to attend the course where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student has not had his or her status as an eligible student transferred to the course from another designated course at the same institution; and

(cc) sub-paragraph (i)(cc) does not apply;

(iii) confirmation from the institution that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course other than for the first time; or

(bb) the student is applying for support in connection with a designated course for the first time after having his or her status as an eligible student transferred to that

course from another course at the same institution;

- (b) “payment period” (“*cyfnod talu*”) means a period in respect of which the Welsh Ministers pay the relevant support under Part 5 or Part 6 or would have paid such support if the eligible student’s period of eligibility had not terminated.

## PART 11

### SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

#### Eligible distance learning students

**62.**—(1) An eligible distance learning student qualifies for support in connection with his or her undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing his or her application for support the Welsh Ministers determine that the person falls within one of the categories set out in Part 2 of Schedule 1.

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

- (a) subject to paragraph (4), there has been bestowed on him or her or paid to him or her in connection with the distance learning course—
- (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his or her income;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007<sup>(1)</sup>; or
  - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his or her income;
- (b) he or she is in breach of any obligation to repay any loan;

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<sup>(1)</sup>S.S.I. 2007/151, amended by S.S.I. 2007/503.

- (c) he or she has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
- (d) he or she has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support; or
- (e) subject to paragraph (5), he or she is a prisoner.

(4) Paragraph (3) (a) does not apply if—

- (a) the person applying for support is a disabled student; and
- (b) there has been bestowed on him or her or paid to him or her in connection with the distance learning course—
  - (i) a healthcare bursary the amount of which is calculated by reference to his or her income; or
  - (ii) a Scottish Healthcare Allowance whether or not the amount of such allowance is calculated by reference to his or her income.

(5) Paragraph (3) (e) does not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(6) For the purposes of paragraphs (3) (b) and (3)(c), “loan” (“*benthyciad*”) means a loan made under the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3) (c) only applies if the agreement was made—

- (a) before 25 September 1991; and
- (b) with the concurrence of the borrower’s curator or at a time when he or she had no curator.

(8) Subject to paragraphs (11) to (13), a person is an eligible distance learning student for the purposes of this Part if he or she satisfies the conditions in paragraph (9) or (10).

(9) The conditions in this paragraph are—

- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the present designated distance learning course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;

- (b) the person was ordinarily resident in Wales on the first day of the present designated distance learning course; and
- (c) the person's status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

- (a) the Welsh Ministers have previously determined that the person is—
  - (i) an eligible student in connection with a designated course;
  - (ii) an eligible distance learning student in connection with a designated distance learning course other than the present distance learning course; or
  - (iii) an eligible part-time student in connection with a designated part-time course;
- (b) the person's status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the present designated distance learning 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 Act;
- (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
- (d) the person's status as an eligible distance learning student has not terminated.

(11) Where—

- (a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which his or her status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent 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<sup>(1)</sup>),

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

(12) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which his or her status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, 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 distance learning student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Welsh Ministers determined that

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(1) 2002 c.41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), Schedules 2 and 4 and the Immigration, Asylum and Nationality Act 2006 (c. 13), section 9.

he or she was an eligible student or eligible part-time student, as the case may be, before 1 September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

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

**Students becoming eligible during the course of the academic year**

**63.**—(1) Where one of the events listed in paragraph (4) occurs in the course of an academic year—

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

(2) Where one of the events listed in subparagraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

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

(3) Where one of the events listed in subparagraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant for disabled distance learning students' living costs in respect of that academic year in accordance with this Part; and
- (b) a grant for disabled distance learning students' living costs is not available in

respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The events are—

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

#### **Designated distance learning courses**

**64.**—(1) A course is designated for the purposes of section 22(1) of the Act and regulation 62 if it is designated by the Welsh Ministers under this regulation.

(2) Subject to paragraph (4), the Welsh Ministers may designate a course under this regulation if in their opinion—

- (a) the course is mentioned in Schedule 2 other than a course for the initial training of teachers;
- (b) the course is a full-time course;
- (c) the course is of at least one academic year's duration; and
- (d) students undertaking the course in the United Kingdom are not required to be

in attendance on it by the institution or institutions providing the course.

(3) For the purposes of determining whether the requirement in paragraph (2)(d) is satisfied the Welsh Ministers may disregard—

- (a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—
  - (i) registration or enrolment;
  - (ii) an examination;
- (b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;
- (c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.

(4) The Welsh Ministers may not designate a course as a designated distance learning course if—

- (a) it falls within paragraph 7 or 8 of Schedule 2; and
- (b) the governing body of a maintained school has arranged for the provision of the course to a pupil of the school.

### **Period of eligibility**

**65.**—(1) A student retains his or her status as an eligible distance learning student in connection with a designated distance learning course until the status terminates in accordance with this regulation and regulation 62.

(2) The period for which an eligible distance learning student retains his or her status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 62, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

(4) The period of eligibility terminates when the eligible distance learning student—

- (a) withdraws from his or her designated distance learning course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert his or her status under regulation 73, 74, 75, or 88; or

- (b) abandons or is expelled from his or her designated distance learning course.

(5) The Welsh Ministers may terminate the period of eligibility where the eligible distance learning student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the Welsh Ministers are satisfied that an eligible distance learning student has failed to comply with any requirement to provide information under this Part 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;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 78.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible distance learning student completes the designated distance learning course the Welsh Ministers may, at any time, renew or extend the period of eligibility for such period as they determine.

### **Support for distance learning courses**

**66.**—(1) For the purposes of this regulation, the support available is—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
  - (i) £930; and
  - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and
- (b) a grant not exceeding £1,050 for books, travel and other expenditure in connection with the designated distance learning course.

(2) An eligible distance learning student does not qualify for support under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(3) An eligible distance learning student does not qualify for support under this regulation if—

- (a) he or she is a disabled student; and

- (b) there has been bestowed on him or her or paid to him or her in connection with the designated distance learning course—
  - (i) a healthcare bursary the amount of which is calculated by reference to his or her income; or
  - (ii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his or her income.

(4) An eligible distance learning student does not qualify for support under this regulation unless the Welsh Ministers consider that he or she is undertaking the designated distance learning course in Wales.

(5) An eligible distance learning student does not qualify for support under this regulation if he or she has undertaken one or more distance learning courses for eight academic years in aggregate and he or she has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).

(6) The loans and grants are—

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under section 22 of the Act;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(1); or
- (c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(2).

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(1) S.I. 1998/1760 (N.I. 14), to which there are amendments not relevant to these Regulations.

(2) 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998 and was amended by section 34(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3). The functions of the Secretary of State were

(7) An eligible distance learning student does not qualify for support under this regulation if he or she holds a first degree from an educational institution in the United Kingdom.

(8) For the purposes of paragraph (7), a degree is not to be treated as a first degree where—

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for his or her first degree course; and
- (b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of his or her degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

### **Amount of support**

**67.**—(1) Subject to paragraph (2) and regulation 73(6), the amount of support payable in respect of an academic year is as follows—

- (a) if at the date of his or her application the eligible distance learning student or his or her partner is entitled—
  - (i) under Part VII of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> to income support, housing benefit or council tax benefit; or
  - (ii) under Part 1 of the Jobseekers Act 1995<sup>(2)</sup> to income-based

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transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(1) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19; the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14; the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3; the Housing Act 1996 (c. 52), Schedule 19 Part 6; the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8; the Health and Social Care Act 2001 (c. 15), Schedule 6 Part 3; the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3, the Tax Credits Act 2002 (c. 21), Schedule 6; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraphs 169 and 179, the Civil Partnership Act 2004 (c. 33), Schedule 24 and the Welfare Reform Act 2007 (c. 40), Sections 30(2) and 31(1), Schedule 3, Schedule 5 and Schedule 8.

(2) 1995 c. 18; Part I was amended by the Employment Rights Act 1996 (c. 18), Schedule 1; the Social Security Act 1998 (c. 14), Schedules 7 and 8; the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 1, 7, and 8; the State Pension Credit Act 2002 (c. 16), Schedule 2; the National Insurance Contributions Act 2002 (c. 19), Schedule 1; the Income Tax (Earnings and Pensions) Act 2003 (c.

jobseeker's allowance or under section 2 of the Employment and Training Act 1973<sup>(1)</sup> to an allowance under the arrangements known as the New Deal;

the maximum amount of support available under regulation 66(1) is payable;

- (b) where the relevant income is less than £16,110, the maximum amount of support available under regulation 66(1) is payable;
- (c) where the relevant income is £16,110, the maximum amount of support available under regulation 66(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 66(1)(a);
- (d) where the relevant income exceeds £16,110 but is less than £24,295, the maximum amount of support available under regulation 66(1)(b) is payable and the amount of support payable under regulation 66(1)(a) is the amount determined in accordance with paragraph (2);
- (e) where the relevant income is £24,295, the maximum amount of support available under regulation 66(1)(b) is payable and the amount of support payable under regulation 66(1)(a) is £50;
- (f) where the relevant income exceeds £24,295 but is less than £24,925, the maximum amount of support available under regulation 66(1)(b) is payable and no support is payable under regulation 66(1)(a);
- (g) where the relevant income is £24,925 or more but less than £26,915, no support is available under regulation 66(1)(a) and the amount of support payable under regulation 66(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 66(1)(b) £1 for every

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18), Schedule 6; the Civil Partnership Act 2004 (c. 33), Schedule 24 and S.I. 2006/343.

(1) 1973 c. 50; section 2 as substituted by the Employment Act 1988 (c. 19) was amended by the Employment Act 1989 (c. 38), Schedule 7. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47 in relation to Scotland only.

complete £2.00 by which the relevant income exceeds £24,925;

- (h) where the relevant income is £26,915, no support is payable under regulation 66(1)(a) and the amount of support payable under regulation 66(1)(b) is £50;
- (i) where the relevant income exceeds £26,915, no support is payable under regulation 66(1).

