WELSH STATUTORY INSTRUMENTS

2012 No. 1156 (W.139)

EDUCATION, WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) (Amendment) (No.2) Regulations 2012

Made - - - -	*26 April 2012*
Laid before the National Assembly for Wales - -	*27 April 2012*
Coming into force - -	*18 May 2012*

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

Title, commencement and application

1.—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) (Amendment) (No.2) Regulations 2012.

(2) These Regulations come into force on 18 May 2012 and apply in relation to Wales.

Amendments

2. The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011(**3**) are amended in accordance with the following regulations.

3. In regulation 2(1), in the appropriate place, insert—

> ""distance learning course" ("*cwrs dysgu o bell*") means a full-time course beginning on or after 1 September 2012 in relation to which a student undertaking the course is not

(**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, the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7 and the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of "prescribed" and "regulations".

(**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 paragraph 30(1) and 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2011/886 (W.130) as amended by S.I. 2011/1978 (W.218) and S.I. 2012/14 (W.5).

required to be in attendance by the institution providing the course, other than to satisfy any requirement imposed by the institution to attend any institution—

(a) for the purposes of registration, enrolment or any examination; or

(b) on a weekend or during any vacation;

"eligible prisoner" ("*carcharor cymwys*") means a prisoner—

(a) who begins the present course on or after 1 September 2012;

(b) has been authorised by the prison Governor or Director or other appropriate authority to study the present course;

(c) whose earliest release date is within 6 years of the first day of the first academic year of the present course;

(d) who has not transferred to the present course under regulation 8 from a course beginning before 1 September 2012; and

(e) is not beginning an end-on course on or after 1 September 2012;

"prisoner" ("*carcharor*") means a person who is serving a sentence of imprisonment in the United Kingdom including a person who is detained in a young offender institution;".

4. After regulation 4(11) insert—

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

(a) they are an eligible prisoner;

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

(c) the present course is an end-on course.

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

5. In regulation 5(1)—

(a) at the end of sub-paragraph (b)(ii) omit "or";

(b) at the end of sub-paragraph (b)(iii) insert "or";

(c) after sub-paragraph (b)(iii) insert—

"(iv) a distance learning course other than a course to which regulation 74(5) applies;";

(d) at the end of sub-paragraph (d) omit "and";

(e) at the end of sub-paragraph (e) for "." substitute "; and"; and

(f) after sub-paragraph (e) insert—

"(f) for a course beginning on or after 1 September 2012 which falls within paragraphs 1, 2, 4, 6, 7 or 8 of Schedule 2, a course leading to an award granted or to be granted by a body falling within section 214(2)(a) or (b) of the Education Reform Act 1988(**4**)."

6. In regulation 6(9), for sub-paragraph (b) substitute—

"(b) in the case of an eligible student who did not successfully complete the latest previous course because of compelling personal reasons—

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

(i) one additional year is added; and

(ii) a further additional year may be added if the Welsh Ministers consider it appropriate to do so having regard to those reasons."

7. After regulation 13(4) insert—

"(5) An eligible student who is undertaking a distance learning course does not qualify for any fee support under this Part unless the Welsh Ministers consider that the student is undertaking the course in Wales."

8. In regulation 25—

(a) after the words "living costs" in paragraph (13) insert "which is payable in connection with a designated course beginning before 1 September 2012"; and

(b) after paragraph (15) insert—

"(16) An eligible student who is undertaking a distance learning course does not qualify for any grant under this Part other than a grant for disabled students' living costs pursuant to regulation 26."

9. In regulation 26—

(a) after the words "attendance on" in paragraph (1) insert "or undertaking of"; and

(b) after paragraph (5) insert—

"(6) An eligible student does not qualify for a grant for disabled students' living costs under this regulation in respect of a distance learning course unless the Welsh Ministers consider that the student is undertaking the course in Wales."

10. After regulation 46(9) insert—

"(10) An eligible student does not qualify for a loan for living costs under this Part if the eligible student is undertaking a distance learning course."

11.—(1) In regulation 74(2)—

(a) at the end of sub-paragraph (c) omit "and";

(b) at the end of sub-paragraph (d) for "." substitute "; and"; and

(c) after sub-paragraph (d) insert—

"(e) subject to paragraph (5), the course began before 1 September 2012."

(2) After paragraph (4) insert—

"(5) A course which begins on or after 1 September 2012 is a designated distance learning course where—

(a) a student transfers to that course pursuant to regulation 83 from a previous designated distance learning course which began before 1 September 2012; and

(b) that course would otherwise be a designated course for the purposes of regulation 5."

12. In regulation 89(3)—

(a) at the end of sub-paragraph (d) insert "or";

(b) at the end of sub-paragraph (e) for "; or" substitute "."; and

(c) omit sub-paragraph (f).

13.—(1) In regulation 105(3) for the word "six" substitute "nine".

(2) In regulation 105(4)(a) for the word "six" substitute "nine".