WELSH STATUTORY INSTRUMENTS

2007 No. 2851 (W.248)

EDUCATION, WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) (No.2) Regulations 2007

Made - - - -	*28 September 2007*
Laid before the National Assembly for Wales - -	*1 October 2007*
Coming into force - -	*23 October 2007*

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 and Loans (Higher Education) (Wales) (Amendment) (No. 2) Regulations 2007.

(2) These Regulations come into force on 23 October 2007 and apply in relation to Wales.

Interpretation

2. In these Regulations—

(**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 section 22 of 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).

"the 2006 Regulations" ("*Rheoliadau 2006*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(**3**).

"the 2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(**4**).

Amendment to the 2006 Regulations and the 2007 Regulations

3. The 2006 Regulations are amended in accordance with Part 2.

4. The 2007 Regulations are amended in accordance with Part 3.

PART 2

AMENDMENTS TO THE 2006 REGULATIONS

5. In the English text of regulation 2(1A) of the 2006 Regulations, after the word, "his" insert "or her".

6. In the Welsh text of regulation 55(3)(ba) of the 2006 Regulations, omit the word, "nad".

7. In the Welsh text of paragraph 1(4)(ch) of Schedule 1 to the 2006 Regulations, for the words, "blentyn ei briod neu ei bartner sifil;", substitute the words, "briod neu bartner sifil ei blentyn;".

PART 3

AMENDMENTS TO THE 2007 REGULATIONS

Amendment of regulation 2 of the 2007 Regulations

8. In regulation 2(1) of the 2007 Regulations, in the appropriate place in the alphabetical order, insert—

""bursary year" ("blwyddyn bwrsari") means an academic year of the 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 any payment under a Scottish healthcare allowance the amount of which is calculated by reference to his or her income;

"designated distance learning course" ("*cwrs dysgu o bell dynodedig*") means a course designated by the Welsh Ministers under regulation 61C;";

"disabled distance learning students' allowance" ("*lwfans myfyrwyr dysgu o bell anabl*") means the grant payable under regulation 61H;";

"eligible distance learning student" ("*myfyriwr dysgu o bell cymwys*") has the meaning given in regulation 61A;";

"present distance learning course" ("*cwrs dysgu o bell presennol*") means the designated distance learning course in respect of which a person is applying for support;".

9. In the English text of regulation 2(1A) of the 2007 Regulations, after the word, "his" insert "or her".

(**3**) S.I. 2006/126 (W.19) as amended by S.I. 2006/1863 (W.196) and S.I. 2007/2312 (W.183)
(**4**) S.I. 2007/1045 (W.104) as amended by S.I. 2007/2312 (W.183).

Amendment of regulation 4 of the 2007 Regulations

10. In regulation 4 of the 2007 Regulations—

(a) after paragraph (6)(a), insert—

"(aa) a designated course and a designated distance learning course;";

(b) for paragraph (12), substitute—

"(12) 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—

(i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his or her status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, has expired and 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 or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.";

(c) for paragraph (13), substitute—

"(13) 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–

(i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his or her status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and 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 or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.".

Amendment of regulation 5 of the 2007 Regulations

11. In regulation 5 of the 2007 Regulations—

(a) in paragraph (1)—

(i) for "paragraph (2)", substitute "paragraphs (2), (3) and (3A)";

(ii) after sub-paragraph (b), insert—

"(bb) not designated under regulation 61C;";

(b) in paragraph (2)—

for "paragraph 6 or 7", substitute "paragraph 7 or 8".

(c) after paragraph (2), insert—

"(2A) A course that is taken as part of an employment based teacher training scheme is not a designated course.";

(d) after paragraph (3), insert—

"(3A) Paragraph (1)(bb) does not apply where the person applying for support in connection with the course is—

(a) a disabled student; and

(b) undertaking that course in the United Kingdom but not in attendance because he or she is unable to attend for a reason which relates to his or her disability.".

Amendment of regulation 6 of the 2007 Regulations

12. In regulation 6(15) (a) of the 2007 Regulations for "has not converted or will not convert", substitute "has not transferred or converted or will not transfer or convert" and for the words "under regulation 70(1)," substitute, "under regulation 8, regulation 61M, regulation 61N and regulation 70.".

13. In regulation 6 of the 2007 Regulations —

(a) in paragraph (19) after "compressed degree course", insert "or a designated distance learning course";

(b) in paragraph (20)(b) after "attendance on", insert "or, in the case of a designated distance learning course, undertaking".

Amendment of regulation 12 of the 2007 Regulations

14. In regulation 12, omit paragraphs (4) and (5).

Amendment of regulation 16 of the 2007 Regulations

15. In regulation 16 of the 2007 Regulations—

(a) for paragraph (4), substitute—

"(4) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £2,195; and

(b) the fees payable by the student in connection with that year.";

(b) for paragraph (5), substitute—

"(5) In the case of a designated course at Guildhall School of Music and Drama, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £4,455; and

(b) the fees payable by the student in connection with that year.".

Amendment of regulation 23 of the 2007 Regulations

16. After regulation 23 of the 2007 Regulations, insert—

"**23A.**—(1) A student to whom this regulation applies is treated as if he or she were in attendance on the designated course for the purpose of qualifying for the following grants—

(a) grant for dependants;

(b) disabled students' living costs grant;

(c) maintenance grant or special support grant;

(d) higher education grant.

(2) This regulation applies to—

(a) a compressed degree student;

(b) a disabled student who—

(i) is not a compressed degree student; and

(ii) is undertaking a designated course in the United Kingdom but is not in attendance because he or she is unable to attend for a reason which relates to his or her disability."

Amendment of regulation 30 of the 2007 Regulations

17. In regulation 30(1) of the 2007 Regulations—

(a) at the beginning of sub-paragraph (a), insert "subject to sub-paragraph (m),";

(b) in sub-paragraph (g) for "and (k)", substitute, " (k) and (l)";

(c) after sub-paragraph (d), insert—

"(da) "dependent child" ("plentyn dibynnol") means, in relation to an eligible student, a child dependent on the student;";

(d) after sub-paragraph (k), insert—

"(l) for the purposes of determining whether a person is the former partner of an eligible student's partner, "partner" ("partner") in relation to an eligible student's partner means—

(i) the spouse of an eligible student's partner;

(ii) the civil partner of an eligible student's partner;

(iii) where the eligible student began the specified designated course on or after 1 September 2000, a person ordinarily living with an eligible student's partner as if he or she were his or her spouse;