
WELSH STATUTORY INSTRUMENTS

2011 No. 736 (W.113)

EDUCATION, WALES

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

<i>Made</i>	- - - -	<i>11 March 2011</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>14 March 2011</i>
<i>Coming into force</i>	- -	<i>5 April 2011</i>

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.

PART 3

ENQUIRIES AND PROVISION OF INFORMATION

Making enquiries

9. The Welsh Ministers may take such steps and make such enquiries as they consider necessary to determine—

- (a) whether an applicant is an eligible student;
- (b) whether an eligible student qualifies for support;
- (c) the amount of support payable if any;
- (d) whether a student's eligibility has terminated;
- (e) the amount of a College of Europe student's contribution for the purposes of Part 5.

Information from applicants

10.—(1) Every applicant and eligible student granted support, must, as soon as reasonably practicable after being requested to do so, provide the Welsh Ministers with such information and documentation as the Welsh Ministers require for the purposes of these Regulations.

(2) Every applicant and eligible student granted support must where applicable immediately inform the Welsh Ministers and provide the Welsh Ministers with particulars if—

- (a) the person withdraws from, abandons or is expelled from the course;
- (b) the person transfers to another course at the same European institution;
- (c) the person ceases to attend the course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) the person is absent from the course for more than 60 days due to illness or for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) the person's home or term-time address changes.

Format of information required

11.—(1) Information required to be provided pursuant to these Regulations must be provided to the Welsh Ministers in the format required by the Welsh Ministers.

(2) If the Welsh Ministers require the information to be signed by the person providing it, an electronic signature in such form as the Welsh Ministers may specify satisfies this requirement.

(3) An 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.

Informing applicants

12. The Welsh Ministers must inform an applicant—

- (a) whether that applicant is considered an eligible student;

- (b) of the amount of support if any payable in respect of the academic year in question;
- (c) if the Welsh Ministers consider a student's eligibility has terminated;
- (d) the amount of any College of Europe student's contribution calculated under Schedule 2.

PART 4

FINANCIAL SUPPORT

CHAPTER 1

GENERAL PROVISION

Number of awards

13.—(1) The Welsh Ministers may award support to one eligible student at any one time undertaking a designated course at the Bologna Center (“Bologna Center student”).

(2) The Welsh Ministers may award support to one eligible student at any one time in an academic year undertaking a designated course at the College of Europe (“College of Europe student”).

(3) If more than one eligible student applies for support in respect of the same academic year and European institution, the Welsh Ministers must (if they have determined to award support) award that support to whichever of the applicants applied first in time to the European institution concerned.

(4) Where more than one eligible student applies on the same day in respect of the same academic year and European institution, the Welsh Ministers must (if they have determined to award support) award that support to whichever of the eligible students the Welsh Ministers determine is most suitable to receive support.

Nature of Support Awarded

14.—(1) Where the Welsh Ministers have determined to award support under regulation 13(1), they must award a grant for fees in accordance with Chapter 2.

(2) Where the Welsh Ministers have determined to award support under regulation 13(2), subject to regulation 29 they must award—

- (a) a grant for fees in accordance with Chapter 3; and
- (b) grants for living and other costs in accordance with Chapter 4.

No Support for Repeat Study

15.—(1) An eligible student at a European institution does not qualify for any support in respect of a year of repeat study.

(2) “Year of repeat study” (“*blwyddyn o ailadrodd astudiaethau*”) means an academic year which the student has previously undertaken but is required by the European institution to undertake again.

CHAPTER 2

GRANTS FOR FEES FOR BOLOGNA CENTER STUDENTS

Grant for fees

16.—(1) A Bologna Center student qualifies for a grant for fees in respect of one academic year of a designated course calculated in accordance with paragraph (2).

(2) The amount of grant for fees payable to a Bologna Center student in respect of one academic year is the aggregate amount of fees payable by the student in respect of, or otherwise in connection with, the student's undertaking of the designated course during that academic year, subject to paragraph (3).

(3) The maximum grant for fees payable under this regulation is 28,200 euro.

CHAPTER 3

GRANTS FOR FEES FOR COLLEGE OF EUROPE STUDENTS

Grant for fees

17.—(1) A College of Europe student qualifies for a grant for fees in respect of one academic year of a designated course calculated in accordance with paragraph (2).

(2) The amount of grant for fees payable to a College of Europe student in respect of one academic year is the aggregate amount of fees payable by the student in respect of, or otherwise in connection with, the student's undertaking of the designated course during that academic year, subject to paragraph (3).

(3) The maximum amount of grant for fees payable under this regulation is 14,000 euro.

