WELSH STATUTORY INSTRUMENTS

# 2009 No. 2737 (W.235)

# EDUCATION, WALES

## The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009

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| *Made - - - -* | *12 October 2009* |
| *Laid before the National Assembly for Wales - -* | *14 October 2009* |
| *Coming into force - -* | *5 November 2009* |

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 2009.

(2) These Regulations come into force on 5 November 2009 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 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 1962 Act" ("*Deddf 1962*") means the Education Act 1962(**3**);

"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(**9**) as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003(**10**) and the Education (Student Fees and Support) (Switzerland) Regulations 2003(**11**);

"the 2004 Regulations" ("*Rheoliadau 2004*") means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004(**12**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004(**13**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004(**14**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(**15**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(**16**), the Education (Student Support) (Amendment) Regulations 2005(**17**) and the Education (Student Support) (Amendment) (No.2) Regulations 2005(**18**);

"the 2005 Regulations" ("*Rheoliadau 2005*") means the Education (Student Support) Regulations 2005(**19**));

"the 2006 Regulations" ("*Rheoliadau 2006*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(**20**)) as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006(**21**));

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(**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.
(**5**) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
(**6**) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
(**7**) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
(**8**) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.
(**9**) S.I. 2002/3200.
(**10**) S.I. 2003/3280.
(**11**) S.I. 2004/161.
(**12**) S.I. 2004/1602.
(**13**) S.I. 2004/2041.
(**14**) S.I. 2003/1065.
(**15**) S.I. 2004/2598.
(**16**) S.I. 2005/5.
(**17**) S.I. 2005/1341.
(**18**) S.I. 2005/2084.
(**19**) S.I. 2005/52 as amended by S.I. 2005/1341, S.I. 2005/2084, S.I. 2005/3482 and S.I. 2006/955.
(**20**) S.I. 2006/126 (W.19).
(**21**) S.I. 2006/1863 (W.196).

"the 2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(**22**)) as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2007(**23**)), the Assembly Learning Grants and Loans (Higher Education) (Wales)(Amendment) (No.2) Regulations 2007(**24**)) and the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) (No.3) Regulations 2007(**25**));

"the 2008 Regulations" ("*Rheoliadau 2008*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008(**26**) as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008(**27**) and the 2008 (No. 2) Regulations;

"the 2008 (No. 2) Regulations" ("*Rheoliadau (Rhif 2) 2008*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2008(**28**);

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

(a) a 2010 gap year student;

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

  (i) he or she started before 1 September 2010; or

  (ii) he or she started before 1 September 2011 and in relation to which he or she is a 2010 gap year student; or

(c) an eligible student who started the present course on or after 1 September 2010 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 2010; or

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

"2010 gap year student" ("*myfyriwr blwyddyn i ffwrdd 2010* ") has the meaning given in paragraph (13);

"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;

(**22**) S.I. 2007/1045 (W.104).
(**23**) S.I. 2007/2312 (W.183).
(**24**) S.I. 2007/2851 (W.248).
(**25**) S.I. 2007/3230 (W.282).
(**26**) S.I. 2008/1273 (W.130).
(**27**) S.I. 2008/ 2140 (W.189).
(**28**) S.I. 2008/3170 (W.283) as amended by S.I. 2009/2156 (W.180).

"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 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 2010; or

(ii) begins the course on or after 1 September 2010; 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 in relation to—

(a) an eligible student, the student's contribution calculated pursuant to regulation 59 and Schedule 5;

(b) an eligible part-time student, the student's contribution calculated pursuant to regulation 97 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 70;

"designated part-time course" ("*cwrs rhan-amser dynodedig*") means a course designated by regulation 86 or by the Welsh Ministers under regulation 86;

"designated postgraduate course" ("*cwrs ôl-radd dynodedig*") means a course designated by regulation 110 or by the Welsh Ministers under regulation 110;

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

(**29**) OJ L158, 30.04.2004, p.77—123.

"EC national" ("*gwladolyn o'r 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 68;

"eligible part-time student" ("*myfyriwr rhan-amser cymwys*") has the meaning given in regulation 85;

"eligible postgraduate student" ("*myfyriwr ôl-raddedig cymwys*") has the meaning given in regulation 109;

"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(**30**) 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, city college, Academy, independent school or other institution except a pupil referral unit;

"end-on course" ("*cwrs penben*") 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, 2007, 2008 or 2008 (No. 2) 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, 2007, 2008 or 2008 (No. 2) 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;

(**30**) S.I. 2004/1729 (W.173), as amended by S.I. 2007/2811 (W.238) and S.I. 2008/215 (W.26).