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WELSH STATUTORY INSTRUMENTS

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**2018 No. 191**

**The Education (Student Support) (Wales) Regulations 2018**

**PART 4**

**KEY CONCEPTS**

**CHAPTER 1**

**DESIGNATED COURSES**

**Designated courses**

**5.** In these Regulations (and for the purposes of section 22 of the Teaching and Higher Education Act 1998 (“the 1998 Act”)), a course is a designated course if it—

- (a) satisfies each of the conditions in regulation 6(1), and
- (b) does not fall within any of the exceptions in regulation 7(1).

**Designated courses – conditions**

**6.—(1)** The conditions are—

*Condition 1*

The course is one of the following—

- (a) a first degree course;
- (b) a course for the Diploma of Higher Education;
- (c) a course for the Higher National Diploma or Higher National Certificate of—
  - (i) the Business and Technology Education Council, or
  - (ii) the Scottish Qualification Authority;
- (d) a course for the certificate of Higher Education;
- (e) a course for the initial training of teachers;
- (f) a course for the further training of youth and community workers;
- (g) a course in preparation for a professional examination of a standard higher than that of—
  - (i) an examination at advanced level for the General Certificate of Education or at higher level for the Scottish Certificate of Education, or
  - (ii) an examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph (c),so long as a first degree (or equivalent qualification) is not normally required for entry to the course;
- (h) a course—

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- (i) providing education (whether or not in preparation for an examination) the standard of which is higher than that of a course mentioned in paragraph (g) but not higher than that of a first degree course, and
- (ii) for entry to which a first degree (or equivalent qualification) is not normally required.

*Condition 2*

The course is either—

- (a) a full-time course,
- (b) a sandwich course, or
- (c) a part-time course.

*Condition 3*

The duration of the course is at least one academic year.

*[<sup>F1</sup>Condition 4*

- (a) (a) Where the course is a full-time course that begins before 1 August 2019, it is provided—
  - (i) by a Welsh regulated institution, a protected English provider, a Scottish funded institution or a Northern Irish funded institution (whether alone or in conjunction with an institution outside the United Kingdom),
  - (ii) by a charity within the meaning given by section 1 of the Charities Act 2011 on behalf of a Welsh regulated institution, or
  - (iii) on behalf of a protected English provider by an institution that was before 1 August 2019 a publicly funded institution.
- (b) Where the course is a part-time course that begins before 1 August 2019, it is provided by an institution that before 1 August 2019 was a publicly funded institution (whether alone or in conjunction with an institution situated outside the United Kingdom).
- (c) Where the course is a full-time course that begins on or after 1 August 2019 it is provided by—
  - (i) a Welsh regulated institution, an English regulated institution, a Scottish funded institution or a Northern Irish funded institution (whether alone or in conjunction with an institution situated outside the United Kingdom),
  - (ii) a charity within the meaning given by section 1 of the Charities Act 2011 on behalf of a Welsh regulated institution, or
  - (iii) a registered English institution on behalf of an English plan provider.
- (d) Where the course is a part-time course that begins on or after 1 August 2019 it is provided by—
  - (i) a Welsh funded institution, a Scottish funded institution, a Northern Irish funded institution or an English regulated institution (whether alone or in conjunction with an institution situated outside the United Kingdom), or
  - (ii) a registered English institution on behalf of an English plan provider.]

*Condition 5*

At least half of the teaching and supervision which comprise the course is provided in the United Kingdom.

*Condition 6*

<sup>M1</sup>The course leads to an award granted or to be granted by a body falling within section 214(2) (a) or (b) of the Education Reform Act 1988 unless the course falls within paragraph (c) or (e) of Condition 1.

(2) For the purposes of Condition 4—

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
- (b) a university and any constituent college, or constituent institution in the nature of a college, of a university is regarded as a recognised educational institution if either the university or the constituent college or institution is a recognised educational institution;

[<sup>F2</sup>(c) an institution is not regarded as a Welsh funded institution or a publicly funded institution by reason only that—

- (i) where the course begins before 1 August 2019, it was a connected institution which received a relevant payment before that date, or
- (ii) where the course begins on or after 1 August 2019, it is a connected institution which receives a relevant payment.]