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 66(1)(a) is determined by deducting from the maximum amount of support available under regulation 66(1)(a) one of the following amounts—

- (a) £50 plus a further £1 for each complete £9.86 by which the relevant income exceeds £16,110; or
- (b) where the actual fees are less than £930, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £930 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 66(1)(a) is payable).

### **Interpretation of regulation 67**

**68.**—(1) For the purposes of regulation 67—

- (a) subject to sub-paragraph (b), “partner” (“*partner*”) means any of the following—
  - (i) the spouse of an eligible distance learning student;
  - (ii) the civil partner of an eligible distance learning student;
  - (iii) a person ordinarily living with an eligible distance learning student as if he or she were his or her spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which he or she is being assessed for support and where he or she began the specified designated distance learning course before 1 September 2005;
  - (iv) a person ordinarily living with an eligible distance learning student as if he or she were his or her spouse or civil partner where an eligible distance learning student began the

specified designated distance learning course on or after 1 September 2005;

- (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
  - (i) in the opinion of the Welsh Ministers, that person and the eligible distance learning student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;
- (c) “relevant income” (“*incwm perthnasol*”) has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to his or her financial resources in the preceding financial year less—

- (i) £2,000 in respect of his or her partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his or her partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or his or her partner.

(3) Where the Welsh Ministers are satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than his or her financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, they may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation, an eligible distance learning student’s financial resources in a financial year means the aggregate of his or her income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.

(5) In this regulation—

- (a) “child” (“*plentyn*”) in relation to an eligible distance learning student includes any child of his or her partner and any child for whom he or she has parental responsibility;
- (b) “current financial year” (“*blwyddyn ariannol gyfredol*”) means the financial

- year which includes the first day of the academic year in respect of which a person is being assessed for support;
- (c) “dependent” (“*dibynnol*”) means wholly or mainly financially dependent;
  - (d) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
  - (e) “income” (“*incwm*”) means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
  - (f) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the current financial year;
  - (g) “specified designated distance learning course” (“*cwrs dysgu o bell dynodedig a bennir*”) means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the present designated distance learning course as a result of one or more transfers of that status by the Welsh Ministers from a distance learning course (the “initial course”) in connection with which the Welsh Ministers determined the student to be an eligible distance learning student pursuant to regulations made under section 22 of the Act, the specified designated distance learning course is the initial course.

**Grant for disabled distance learning students’ living costs**

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

(2) An eligible distance learning student does not qualify for the grant under this regulation if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(3) An eligible distance learning student does not qualify for the grant under this regulation in respect of any academic year that is a bursary year.

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Welsh Ministers consider that he or she is undertaking the designated distance learning course in Wales.

(5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Welsh Ministers consider appropriate in accordance with the student's circumstances.

(6) The amount of the grant under this regulation must not exceed—

- (a) £20,000 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £5,035 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 his or her course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,685 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 specified maxima.

### **Applications for support**

**70.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated distance learning course by completing and submitting to the Welsh Ministers an application in such form as the Welsh Ministers may require.

(2) The application must be accompanied by—

- (a) a declaration completed by the academic authority; and
- (b) such additional documentation as the Welsh Ministers may require.

(3) The Welsh Ministers may take such steps and make such inquiries as they consider

necessary to determine whether the applicant is an eligible distance learning student, whether he or she qualifies for support and the amount of support payable, if any.

(4) The Welsh Ministers must notify the applicant of whether he or she qualifies for support and, if he or she does qualify, the amount of support payable in respect of the academic year, if any.

(5) The general rule is that the application must reach the Welsh Ministers within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph (4) of regulation 63 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Welsh Ministers within a period of six months beginning with the day on which the relevant event occurred;
- (b) the applicant is applying for the grant for disabled distance learning students' living costs, in which case the application must reach the Welsh Ministers as soon as is reasonably practicable; or
- (c) the Welsh Ministers consider that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Welsh Ministers not later than such date as they specify.

### **Declarations provided by academic authorities**

**71.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Welsh Ministers to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” (“*datganiad*”) means—

- (a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—
  - (i) provides the course information;
  - and

- (ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;
  - (b) in any other case, a statement that—
    - (i) provides the course information; and
    - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which he or she is applying for support.
- (4) In this regulation, “course information” (“*gwybodaeth am y cwrs*”) means—
- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
  - (b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in Wales; and
  - (c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than he or she is unable to attend a designated course for a reason which relates to his or her disability.

### **Information**

**72.** Schedule 3 deals with the provision of information.

### **Transfer of status**

**73.**—(1) Where an eligible distance learning student transfers to another designated distance learning course, the Welsh Ministers must transfer the student’s status as an eligible distance learning student to that course where—

- (a) they receive a request from the eligible distance learning student to do so;
- (b) they 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) the eligible distance learning student starts to undertake another designated

distance learning course at the institution;

- (b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or
- (c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible distance learning student who transfers under paragraph (1) is to receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies in respect of the academic year of the course from which he or she transfers.

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

(5) An eligible student who transfers under paragraph (1) after the Welsh Ministers have determined his or her support in connection with the academic year of the course from which he or she is transferring but before he or she completes that year, may not apply for another grant under regulation 66(1)(b) or regulation 69 in connection with the academic year of the course to which he or she transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 66(1)(a) in respect of the academic years to and from which he or she transfers is the amount of support available in connection with the course with the highest actual fees as defined in regulation 66.

#### **Conversion of status – eligible students transferring to designated distance learning courses**

**74.**—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated distance learning course at the same or at another institution, the Welsh Ministers must convert his or her status as an eligible student to that of an eligible distance learning student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible student to do so; and

(b) the period of eligibility has not terminated.

(2) The following applies to a student who transfers under paragraph (1)—

- (a) where the Welsh Ministers have determined to pay an amount of grant for disabled students' living costs to the student under Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;
- (b) the maximum amount of grant for disabled distance learning students' living costs to which the student would, apart from this regulation, be entitled in connection with his or her undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where he or she became such a student in a later quarter of that year;
- (c) where an amount of grant for disabled students' living costs for any purpose has been paid to the student under Part 5 in a single instalment, the maximum amount of grant for disabled distance learning students' living costs payable to him or her for that purpose is reduced (or where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and
- (d) where immediately before he or she became an eligible distance learning student he or she was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which he or she was entitled, he or she may apply for such a loan or such additional amount as if he or she had continued to be an eligible student and in the circumstances mentioned in paragraph (3) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(3) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be)

is reduced by two thirds and where the request is made during the second quarter of that year that amount is reduced by one third.

**Conversion of status – eligible distance learning students transferring to designated courses**

**75.**—(1) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated course at the same or at another institution, the Welsh Ministers must convert his or her status as an eligible distance learning student to that of an eligible student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(2) The following applies to a student who transfers under paragraph (1)—

- (a) where the Welsh Ministers have determined to pay an amount of grant for disabled distance learning students' living costs to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he or she may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of the academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he or she became such a student in a later quarter of that year; and
- (d) where an amount of grant for disabled distance learning students' living costs for any purpose has been paid to the student in a single instalment, the maximum amount of grant for disabled students' living costs payable to him or her under Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of grant for disabled distance learning students' living costs paid to him or her for that purpose

and where the resulting amount is nil or a negative amount that amount is nil.

#### **Payment of grants for fees**

**76.**—(1) Subject to paragraphs (2) and (3), the Welsh Ministers must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after a valid request for payment has been received.

(2) The Welsh Ministers may make payments under paragraph (1) at such times and in such instalments as they see fit.

(3) The Welsh Ministers may make provisional payments under paragraph (1) in such cases as they deem appropriate.

#### **Payment of grants for books, travel and other expenditure and grant for disabled distance learning students' living costs**

**77.**—(1) Payments of the grant for books, travel and other expenditure and the grant for disabled distance learning students' living costs may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible distance learning student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Welsh Ministers cannot make a final assessment on the basis of the information provided by the student, they may make a provisional assessment and payment of the grant for books, travel and other expenditure and the grant for disabled distance learning students' living costs.

(3) The Welsh Ministers may pay the grant for books, travel and other expenditure and the grant for disabled distance learning students' living costs in instalments.

(4) Subject to paragraph (5), the Welsh Ministers may pay the grant for books, travel and other expenditure and the grant for disabled distance learning students' living costs at such times as they consider appropriate.

(5) The Welsh Ministers must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the grant for disabled distance learning students' living costs before they have

received a declaration under regulation 71 unless an exception applies.

(6) An exception applies if—

- (a) a grant for disabled distance learning students' living costs is payable in which case that particular grant may be paid before the Welsh Ministers have received a declaration;
- (b) the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Overpayments**

**78.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Welsh Ministers from the academic authority.

(2) An eligible distance learning student must, if so required by the Welsh Ministers, repay any amount paid to him or her under this Part which for whatever reason exceeds the amount of grant to which he or she is entitled under this Part.

(3) The Welsh Ministers must recover an overpayment of grant for books, travel and other expenditure and grant for disabled distance learning students' living costs unless they consider that it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Welsh Ministers.

(5) A payment of the grant for disabled distance learning students' living costs made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(6) In this regulation, the "relevant date" (*"dyddiad perthnasol"*) is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the grant for disabled distance learning students' living costs unless the Welsh Ministers decide otherwise.

(8) The circumstances are—

- (a) the Welsh Ministers apply all or part of the grant for disabled distance learning students' living costs to the purchase of specialist equipment on behalf of the eligible distance learning student;
  - (b) the student's period of eligibility terminates after the relevant date; and
  - (c) the equipment has not been delivered to the student before the period of eligibility terminated.
- (9) The circumstances are—
- (a) the eligible distance learning student's period of eligibility terminates after the relevant date; and
  - (b) a payment of the grant for disabled part-time students' living costs in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the grant for disabled distance learning students' living costs, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so.