CHAPTER 4

GRANTS FOR LIVING AND OTHER COSTS FOR COLLEGE OF EUROPE STUDENTS

General

18.—(1) A College of Europe student awarded support ("student" in this Chapter) does not qualify for any of the grants payable under this Chapter if paragraph 9 of Part 2 of Schedule 1 is the only paragraph of Part 2 of that Schedule into which the student falls.

(2) The amount payable in respect of any of the grants for living and other costs other than the disabled student's allowance and the grant for dependants as provided for in regulations 23 to 26, may be reduced in accordance with Part 5.

Grant for living costs

19. A student qualifies for a grant for living costs of an amount equal to the sum of (A + B)

where—

A is £2,463; and

B is £50 for each week the student is required to attend the College of Europe in excess of 30 weeks and 3 days, including a week during which the student is required to attend the College of Europe for less than 5 days.

Grant for board and lodging

20. A student qualifies for a maximum grant for board and lodging of up to 7,000 euro.

Grants for travel

21.—(1) A student qualifies for a grant for travel home of an amount equal to (A – B)

where—

A is the amount determined by the Welsh Ministers to be the cost of three return journeys from the student's home address to the College of Europe; and

B is £102.

(2) A student qualifies for a grant for college travel of such amount as the Welsh Ministers determine to be the reasonable cost of travel to the College of Europe from the student's term-time address.

(3) Subject to the prior agreement of the Welsh Ministers before costs are incurred, a student qualifies for a grant for research travel of such amount as the Welsh Ministers determine to be the reasonable cost of travel incurred for the purposes of completing periods of research authorised by the College of Europe during the academic year in respect of which support is awarded.

Disabled students' allowance

22.—(1) A student qualifies for a disabled students' allowance to assist with the additional expenditure which the Welsh Ministers are satisfied the student is obliged to incur in connection with the student's undertaking of a designated course by reason of a disability to which the student is subject.

(2) Subject to paragraph (3), the amount of the disabled student's allowance is the amount that the Welsh Ministers consider appropriate in accordance with the student's circumstances to assist with one or more types of eligible expenditure as described in paragraph (4).

(3) The amount of disabled student's allowance must not exceed £10,260 in respect of the academic year.

(4) The types of eligible expenditure are—

(a) expenditure on a non-medical personal helper;

(b) expenditure on major items of specialist equipment;

(c) any additional expenditure incurred—

(i) in the country where the College of Europe is located for the purpose of attending the institution; and

(ii) within or outside the United Kingdom for the purpose of travelling to the College of Europe in order to attend the current course.

Grant for dependants – general

23.—(1) The grant for dependants consists of the following elements—

(a) adult dependants grant; and

(b) parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 24 to 26.

Adult dependants grant

24.—(1) A student qualifies for an adult dependants grant in connection with attendance on a designated course in accordance with this regulation.

(2) The adult dependants grant is available in respect of a dependant of a student who is either—

(a) the student's partner; or

(b) an adult dependant of the student where the student's taxable income does not exceed, £3,801.

(3) The amount of adult dependants grant payable is calculated in accordance with regulation 26, the basic amount being—

- (a) £2,647; or
- (b) where the person in respect of whom the student is applying for adult dependants grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,647 as the Welsh Ministers consider reasonable in the circumstances.

Parents' learning allowance

25.—(1) A student qualifies in connection with undertaking a designated course for the parents' learning allowance if the student has one or more dependent children.

(2) The amount of parents' learning allowance payable in respect of the academic year is calculated in accordance with regulation 26, the basic amount being, £1,508.

Grant for Dependants – Calculations

26.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the student qualifies under regulations 24 and 25 is the amount of that element remaining after applying, until it is extinguished, an amount equal to (A minus B) as follows and in the following order to reduce the basic amount of—

- (a) the adult dependants grant where the student qualifies for that element under regulation 24; and
- (b) the parents' learning allowance where the student qualifies for that element under regulation 25.

(2) Subject to paragraphs (4) and (5), where B is greater than or equal to A, the basic amount of each element of the grant for dependants for which the student qualifies is payable.

(3) Where (A minus B) is equal to or exceeds the aggregate of the basic amounts of the adult dependants grant and parents' learning allowance for which the student qualifies, the amount payable in respect of each element is nil.

(4) The amount of adult dependants grant calculated under paragraph (1) is reduced by one half where—

- (a) the student's partner—
 - (i) is an eligible student; or
 - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which the person is entitled under the statutory award.

(5) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.

(6) For the purposes of this regulation—

A is the aggregate net income of each of the eligible student's dependants; and

B is—

- (a) £1,159 where the student has no dependent children;
- (b) £3,473 where the student is not a lone parent and has one dependent child;
- (c) £4,632 where the student is not a lone parent and has more than one dependent child;
- (d) £4,632 where the student is a lone parent and has one dependent child;
- (e) £5,797 where the student is a lone parent and has more than one dependent child.

