WELSH STATUTORY INSTRUMENTS

2011 No. 736 (W.113)

EDUCATION, WALES

The Assembly Learning Grants (European Institutions) (Wales) Regulations 2011

Made - - - -	*11 March 2011*
Laid before the National Assembly for Wales - -	*14 March 2011*
Coming into force - -	*5 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. The title of these Regulations is the Assembly Learning Grants (European Institutions) (Wales) Regulations 2011.

2. These Regulations come into force on 5 April 2011 and apply in relation to Wales.

Interpretation

3.—(1) In these Regulations—

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

(**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, 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 sub-sections (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 of the Government of Wales Act 2006 (c. 32).

"academic authority" ("*awdurdod academaidd*") means the governing body of a European institution or other body of a European institution having the functions of a governing body and includes a person acting with the authority of that body;

"applicant" ("*ceisydd*") means a person who applies for support in accordance with regulation 4;

"Bologna Center" ("*Canolfan Bologna*") means the graduate school for international relations established by Johns Hopkins University at Bologna;

"Bologna Center student" ("*myfyriwr yng Nghanolfan Bologna*") has the meaning given in regulation 13(1);

"College of Europe" ("*Coleg Ewrop*") means the university institute of postgraduate studies and training in European affairs at Bruges in Belgium and Natolin in Poland;

"College of Europe student" ("*myfyriwr yng Ngholeg Ewrop*") has the meaning given in regulation 13(2);

"current course" ("*cwrs cyfredol*") means the designated course in respect of which a person is applying for support;

"designated course" ("*cwrs dynodedig*") has the meaning given in paragraph (2);

"eligible student" ("*myfyriwr cymwys*") has the meaning given in regulation 6;

"European institution" ("*sefydliad Ewropeaidd*") means either the Bologna Center or the College of Europe;

"European Union" ("*Undeb Ewropeaidd*") means the territory comprised by the member states of the European Union as constituted from time to time;

"grants for living and other costs" ("*grantiau at gostau byw a chostau eraill*") means the grants specified and calculated in accordance with regulations 19 to 26;

"parent" ("*rhiant*") means a natural or adoptive parent or a guardian or any other person having parental responsibility for or care of a child;

"person with leave to enter or remain" ("*person sydd â chaniatâd i ddod i mewn neu i aros*") means a person ("P" in this definition)—

(a) who has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a refugee, it is thought right to allow P to enter or remain in the United Kingdom;

(b) who has been granted leave to enter or 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(**3**)); and

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since P was granted leave to enter or remain;

"qualifying course" ("*cwrs cymhwysol*") means:

(a) a postgraduate or comparable course of at least two academic years' duration;

(b) in respect of which the applicant received a statutory award for at least two academic years (other than an award intended to assist with additional expenditure that the applicant was obliged to incur in connection with attendance on the course by reason of a disability to which the applicant is or was subject);

(**3**) 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), Schedules 2 and 4, the Immigration, Asylum and Nationality Act 2006 (c. 13), section 9 and by the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21).

"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(**4**) as extended by the Protocol thereto which entered into force on 4 October 1967(**5**);

"relevant date" ("*dyddiad perthnasol*") means the first day of the academic year of the designated course to which the application for support relates;

"statutory award" ("*dyfarniad statudol*") means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or any comparable award, grant or other financial support in respect of undertaking a course which is paid out of public funds;

"student loans legislation" ("*y ddeddfwriaeth ar fenthyciadau i fyfyrwyr*") means the Education (Student Loans) Act 1990(**6**), the Education (Student Loans) (Northern Ireland) Order 1990(**7**), the Education (Scotland) Act 1980((**8**)) and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998(**9**) and regulations made under that Order or the 1998 Act and regulations made under the 1998 Act;

"support" ("*cymorth*") means financial assistance by way of grant given by the Welsh Ministers pursuant to these Regulations.

(2) A course is designated for the purposes of section 22(1) of the 1998 Act and these Regulations if it—

(a) begins on or after 1 September 2011;

(b) is a full-time postgraduate or comparable course;

(c) is of one academic year's duration; and

(d) is provided by a European institution.

PART 2

APPLYING FOR SUPPORT AND ELIGIBILITY

Applications for support and time limits

4.—(1) An eligible student may apply for support for one academic year in connection with attendance on a designated course subject to and in accordance with these Regulations.

(2) An applicant must submit an application to the Welsh Ministers to be considered as an eligible student and for support in such form as the Welsh Ministers may require.

(3) Subject to paragraph (4), the application must reach the Welsh Ministers no later than 31 July immediately prior to the relevant date ("the application deadline").