[<sup>F3</sup>(2A) For the purpose of paragraph (2)—

- (a) “a connected institution” means a connected institution within the meaning of section 65(3B) of the Further and Higher Education Act 1992, and
- (b) “a relevant payment” means the payment of the whole or part of any grant, loan or other payment from the governing body of an institution which is provided to the connected institution in accordance with section 65(3A) of the Further and Higher Education Act 1992.]

(3) In this regulation, if paragraph (4) applies to a course, it is considered to be a single course for a first degree (or equivalent qualification) even if the course leads to another degree or qualification being conferred before the degree (or equivalent qualification) (regardless of whether part of the course is optional).

(4) This paragraph applies to a course—

- (a) the standard of which is not higher than a first degree, and
- (b) which leads to a qualification as a medical doctor, dentist, veterinary surgeon, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

#### Textual Amendments

- F1** Words in [reg. 6](#) substituted (with application in accordance with [reg. 1\(3\)\(b\)](#) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), [regs. 1\(3\)\(a\)](#), [42\(a\)](#)
- F2** [Reg. 6\(2\)\(c\)](#) substituted (with application in accordance with [reg. 1\(3\)\(b\)](#) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), [regs. 1\(3\)\(a\)](#), [42\(b\)](#)
- F3** [Reg. 6\(2A\)](#) inserted (with application in accordance with [reg. 1\(3\)\(b\)](#) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), [regs. 1\(3\)\(a\)](#), [42\(c\)](#)

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### Marginal Citations

**M1** 1988 c.40; section 214(2) was amended by the [Further and Higher Education Act 1992 \(c. 13\)](#), [section 93](#) and Schedule 8.

### Designated courses – exceptions

7.—(1) The exceptions are—

#### *Exception 1*

A course taken as part of an employment-based teacher training scheme.

#### *Exception 2*

A course falling within paragraph (g) or (h) of Condition 1 of regulation 6(1) if the governing body of a maintained school has arranged for the provision of the course to a pupil of the school.

(2) For the purposes of Exception 1, “employment-based teacher training scheme” means—

- (a) a scheme established by the Welsh Ministers under Regulation 8 of the Education (School Teachers' Qualifications) (Wales) Regulations 2004<sup>M2</sup> or under Regulation 8 of the School Teachers' Qualifications (Wales) Regulations 2012<sup>M3</sup> whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a maintained school, independent school or other institution except a pupil referral unit;
- (b) a scheme established by the Secretary of State whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a school, city college, Academy, independent school or other institution except a pupil referral unit.

(3) For the purposes of Exception 2, “maintained school” means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.

### Marginal Citations

**M2** [S.I. 2004/1729](#) (W. 173), as amended by [S.I. 2007/2811](#) (W. 238), [S.I. 2008/215](#) (W. 26) and [S.I. 2010/1142](#) (W.101). [S.I. 2004/1729](#) was revoked, with savings, by [S.I. 2012/724](#) (W. 96).

**M3** [S.I. 2012/724](#) (W. 96)

### Designation of other courses

8.—(1) The Welsh Ministers may specify that a course is to be treated as a designated course despite the fact that, but for the specification, it would not otherwise be a designated course<sup>M4</sup>.

(2) The Welsh Ministers may suspend or revoke the specification of a course made under paragraph (1).

### **Marginal Citations**

- M4** See <http://www.studentfinancewales.co.uk/practitioners/policy-information/designated-courses.aspx> for a list of designated courses specified, suspended or revoked by the Welsh Ministers under this regulation.

## CHAPTER 2

### ELIGIBILITY

#### SECTION 1

#### *Eligible students*

#### **Eligible students**

9.—(1) A person is an eligible student in connection with a designated course that the person is undertaking if—

- (a) the person falls within one of the categories of persons set out in Schedule 2 and none of the exceptions set out in regulation 10 apply to the person, or
- (b) the person's circumstances fall within one of the cases set out in regulation 11.

(2) A person may, at any given time, be an eligible student only in connection with one designated course.