Grant for Dependants – Interpretation

27.—(1) For the purposes of regulations 24 to 26—

- (a) “adult dependant” (“*dibynnydd mewn oed*”) means, in relation to a student, an adult who is dependent on the student, other than the student’s child, the student’s partner (including a spouse or civil partner from whom the Welsh Ministers consider the student is separated) or the student’s former partner;
- (b) “child” (“*plentyn*”) in relation to a student includes any child of the student’s partner who is dependent on the student and any child for whom the student has parental responsibility and who is dependent on the student;
- (c) “dependant” (“*dibynnydd*”) means, in relation to a student, the student’s partner, the student’s dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) “dependent” (“*dibynnol*”) means wholly or mainly financially dependent;
- (e) “dependent child” (“*plentyn dibynnol*”) means in relation to an eligible student a child dependent on the student;
- (f) “lone parent” (“*rhiant unigol*”) means a student who does not have a partner and who has a dependent child;
- (g) “net income” (“*incwm net*”) has the meaning given in paragraph (2) as may be reduced in accordance with paragraph (3);
- (h) subject to sub-paragraphs (i) and (j), “partner” (“*partner*”) means any of the following—
 - (i) a spouse;
 - (ii) a civil partner;
 - (iii) a person ordinarily living with a student as if that person were the student’s spouse where that student was aged 25 or over at the relevant date;
 - (iv) a person ordinarily living with a student as if that person were the student’s civil partner where that student was aged 25 or over at the relevant date;
- (i) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the fact that the student with whom the person is living was not aged 25 or over at the relevant date;
- (j) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the fact that the student with whom the person is ordinarily resident was not aged 25 or over at the relevant date;
- (k) “prior financial year” (“*blwyddyn ariannol flaenorol*”) has the meaning given in paragraph 1(1) of Schedule 2.

(2) Subject to paragraph (3), a dependant’s net income is their taxable income from all sources for the prior financial year reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992⁽¹⁰⁾;

(10) 1992 c. 4, to which there are amendments not relevant to these Regulations.

- (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002(11);
 - (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
 - (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant for the purposes of section 23 of the Children Act 1989(12);
 - (f) any payment made to the dependant under section 23C(5A) of the Children Act 1989(13);
 - (g) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act(14); and
 - (h) any child tax credit to which the dependant is entitled under Part 1 of the Tax Credits Act 2002(15).
- (3) Where a student's partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the relevant date, the student partner's net income is taxable income calculated in accordance with paragraph (2) reduced by—
- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Welsh Ministers the obligation has been reasonably incurred; or
 - (b) such lesser amount, if any, as the Welsh Ministers consider appropriate if, in their opinion, a lesser obligation could reasonably have been incurred.
- (4) For the purposes of paragraph (2), payments are to be treated as the child's income where—
- (a) the dependant is a dependent child; and
 - (b) payments are made to the student towards the child's maintenance.

PART 5

COLLEGE OF EUROPE STUDENT'S CONTRIBUTION

Student's contribution

28. A College of Europe student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 2.

Application of the student's contribution

29. The College of Europe student's contribution must be applied to reduce or extinguish the amounts of grants for living and other costs to which the College of Europe student would otherwise be entitled in the following order—

- (a) the student's grant for living costs calculated under regulation 19;

(11) 2002 c. 38.

(12) 1989 c. 41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 12; Care Standards Act 2000 (c. 14), Schedule 4, paragraph 14; by the Children Act 2004 (c. 31), section 49(3); and by the Children and Young Persons Act 2008 (c. 23) section 39 and Schedule 3.

(13) Subsections (5A) to (5C) of section 23C of the Children Act 1989 were inserted, in relation to England, by section 21 of the Children and Young Persons Act 2008 and S.I. 2009/268 and S.I. 2009/ 2273 refer. Subsection (5B) has been inserted into section 23C in relation to Wales and S.I. 2010/1329 (W.112) (C.81) refers.

(14) There are amendments to sections 15 and 24 and Schedule 1 which are not relevant to these Regulations.

(15) 2002 c. 21 to which there are amendments not relevant to these Regulations.

- (b) the amount if any of the adult dependants grant calculated in accordance with regulation 24;
- (c) the amount if any of the parents' learning allowance calculated in accordance with regulation 25;
- (d) the amount if any of the grant for board and lodging in accordance with regulation 20;
- (e) the amount of grant for travel home calculated in accordance with regulation 21(1);
- (f) the amount of grant for college travel in accordance with regulation 21(2);
- (g) the amount of grant for research travel calculated in accordance with regulation 21(3).