## PART 12

### SUPPORT FOR PART-TIME COURSES

#### **Eligible part-time students**

**79.**—(1) An eligible part-time student qualifies for support in connection with his or her undertaking a designated part-time course subject to and in accordance with this Part.

(2) A person is an eligible part-time student in connection with a designated part-time course if —

- (a) in assessing his or her application for support 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) A person is not an eligible part-time student if —

- (a) there has been bestowed on that person or paid to that person in relation to his or her undertaking the part-time course —

- (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to the person's income;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007; or
  - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to that person's income;
- (b) that person is in breach of any obligation to repay any loan;
  - (c) that person has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
  - (d) that person has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support; or
  - (e) subject to paragraph (4), he or she is a prisoner.

(4) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison or is released from prison .

(5) For the purposes of paragraphs (3)(b) and (3)(c), "loan" ("*benthyciad*") means a loan made under the student loans legislation.

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made —

- (a) before 25 September 1991; and
- (b) with the concurrence of the borrower's curator or at a time when he or she had no curator.

(7) Subject to paragraphs (10) to (12), a person is an eligible part-time student for the purposes of this Part if he or she satisfies the conditions in paragraphs (8) or (9).

(8) The conditions in this paragraph are —

- (a) he or she qualified as an eligible part-time student in connection with an earlier academic year of the present designated part-time course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) the person was ordinarily resident in Wales on the first day of the present designated part-time course; and
- (c) the person's status as an eligible part-time student has not terminated.

(9) The conditions in this paragraph are—

- (a) the Welsh Ministers have previously determined that the person is—
  - (i) an eligible student in connection with a designated course; or
  - (ii) an eligible part-time student in connection with a designated part-time course other than the present designated part-time course;
- (b) the person’s status as an eligible student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the present designated part-time 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 Act;
- (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
- (d) the person’s status as an eligible part-time student has not terminated.

(10) Where—

- (a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent 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 part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(11) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, 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 part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

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

(13) An eligible part-time student does not qualify for support under regulation 82(1)(b) or regulation 83 if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(14) An eligible part-time student qualifies for support —

- (a) under regulation 82(1)(a) if the Welsh Ministers consider that he or she is undertaking the designated part-time course in Wales; or
- (b) under regulation 82(1)(b) or 83 if the Welsh Ministers consider that he or she is undertaking the designated part-time course in the United Kingdom.

(15) An eligible part-time student does not qualify for support under regulation 82 if he or she has undertaken one or more part-time courses for eight academic years in aggregate and he or she has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (16).

(16) The loans and grants referred to in paragraph (15) are —

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the Act;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998; or
- (c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(17) An eligible part-time student does not qualify for support under regulation 82 if he or she holds a first degree from an educational institution in the United Kingdom.

(18) For the purposes of paragraph (17), a degree is not treated as a first degree where —

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his or her first degree course; and
- (b) the eligible part-time student is registered to continue the course at the same educational institution after the award of his or her degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

(19) Where one of the events listed in paragraph (21) occurs in the course of an academic year —

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

(20) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) (h) or (i) of paragraph (21) occurs in the course of an academic year —

- (a) a student may qualify for a grant for books, travel and other expenditure or for a grant for

disabled part-time students' living costs (or both) in respect of that academic year in accordance with this Part; and

- (b) neither a grant for books, travel and other expenditure is available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(21) The events are —

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

(22) An eligible part-time student may not, at any one time, qualify for support for —

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

### **Designated part-time courses**

**80.**—(1) Subject to paragraphs (2) and (3), a part-time course is designated for the purposes of section 22(1) of the Act and regulation 79 if —

- (a) it is a course mentioned in Schedule 2 other than a course for the initial training of teachers;
- (b) it is of at least one academic year's duration;
- (c) it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full-time equivalent;
- (d) it is wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom;
- (e) it is not designated by or under regulation 5; and
- (f) it is not designated by or under regulation 64.

(2) A course falling within paragraph 6 or 7 of Schedule 2 is not a designated part-time 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 part-time course.

(4) 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(1).

(5) For the purposes of paragraph (1)(c)—

- (a) “full-time equivalent” (“*cwrs amser-llawn cyfatebol*”) means a full-time course leading to the same qualification as the part-time course in question;
- (b) the “period ordinarily required to complete the full-time equivalent” (“*cyfnod sy’n ofynnol*”

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(1) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

*fel arfer i gwblhau'r cwrs amser-llawn cyfatebol*") means—

- (i) where the course is provided by or on behalf of the Open University, the period that a standard full-time student would require to complete the full-time equivalent if he or she were awarded 120 credit points in each academic year;
  - (ii) where the course is provided by or on behalf of any other institution, the period in which a standard full-time student would complete the full-time equivalent;
- (c) "standard full-time student" (*"myfyriwr amser-llawn safonol"*) is a student who is to be taken —
- (i) to have started the full-time equivalent on the same date as the eligible part-time student started the part-time course in question;
  - (ii) not to have been excused any part of the full-time equivalent;
  - (iii) not to have repeated any part of the full-time equivalent; and
  - (iv) not to have been absent from the full-time equivalent other than during vacations.
- (6) For the purposes of section 22 of the Act and regulation 79(1) the Welsh Ministers may designate courses of higher education which are not designated by paragraph (1).

### **Period of eligibility**

**81.**—(1) A student retains his or her status as an eligible part-time student in connection with a designated part-time course until the status terminates in accordance with this regulation and regulation 79.

(2) The period for which an eligible part-time student retains his or her status is the "period of eligibility" (*"cyfnod cymhwysra"*).

(3) Subject to the following paragraphs and regulation 79, the period of eligibility terminates at the end of the academic year in which the eligible part-time student completes his or her designated part-time course.

(4) The period of eligibility terminates when the eligible part-time student —

- (a) withdraws from his or her designated part-time course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert his or her status under regulation 87 or 88; or
- (b) abandons or is expelled from his or her designated part-time course.

(5) The period of eligibility terminates at the end of the relevant academic year where the eligible part-time student cannot complete the designated part-time course within the period specified in regulation 80(1) (c).

(6) For the purposes of paragraph (5) “relevant academic year” (“*blwyddyn academaidd berthnasol*”) means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 80(1) (c) even if he or she increases his or her intensity of study.

(7) The Welsh Ministers may terminate the period of eligibility where the eligible part-time student has shown himself or herself by his or her conduct to be unfitted to receive support.

(8) If the Welsh Ministers are satisfied that an eligible part-time student has failed to comply with any requirement to provide information under this Part 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;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 91.

(9) Where the period of eligibility terminates—

- (a) before the end of the academic year in which the eligible part-time student completes the designated part-time course; and
- (b) otherwise than under paragraph (5),

the Welsh Ministers may, at any time, renew, or extend the period of eligibility for such period as they determine.

### **Support for part-time courses**

**82.**—(1) For the purposes of this regulation, the support available is —

- (a) a grant in respect of fees not exceeding the lesser of the following amounts —
  - (i) the basic grant, and
  - (ii) the “actual fees” (“*ffioedd gwirioneddol*”), being the amount of fees charged in respect of an academic year of the designated part-time course; and
- (b) a grant not exceeding £1,050 for books, travel and other expenditure in connection with the designated part-time course.

(2) The basic grant varies according to the intensity of study.

The intensity of study is calculated as follows and

$$\text{expressed as a percentage } \frac{PT}{FT} \times 100$$

where

PT is the number of modules, credits, credit points, points or other unit to be awarded to the eligible part-time student by the academic authority if he or she successfully completes the academic year in connection with which he or she is applying for support;

FT is—

- (a) where the course is provided by or on behalf of the Open University, 120;
- (b) where the course is provided by or on behalf of any other institution, the number of modules, credits, credit points, points or other unit that a standard full-time student would be required to obtain in each academic year in order to complete the full-time equivalent within the period ordinarily required to complete that course.

(3) For the purposes of paragraph (2)—

- (a) “full-time equivalent” (“*cwrs amser-llawn cyfatebol*”) and “standard full-time student” (“*myfyriwr amser-llawn safonol*”) are to be interpreted in accordance with regulation 80; and
- (b) “the period ordinarily required to complete the full-time equivalent” (“*cyfnod sy’n ofynnol fel arfer i gwblhau’r cwrs amser-llawn cyfatebol*”) is to be calculated in accordance with regulation 80.

(4) The “basic grant” (“*grant sylfaenol*”) is —

- (a) £620 where the intensity of study is less than 60 per cent. (“level 1”);
- (b) £745 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
- (c) £930 where the intensity of study is 75 per cent. or more (“level 3”).

(5) Subject to paragraph (6) and regulation 86, the amount of support payable in respect of an academic year is as follows —

- (a) if at the date of his or her application the eligible part-time student or his or her partner is entitled —
  - (i) under Part VII of the Social Security Contributions and Benefits Act 1992 to

income support, housing benefit or council tax benefit; or

- (ii) under Part 1 of the Jobseekers Act 1995 to income-based jobseekers allowance or under section 2 of the Employment and Training Act 1973 to an allowance under the arrangements known as the New Deal;

the maximum amount of assistance available under regulation 82(1) is payable.

