WELSH STATUTORY INSTRUMENTS

2009 No. 3359 (W.295)

EDUCATION, WALES

The Assembly Learning Grants (European University Institute) (Wales) Regulations 2009

Made - - - -	*17 December 2009*
Laid before the National Assembly for Wales - -	*21 December 2009*
Coming into force - -	*21 January 2010*

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, application and interpretation

1. The title of these Regulations is the Assembly Learning Grants (European University Institute) (Wales) Regulations 2009 and they come into force on 21 January 2010.

2. These Regulations apply in relation to Wales.

3. 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 14 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule, 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 to the Government of Wales Act 2006 (c. 32).

"the 2008 Regulations" ("*Rheoliadau 2008*") means the Assembly Learning Grants (European Institutions) (Wales) Regulations 2008(**3**);

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

"current course" ("*cwrs cyfredol*") means the designated course in respect of which a person is applying for support or to be recognised as an eligible student;

"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 student" ("*myfyriwr cymwys*") has the meaning given by regulation 8;

"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 payable under regulation 16;

"the Institute" ("*yr Athrofa*") means the European University Institute;

"person with leave to enter or remain" ("*person sydd â chaniatâd i ddod i 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 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(**4**); 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;

"qualifying course" ("*cwrs cymwys*") means a course—

(a) which is—

(i) a postgraduate or comparable course; and

(ii) of at least two academic years' duration; and

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

"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

(**3**) S.I. 2008/18 (W.7); amended by S.I. 2008/1324 (W.137); S.I. 2008/3114 (W.276); and S.I. 2009/2157 (W.181).
(**4**) 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 200 (c.13), section 9.

done at Geneva on 28 July 1951(**5**) as extended by the Protocol thereto which entered into force on 4 October 1967(**6**);

"relevant date" ("*dyddiad perthnasol*") means 31 January 2010;

"statutory award" ("*dyfarniad statudol*") means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or the Education Act 1962(**7**), or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

"student loans legislation" ("*y ddeddfwriaeth ar fenthyciadau i fyfyrwy*") means the Education (Student Loans) Act 1990(**8**), the Education (Student Loans) (Northern Ireland) Order 1990(**9**), the Education (Scotland) Act 1980(**10**) and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(**11**) and regulations made thereunder or the 1998 Act and regulations made thereunder;

"supplementary grants" ("*grantiau atodol*") means the grants payable under Chapter 2 of Part 4.

Revocation and saving provisions

4. Subject to regulation 5, the following regulations are revoked on 1 September 2010—

(a) the 2008 Regulations;

(b) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) Regulations 2008(**12**);

(c) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) (No. 2) Regulations 2008(**13**);

(d) the Assembly Learning Grants (European Institutions) (Wales) (Amendment) Regulations 2009(**14**).

5. The 2008 Regulations continue to apply to the provision of support to students in relation to an academic year beginning on or after 1 September 2009 but before 1 September 2010.

6. These Regulations apply in relation to the provision of support to an eligible student in relation to an academic year which begins on or after 1 September 2010 whether anything done under these Regulations is done before, on or after 1 September 2010.

(**5**) Cmnd. 9171.
(**6**) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Business, Innovation and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).
(**7**) 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.
(**8**) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.
(**9**) 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.
(**10**) 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).
(**11**) S.I. 1998/1760 (N.I.14), to which there have been amendments not relevant to these Regulations.
(**12**) S.I. 2008/1324 (W.137).
(**13**) S.I. 2008/3114 (W.276).
(**14**) S.I. 2009/2157 (W.181).

PART 2

APPLYING FOR SUPPORTAND ELIGIBILITY

Applications

7.—(1) Unless a person seeking support under these Regulations is already an eligible student by virtue of regulation 8(9), he or she must submit an application to be considered as an eligible student and an application for support in such form as the Welsh Ministers may require to the Institute by the application deadline.

(2) Where a person seeking support under these Regulations is already an eligible student by virtue of regulation 8(9), he or she must notify the Welsh Ministers in writing by the application deadline that he or she wishes to apply for support under these Regulations.

(3) The application deadline in relation to an academic year beginning on or after 1 September 2010 is 31 January 2010.

(4) The Welsh Ministers may extend the application deadline if they consider that the circumstances of the case warrant it.

Eligible students

8.—(1) An eligible student qualifies for financial support in connection with his or her attendance on a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) and (7), a person is an eligible student in connection with a designated course at the Institute if—

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

(b) the Welsh Ministers determine in connection with an application for support under these Regulations that he or she falls within one of the categories in Part 2 of Schedule 1.

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

(a) subject to paragraph (4), he or she has attended a qualifying course;

(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 not ratified any agreement for a loan made with him or her when he or she was under the age of 18; or

(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.

(4) Paragraph (3)(a) does not apply where the person has attended a qualifying course but the Welsh Ministers have determined that having regard to the particular circumstances of that person's case it is appropriate to pay him or her support in connection with the current course.

(5) For the purposes of paragraph (3)(b) and (c),

"loan" 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) The number of eligible students must not exceed one.

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

(9) Despite paragraphs (2) and (3) and subject to paragraphs (7), (10) and (11), a person is an eligible student in connection with a designated course at the Institute if—

(a) he or she qualified as an eligible student in connection with—

(i) an earlier academic year of the current course; or

(ii) a designated course that he or she attended at the Institute and from which his or her status as an eligible student was transferred to the current course; and

(b) his or her status as an eligible 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 student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course at the Institute from which his or her status as an eligible student has been transferred to the current course; and

(b) the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, is due to expire before the first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, 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 student terminates on the day 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 student in connection with an application for support for an earlier year of the current course or in connection with an application for support for a designated course at the Institute from which his or her 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 first day of the academic year in respect of which A is applying for support and, as at the day before that academic year begins, 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 student terminates on the day 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 began the course in connection with which the Welsh Ministers determined that he or she was an eligible student before 1 September 2007.

(13) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether a person is an eligible student.

(14) The Welsh Ministers must inform a person who has been notified to them under paragraph (2)(a) whether he or she qualifies as an eligible student.

(15) Aperson who has received notification from the Welsh Ministers under paragraph (14) that he or she is an eligible student in connection with a course at the Institute and a person who is an eligible student at the Institute by virtue of paragraph (9) must, by the deadline for receipt of financial information, provide the Welsh Ministers with any information or documentation that they request in order to determine the amount of support payable under these Regulations in respect of the academic year.