PART 6

PAYMENTS

Payment of grant for fees

30.—(1) The Welsh Ministers must not pay the grant for fees awarded to an applicant until they have received a valid request for payment from the academic authority.

(2) The Welsh Ministers may make the payments of the grant for fees to the academic authority in such instalments (if any) and at such times as they consider appropriate.

Payment of grants for living and other costs

31.—(1) The Welsh Ministers may pay the grants for living and other costs to a College of Europe student in such instalments (if any) and at such times as they consider appropriate.

(2) The Welsh Ministers may, if they consider it appropriate to do so, pay the grant payable under regulation 20 (grant for board and lodging) to the relevant academic authority for the academic authority to pay the relevant grant on their behalf.

(3) Where a final assessment of the amount of grants for living and other costs payable to a student cannot be made on the basis of the information provided by an applicant, the Welsh Ministers may make provisional payments of those grants pending the final assessment.

(4) The Welsh Ministers may, if they consider it appropriate to do so, make a payment of disabled students' allowance before the start of the academic year in respect of which that payment is due.

(5) Where the circumstances in regulation 10(2)(a) or regulation 10(2)(c) apply, the Welsh Ministers must not make any payments of support to a student after the date on which the student stops attending the course unless they consider it appropriate to do so taking into account the circumstances of the student's case.

(6) The Welsh Ministers must not make any payments of support to a student who is absent from the course—

- (a) for more than 60 days due to illness; or
- (b) for any period for any other reason,

unless they consider that it is appropriate to do so taking into account the circumstances of the student's case.

Overpayments

32.—(1) The Welsh Ministers may recover any overpayment of grant for fees from the academic authority.

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(2) An eligible student must, if required to do so by the Welsh Ministers, repay any amount paid to that student under Part 4 which for whatever reason exceeds the amount of support to which the person is entitled under Part 4.

11 March 2011

Leighton Andrews
Minister for Children, Education, and Lifelong
Learning, one of the Welsh Ministers

SCHEDULE 1

Regulation 6

ELIGIBLE STUDENTS

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States⁽¹⁶⁾;

“EEA Agreement” (“*Cytundeb yr AEE*”) means the Agreement on the European Economic Area signed at Oporto on 2 May 1992⁽¹⁷⁾ as adjusted by the Protocol signed at Brussels on 17 March 1993⁽¹⁸⁾;

“EEA frontier self-employed person” (“*person hunangyflogedig ffin yr AEE*”) means an EEA national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” (“*gweithiwr ffin yr AEE*”) means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” (“*gweithiwr mudol o'r AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” (“*gwladolyn o'r AEE*”) means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” (“*person hunangyflogedig o'r AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” (“*Gwladwriaeth AEE*”) means a Member State of the European Economic Area;

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Switzerland Agreement;

“EU national” (“*Gwladolyn o'r UE*”) means a national of a Member State of the European Union;

“European Economic Area” (“*Ardal Economaidd Ewropeaidd*”) means the area comprised by the European Union, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“family member” (“*aelod o deulu*”) unless otherwise indicated, means—

⁽¹⁶⁾ OJ L158, 30.04.2004, pp.77-123.

⁽¹⁷⁾ Cm. 2073.

⁽¹⁸⁾ Cm. 2183.

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- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) that person’s spouse or civil partner;
 - (ii) direct descendants of the person or of the person’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or of the person’s spouse or civil partner; or
 - (iii) dependent direct relatives in the ascending line of the person or that of the person’s spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) the person’s spouse or civil partner; or
 - (ii) the person’s child or the child of the person’s spouse or civil partner;
- (c) in relation to an EU national who falls within Article 7(1)(c) of Directive 2004/38—
 - (i) the national’s spouse or civil partner; or
 - (ii) direct descendants of the national or the national’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the national or of the national’s spouse or civil partner;
- (d) in relation to an EU national who falls within Article 7(1)(b) of Directive 2004/38—
 - (i) the national’s spouse or civil partner;
 - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the national or of the national’s spouse or civil partner; or
 - (iii) dependent direct relatives in the national’s ascending line or of the national’s spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) the national’s spouse or civil partner; or
 - (ii) direct descendants of the national or of the national’s spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the national or of the national’s spouse or civil partner;

“right of permanent residence” (*“hawl i breswyllo’n barhaol”*) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” (*“person hunangyflogedig”*) means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” (*“wedi setlo”*) has the meaning given by section 33(2A) of the Immigration Act 1971(19);

(19) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999⁽²⁰⁾ and which came into force on 1 June 2002;

“Swiss employed person” (“*person cyflogedig Swisaidd*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person cyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” (“*person hunangyflogedig ffin y Swistir*”) means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national’s residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” (“*person hunangyflogedig Swisaidd*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“Turkish worker” (“*gweithiwr Twrcaidd*”) means a Turkish national who on the relevant date—

- (a) was ordinarily resident in the United Kingdom and Islands; and
- (b) was, or had been, lawfully employed in the United Kingdom;

“worker” (“*gweithiwr*”) means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be.