- (b) where the relevant income is less than £16,110, the maximum amount of support available under regulation 82 (1) is payable;
- (c) where the relevant income is £16,110, the maximum amount of support available under regulation 82(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 82 (1)(a);
- (d) where the relevant income exceeds £16,110 but is less than £24,295, the maximum amount of support available under regulation 82(1)(b) is payable and the amount of support payable under regulation 82 (1)(a) is the amount determined in accordance with paragraph (6);
- (e) where the relevant income is £24,295, the maximum amount of support available under regulation 82(1)(b) is payable and the amount of assistance payable under regulation 82(1)(a) is £50;
- (f) where the relevant income exceeds £24,295 but is less than £24,925, the maximum amount of support available under regulation 82 (1)(b) is payable and no support is payable under regulation 82 (1)(a);
- (g) where the relevant income is £24,925 or more but less than £26,915, no support is available under regulation 82(1)(a) and the amount of support payable under regulation 82 (1)(b) is the amount left after deducting from the maximum amount of support available under regulation 82 (1)(b) £1 for every complete £2.00 by which the relevant income exceeds £24,925;
- (h) where the relevant income is £26,915, no support is payable under regulation 82 (1)(a) and the amount of support payable under regulation 82(1)(b) is £50;
- (i) where the relevant income exceeds £26,915, no support is payable under regulation 82 (1).

(6) Where paragraph (5)(d) applies, the amount of support payable under regulation 82(1)(a) is determined by deducting from the maximum amount of support available under regulation 82 (1)(a) one of the following amounts —

- (a) £50 plus a further £1 for each complete £15.74, £12.69 and £9.86 by which the relevant income exceeds £16,110 according to whether the intensity of study is level 1, 2 or 3, respectively; or
  - (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 82 (1)(a) is payable).
- (7) For the purposes of this regulation —
- (a) “child” (“*plentyn*”) in relation to an eligible part-time student includes any child of his or her partner and any child for whom he or she has parental responsibility;
  - (b) “current financial year” (“*y flwyddyn ariannol gyfredol*”) means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;
  - (c) “dependent” (“*dibynnol*”) means wholly or mainly financially dependent;
  - (d) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;
  - (e) “income” (“*incwm*”) means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
  - (f) subject to sub-paragraph (g), “partner” (“*partner*”) means any of the following —
    - (i) the spouse of an eligible part-time student;
    - (ii) the civil partner of an eligible part-time student;
    - (iii) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he or she is being assessed for support and where he or she began the specified designated part-time course before 1 September 2005;
    - (iv) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse or civil partner where an eligible part-time student begins the

specified designated part-time course on or after 1 September 2005;

- (g) a person who would otherwise be a partner under sub-paragraph (f) is not treated as a partner if —
  - (i) in the opinion of the Welsh Ministers, that person and the eligible part-time student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
- (h) “preceding financial year” (*“blwyddyn ariannol flaenorol”*) means the financial year immediately preceding the current financial year;
- (i) “relevant income” (*“incwm perthnasol”*) has the meaning given in paragraph (8).

(8) Subject to paragraph (9), an eligible part-time student’s relevant income is equal to his or her financial resources in the preceding financial year less —

- (i) £2,000 in respect of his or her partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his or her partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or his or her partner.

(9) Where the Welsh Ministers are satisfied that an eligible part-time student’s financial resources in the preceding financial year are greater than his or her financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, they may assess that student’s financial resources by reference to those resources in the current financial year.

(10) In this regulation, an eligible part-time student’s financial resources in a financial year means the aggregate of his or her income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.

(11) In this regulation “specified designated part-time course” (*“cwrw rhan-amser dynodedig a bennir”*) means the course in respect of which the person is applying for support or, where the student’s status as an eligible part-time student has been transferred to the present designated part-time course as a result of one or more transfers of that status by the Welsh Ministers from a part-time course (the “initial course”) in connection with which the Welsh Ministers determined the student to be an eligible part-time student pursuant to regulations made under section 22 of the Act, the

specified designated part-time course is the initial course.

### **Grants for disabled part-time students' living costs**

**83.**—(1) An eligible part-time student qualifies in accordance with this Part for a grant for disabled part-time students' living costs to assist with the additional expenditure which the Welsh Ministers are satisfied the student is obliged to incur by reason of a disability to which he or she is subject in respect of his or her undertaking a designated part-time course.

(2) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Welsh Ministers consider appropriate.

(3) The amount of the grant must not exceed —

- (a) £10,000 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £5,035 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 his or her course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,260 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in subparagraph (a) or (b) which exceeds the specified maxima.

### **Applications for support**

**84.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated part-time course by completing and submitting to the Welsh Ministers an application in such form as the Welsh Ministers may require.

(2) The application must be accompanied by—

- (a) a declaration under regulation 86(2) to (6) completed by the academic authority; and
- (b) such additional documentation as the Welsh Ministers may require.

(3) The general rule is that the application must reach the Welsh Ministers within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(4) The general rule does not apply where —

- (a) one of the events listed in regulation 79(3) occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Welsh Ministers within a period of six months beginning with the day on which the event occurred.
- (b) the applicant is applying for a grant for disabled part-time students' living costs, in which case the application must reach the Welsh Ministers as soon as is reasonably practicable; or
- (c) the Welsh Ministers consider that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Welsh Ministers not later than such date as they specify.

(5) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether the applicant is an eligible part-time student, whether he or she qualifies for support and the amount of support payable, if any.

(6) The Welsh Ministers must notify the applicant of whether or not he or she qualifies for support and, if the applicant does qualify, the amount of support payable in respect of the academic year, if any.

**Assistance with fees in respect of attendance on a course in England, Northern Ireland or Scotland**

**85.**—(1) The Welsh Ministers may pay support to assist with fees to an eligible part-time student in connection with his or her attendance on a designated part-time course in England, Northern Ireland or Scotland.

(2) The assistance paid under paragraph (1) must not exceed the lesser of—

- (a) the maximum amount of assistance that would have been payable to the eligible part-time student under regulation 82(1)(a) had he or she been undertaking the course in Wales; and
- (b) the maximum amount of support to assist with fees that in the opinion of the Welsh Ministers would have been payable to him or her according to whether he or she attends the designated part-time course in England, Northern Ireland or Scotland—
  - (i) pursuant to regulations made by the Secretary of State under section 22 of the Act had he or she been ordinarily resident in England and undertaking the part-time course in England;
  - (ii) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern

Ireland) Order 1998 had he or she been ordinarily resident in Northern Ireland and undertaking the part-time course in Northern Ireland; or

- (iii) from funds of the Scottish Further and Higher Education Funding Council (1) had he or she been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

### **Information and other matters**

**86.**—(1) Schedule 3 applies to the provision of information.

(2) Subject to paragraph (3), the appropriate academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Welsh Ministers to accompany the application for support.

(3) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(4) In this Part, “declaration” (*“datganiad”*) means—

- (a) where the applicant is applying for support in connection with the designated part-time course for the first time, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has undertaken at least two weeks of the designated part-time course;
- (b) in any other case, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated part-time course in respect of which he or she is applying for support.

(5) In this regulation, “course information” (*“gw bodaeth am y cwrs”*) means—

- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
- (b) the intensity of study;
- (c) certification by the academic authority that it considers—
  - (i) the course to be a designated part-time course;
  - (ii) that it will be possible for the applicant to complete the course within the period specified in regulation 80(1)(c).

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(1) This body was established under section 1 of the Further and Higher Education (Scotland) Act 2005 (asp 6).

(6) For the purposes of paragraph (5)(c)(ii) the academic authority must have regard for —

- (a) any increase in intensity of study that would be required for the applicant to complete the course within the period specified in regulation 80(1)(c);
- (b) any parts of the course which the applicant has been required to repeat.

### **Transfer of status**

**87.**—(1) Where an eligible part-time student transfers to another part-time course, the Welsh Ministers must transfer the student's status as an eligible part-time student to that course where —

- (a) they receive a request from the eligible part-time student to do so;
- (b) they 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) the eligible part-time student starts to undertake another designated part-time course at the institution;
- (b) the eligible part-time student starts to undertake a designated part-time course at another institution; or
- (c) after commencing a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted to a designated part-time course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible part-time student who transfers under paragraph (1) is entitled, for the remainder of the academic year in which he or she transfers, to continue to receive in connection with the course to which he or she transfers the support for which the Welsh Ministers have determined he or she qualifies in respect of the course from which he or she transfers.

(4) The Welsh Ministers may re-assess the amount of support payable after the transfer in accordance with this Part.

(5) An eligible student who transfers under paragraph (1) after the Welsh Ministers have determined his or her support in connection with the academic year of the course from which he or she is transferring but before he or she completes that year may not apply for another grant under regulation 82(1) (b) or regulation 83 in

connection with the academic year of the course to which he or she transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of assistance under regulation 82(1)(a) in respect of the academic years to and from which he or she transfers is the amount of assistance with fees available in connection with the course which has the highest intensity of study as defined in regulation 82.

### **Conversion of status**

**88.**—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Welsh Ministers must convert the student's status as an eligible student to that of an eligible part-time student in connection with the course to which he or she is transferring where —

- (a) they receive a request from the eligible student to do so; and
- (b) the period of eligibility has not terminated.

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is treated as satisfying regulation 80(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period normally required to complete the remainder of the designated course from which the student transfers.

(3) The following applies to a student who transfers under paragraph (1) —

- (a) where the Welsh Ministers have determined to pay an amount of grant to the student under regulation 24 in periodic instalments, no payment in respect of that amount of grant may be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled pursuant to regulation 83 in connection with his or her undertaking a designated part-time course in respect of that academic year is reduced by one third where the student became an eligible part-time student during the second quarter of the academic year and by two thirds where he or she became such a student in a later quarter of that year;
- (c) where an amount of grant for any purpose has been paid to the student under regulation 24 in a single instalment, the maximum amount of grant payable to him or her pursuant to regulation 83 for that purpose is reduced (or,

where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to regulation 24, and where the resulting amount is nil or a negative amount that amount is nil; and

- (d) where immediately before he or she became an eligible part-time student he or she was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum for which he or she was entitled, he or she may apply for such a loan or such additional amount of loan as if he or she had continued to be an eligible student and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

(5) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated part-time course at the same or at another institution, the Welsh Ministers must convert that student's status as an eligible distance learning student to that of an eligible part-time student in connection with the course to which he or she is transferring where —

- (a) they receive a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(6) Where, before completing the designated distance learning course the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part time course is to be treated as satisfying regulation 80 (1) (b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers.

