WELSH STATUTORY INSTRUMENTS

2008 No. 18 (W.7)

EDUCATION, WALES

The Assembly Learning Grants (European Institutions) (Wales) Regulations 2008

Made - - - -	*8 January 2008*
Laid before the National Assembly for Wales - -	*10 January 2008*
Coming into force - -	*1 February 2008*

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 Institutions) (Wales) Regulations 2008 and they come into force on 1 February 2008.

2. These Regulations apply in relation to Wales.

3.—(1) In these Regulations—

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

"2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants (European Institutions) (Wales) Regulations 2007(**3**);

(**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), section 42. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), Schedule 12.

(**2**) The functions of the Secretary of State under the Teaching and Higher Education Act 1998 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 of the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2007/2313 (W.184).

"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;

"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;

"eligible student" ("*myfyriwr cymwys*") has the meaning given by regulation 10;

"European Community" ("*Cymuned Ewropeaidd*") means the territory comprised by the Member States of the European Community as constituted from time to time;

"European institution" ("*sefydliad Ewropeaidd*") means—

(a) the Bologna Center;

(b) the College of Europe;

(c) the European University Institute;

"grants for living and other costs" ("*grantiau at gostau bywa chostau eraill*") means the grants payable under regulations 20 or 22;

"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 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 1 February 2008;

(**4**) 2002 c. 41.
(**5**) Cmnd. 9171.
(**6**) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG.

"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 fyfyrwyr*") means the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998 and regulations made thereunder or the 1998 Act and regulations made thereunder;

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

Amendment of the Assembly Learning Grants (European Institutions) (Wales) Regulations 2007

4. The 2007 Regulations are amended in accordance with Schedule 1.

Revocation and saving provisions

5. Subject to regulations 6 and 7, the Assembly Learning Grants (European Institutions) (Wales) Regulations 2007 are revoked.

6. Regulations 6 and 7 of the 2007 Regulations continue to apply.

7. The 2007 Regulations are to continue to apply in relation to Wales in respect of an academic year beginning on or after 1 September 2007 but before 1 September 2008 and in respect of an academic year beginning on or after 1 September 2005 but before 1 September 2006 so far as the 2006 Regulations relate to an academic year beginning in that period.

8. These Regulations apply in relation to the provision of support to students in relation to an academic year which begins on or after 1 September 2008 whether anything done under these Regulations is done before, on or after 1 September 2008.

PART 2

APPLYING FOR SUPPORT AND ELIGIBILITY

Applications

9.—(1) Unless a person seeking support under these Regulations is already an eligible student by virtue of regulation 10(10), 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 relevant European institution by the application deadline.

(2) Where a person seeking support under these Regulations is already an eligible student by virtue of regulation 10(10), 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.

(**7**) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provision sets 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.

(3) The application deadline in relation to an academic year beginning on or after 1 September 2008 is—

(a) 28 February 2008, in the case of the Bologna Center;

(b) 28 February 2008, in the case of the College of Europe; and

(c) 28 February 2008, in the case of the European University Institute.

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

Eligible students

10.—(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 (4) and (8), a person is an eligible student in connection with a designated course at the College of Europe or the European University Institute if—

(a) the academic authority of the European institution providing the designated course 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 2.

(3) Subject to paragraphs (4) and (8), a person is an eligible student in connection with a designated course at the Bologna Center if—

(a) the academic authority of the Bologna Center nominates him or her for support under these Regulations by writing to the Welsh Ministers; 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 2.

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

(a) subject to paragraph (5), 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.

(5) Paragraph (4)(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.

(6) For the purposes of paragraph (4)(b) and (c), "loan" means a loan made under the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(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.

(8) The number of eligible students must not exceed—

(a) 1, in the case of the Bologna Center;

(b) 2, in the case of the College of Europe; and

(c) 1, in the case of the European University Institute.

(9) 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.

(10) Despite paragraphs (2) to (4) and subject to paragraphs (8), (11) and (12), a person is an eligible student in connection with a designated course at a European institution 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 same European institution 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.

(11) 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 same European institution 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.

(12) 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 same European institution 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.

(13) Paragraphs (11) and (12) 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.

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

(15) The Welsh Ministers must inform a person who has been notified to them under paragraph (2)(a) or nominated under paragraph (3)(a) whether he or she qualifies as an eligible student.

(16) A person who has received notification from the Welsh Ministers under paragraph (15) that he or she is an eligible student in connection with a course at the College of Europe or the European University Institute and a person who is an eligible student at the College of Europe or