(2) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the current course, the current distance learning course, the current part-time course or the current postgraduate course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the course referred to in sub-paragraph (a),

is to be considered to be ordinarily resident in the place from which the person moved.

(3) For the purposes of this Schedule, a person (“P” in this sub-paragraph) is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or the territory comprising the European Economic Area, Switzerland and Turkey if P would have been so resident but for the fact that—

- (a) P;
- (b) P’s spouse or civil partner;
- (c) P’s parent; or
- (d) in the case of a dependent direct relative in the ascending line, P’s child or child’s spouse or civil partner,

is or was temporarily employed outside the area in question.

⁽²⁰⁾ Cm. 4904.

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(4) For the purposes of sub-paragraph (2), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area, Switzerland and Turkey includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces;
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(5) For the purposes of this Schedule an area which—

- (a) was previously not part of the European Union or the European Economic Area; but
- (b) at any time before or after this Scheme comes into force has become part of one or other or both of these areas,

is to be considered to have always been part of the European Economic Area.

PART 2

Categories

Persons who are settled in the United Kingdom

2.—(1) A person who—

- (a) is settled in the United Kingdom on the relevant date other than by reason of having acquired a right of permanent residence;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) had been ordinarily resident throughout the three-year period preceding the relevant date in the United Kingdom and Islands; and
- (d) subject to sub-paragraph (2), had not during any part of the period referred to in paragraph (c) been ordinarily resident in the United Kingdom and Islands wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(3).

3. A person who—

- (a) is settled in the United Kingdom on the relevant date by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) had been ordinarily resident in the United Kingdom throughout the three-year period preceding the relevant date; and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Refugees and their family members

- 4.—(1) A person who—
- (a) is a refugee;
 - (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being recognised as a refugee; and
 - (c) is ordinarily resident in Wales on the relevant date.
- (2) A person who—
- (a) is the spouse or civil partner of a refugee;
 - (b) was the spouse or civil partner of the refugee on the date on which the refugee applied for asylum;
 - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
 - (d) is ordinarily resident in Wales on the relevant date.
- (3) A person who—
- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;
 - (b) on the date on which the refugee applied for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
 - (c) was under 18 on the date on which the refugee made their application for asylum;
 - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom; and
 - (e) is ordinarily resident in Wales on the relevant date.

Persons with leave to enter or remain and their family members

- 5.—(1) A person—
- (a) with leave to enter or remain;
 - (b) who is ordinarily resident in Wales on the relevant date; and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.
- (2) A person who—
- (a) is the spouse or civil partner of a person with leave to enter or remain;
 - (b) was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made their application for asylum;
 - (c) is ordinarily resident in Wales on the relevant date; and
 - (d) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.
- (3) A person who—
- (a) is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
 - (b) on the date on which the person with leave to enter or remain applied for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
 - (c) was under 18 on the date on which the person with leave to enter or remain applied for asylum;

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- (d) is ordinarily resident in Wales on the relevant date; and
- (e) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

Workers, employed persons, self-employed persons and their family members

6.—(1) A person who—

- (a) on the relevant date, is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person in sub-paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the relevant date; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

- (a) is ordinarily resident in Wales on the relevant date;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers⁽²¹⁾, as extended by the EEA Agreement.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;
- (c) is ordinarily resident in Wales on the relevant date;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (e) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if—

- (a) that person is a United Kingdom national, a family member of a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or

⁽²¹⁾ OJ No L257, 19.10.1968, p.2 (OJ/SE 1968 (II) p.475).

a person who has a right of permanent residence, who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom; or

- (b) in the case of a person who is settled in the United Kingdom and has a right of permanent residence, the person goes to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

EU nationals

9.—(1) A person who—

- (a) is either—
 - (i) an EU national on the relevant date, other than a person who is a United Kingdom national who has not exercised a right of residence; or
 - (ii) a family member of such a person;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(3).

(3) For the purposes of this paragraph, a United Kingdom national has exercised a right of residence if that person has exercised a right under Article 7 of the Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.

10.—(1) A person who—

- (a) on the relevant date, is an EU national other than a United Kingdom national;
- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date; and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Union after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EU national other than a United Kingdom national on the first day of the first academic year of the designated course is treated as being satisfied.

