
WELSH STATUTORY INSTRUMENTS

2008 No. 3170

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2008

PART 12

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

79.—(1) An eligible part-time student qualifies for support in connection with his or her undertaking a designated part-time course subject to and in accordance with this Part.

(2) A person is an eligible part-time student in connection with a designated part-time course if—

- (a) in assessing his or her application for support the Welsh Ministers determine that the person falls within one of the categories set out in Part 2 of Schedule 1; and
- (b) the person is not excluded by paragraph (3).

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

- (a) there has been bestowed on that person or paid to that person in relation to his or her undertaking the part-time course—
 - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to the person's income;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007; or
 - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to that person's income;
- (b) that person is in breach of any obligation to repay any loan;
- (c) that person has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
- (d) that person has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support; or
- (e) subject to paragraph (4), he or she is a prisoner.

(4) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison or is released from prison.

(5) For the purposes of paragraphs (3)(b) and (3)(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; and
- (b) with the concurrence of the borrower's curator or at a time when he or she had no curator.

(7) Subject to paragraphs (10) to (12), a person is an eligible part-time student for the purposes of this Part if he or she satisfies the conditions in paragraphs (8) or (9).

(8) The conditions in this paragraph are—

- (a) he or she qualified as an eligible part-time student in connection with an earlier academic year of the present designated part-time course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) the person was ordinarily resident in Wales on the first day of the present designated part-time course; and
- (c) the person's status as an eligible part-time student has not terminated.

(9) The conditions in this paragraph are—

- (a) the Welsh Ministers have previously determined that the person is—
 - (i) an eligible student in connection with a designated course; or
 - (ii) an eligible part-time student in connection with a designated part-time course other than the present designated part-time course;
- (b) the person's status as an eligible student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the present designated part-time course as a result of one or more conversions or transfers in accordance with regulations made by the Welsh Ministers under section 22 of the Act;
- (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
- (d) the person's status as an eligible part-time student has not terminated.

(10) Where—

- (a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; 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 part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(11) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; 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 part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(12) Paragraphs (10) and (11) do not apply where the student started the course in connection with which the Welsh Ministers determined that he or she was an eligible part-time student or eligible student, as the case may be, before 1 September 2007.

(13) An eligible part-time student does not qualify for support under regulation 82(1)(b), regulation 83 or regulations 84 to 93 if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(14) An eligible part-time student qualifies for support —

- (a) under regulation 82(1)(a) if the Welsh Ministers consider that he or she is undertaking the designated part-time course in Wales; or
- (b) under regulations 82(1)(b), 83 or 84 to 93 if the Welsh Ministers consider that he or she is undertaking the designated part-time course in the United Kingdom.

(15) An eligible part-time student does not qualify for support under regulation 82 or regulations 84 to 93 if he or she has undertaken one or more part-time courses for eight academic years in aggregate and he or she has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (16).

(16) The loans and grants referred to in paragraph (15) are—

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the Act;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998; or
- (c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(17) An eligible part-time student does not qualify for support under regulation 82 or regulations 84 to 93 if he or she holds a first degree from an educational institution in the United Kingdom.

(18) For the purposes of paragraph (17), a degree is not treated as a first degree where—

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his or her first degree course; and
- (b) the eligible part-time student is registered to continue the course at the same educational institution after the award of his or her degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

(19) Where one of the events listed in paragraph (22) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(20) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (22) occurs in the course of an academic year, a student may qualify for part-time grants for dependants in accordance with this Part in respect of all or part of that academic year but he or she does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.

(21) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) (h) or (i) of paragraph (22) occurs in the course of an academic year —

- (a) a student may qualify for a grant for books, travel and other expenditure or for a grant for disabled part-time students' living costs (or both) in respect of that academic year in accordance with this Part; and
- (b) neither a grant for books, travel and other expenditure is available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(22) The events are —

- (a) the student's course becomes a designated part-time course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence;
- (g) the student becomes the child of a Turkish worker;
- (h) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (i) the student becomes the child of a Swiss national.

(23) An eligible part-time student may not, at any one time, qualify for support for —

- (a) more than one designated part-time course;
- (b) a designated part-time course and a designated course;
- (c) a designated part-time course and a designated distance learning course;
- (d) a designated part-time course and a designated postgraduate course.