(7) Subject to paragraph (8), a student who transfers under paragraph (5) is entitled to receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies under Part 11 in respect of the academic year of the

designated distance learning course from which he or she transfers.

(8) The Welsh Ministers may re-assess the amount of support payable after the transfer.

(9) An eligible student who transfers under paragraph (5) after the Welsh Ministers have determined his or her support in connection with the academic year of the distance learning course from which he or she is transferring but before he or she completes that year—

- (a) may not apply for a grant under regulation 82 (1) (b) if he or she has already applied for a grant under regulation 66 (1) (b);
- (b) may not apply for a grant under regulation 83 if he or she has already applied for a grant under regulation 24.

(10) Where a student transfers under paragraph (5), the total amount of support paid to the student under regulation 66 (1) (a) and 82 (1) (a) in respect of —

- (a) the academic year from which he or she transfers; and
- (b) the academic year to which he or she transfers;

must not exceed the amount of support determined to be payable to the student under regulation 66 (1) (a).

(11) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated course at the same or at another institution, the Welsh Ministers must convert that student's status as an eligible part-time student to that of an eligible student in connection with the course to which he or she is transferring where —

- (a) they receive a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(12) The following applies to a student who transfers under paragraph (11) —

- (a) where the Welsh Ministers have determined to pay an amount of grant to the student pursuant to regulation 83 in periodic instalments no payment in respect of that amount of grant may be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he or she may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Parts 5 or 6 to which the student would, apart

from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he or she became such a student in a later quarter of that year; and

- (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 83 in a single instalment, the maximum amount of grant payable to him or her under regulation 24 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to regulation 83 and where the resulting amount is nil or a negative amount that amount is nil.

(13) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated distance learning course at the same or at another institution, the Welsh Ministers must convert that student's status as an eligible part-time student to that of an eligible distance learning student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(14) Subject to paragraph (15), a student who transfers under paragraph (13) is entitled to receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies under this Part in respect of the academic year of the designated part-time course from which he or she transfers.

(15) The Welsh Ministers may re-assess the amount of support payable after the transfer.

(16) An eligible student who transfers under paragraph (13) after the Welsh Ministers have determined his or her support in connection with the academic year of the distance learning course from which he or she is transferring but before he or she completes that year—

- (a) may not apply for a grant under regulation 66(1)(b) if he or she has already applied for a grant under regulation 82(1)(b);
- (b) may not apply for a grant under regulation 83 if he or she has already applied for a grant under regulation 24.

(17) Where a student transfers under paragraph (13), the total amount of assistance paid to the student under regulations 66(1)(a) and 82(1)(a) in respect of—

- (a) the academic year from which he or she transfers; and

- (b) the academic year to which he or she transfers;

must not exceed the maximum amount of support determined to be payable to the student under regulation 66(1)(a).

#### **Payment of support to eligible part-time students**

**89.**—(1) Payments of the grant for books, travel and other expenditure and the grant for disabled part-time students' living costs may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible part-time student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Welsh Ministers cannot make a final assessment on the basis of the information provided by the student, they may make a provisional assessment and payment of the grant for books, travel and other expenditure and the grant for disabled part-time students' living costs.

(3) The Welsh Ministers may pay the grant for books, travel and other expenditure and the grant for disabled part-time students' living costs in instalments.

(4) Subject to paragraph (5), the Welsh Ministers may pay the grant for books, travel and other expenditure and the grant for disabled part-time students' living costs at such times as they consider appropriate.

(5) The Welsh Ministers must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the grant for disabled part-time students' living costs under regulation 83 before they have received the declaration under regulation 86(2) to (6) unless an exception applies.

(6) An exception applies if—

- (a) a grant for disabled part-time students' living costs under regulation 83 is payable in which case that particular grant may be paid before the Welsh Ministers have received a declaration;
- (b) the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

#### **Payment of grants for fees**

**90.**—(1) Subject to paragraphs (2) and (3), the Welsh Ministers must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after a valid request for payment has been received.

(2) The Welsh Ministers may make payments under paragraph (1) at such times and in such instalments as they see fit.

(3) The Welsh Ministers may make provisional payments under paragraph (1) in such cases as they deem appropriate.

### **Overpayments**

**91.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Welsh Ministers from the academic authority.

(2) An eligible part-time student must, if so required by the Welsh Ministers, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he or she is entitled under this Part.

(3) The Welsh Ministers must recover an overpayment of grant for books, travel and other expenditure and the grant for disabled part-time students' living costs unless they consider that it is not appropriate to do so.

(4) The methods of recovery are —

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) taking such other action for the recovery of an overpayment as is available to them.

(5) A payment of the grant for disabled part-time students' living costs made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(6) The “relevant date” (*dyddiad perthnasol*) is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances in paragraph (8) or (9), there is an overpayment of the grant for disabled part-time students' living costs unless the Welsh Ministers decide otherwise.

(8) The circumstances are—

- (a) the Welsh Ministers apply all or part of the grant for disabled part-time students' living costs to the purchase of specialist equipment on behalf of the eligible part-time student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the student's period of eligibility terminated.

(9) The circumstances are—

- (a) the eligible part-time student's period of eligibility terminates after the relevant date; and
- (b) a payment of the grant for disabled part-time students' living costs in respect of specialist equipment is made to the student after the eligible part-time student's period of eligibility terminates.

(10) Where there is an overpayment of the grant for disabled part-time students' living costs, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so.

## PART 13

### SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

#### **Eligible postgraduate students**

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

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

(3) The conditions are —

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

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

- (a) there has been bestowed on him or her or paid to him or her in relation to his or her undertaking the course —

- (i) a healthcare bursary;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;
  - (iii) any allowance, bursary or award of similar description made by a Research Council;
  - (iv) any allowance, bursary or award of similar description made by his or her institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his or her disability; or
  - (v) any allowance, bursary or award of similar description made by the General Social Care Council under section 67(4)(a) of the Care Standards Act 2000<sup>(1)</sup> which includes payment for meeting additional expenditure incurred by the student by reason of his or her disability; or
- (b) he or she is in breach of an obligation to repay any loan;
  - (c) he or she has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
  - (d) that person has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support.

(5) For the purposes of paragraphs (4)(b) and (4)(c), “loan” (“*benthyciad*”) means a loan made under the student loans legislation.

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(c) only applies if the agreement was made –

- (a) before the 25 September 1991; and
- (b) with the concurrence of the borrower’s curator or at a time when he or she had no curator.

(7) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(8) An eligible postgraduate student does not qualify for a grant under this Part unless he or she is undertaking his or her course in the United Kingdom.

(9) Despite paragraphs (3)(a) and (4), a person is an eligible postgraduate student for the purposes of this Part if he or she satisfies the conditions in paragraph (3) (b) and paragraph (10) or (11).

(10) The conditions are —

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(1) 2000 c.14.

- (a) the person qualified as an eligible postgraduate student in connection with an earlier academic year of the present designated postgraduate course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) the person was ordinarily resident in Wales on the first day of the academic year of the present designated postgraduate course; and
- (c) the person's status as an eligible postgraduate student has not terminated.

(11) The conditions are —

- (a) the Welsh Ministers have previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the present designated postgraduate course;
- (b) the student's status as an eligible postgraduate student in connection with the course in sub-paragraph (a) has been transferred from that course to the present course as a result of one or more transfers in accordance with regulations made by the Welsh Ministers under section 22 of the Act;
- (c) the person was ordinarily resident in Wales on the first day of the academic year of the course referred to in sub-paragraph (a); and
- (d) the person's status as an eligible postgraduate student has not terminated.

(12) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which his or her status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the refugee status of A or of his or her spouse, civil partner, parent or step-parent has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(13) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which his or her status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

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

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

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

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

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

(17) The events are—

- (a) the student’s course becomes a designated postgraduate course;

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

#### **Designated postgraduate courses**

**93.**—(1) A postgraduate course is designated for the purposes of section 22(1) of the Act and regulation 92 if —

- (a) it is a course entry for which a first degree (or equivalent qualification) or higher is normally required;
- (b) it is a course —
  - (i) of at least one academic year's duration; and
  - (ii) in the case of a part-time course, it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full time equivalent;
- (c) it is wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not a course for the initial training of teachers or a course taken as part of an employment based teacher training scheme.

(2) 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 it has entered 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(1).

(3) For the purposes of paragraph (1)(b)(ii)—

- (a) “full-time equivalent” (“*cwrs amser-llawn cyfatebol*”) means a full-time course leading to the same qualification as the course in question;
- (b) “period ordinarily required to complete the full-time equivalent” (“*cyfnod sy’n ofynnol fel arfer i gwblhau’r cwrs amser-llawn cyfatebol*”) means the period that a standard full-time student would require to complete the full-time equivalent;
- (c) “standard full-time student” (“*myfyriwr amser-llawn safonol*”) means a student who is to be taken —
  - (i) to have begun the full-time equivalent on the same date as the eligible part-time student began the course in question;
  - (ii) not to have been excused any part of the full-time equivalent;
  - (iii) not to have repeated any part of the full-time equivalent; and
  - (iv) not to be absent from the full-time equivalent other than during vacations.

(4) For the purposes of section 22 of the Act and regulation 92, the Welsh Ministers may designate courses of higher education which are not designated under paragraph (1).

### **Period of eligibility**

**94.**—(1) An eligible postgraduate student retains his or her status as an eligible postgraduate student until the status is terminated in accordance with this regulation and regulation 92.