Children of Swiss nationals

11. A person who—

- (a) on the relevant date, is the child of a Swiss national who is entitled to financial support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement;

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- (b) is ordinarily resident in Wales on the relevant date;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Children of Turkish workers

12. A person who—

- (a) on the relevant date, was the child of a Turkish worker;
- (b) was ordinarily resident in Wales on the relevant date; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

SCHEDULE 2

Regulation 28

COLLEGE OF EUROPE STUDENT'S CONTRIBUTION

PART 1

Interpretation

1.—(1) In this Schedule—

“EEA State” (“*Gwladwriaeth AEE*”) has the meaning given by paragraph 1 of Part 1 of Schedule 1;

“household income” (“*incwm yr aelwyd*”, “*incwm sydd gan yr aelwyd*”) has the meaning given in paragraph 2(2);

“independent eligible student” (“*myfyriwr cymwys annibynnol*”) has the meaning given in subparagraph (2);

“Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;

“partner” (“*partner*”) means:

- (a) in relation to a student any of the following—
 - (i) the spouse of the student;
 - (ii) the civil partner of the student;
 - (iii) a person ordinarily living with the student as the student's spouse where the student is aged 25 or over on the relevant date;
 - (iv) a person ordinarily living with the student as the student's civil partner where the student is aged 25 or over on the relevant date;
- (b) in relation to the parent of a student any of the following other than another parent of the student—

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- (i) the spouse of the student's parent;
- (ii) the civil partner of the student's parent;
- (iii) a person ordinarily living with the parent of the student as the parent's spouse;
- (iv) a person ordinarily living with the parent of the student as the parent's civil partner;

"prior financial year" (*"blwyddyn ariannol flaenorol"*) means the tax year immediately preceding the tax year which ended immediately before the relevant date;

"relevant tax year" (*"blwyddyn dreth berthnasol"*) means a tax year in respect of which a person's income falls to be assessed for the purposes of these Regulations;

"residual income" (*"incwm gweddilliol"*) means:

- (a) in respect of persons other than independent eligible students, taxable income in respect of the prior financial year;
- (b) in respect of independent eligible students, taxable income in respect of the academic year in respect of which support is awarded,

after application of and subject to paragraph 3 in the case of a student, paragraph 4 in the case of a student's parent and paragraph 5 in the case of a student's partner;

"student" (*"myfyriwr"*) means a College of Europe student who is awarded support;

"tax year" (*"blwyddyn dreth"*) means a period of twelve months in respect of which the income of a person is computed for the purposes of the income tax legislation which applies to it;

"taxable income" (*"incwm trethadwy"*) means a person's taxable income from all sources computed as for the purposes of—

- (a) the Income Tax Acts⁽²²⁾;
- (b) the income tax legislation of another EEA State or Switzerland which applies to the person's income;
- (c) where the legislation of more than one EEA State or of an EEA State and Switzerland applies to the period, the legislation under which the Welsh Ministers consider the person paid or will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4).

(2) An "independent eligible student" (*"myfyriwr cymwys annibynnol"*) is a student—

- (a) who is aged 25 or over on the relevant date;
- (b) who was married or in a civil partnership before the relevant date, whether or not the marriage or civil partnership is still subsisting;
- (c) who has no parent living;
- (d) in respect of whom the Welsh Ministers are satisfied that neither parent can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) who has not communicated with either parent for the period of one year before the relevant date or, in the opinion of the Welsh Ministers, can demonstrate on other grounds that the student is irreconcilably estranged from the student's parents;
- (f) who has been looked after by a local authority within the meaning of section 22 of the Children Act 1989⁽²³⁾, throughout any three-month period ending on or after the date on which the student attained the age of 16 and before the relevant date ("the relevant period")

⁽²²⁾ "The Income Tax Acts" is defined in Schedule 1 to the Interpretation Act 1978 (c. 30) and means all enactments relating to income tax, including any provisions of the Corporation Tax Acts which relate to income tax.

⁽²³⁾ 1989 c. 41; section 22 has been amended by the Children (Leaving Care) Act 2000 (c. 35), section 2, Local Government Act 2000 (c. 22), Schedule 5, paragraph 19, the Adoption and Children Act 2002 (c. 38), section 116(2), the Children Act 2004 (c. 31), section 52 and the Children and Young Persons Act 2008 (c. 23), section 39 and Schedule 3.

