WELSH STATUTORY INSTRUMENTS

2011 No. 886 (W.130)

EDUCATION, WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2011

Made - - - -	*21 March 2011*
Laid before the National Assembly for Wales - -	*22 March 2011*
Coming into force - -	*12 April 2011*

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) (No. 2) Regulations 2011.

(2) These Regulations come into force on 12 April 2011 and apply in relation to Wales.

Interpretation

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

(**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.

(**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)(c) of Schedule 11 to the Government of Wales Act 2006 (c. 32).

"the 1962 Act" ("*Deddf 1962*") means the Education Act 1962(**3**);

"the 1998 Act" ("*Deddf 1998*") means the Teaching and Higher Education Act 1998;

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

"the 1999 Regulations" ("*Rheoliadau 1999*") means the Education (Student Support) Regulations 1999(**5**);

"the 2000 Regulations" ("*Rheoliadau 2000*") means the Education (Student Support) Regulations 2000(**6**);

"the 2001 Regulations" ("*Rheoliadau 2001*") means the Education (Student Support) Regulations 2001(**7**);

"the 2002 Regulations" ("*Rheoliadau 2002*") means the Education (Student Support) Regulations 2002(**8**);

"the 2003 Regulations" ("*Rheoliadau 2003*") means the Education (Student Support) (No. 2) Regulations 2002 as amended(**9**);

"the 2004 Regulations" ("*Rheoliadau 2004*") means the 2003 Regulations as further amended(**10**);

"the 2005 Regulations" ("*Rheoliadau 2005*") means the Education (Student Support) Regulations 2005(**11**);

"the 2006 Regulations" ("*Rheoliadau 2006*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(**12**);

"the 2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(**13**);

"the 2008 Regulations" ("*Rheoliadau 2008*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008(**14**);

(**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, revoked with savings by S.I. 1999/496.

(**5**) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120. These instruments were revoked by S.I. 2000/1121, except in relation to the provision of support to students in respect of an academic year which begins before 1 September 2000.

(**6**) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912. These instruments were revoked by S.I. 2001/951 except in relation to the provision of support to students in respect of an academic year which begins before 1 September 2001.

(**7**) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174. These instruments were revoked by S.I. 2002/195 except in relation to the provision of support to students in respect of an academic year which begins before 1 September 2002.

(**8**) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059. S.I. 2002/195, S.I. 2002/1318 and S.I. 2002/2088 were revoked by S.I. 2002/3200 except in relation to the provision of support to students in respect of an academic year which begins before 1 September 2003. S.I. 2002/3059 was revoked by S.I. 2003/1065.

(**9**) S.I. 2002/3200, amended by S.I. 2003/1065 and S.I. 2003/3280. S.I. 2002/3200 and S.I. 2003/1065 were revoked by S.I. 2005/52 with savings.

(**10**) S.I. 2002/3200, amended by S.I. 2003/1065, S.I. 2003/3280, S.I. 2004/161, S.I. 2004/1602, S.I. 2004/2041, S.I. 2004/2598, S.I. 2005/1341 and S.I. 2005/2084. There are other amendments which are not relevant to these Regulations. Except for S.I. 2005/1341 and S.I. 2005/2084, these instruments were revoked with savings by S.I. 2005/52. S.I. 2005/1341 and S.I. 2005/2084 were revoked, with savings, in relation to Wales by S.I. 2006/126 (W.19).

(**11**) S.I. 2005/52, amended by S.I. 2005/1341, S.I. 2005/2084, S.I. 2005/3482 and S.I. 2006/955. Except for S.I. 2005/3482 and S.I. 2006/955, these instruments were revoked in relation to Wales, with savings, by S.I. 2006/126 (W.19).

(**12**) S.I. 2006/126 (W.19), amended by S.I. 2006/1863 (W.196). These instruments were revoked by S.I. 2007/1045 (W.104) with savings in relation to the provision of support to students in respect of an academic year which begins on or after 1 September 2006 but before 1 September 2007.

(**13**) S.I. 2007/1045 (W.104), amended by S.I. 2007/2312 (W.183), S.I. 2007/2851 (W.248) and S.I. 2007/3230 (W.282). S.I. 2007/1045 (W.104) was revoked, with savings, by S.I. 2008/1273 (W.130).

(**14**) S.I. 2008/1273 (W.130), amended by S.I. 2008/2140 (W.189). These instruments were revoked, with savings, by S.I. 2008/3170 (W.283).