(2) The period for which an eligible postgraduate student retains the status is the “period of eligibility” (“*cyfnod cymhwysra*”).

(3) Subject to the following paragraphs and regulation 92, the period of eligibility terminates at the end of the period ordinarily required for completion of the designated postgraduate course.

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(1) 1992 c.13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c.30), section 27.

(4) The period of eligibility terminates when the eligible postgraduate student —

- (a) withdraws from his or her designated postgraduate course in circumstances where the Welsh Ministers have not transferred or will not transfer his or her status as an eligible postgraduate student to another course under regulation 95; or
- (b) abandons or is expelled from his or her designated postgraduate course.

(5) The Welsh Ministers may terminate the period of eligibility where the eligible postgraduate student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the Welsh Ministers are satisfied that an eligible postgraduate student has failed to comply with any requirement to provide information under this Part 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 grant or any particular amount of grant;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 100.

(7) Where the period of eligibility terminates on or before the expiry of the period ordinarily required for the completion of the designated postgraduate course, the Welsh Ministers may, at any time, renew the period of eligibility for such periods as they determine.

### **Transfer of status**

**95.**—(1) Where an eligible postgraduate student transfers to another postgraduate course, the Welsh Ministers must transfer the student's status as an eligible postgraduate student to that course where —

- (a) they receive a request from the eligible postgraduate student to do so;
- (b) they 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 the eligible postgraduate student starts to undertake another designated postgraduate course at the institution; or
- (b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution.

(3) Subject to paragraph (4), an eligible postgraduate student who transfers under paragraph (1) shall, for the remainder of the academic year in which he or she transfers, continue to receive in connection with the course to which he or she transfers the support for which the Welsh Ministers have determined he or she qualifies in respect of the course from which he or she transfers.

(4) The Welsh Ministers may re-assess the support after the transfer.

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

### **Applications for support**

**96.**—(1) A person (the “applicant”) must apply for a grant under this Part in connection with each academic year of a designated postgraduate course by completing and submitting to the Welsh Ministers an application in such form and accompanied by such documentation as the Welsh Ministers may require.

(2) The application must reach the Welsh Ministers as soon as is reasonably practicable.

(3) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether the applicant is an eligible postgraduate student, whether he or she qualifies for a grant and the amount of grant payable, if any.

(4) The Welsh Ministers must notify the applicant—

- (a) whether he or she qualifies for a grant;
- (b) if he or she does qualify, the amount payable in respect of the academic year, if any; and
- (c) how that amount is allocated between the types of eligible expenditure.

### **Information**

**97.** Schedule 3 applies to the provision of information.

### **Amount of grant**

**98.**—(1) Subject to paragraph (2), the grant under this Part is such amount as the Welsh Ministers consider appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £10,000 in respect of an academic year.

(3) For the purposes of this Part, the “types of eligible expenditure” are—

- (a) expenditure on a non-medical helper;
- (b) expenditure on major items of specialist equipment; and
- (c) 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 part of the course, any period of study at an overseas institution or for the purposes of attending the Institute.

### **Payment of grant**

**99.**—(1) The Welsh Ministers may pay a grant for which a student qualifies under this Part in such instalments (if any) and at such times as they consider appropriate and in the exercise of their functions under this Part they may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) Payments may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible postgraduate student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

### **Overpayments**

**100.**—(1) An eligible postgraduate student must, if so required by the Welsh Ministers, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he or she is entitled under this Part.

(2) The Welsh Ministers must recover an overpayment of grant under this Part unless they consider it is not appropriate to do so.

(3) The methods of recovery are —

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) taking such other action for the recovery of an overpayment as is available to them.

(4) A payment of grant under this Part made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(5) In this regulation, the “relevant date” (“*dyddiad perthnasol*”) is the date on which the first term of the academic year in question actually begins.

(6) In the circumstances in paragraphs (7) and (8), there is an overpayment of grant under this Part unless the Welsh Ministers decide otherwise.

(7) The circumstances are—

- (a) the Welsh Ministers apply all or part of the grant under this Part to the purchase of specialist equipment on behalf of the eligible postgraduate student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the student's period of eligibility terminated.

(8) The circumstances are—

- (a) the eligible postgraduate student's period of eligibility terminates; and
- (b) a payment of grant under this Part in respect of specialist equipment is made to the student after the student's period of eligibility terminated.

(9) Where there is an overpayment of the grant under this Part, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so.

*Jane Hutt*

Minister for Children, Education, Lifelong Learning  
and Skills, one of the Welsh Ministers

7 May 2008

# SCHEDULE 1

Regulations 4, 62, 79 and 92

## Eligible Students

### PART 1

#### Interpretation

1.—(1) For the purposes of this Schedule —

“EEA frontier self-employed person” (*“person hunan-gyflogedig ffin yr AEE”*) means an EEA national who —

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” (*“gweithiwr ffin yr AEE”*) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” (*“gweithiwr mudol o’r AEE”*) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (*“gwladolyn o’r AEE”*) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (*“person hunan gyflogedig o’rAEE”*) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (*“gwladwriaeth AEE”*) means a Member State of the European Economic Area;

“employed person” (*“person cyflogedig”*) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” (*“Ardal Economaidd Ewropeaidd”*) means the area comprised by the EEA States;

“family member” (“*aelod o deulu*”) means (unless otherwise indicated) —

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person —
  - (i) his or her spouse or civil partner;
  - (ii) his or her child or the child of his or her spouse or civil partner; or
  - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person —
  - (i) his or her spouse or civil partner; or
  - (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who falls within Article 7(1)(c) of Directive 2004/38 —
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who falls within Article 7(1)(b) of Directive 2004/38 —
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;
  - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9 —
  - (i) his or her spouse or civil partner; or
  - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
    - (aa) under the age of 21; or
    - (bb) dependants of his or her or of his or her spouse or civil partner;

“self-employed person” (“*person hunan-gyflogedig*”) means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971(1);

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(2) and which came into force on 1st June 2002;

“Swiss employed person” (“*person cyflogedig Swisaidd*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person hunan – gyflogedig ffin y swistir*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” (“*person hunan-gyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” (“*person hunan-gyflogedig o’r Swistir*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“worker” (“*gweithiwr*”) means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(2) For the purposes of this Schedule, “parent” (*rhiant*) includes a guardian, any other person having parental responsibility for a child and any person

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(1) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

(2) Cm. 4904.

having care of a child and “child” (“*plentyn*”) is to be construed accordingly.

(3) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the present course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which he or she moved.

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area Switzerland and Turkey if he or she would have been so resident but for the fact that —

- (a) he or she;
- (b) his or her spouse or civil partner;
- (c) his or her parent; or
- (d) in the case of a dependent direct relative in the ascending line, his or her child or child’s spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (3), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area, Switzerland and Turkey includes —

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of this Schedule an area which —

- (a) was previously not part of the European Community or the European Economic Area; but

- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

## PART 2

### Categories

#### **Persons who are settled in the United Kingdom**

**2.**—(1) A person who on the first day of the first academic year of the course —

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

**3.** A person who —

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

#### **Refugees and their family members**

**4.** A person who —

- (a) is a refugee;
  - (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was recognised as a refugee; and
  - (c) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (2) A person who—
- (a) is the spouse or civil partner of a refugee;
  - (b) was the spouse or civil partner of the refugee on the date on which the refugee made his or her application for asylum;
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) A person who—
- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;
  - (b) on the date on which the refugee made his or her application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
  - (c) was under 18 on the date on which the refugee made his or her application for asylum;
  - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
  - (e) is ordinarily resident in Wales on the first day of the first academic year of the course.

**Persons with leave to enter or remain and their family members**

- 5.—(1) A person—
- (a) with leave to enter or remain;
  - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (2) A person—
- (a) who is the spouse or civil partner of a person with leave to enter or remain;

- (b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made his or her application for asylum;
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
  - (b) who, on the date on which the person with leave to enter or remain made his or her application for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
  - (c) who was under 18 on the date on which the person with leave to enter or remain made his or her application for asylum;
  - (d) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
  - (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

**Workers, employed persons, self-employed persons and their family members**

**6.—(1) A person who—**

- (a) is —
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in paragraph (i) or (ii);
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
  - (vi) a family member of a person mentioned in paragraph (iv) or (v);

- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

**7. A person who—**

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers<sup>(1)</sup>, as extended by the EEA Agreement<sup>(2)</sup>.

**Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere**

**8.—(1) A person who—**

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;
- (c) is ordinarily resident in Wales on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his or her ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

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(1) OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

(2) means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 - Cm 2073, as adjusted by the Protocol signed at Brussels on 17 March 1993, Cm 2183.

(2) For the purposes of this paragraph, a person has exercised a right of residence if he or she is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

### **EC nationals**

**9.**—(1) A person who —

- (a) is either –
  - (i) an EC national on the first day of the first academic year of the course; or
  - (ii) a family member of a such a person;
- (b) is —
  - (i) attending a designated course in Wales; or
  - (ii) undertaking a designated part-time course or designated postgraduate course in Wales;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

**10.**—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) 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; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

#### **Children of Swiss nationals**

**11.** A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

#### **Children of Turkish workers**

**12.** A person who—

- (a) is the child of a Turkish worker;

- (b) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

## SCHEDULE 2

Regulations 5, 64 and 80

### DESIGNATED COURSES

1. A first degree course.
2. A course for the Diploma of Higher Education.
3. A course for the Higher National Diploma or Higher National Certificate of —
  - (a) the Business & Technician Education Council; or
  - (b) the Scottish Qualification Authority.
4. A course for the certificate of Higher Education.
5. A course for the initial training of teachers.
6. A course for the further training of youth and community workers.
7. A course in preparation for a professional examination of a standard higher than that of —
  - (a) examination at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
  - (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3,

not being a course for entry to which a first degree (or equivalent qualification) is normally required.