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- (provided that the student has not in fact at any time during the relevant period been under the charge or control of their parents);
- (g) whose parents reside outside the European Union and the Welsh Ministers are satisfied that either—
- (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
 - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 7 to send any relevant funds to the United Kingdom;
- (h) (where paragraph 4(9) applies) whose parent which the Welsh Ministers considered the more appropriate for the purposes of that paragraph, has died (irrespective of whether the parent in question had a partner);
- (i) who is a member of a religious order and resides in a house of that order;
- (j) who as at the relevant date has the care of a person under the age of 18; or
- (k) (“S” in this paragraph) who has supported S out of S’s earnings for any period or periods ending before the relevant date of in aggregate not less than three years, and for the purposes of this paragraph S is to be treated as supporting S out of S’s earnings during any period in which—
- (i) S was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local (“relevant authority”);
 - (ii) S was in receipt of benefit payable by any relevant authority in respect of a person available for employment but unemployed;
 - (iii) S was available for employment and complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefits;
 - (iv) S held a statutory award or other comparable award; or
 - (v) S received any pension, allowance or other benefit paid by any person by reason of a disability to which S is subject, or by reason of confinement, injury or sickness.
- (3) Any student who qualifies as an independent eligible student under sub-paragraph (2)(j) in respect of the designated course retains that status for the duration of the student’s eligibility.

PART 2

Calculation of contribution

Household income

- 2.—(1) The amount of a student’s contribution depends on the household income.
- (2) The household income is—
- (a) in the case of a student who is not an independent eligible student, the residual income of the student aggregated with the residual income of the student’s parents (subject to paragraph 4(9)) and the residual income of the partner of the student’s parent (provided that the Welsh Ministers have selected that parent under paragraph 4(9));
 - (b) in the case of an independent eligible student who has a partner the residual income of the student aggregated with the residual income of that student’s partner; or

- (c) in the case of an independent eligible student who does not have a partner the residual income of that student.
- (3) In determining the household income under sub-paragraph (2), the sum of £1,130 is deducted—
 - (a) for each child wholly or mainly financially dependent on the student or the student's partner; or
 - (b) for each child other than the student wholly or mainly financially dependent on the student's parent or the student's parent's partner whose residual income is being taken into account.

Calculation of the student's residual income

3.—(1) For the purpose of determining the residual income of a student, there is deducted from the student's taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following paragraphs—

- (a) any remuneration for work done during any academic year of the student's course, other than any sums paid in respect of any period for which the student has leave of absence or is relieved of the student's normal duties for the purpose of attending that course;
 - (b) the gross amount of any premium or other sum paid by the student in relation to a pension (not being a pension payable under a policy of life assurance) in respect of which relief is given under section 188 of the Finance Act 2004⁽²⁴⁾, or where the student's income is computed for the purpose of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.
- (2) Where the student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—
- (a) if the student purchases sterling with the income, the amount of sterling the student so receives; or
 - (b) otherwise, the value of the sterling the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽²⁵⁾.

Calculation of parent's residual income

4.—(1) For the purposes of determining the taxable income of a student's parent, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988⁽²⁶⁾, or where the income is computed for the purposes of the income tax legislation of another EEA State or Switzerland, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
 - (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
 - (c) under sub-paragraph (2),
- must not be made.

⁽²⁴⁾ 2004 c. 12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68, 69, 114 and Schedules 18 and 19.

⁽²⁵⁾ "Financial Statistics"(ISSN 0015-203X).

⁽²⁶⁾ 1988 c. 1. Chapter 1 of Part VII has been amended by the Finance Act 2009 (c. 10) with effect for the tax year 2010-11.

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(2) For the purpose of determining the residual income of a student's parent, there is to be deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following paragraphs—

- (a) the gross amount of any premium or other sum paid by the student in relation to a pension (not being a pension payable under a policy of life assurance) in respect of which relief is given under section 273(27) of the Income and Corporation Taxes Act 1988 or under section 188 of the Finance Act 2004(28), or where the student's income is computed for the purpose of the income tax legislation of another EEA State or Switzerland, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed in accordance with sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted are not to exceed the deductions which would be made if the whole of the student's parent's income were in fact income for the purposes of the Income Tax Acts; and
- (c) in the case of a student's parent who holds a statutory award, £1,075.

(3) Where the Welsh Ministers are satisfied that the income of the parent in the tax year which ended immediately before the relevant date ("preceding tax year") is, as a result of some event beyond the parent's control, likely to be not more than 85 per cent, of the sterling value of that person's income in the prior financial year, the Welsh Ministers may, for the purpose of enabling the student to attend the course without hardship, ascertain the household income for the preceding tax year.

(4) Where the Welsh Ministers are satisfied that the income of the parent in any tax year is, as a result of some event beyond the parent's control, likely to be and to continue after that year to be not more than 85 per cent of the sterling value of that parent's income in the previous tax year the Welsh Ministers may, for the purpose of enabling the student to attend the course without hardship, ascertain the household income for the academic year of the student's course by taking as the residual income of the parent the average of that person's residual income for each of the tax years in which that academic year falls.

