
WELSH STATUTORY INSTRUMENTS

2015 No. 54

The Education (Student Support) (Wales) Regulations 2015

PART 12

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

86.—(1) An eligible part-time student qualifies for support in connection with the student 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 the person's application for support under regulation 104 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) Subject to paragraph (7), a person ("A" in this paragraph) is not an eligible part-time student if—

- (a) there has been bestowed on or paid to A in relation to A undertaking the part-time course—
 - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to A'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 A's income;
- (b) A is in breach of any obligation to repay any loan;
- (c) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18;
- (d) A has, in the opinion of the Welsh Ministers, shown by A's conduct that A is unfitted to receive support under this Part; or
- (e) subject to paragraph (4), A is a prisoner.

(4) Paragraph (3)(e) does not apply—

- (a) where the eligible part-time student is an eligible part-time prisoner; or
- (b) 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 the borrower had no curator.

(7) Subject to paragraphs (9) to (11), a person is an eligible part-time student for the purposes of this Part if the person satisfies the conditions in paragraph (8)(a), (b) or (c).

(8) The conditions referred to in paragraph (7) are—

(a) the—

- (i) person qualified as an eligible part-time student in connection with an earlier academic year of the present part-time course pursuant to regulations made by the Welsh Ministers under section 22 of the 1998 Act;
- (ii) person was ordinarily resident in Wales on the first day of the present part-time course; and
- (iii) person's status as an eligible part-time student has not terminated;

(b) the—

- (i) present part-time course is an end-on course;
- (ii) person qualified as an eligible part-time student in connection with the course in relation to which the present part-time course is an end-on course;
- (iii) period of eligibility in respect of the course in sub-paragraph (b)(ii) only ceased on the grounds that the student had completed the course; and
- (iv) person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (b)(ii);

(c) the—

- (i) Welsh Ministers have previously determined that the person is an eligible—
 - (aa) student in connection with a designated course;
 - (bb) part-time student in connection with a designated part-time course other than the present part-time course; or
 - (cc) distance learning student in connection with a designated distance learning course;
- (ii) person's status as an eligible student, an eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (c)(i) has been converted or transferred from that course to the present 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 1998 Act;
- (iii) person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (c)(i); and
- (iv) person's status as an eligible part-time student has not terminated.

(9) 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" in this paragraph) 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 A's 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 A's spouse, civil partner, parent (as defined in Part

1 of Schedule 1) 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 A is applying for support.

(10) 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" in this paragraph) 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 A's 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 A is applying for support.

(11) Paragraphs (9) and (10) do not apply where the student started the course in connection with which the Welsh Ministers determined that the student was an eligible part-time student or eligible student, as the case may be, before 1 September 2007.

(12) An eligible part-time student does not qualify for support under regulation 90(1)(b), regulation 92, regulation 93 or regulations 94 to 103 if the only paragraph in Part 2 of Schedule 1 into which the eligible part-time student falls is paragraph 9.

(13) Subject to paragraphs (14) and (15), an eligible part-time student qualifies for support—

(a) under regulation 90(1)(a) if the Welsh Ministers consider that the eligible part-time student is undertaking the designated part-time course in Wales; or

(b) under regulations 90(1)(b), 93 or 94 to 103 if the Welsh Ministers consider that the eligible part-time student is undertaking the designated part-time course in the United Kingdom.

(14) An eligible part-time student does not qualify for support under regulations 90 to 103 in respect of a part-time distance learning course, unless the Welsh Ministers consider that the student is undertaking the course in Wales on the first day of the first academic year.

(15) An eligible part-time student will no longer qualify for support under regulations 90 to 103 in respect of a part-time distance learning course if the Welsh Ministers consider that the student is undertaking the course outside the United Kingdom.

(16) An eligible part-time student does not qualify for support under regulations 90 to 92 or regulations 94 to 103 if the eligible part-time student—

(a) has undertaken one or more part-time courses which began before 1 September 2014 for eight academic years in aggregate and the eligible part-time student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (17); or

(b) has undertaken one or more part-time courses which began on or after 1 September 2014 for sixteen years in aggregate and the eligible part-time student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (17).

(17) The loans and grants referred to in paragraph (16) 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 1998 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.
- (18) Subject to paragraphs (19), (20) and (22), an eligible part-time student does not qualify for support under regulations 90 to 92 or regulations 94 to 103 if the student holds a first degree from an educational institution in the United Kingdom.
- (19) For the purposes of paragraph (18), a degree is not to be treated as a first degree where—
- (a) it is a degree (other than an honours degree) that has been awarded to the eligible part-time student who has completed the required modules, examinations or other forms of assessment for the eligible part-time student's first degree course; and
 - (b) that student is undertaking the present part-time course so as to obtain an honours degree on completion of the required modules, examinations or other forms of assessment (whether or not that student continues the course at the same institution after the award of the degree referred to in sub-paragraph (a)).
- (20) Paragraph (18) does not prevent an eligible part-time student from qualifying for support under regulations 90 to 92 or regulations 94 to 103 if—
- (a) the present part-time course is a course for the initial training of teachers which started on or after 1 September 2010;
 - (b) the duration of that course does not exceed four years; and
 - (c) the eligible part-time student is not a qualified teacher.
- (21) 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.
- (22) Paragraph (18) does not apply where the Welsh Ministers determine that the following conditions are satisfied in relation to an eligible part-time student—
- (a) the eligible part-time student has provided all information required by the Welsh Ministers in relation to a first degree held by the student from an educational institution in the United Kingdom;
 - (b) that information is accurate; and
 - (c) the Welsh Ministers have incorrectly provided notification that the eligible part-time student qualifies for support under this Part in respect of the present part-time course.
- (23) Where paragraph (22) applies an eligible part-time student may qualify for support under this Part in accordance with paragraphs (24) to (26).
- (24) Subject to paragraph (26), if the Welsh Ministers make the determination under paragraph (22) before the first day of the first academic year of the present part-time course then the eligible part-time student may qualify for support under this Part in respect of the first academic year of the present part-time course.

(25) Subject to paragraph (26), if the Welsh Ministers make the determination under paragraph (22) on or after the first day of the first academic year of the present part-time course then the eligible part-time student may qualify for support under this Part in respect of—

- (a) the academic year of the present part-time course during which the Welsh Ministers make the determination; and
- (b) an academic year of the present part-time course which the student has completed prior to the Welsh Ministers making the determination.

(26) An eligible part-time student subject to a determination under paragraph (22) may qualify for support under this Part otherwise than in accordance with paragraphs (24) and (25), where the Welsh Ministers consider this to be appropriate as a result of the exceptional circumstances of a particular case.