
WELSH STATUTORY INSTRUMENTS

2013 No. 1792 (W. 179)

EDUCATION, WALES

The Education (Student Fees, Awards, Qualifying Courses and Persons) (Wales) Regulations 2013

<i>Made</i>	- - - -	<i>16 July 2013</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>19 July 2013</i>
<i>Coming into force</i>	- -	<i>1 September 2013</i>

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 1 and 2 of the Education (Fees and Awards) Act 1983(1) and now exercisable by them(2) and in exercise of the powers conferred on the National Assembly for Wales by sections 28(6) and 47(5) of the Higher Education Act 2004(3) and now exercisable by them(4), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Student Fees, Awards, Qualifying Courses and Persons) (Wales) Regulations 2013.

(2) These Regulations come into force on 1 September 2013 and apply in relation to Wales.

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- (1) [1983 c.40](#). Section 1 was amended by the Education Reform Act [1988 \(c.40\)](#), section 237 and Schedule 12; the Further and Higher Education Act [1992 \(c.13\)](#), section 93 and Schedule 8; the Education Act [1994 \(c.30\)](#), section 24 and Schedule 2; the Education Act [1996 \(c.56\)](#), section 582(1) and Schedule 37; the Learning and Skills Act [2000 \(c.21\)](#) Schedule 9; the Education Act [2002 \(c.32\)](#), section 215 and Schedule 21; the Education Act [2005 \(c.18\)](#) section 98 and Schedule 14; the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 ([S.I. 2005/3238](#)), Schedule 1; the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 ([S.I. 2010/1080](#)) Schedule 1; the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 ([S.I. 2010/1158](#)), article 5 and Schedule 2; and the Education Act [2011 \(c.21\)](#), section 16 and Schedule 5, and Schedule 16. Section 2 was amended by the Teaching and Higher Education Act [1998 \(c.30\)](#), section 44 and Schedule 4.
- (2) The functions of the Secretary of State under section 1 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 2006/1458](#) with effect from 8 June 2006. The functions of the Secretary of State under section 2 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). The functions of the National Assembly for Wales in relation to sections 1 and 2 of the Education (Fees and Awards) Act 1983 were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2) (a) of Schedule 11 to the Government of Wales Act [2006 \(c.32\)](#).
- (3) [2004 c.8](#). Section 28 was amended by the Education Act [2005 \(c.18\)](#), section 98 and Schedule 14; and the Education Act [2011 \(c.21\)](#), section 16 and Schedule 5.
- (4) 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 to the Government of Wales Act 2006.

(3) The amendments made by these Regulations do not apply in relation to a person where the first day of the first academic year of that person's course is before 1 September 2013.

Interpretation

2. In these Regulations—

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the Education (Fees and Awards) (Wales) Regulations 2007(5);

“the 2011 Regulations” (“*Rheoliadau 2011*”) means the Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011(6).

Amendment of the 2007 Regulations

3. The 2007 Regulations are amended in accordance with regulations 4 and 5.

4. In regulation 2 paragraph (1), in the definition of “overseas territories”, insert “St-Barthélemy” in the appropriate place.

5. In paragraph 9 of the Schedule—

(a) in sub-paragraph (1)(c) before “has been ordinarily resident”, insert “subject to sub-paragraph (1A),”;

(b) after sub-paragraph (1), insert—

“(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EU national where that EU national—

(a) is—

(i) a United Kingdom national who has exercised a right to reside in the territory of another Member State under article 7(1) of Directive 2004/38; or

(ii) not a United Kingdom national; and

(b) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”

Amendment of the 2011 Regulations

6. The 2011 Regulations are amended in accordance with regulations 7 and 8.

7. In paragraph 1(1) of the Schedule, in the definition of “overseas territories”, insert “St-Barthélemy” in the appropriate place.

8. In paragraph 9 of the Schedule—

(a) in sub-paragraph (1)(c) before “has been ordinarily resident”, insert “subject to sub-paragraph (1A),”;

(b) after sub-paragraph (1), insert—

“(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EU national where that EU national—

(a) is—

(5) S.I. 2007/2310 (W.181) as amended by S.I. 2008/1259 (W.126), S.I. 2010/1142 (W.101), S.I. 2011/1043 and S.I. 2011/1978 (W.218).

(6) S.I. 2011/691 (W.103) as amended by S.I. 2011/1978 (W.218) and S.I. 2012/1630 (W.209).

- (i) a United Kingdom national who has exercised a right to reside in the territory of another Member State under article 7(1) of Directive 2004/38;
or
 - (ii) not a United Kingdom national; and
- (b) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”

16 July 2013

Huw Lewis
Minister for Education and Skills, one of the
Welsh Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend:

- (a) Education (Fees and Awards) (Wales) Regulations 2007 ([S.I. 2007/2310 \(W.181\)](#)) (“the 2007 Regulations”);
- (b) Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011 ([S.I. 2011/691 \(W.103\)](#)) (“the 2011 Regulations”).

Regulations 4 and 7 insert reference to St-Barthélemy into the 2007 and 2011 Regulations following European Council Decision 2010/718/EU which changed the status of St-Barthélemy from one of the outermost regions of the European Union to an overseas country or territory.

Regulations 5 and 8 amend the 2007 and 2011 Regulations to remove the requirement for non-EU family members of EU nationals to have been ordinarily resident in the EEA for the 3 years immediately preceding the start of their course. The effect of these amendments is that these family members will qualify for home fee status if the EU national from whom they derive their right of residence satisfies two conditions; that is, that the person is either not a UK national, or is a UK national who has exercised an EU law right of free movement, and that the person has been ordinarily resident in the EEA for the 3 years immediately preceding the first day of the first academic year of their family member’s course.

These Regulations apply to those students starting their courses on or after 1 September 2013.