"the 2008 (No. 2) Regulations" ("*Rheoliadau (Rhif 2) 2008*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2008(**15**);

"the 2009 Regulations" ("*Rheoliadau 2009*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009(**16**);

"the 2011 Regulations" ("*Rheoliadau 2011*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011(**17**);

"2006 gap year student" ("*myfyriwr blwyddyn i ffwrdd 2006* ") has the meaning given in paragraph (2);

"2010 cohort student" ("*myfyriwr carfan 2010*") means an eligible student who begins the present course on or after 1 September 2010 and before 1 September 2011, other than—

(a) a 2010 gap year student;

(b) an eligible student who started the present course on or after 1 September 2010 and before 1 September 2011 where that course is an end-on course following on from a course that the student started before—

(i) 1 September 2010; or

(ii) 1 September 2011 and in relation to which the student is a 2010 gap year student; or

(c) an eligible student who started the present course on or after 1 September 2010 and before 1 September 2011 whose 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 1998 Act from a designated course which the student began before—

(i) 1 September 2010; or

(ii) 1 September 2011 and in relation to which the student is a 2010 gap year student;

"2010 gap year student" ("*myfyriwr blwyddyn i ffwrdd 2010* ") has the meaning given in paragraph (12);

"2011 cohort student" ("*myfyriwr carfan 2011*") means an eligible student who begins the present course on or after 1 September 2011, other than—

(a) a 2011 gap year student;

(b) an eligible student who started the present course on or after 1 September 2011 but before 1 September 2012 where that course is an end-on course following on from a course that—

(i) the student started before 1 September 2011; or

(ii) the student started before 1 September 2012 and in relation to which the student is a 2011 gap year student; or

(c) an eligible student who started the present course on or after 1 September 2011 and before 1 September 2012 and whose 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 1998 Act from a designated course which the student began—

(i) before 1 September 2011; or

(ii) before 1 September 2012 and in relation to which the student is a 2011 gap year student;

(**15**) S.I. 2008/3170 (W.283), amended by S.I. 2009/2156 (W.180). S.I. 2008/3170 (W.283) was revoked, with savings, by S.I. 2009/2737 (W.235).
(**16**) S.I. 2009/2737 (W.235).
(**17**) S.I. 2011/148 (W.32).

"2011 gap year student" ("*myfyriwr blwyddyn i ffwrdd 2011*") has the meaning given in paragraph (16);

"2012 cohort student" ("*myfyriwr carfan 2012*") means an eligible student who begins the present course on or after 1 September 2012, other than —

(a) an eligible student who started the present course on or after 1 September 2012 where that course is an end-on course following on from a course that the student started before 1 September 2012; or

(b) an eligible student who started the present course on or after 1 September 2012 whose 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 1998 Act from a designated course which the student began before 1 September 2012.

"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 of two years' duration 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;

"adult dependants' grant" ("*grant dibynyddion mewn oed*") means the grant payable under regulation 28;

"applicant" ("*ceisydd*") means, in relation to a person who applies for support payable under these Regulations to an eligible—

(a) student, a person who makes an application under regulation 9;

(b) distance learning student, a person who makes an application under regulation 80;

(c) part-time student, a person who makes an application under regulation 105; and

(d) postgraduate student, a person who makes an application under regulation 120;

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

"bursary year" ("*blwyddyn bwrsari*") means an academic year of a course in relation to which the student is eligible to apply for a healthcare bursary or a Scottish healthcare allowance, the amount of which is calculated by reference to that student's income whether or not the calculation results in a nil amount;

"childcare grant" ("*grant gofal plant* ") means the grant payable under regulation 29;

"college fees" ("*ffioedd coleg*") means the 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 the qualifying student's attendance on a qualifying course;

"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 1998 Act;

"compressed degree course" ("*cwrs gradd cywasgedig*") means a course determined by the Secretary of State 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 2012; or

(ii) begins the course on or after 1 September 2012; and

(c) either—

(i) is required to be in attendance on the course for part of the academic year for which the eligible student is applying for support under these Regulations; or

(ii) is a disabled eligible student who is not required to be in attendance on the course as that student is unable to attend because of a reason which relates to that student's disability;

"contribution" ("*cyfraniad*") means in relation to—

(a) an eligible student, the student's contribution calculated pursuant to regulation 63 and Schedule 5;

(b) an eligible part-time student, the student's contribution calculated pursuant to regulation 102 and Schedule 6;

"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 74;

"designated part-time course" ("*cwrs rhan-amser dynodedig*") means a course designated by regulation 91 or by the Welsh Ministers under regulation 91;

"designated postgraduate course" ("*cwrs ôl-radd dynodedig*") means a course designated by regulation 117 or by the Welsh Ministers under regulation 117;

"Directive 2004/38" ("*Cyfarwyddeb 2004/38*") means Directive 2004/38/EC of the European Parliament and of the Council(**18**) on the right of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

"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 72;

"eligible part-time student" ("*myfyriwr rhan-amser cymwys*") has the meaning given in regulation 89;

"eligible postgraduate student" ("*myfyriwr ôl-raddedig cymwys*") has the meaning given in regulation 115;

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

(**18**) OJ No L158, 30.04.2004, p.77—123.