8. A course—
  - (a) providing education (whether or not in preparation for an examination) the standard of which is higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 7(a) or (b) but not higher than that of a first degree course; and
  - (b) for entry to which a first degree (or equivalent qualification) is not normally required..

## SCHEDULE 3

Regulations 11, 72, 86 and 97

### INFORMATION

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

**2.** Every applicant, eligible student, eligible part-time student and eligible postgraduate student must forthwith inform the Welsh Ministers and provide them with particulars if any of the following occurs —

- (a) he or she withdraws from, abandons or is expelled from his or her course;
- (b) he or she transfers to any other course at the same or at a different institution;
- (c) he or she ceases to undertake his or her course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) he or she is absent from his or her course for more than 60 days due to illness or for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) his or her home or term-time address or telephone number changes.

**3.** Information provided to the Welsh Ministers under these Regulations must be in the format that the Welsh Ministers require and, if they require the information to be signed by the person providing it, an electronic signature in such form as the Welsh Ministers may specify satisfies such a requirement.

## SCHEDULE 4

Regulation 52

### COLLEGE FEE LOANS

### **Availability of college fee loans**

1. A person qualifies for a college fee loan in connection with his or her attendance on a qualifying course in accordance with this Schedule.

2. A person qualifies for a college fee loan if he or she meets the following conditions—

- (a) he or she is an eligible student who is not excluded from qualifying by paragraph 3;
- (b) he or she has an honours degree from an institution in the United Kingdom;
- (c) he or she is taking a qualifying course which he or she—
  - (i) starts on or after 1 September 2006 and on which he or she is continuing after 31 August 2008; or
  - (ii) starts on or after 1 September 2008;
- (d) he or she is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge;
- (e) he or she is under the age of 60 on the first day of the first academic year of the qualifying course; and
- (f) none of the circumstances in regulation 4(3) apply to him or her.

3. An eligible student who falls within paragraph 9 of Part 2 of Schedule 1 does not qualify for a college fee loan under these Regulations if he or she is ordinarily resident in England, Scotland or Northern Ireland.

### **Disabled students**

4. A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because he or she is not able to attend for a reason which relates to his or her disability is treated as if he or she were in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

### **Students becoming eligible during the course of an academic year**

5. Where one of the events listed in paragraph 6 occurs in the course of an academic year—

- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and

- (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

**6.** The events are—

- (a) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (d) the student acquires a 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;
- (g) the student becomes the child of a Swiss national.

**7.** A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.

**8.** Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

**9.** In this Schedule “standard academic year” (*“blwyddyn academaidd safonol”*) means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

**10.** To receive a college fee loan, a qualifying student must enter into a contract with the Welsh Ministers.

**Amount of the college fee loan**

**11.—(1)** The amount of the college fee loan in respect of an academic year of a qualifying course must not exceed the amount equal to the college fees payable by

the student to his or her college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee loan of less than the maximum amount available in relation to the academic year, he or she may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

### **Transfers**

**12.** Despite regulation 8, where a qualifying student transfers from one qualifying course to another qualifying course-

- (a) the Welsh Ministers must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) subject to paragraph (c) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 13 are met and he or she cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he or she cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he or she transfers.

### **Payment**

**13.—**(1) The Welsh Ministers must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The Welsh Ministers must pay the college fee loan in a single lump sum.

(3) The Welsh Ministers must not pay the college fee loan before—

- (a) they have received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) A college or permanent private hall is required to send confirmation of attendance to the Welsh Ministers in such form as the Welsh Ministers may require and the Welsh Ministers must not pay the college fee loan

in respect of the academic year until they have received an attendance confirmation from the relevant college or private hall unless they determine that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation. In this paragraph “attendance confirmation” has the same meaning as in regulation 61.

(5) The Welsh Ministers must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend or in the case of a student who is treated as in attendance under paragraph 4, undertake the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending or, as the case may be, undertaking the course in the United Kingdom again during the academic year in respect of which the college fees are payable or at all.

#### **Conditions of entitlement to payment of college fee loan**

**14.**—(1) The Welsh Ministers may make it a condition of entitlement to payment of a college fee loan that a qualifying student must provide them with his or her United Kingdom national insurance number.

(2) Where the Welsh Ministers have imposed a condition under paragraph (1), they must not make any payment of the loan to the qualifying student before they are satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Welsh Ministers may make a payment of loan to a qualifying student if they are satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the qualifying student having complied with the condition imposed under paragraph (1).

#### **Information requirements**

**15.**—(1) The Welsh Ministers may at any time request from a qualifying student information that they consider is required to recover a loan.

(2) The Welsh Ministers may at any time require a qualifying student to enter into an agreement to repay a loan by a particular method.

(3) The Welsh Ministers may at any time request from a qualifying student sight of his or her valid national identity card, his or her valid passport issued by the state of which he or she is a national or his or her birth certificate.

(4) Where the Welsh Ministers have requested information under this regulation, they may withhold any payment of a loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

(5) Where the Welsh Ministers have requested an agreement as to the method of repayment under this paragraph, they may withhold any payment of a college fee loan until the person provides what has been requested.

### **Overpayment**

16. Any overpayment of college fee loan is recoverable by the Welsh Ministers from the college or permanent private hall.

## SCHEDULE 5

Regulation 53

### FINANCIAL ASSESSMENT

#### **Definitions**

1. In this Schedule—

- (a) “existing student” (“*myfyriwr presennol*”) means an eligible student who is not a new eligible student;
- (b) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of this Schedule is computed for the purposes of the income tax legislation which applies to it;
- (c) “household income” (“*incwm yr aelwyd*”) has the meaning given in paragraph 3;
- (d) “independent eligible student” (“*myfyriwr cymwys annibynnol*”) has the meaning given in paragraph 2;
- (e) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (f) “new eligible student” (“*myfyriwr cymwys newydd*”) means an eligible student who begins a designated course on or after 1 September 2004;
- (g) “parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”), “mother” (“*mam*”) and “father” (“*tad*”) is construed accordingly;

- (h) “parent student” (“*myfyriwr sy’n rhiant*”) means an eligible student who is the parent of an eligible student;
- (i) “partner” (“*partner*”) in relation to an eligible student 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 he or she were his or her spouse where an eligible student falls within paragraph 2(1)(a) and he or she begins the designated course on or after 1 September 2000;
  - (iv) a person ordinarily living with an eligible student as if he or she were his or her civil partner where an eligible student falls within paragraph 2(1)(a) and he or she begins the designated course on or after 1 September 2005;
- (j) “partner” (“*partner*”) in relation to the parent of an eligible student means any of the following other than another parent of the eligible student —
  - (i) the spouse of an eligible student’s parent;
  - (ii) the civil partner of an eligible student’s parent;
  - (iii) a person ordinarily living with the parent of an eligible student as if he or she were the parent’s spouse;
  - (iv) a person ordinarily living with the parent of an eligible student as if he or she were the parent’s civil partner;
- (k) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (l) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (m) “residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph 4 (in the case of an eligible student), paragraph 5 (in the case of an eligible student’s parent), paragraph 6 (in the case of an eligible student’s partner) or paragraph 7 (in the case of the partner of a new eligible student’s parent); and
- (n) “taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 9 and, in relation to paragraph 5, in respect (subject to subparagraphs (3), (4) and (5) of paragraph 5) of the preceding financial year, a person’s

taxable income from all sources computed as for the purposes of —

- (i) the Income Tax Acts;
- (ii) 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, the legislation under which the Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Independent eligible student**

**2.—(1)** An independent eligible student is an eligible student in every case where —

- (a) he or she is aged 25 or over on the first day of the relevant year;
- (b) he or she is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
- (c) he or she has no parent living;
- (d) the Welsh Ministers are satisfied that neither of his or her parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he or she has communicated with neither of his or her parents for the period of one year before the beginning of the relevant year or, in the opinion of the Welsh Ministers, he or she can demonstrate on other grounds that he or she is irreconcilably estranged from his or her parents;
- (f) he or she was looked after by a local authority within the meaning of section 22 of the Children Act 1989<sup>(1)</sup> throughout any three-month period ending on or after the date on which he or she attained the age of 16 and before the first day of the first academic year of the course (“the relevant period”) provided that he or she has not in fact at any time during the relevant period been under the charge or control of his or her parents;
- (g) his or her parents are residing outside the European Community and the Welsh Ministers are satisfied that either —

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<sup>(1)</sup> 1989 c.41. Section 22 has been amended by the Children (Leaving Care) Act 2000 (c. 35), section 2, Local Government Act 2000 (c. 41), Schedule 5, paragraph 19, the Adoption and Children Act 2002 (c. 38), section 116(2) and the Children Act 2004 (c. 31), section 52.

- (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
  - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 8 or 9 to send any relevant funds to the United Kingdom;
- (h) paragraph 5(9) applies and the parent whom the Welsh Ministers considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he or she is a member of a religious order who resides in a house of that order;
  - (j) he or she has the care of a person under the age of 18 as at the first day of the relevant year; or
  - (k) he or she has supported himself or herself out of his or her earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he or she is to be treated as supporting himself or herself out of his or her earnings during any period in which —

- (i) he or she was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local (“a relevant authority”);
- (ii) he or she was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
- (iii) he or she was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
- (iv) he or she held a state studentship<sup>(1)</sup> or comparable award; or
- (v) he or she received any pension, allowance or other benefit paid by any person by reason of a disability to which he or she is subject, or by reason of confinement, injury or sickness.

(2) An eligible student who qualifies as an independent eligible student under paragraph 2(1)(j) in respect of an academic year of a designated course retains that status for the duration of the period of eligibility.