#### **Eligible students - exceptions**

10.—(1) A person (“P”) is not an eligible student if any of the following exceptions applies—

##### *Exception 1*

Where the designated course is a full-time course, an award within the meaning of the Education (Mandatory Awards) Regulations 2003<sup>M5</sup> has been bestowed on P in respect of the course.

##### *Exception 2*

Where the designated course is a full-time course, P is eligible for a loan in relation to an academic year of the designated course under the Education (Student Loans) (Northern Ireland) Order 1990<sup>M6</sup>.

##### *Exception 3*

In respect of P undertaking the designated course, P has been bestowed or paid—

- (a) where the course is a full-time course—
  - (i) a healthcare bursary, the amount of which is not calculated by reference to P's income (unless it is a bursary grant for living costs), or
  - (ii) an allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007<sup>M7</sup>;
- (b) where the course is a part-time course—
  - (i) a healthcare bursary (whether or not calculated by reference to P's income),
  - (ii) an allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007, or

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- (iii) a Scottish healthcare allowance (whether or not calculated by reference to P's income).

*Exception 4*

P is in breach of an obligation to repay a student loan.

*Exception 5*

P has reached the age of 18 and has not ratified an agreement for a student loan made with P when P was under 18.

*Exception 6*

The Welsh Ministers think that P's conduct is such that P is not fit to receive support.

*Exception 7*

P is a prisoner.

But P may be an eligible student despite being a prisoner if—

- (a) P's application for support is in respect of the academic year during which P enters or is released from prison,
  - (b) P's present course is a full-time end-on course, or
  - (c) P has been authorised by the prison Governor or Director or other appropriate authority to study the present course and P's earliest release date is within 6 years of the first day of the first academic year of the course.
- (2) In Exception 3, “bursary grant for living costs” is a grant for living costs made available under the NHS Wales Bursary Scheme.
- (3) In Exceptions 4 and 5, “student loan” means a loan made under—
- (a) the Education (Student Loans) Act 1990 <sup>M8</sup>;
  - (b) the Education (Scotland) Act 1980;
  - (c) the Education (Student Loans) (Northern Ireland) Order 1990 <sup>M9</sup>;
  - (d) the Education (Student Support) (Northern Ireland) Order 1998 <sup>M10</sup>;
  - (e) regulations made under any of those Acts or Orders;
  - (f) these Regulations or any other regulations made under the 1998 Act.
- (4) In these Regulations—
- “healthcare bursary” (“*bwrsari iechyd*”) means a bursary or award of similar description under—
- (a) section 63(6) of the Health Services and Public Health Act 1968 <sup>M11</sup>, but not a payment made out of the Learning Support Fund;
  - (b) Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M12</sup>;
- “Learning Support Fund” (“*Cronfa Cymorth Dysgu*”) means the fund made available by NHS England to certain students in respect of qualifying healthcare courses;
- “Scottish healthcare allowance” (“*lwfans gofal iechyd yr Alban*”) means an allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 <sup>M13</sup> granted in respect of P attending a course leading to a qualification in a healthcare profession other than that of a medical doctor or dentist.

### Marginal Citations

- M5** S.I. 2003/1994, amended by SI 2004/1038, S.I. 2004/1792, S.I. 2005/2083, S.I. 2005/3137, S.I. 2005/3482, S.I. 2006/930, S.I. 2007/1629, S.I. 2008/1477, S.I. 2010/1142 (W.101), S.I. 2010/1172, S.I. 2011/1043, S.I. 2014/107, S.I. 2016/211 and the Education Act 2005 section 74.
- M6** S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/274 (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 SR (NI) 1998 No 306.
- M7** S.S.I. 2007/151 as amended by S.S.I. 2007/503, S.S.I. 2008/206, S.S.I. 2009/188, S.S.I. 2009/309, S.S.I. 2012/72, S.S.I. 2013/80 and S.S.I. 2017/180.
- M8** 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) (C. 46).
- M9** S.I. 1990/1506 (N.I. 11) amended by S.I. 1996/274 (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 SR (NI) 1998 No 306.
- M10** S.I. 1998/1760 (N.I. 14).
- M11** 1968 c.46.
- M12** S.I. 1972/1265 (N.I. 14).
- M13** 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), **section 29(1)** and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), **section 3(2)** and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), **section 82** and Schedule 10, paragraph 8(17).