(4) Paragraph (3) does not apply where the Welsh Ministers consider having regard to the circumstances of the particular case that the application deadline should be relaxed, in which case the application must reach the Welsh Ministers no later than such date as they may specify to the applicant concerned in writing.

(**4**) Cmnd. 9171.
(**5**) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education, Mowden Hall, Staindrop Road, Darlington DL3 9BG).
(**6**) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4 with savings, *see* the Teaching and Higher Education Act 1998 (Commencement No.2 and Transitional Provisions) Order 1998 (S.I. 1998/2004).
(**7**) 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 S.R. (N.I.) 1998 No. 306.
(**8**) 1980 c. 44; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**9**) S.I. 1998/1760 (N.I.14) to which there have been amendments not relevant to these Regulations.

Number of Awards

5. The Welsh Ministers must ensure that the number of awards granted at any one time in an academic year under these Regulations do not exceed–

(a) one, in the case of the Bologna Center;

(b) one, in the case of the College of Europe.

Eligible Students

6.—(1) An eligible student may be awarded support for one academic year in connection with undertaking a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraph (3) and regulation 7, a person is an eligible student in connection with a designated course if in assessing the person's application for support, the Welsh Ministers determine that the person falls within one of the categories in Part 2 of Schedule 1 and either—

(a) the academic authority of the College of Europe notifies the Welsh Ministers in writing that the person has a reasonable chance of being offered a place on that course by the College of Europe; or

(b) the academic authority of the Bologna Center nominates that person for support in writing to the Welsh Ministers.

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

(a) subject to paragraph (4), S has attended a qualifying course;

(b) S is in breach of an obligation to repay any loan;

(c) S has reached the age of 18 and not ratified any agreement for a loan made with S when S was under the age of 18; or

(d) S has, in the opinion of the Welsh Ministers, shown by S's conduct that S is unfit to receive support.

(4) Paragraph (3)(a) does not apply where the Welsh Ministers determine that having regard to the particular circumstances of S's case it is appropriate to award S support in connection with the current course despite S having attended a qualifying course.

(5) For the purposes of paragraph (3)(b) and (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;

(b) with the concurrence of S's curator or at a time when S had no curator.

Student's eligibility

7.—(1) A person's status as an eligible student in connection with a designated course ("student's eligibility") terminates at the end of the academic year in respect of which support was awarded or sooner in accordance with paragraphs (2) to (6).

(2) The student's eligibility terminates when the student—

(a) withdraws from the designated course in circumstances in which the Welsh Ministers are not required to transfer the student's status as an eligible student in accordance with regulation 8(1); or

(b) abandons or is expelled from the designated course.

(3) A student's eligibility terminates on the day before the relevant date 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 ("T" in this paragraph) was an eligible student in connection with an application for support for a designated course at the same European institution from which T's status as an eligible student has been transferred to the current course; and

(b) the refugee status of T or of T's spouse, civil partner, parent or step-parent, as the case may be, is due to expire before the relevant date and, as at the day before the relevant date, 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).

(4) A student's eligibility terminates on the day before the relevant date 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 ("U" in this paragraph) was an eligible student in connection with an application for support for a designated course at the same European institution from which U's status as an eligible student has been transferred to the current course; and

(b) the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom is due to expire before the relevant date and, as at the day before the relevant date, 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).

(5) The Welsh Ministers may terminate the student's eligibility if they are satisfied that the conduct of the student has shown that the student is unfit to receive support.

(6) Where 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 or misleading in any material respect, the Welsh Ministers may do one or more of the following—

(a) terminate the student's eligibility;

(b) determine that the student no longer qualifies for any particular type or amount of support;

(c) treat any support already paid to the student as an overpayment which may be recovered in accordance with regulation 32.

Course Transfers

8.—(1) Where an eligible student transfers during the academic year from a designated course to another designated course at the same European institution, the Welsh Ministers must transfer the student's status as an eligible student to that other course where—

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

(b) they are satisfied that the student has begun to attend that other course on the recommendation of the academic authority; and

(c) the student's status as an eligible student has not otherwise terminated.

(2) A student whose status as an eligible student is transferred under paragraph (1) is entitled to receive the remainder of the support assessed by the Welsh Ministers in respect of the course from which the student transfers.

(3) Save as provided in paragraph (2) where an eligible student transfers from a designated course to another designated course, the student's status as an eligible student is not transferred and the student is not entitled to receive the remainder of any support assessed by the Welsh Ministers in respect of the course from which the student transfers.