### **Household income**

**3.**—(1) The amount of an eligible student’s contribution depends on the household income.

(2) The household income is —

- (a) in the case of an eligible student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the eligible student’s parents (subject to paragraph 5(9)) and —
  - (i) in the case of a new eligible student who began his or her specified designated course before 1 September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(iv)) of the student’s parent (provided that the Welsh Ministers have selected that parent under paragraph 5(9)); or
  - (ii) in the case of a new eligible student who began his or her course on or after 1 September 2005, the residual income of the

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(1) Funding provided by the Research Councils in respect of full time post graduate study.

partner of the student's parent (provided that the Welsh Ministers have selected that parent under paragraph 5(9));

- (b) in the case of an independent eligible student who has a partner, the residual income of the eligible student aggregated with the residual income of the eligible student's partner (subject to sub-paragraph (4)); or
- (c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.

(3) In determining the household income under sub-paragraph (2), the sum of £1,100 is deducted —

- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner; or
- (b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner whose residual income is being taken into account.

(4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

#### **Calculation of eligible student's residual income**

4.—(1) For the purpose of determining the residual income of an eligible student, there is deducted from his or her taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs —

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration does not include any sums paid in respect of any period for which he or she has leave of absence or is relieved of his or her normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273 of the Income

and Corporation Taxes Act 1988<sup>(1)</sup> or under section 188 of the Finance Act 2004<sup>(2)</sup>, or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is —

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics<sup>(3)</sup>.

### **Calculation of parent's residual income**

5.—(1) For the purposes of determining the taxable income of an eligible student's parent, any deductions which fall to be made or exemptions which are permitted —

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise

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(1) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10 and the Income Tax (Trading and other Income) Act 2005 (c.5), Schedule 1, the Finance Act 2004 (c. 12), section 281 and Schedule 35 and the Income Tax Act 2007, Schedule 1.

(2) 2004 c.12; section 188 was amended by the Finance Act 2007, sections 68,69 and 114 and Schedules 18,19 and 27..

(3) "Financial Statistics" (ISSN 0015-203X).

under United Kingdom law form part of a person's income are not treated as such; or

- (c) under sub-paragraph (2)

must not be made or permitted.

(2) For the purposes of determining the residual income of an eligible student's parent, there is deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs —

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, of the Income and Corporation Taxes Act 1988, or under section 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in sub-paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;
- (c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,100.

(3) Where the Welsh Ministers are satisfied that the residual income of the parent 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 his or her residual income in the preceding financial year they may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the parent's residual income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the residual income of the parent in any financial year is, as a result of any event, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his or her residual income in the previous financial year they may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his or her residual income for each of the financial years in which that academic year falls.

(5) Where the eligible student's parent satisfies the Welsh Ministers that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, then any reference in this Schedule to a preceding financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where an eligible student's parent is in receipt of any income which does not form part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that —

- (a) he or she is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his or her taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(7) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it is computed under the provisions of this Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule is the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the eligible student's parents dies either before or during the relevant year and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income is —

- (a) where the parent dies before the relevant year, determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, the aggregate of —

- (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
- (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(9) Where the Welsh Ministers determine that the parents are separated for the duration of the relevant year, the household income is determined by reference to the income of whichever parent the Welsh Ministers consider the more appropriate under the circumstances.

(10) Where the Welsh Ministers determine that the parents have separated in the course of the relevant year, the household income is determined by reference to the aggregate of —

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant year during which the parents are separated; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

**Calculation of eligible student’s partner’s residual income**

6.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph, an eligible student’s partner’s income is determined in accordance with paragraph 5 (other than sub-paragraphs (8), (9) and (10) of paragraph 5), references to the parent being construed as references to the eligible student’s partner.

(2) Where the Welsh Ministers determine that the eligible student and his or her partner are separated for the duration of the relevant year, the partner’s income is not taken into account in determining the household income.

(3) Where the Welsh Ministers determine that the eligible student and his or her partner have separated in the course of the relevant year, the partner’s income is determined by reference to his or her income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Welsh Ministers determine that the eligible student and his or her partner are not separated.

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

### **Calculation of parent's partner's residual income**

7. The income of a new eligible student's parent's partner whose income is part of the household income by virtue of paragraph 3(2)(a) is determined in accordance with paragraph 6, references to the eligible student's partner being construed as references to the new eligible student's parent's partner, and references to the eligible student being construed as references to the new eligible student's parent.

### **Calculation of contribution – old system eligible students**

8.—(1) The contribution payable in relation to an old system eligible student who is not an independent eligible student or is an independent eligible student with a partner is—

- (a) in any case where the household income is £23,680 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £23,680; and
- (b) in any case where the household income is less than £23,680, nil.

(2) The contribution payable in relation to an old system eligible student who is an independent eligible student without a partner is—

- (a) in any case where the household income is £11,025 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £11,025; and
- (b) in any case where the household income is less than £11,025, nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £7,800.

(4) The contribution may be adjusted in accordance with paragraph 10 or 11.

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed £7,800.

(6) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than new system eligible students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) the household income consists of the residual income of an independent eligible student and his or her partner where both hold a statutory award.

### **Calculation of contribution – new system eligible students**

**9.**—(1) In relation to an eligible student who is a new system eligible student, the contribution payable is –

- (a) in any case where the household income exceeds £39,780, £1 for every complete £9.50 by which the household income exceeds £39,780; and
- (b) in any case where the household income is £39,780 or less, nil.

(2) The contribution must not in any case exceed £6,060.

(3) The contribution may be adjusted in accordance with paragraph 10 or 11.

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,060.

(5) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than old system eligible students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) the household income consists of the residual income of an independent eligible student and his or her partner where both hold a statutory award.

### **Split contributions – eligible students who are not independent**

**10.**—(1) This paragraph applies where a contribution is payable in relation to an eligible student who is not an independent eligible student.

(2) Sub-paragraphs (3) to (7) apply where the children who are eligible students are either all old system eligible students or are all new system eligible students.

(3) For any year in which a statutory award other than an award referred to in sub-paragraph (4) is held by—

- (i) more than one child of the eligible student's parents;
- (ii) the eligible student's parent; or
- (iii) the eligible student's parent's partner,

the contribution payable in respect of the eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Welsh Ministers after consultation with any other authority involved consider just taking into account the application of

paragraph 7 of this Schedule to new eligible students and existing students respectively.

(4) Subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003<sup>(1)</sup> or section 63 of the Health Services and Public Health Act 1968 <sup>(2)</sup> (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of children who hold a relevant statutory award.

(5) If, as a result of the apportionment under sub-paragraph (4), the contribution would not be extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is instead applied—

- (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply; and
- (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

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(1) S.I. 2003/1994, amended by S.I. 2004/1038, S.I. 2004/1792, S.I. 2005/2083, S.I. 2005/3137, S.I. 2006/930 and S.I. 2007/1629.

(2) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule. The National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1 and the References to Health Authorities Order 2007 (S.I. 2007/961), the Schedule.

(6) Where—

- (a) the eligible student's parent whose income is assessed under this Schedule has a partner;
- (b) a contribution taking into account the residual income of that parent is payable in relation to more than one eligible student who is the child of either that parent or his or her partner; and
- (c) the amount payable in relation to each eligible student is not the same in every case,

the contribution in respect of each eligible student is calculated under sub-paragraph (7).

(7) Where sub-paragraph (6) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (b) of sub-paragraph (6) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory award of the eligible students in his or her relevant household.

(8) Where—

- (a) a contribution taking into account the residual income of the parent of an eligible student is payable in relation to more than one eligible student who is the child of that parent or of the parent's partner; and
- (b) the amount payable in relation to each eligible student is not the same in every case because some of the eligible students are old system eligible students and some are new system eligible students,

the contribution in respect of an eligible student is calculated under sub-paragraph (9).

(9) Where sub-paragraph (8) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (a) of sub-paragraph (8) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory awards of the other old system eligible students where the eligible student is an old system eligible student and to the relevant statutory awards of the other new system eligible students where the eligible student is a new system eligible student.

(10) Where a contribution taking into account the residual income of the eligible student's parent is payable in respect of more than one child of that parent or that parent's partner, if any, and the residual income

of any such eligible student is greater than nil, the contribution in relation to each eligible student is calculated in accordance with the following sub-paragraphs—

- (a) the contribution in respect of the eligible student is calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and is apportioned between each eligible student in accordance with this paragraph;
- (b) there is then applied in addition in respect of the eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated in respect of the student under paragraph (c) of this sub-paragraph exceeds £23,680 where the student is an old system eligible student or exceeds £39,780 where the student is a new system eligible student;
- (c) the sum referred to in paragraph (b) of this sub-paragraph is the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) of this Schedule with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £23,680 where the student is an old system eligible student or exceeds £39,780 where the student is a new system eligible student.

(11) Subject to sub-paragraph (12), there is added to a parent student's residual income for the purpose of calculating the contribution to his or her statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his or her children under this paragraph.

(12) Where a parent student has a partner within paragraph 1(j) of this Schedule, the sums added to his or her residual income under sub-paragraph (11) of this paragraph are calculated as though the contribution in respect of his or her children had been assessed taking into account the income of the parent's partner under paragraph 7, whether or not the contribution was actually calculated on that basis.

(13) In this paragraph, "relevant household" (*“aelwyd berthnasol”*) means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 5 and 7.

### **Split contributions – independent eligible students**

**11.**—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) of this sub-paragraph is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Welsh Ministers after consultation with any other authority involved consider just;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003 or section 63 of the Health Services and Public Health Act 1968 (and no other statutory award) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;
- (c) if, as a result of the apportionment under paragraph (b) of this sub-paragraph, the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his or her partner if they are both old system students or if they are both new system eligible students.

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his or her statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his or her children under this Schedule.

(3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the

children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.