(5) Where the student's parent satisfies the Welsh Ministers that their income is wholly or mainly derived from the profits of a business or profession carried on by them, then any reference in this paragraph to a tax year is to be read as a reference to the earliest period of twelve months which ends after the start of the prior financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where a student's parent is in receipt of any income which does not form part of that parent's income for the purposes of the Income Tax Acts or the income tax legislation of another EEA State or Switzerland by reason only that—

- (a) the parent is not resident, ordinarily resident or domiciled in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another EEA State or Switzerland, not so resident, ordinarily resident or domiciled in that EEA State or Switzerland;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed for the purposes of the income tax legislation of another EEA State or Switzerland, does not arise in that EEA State or Switzerland; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

(27) Section 273 is repealed by the Finance Act 2009, section 5 and Schedule 1, with effect for the tax year 2010-11 and subsequent tax years.

(28) 2004 c. 12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68, 69, 114 and Schedules 18, 19 and 27.

the parent's taxable income for the purpose of this Schedule is to be computed as though the income under this sub-paragraph were part of that person's income for the purpose of the Income Tax Acts or the income tax legislation of another EEA State or Switzerland, as the case may be.

(7) Where the income of the student's parent is computed as for the purposes of the income tax legislation of another EEA State or Switzerland, it is to be computed under the provisions of this Schedule in the currency of that EEA State or Switzerland and the income of the student's parent for the purposes of this Schedule is the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the student's parents dies and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income is—

- (a) where the parent dies before the relevant tax year, determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant tax year, the aggregate of—
 - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant tax year during which both parents were alive; and
 - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant tax year remaining after the death of the other parent.

(9) Where the Welsh Ministers determine that the parents were separated for the duration of the relevant tax year, the household income is determined by reference to the income of whichever parent the Welsh Ministers consider most appropriate under the circumstances.

(10) Where the Welsh Ministers determine that the parents separated in the course of the relevant tax year, the household income is determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant tax year for which the parents are separated; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant tax year.

Calculation of the student's partner's residual income

5.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph and with the exception of sub-paragraphs (8), (9) and (10) of paragraph 4, a student's partner's income is determined in accordance with paragraph 4, reference to the parent being construed as references to the student's partner.

(2) Where the Welsh Ministers determine that the student and the student's partner were separated for the duration of the relevant tax year, the partner's income is not taken into account in determining the household income.

(3) Where the Welsh Ministers determine that the student and the student's partner separated in the course of the relevant tax year, the partner's income is determined by reference to the partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant tax year for which the Welsh Ministers determine that the student and the student's partner were not separated.

(4) Where a student has more than one partner in the relevant tax year, the provisions of this paragraph apply in relation to each.

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Calculation of contribution

6.—(1) In relation to a student who is not an independent eligible student or who is an independent eligible student with a partner, the contribution is—

- (a) where the household income is £23,680 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £23,680, subject to sub-paragraph (4); and
- (b) where the household income is less than £23,680, nil.

(2) In relation to an independent eligible student who does not have a partner, the contribution is—

- (a) where the household income is £11,025 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £11,025, subject to sub-paragraph (4); and
- (b) where the household income is less than £11,025, nil.

(3) The amount of contribution calculated under sub-paragraph (1) or (2) must not exceed £7,800.

(4) Where the household income consists of the residual income of an independent eligible student and that student's partner and both hold a statutory award, the aggregate of the contributions calculated under sub-paragraph (1) or (2), must not exceed—

- (i) £7,800; or
- (ii) the contribution which would be payable if only one student held an award.

Split contributions

7.—(1) Where a contribution is payable under paragraph 6 and one or more of the conditions in sub-paragraph (2) is satisfied, the amount of contribution payable in respect of the student is the amount that the Welsh Ministers consider just taking into account the particular circumstances of the student.

(2) The conditions referred to in sub-paragraph (1) above are—

- (a) more than one child of the student's parents holds a statutory award;
- (b) the student's parent holds a statutory award;
- (c) the student's parent's partner holds a statutory award;
- (d) the student's partner holds a statutory award.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for financial support for eligible students ordinarily resident in Wales undertaking postgraduate courses at the Bologna Center and the College of Europe. The Regulations apply in respect of academic years beginning on or after 1 September 2011.

A grant for fees is available for one eligible student in any one academic year at the Bologna Center. A grant for fees, grants for living and other costs, a disabled students' allowance and a grant for

dependants are available for one eligible student in any one academic year at the College of Europe. The period of each grant is one academic year, irrespective of the length of the course.

To qualify for financial support, an applicant must be an eligible student. An applicant is an eligible student if that person falls within one of the categories listed in Part 2 of Schedule 1 and satisfies the eligibility criteria.

These Regulations set out the eligibility criteria, the application procedure and (in the case of College of Europe students) the method of calculating the amounts payable and the arrangements for payment of the grants. The Regulations also provide for recovery of any overpayments.