### Eligible students continuing on a course

- 11.**—(1) Paragraph (2) applies to a person (“P”) if—
- P's circumstances fall within one of the cases in paragraph (3), and
  - Exception 3 in Regulation 10 does not apply in respect of the year for which P is applying for support.
- (2) Where this paragraph applies, P is an eligible student and accordingly—
- P need not fall within any of the categories of student set out in Schedule 2, and
  - none of the exceptions set out in Regulation 10 (other than Exception 3) prevent P from being an eligible student.
- (3) The cases are—

#### Case 1

- P was an eligible student in connection with an earlier academic year of P's present course, and
- P was ordinarily resident in Wales on the first day of the first academic year of that course.

#### Case 2

- P's present course is an end-on course,
- P was an eligible student in connection with the course (the “earlier course”) in relation to which P's present course is an end-on course,
- P's period of eligibility for the earlier course ended only because P had completed that earlier course, and

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- (d) P was ordinarily resident in Wales on the first day of the first academic year of the earlier course.

*Case 3*

- (a) P was an eligible student in connection with a designated course (the “earlier course”) other than the present course,  
 (b) P's status as an eligible student in connection with the earlier course has been transferred to the present course (see Section 5), and  
 (c) P was ordinarily resident in Wales on the first day of the first academic year of the earlier course.

*SECTION 2*

*Period of eligibility*

**Period of eligibility – general rule**

**12.**—(1) A student's status as an eligible student in connection with a designated course is retained until the end of the student's period of eligibility unless terminated in accordance with regulation 19, 20, 22 or 23.

(2) A student's period of eligibility ends at the end of the academic year in which the student completes the designated course.

(3) But if—

- (a) the designated course is a full-time or sandwich course, and  
 (b) regulation 14, 15 or 16 applies to the student,

the student's period of eligibility for the course is restricted to the maximum period of eligibility specified in the applicable regulation for the category of support specified in that regulation.

(4) Where a student's eligibility for support is restricted under regulation 14, 15 or 16 so that the number of academic years in respect of which the category of support specified in the regulation in question is available is less than the ordinary duration of the present course, the category of support so specified is available in respect of the latest academic years of the course.

**Part-time courses – no eligibility for years of low intensity study**

**13.** Where an eligible student is undertaking a part-time course, the student is not eligible for support under these Regulations in respect of an academic year where the intensity of study for that year is less than 25% (see paragraph 5 of Schedule 1 for how to calculate the intensity of study for an academic year).

**Maximum period of eligibility – tuition fee loans and grants for new students**

**14.**—(1) This regulation applies to an eligible student who—

- (a) is undertaking a full-time or sandwich course, and  
 (b) has not undertaken a previous course.

(2) Where this regulation applies, the maximum period of eligibility for a tuition fee loan, a base grant, a maintenance grant [<sup>F4</sup>or] a grant for travel <sup>F5</sup>... is the period calculated as follows—

Ordinary duration of the present course.

*Plus*



Number of academic years repeated by the eligible student for compelling personal reasons.

*Plus*

One year.

#### **Textual Amendments**

- F4** Word in reg. 14(2) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **3(a)**
- F5** Words in reg. 14(2) omitted (30.7.2018) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **3(b)**

#### **Maximum period of eligibility – tuition fee loans and specified grants for students who undertook a previous course**

**15.**—(1) This regulation applies to an eligible student who—

- (a) is undertaking a full-time or sandwich course, and
- (b) has undertaken a previous course.

(2) Where this regulation applies, the maximum period of eligibility for a tuition fee loan, a base grant, a maintenance grant or a grant for travel is the period calculated as follows—

Ordinary duration of the present course.

*Plus*

Number of academic years repeated by the eligible student for compelling personal reasons.

*Plus*

One year.

*Less*

Number of academic years undertaken by the eligible student on the previous course or courses (if the student has undertaken more than one previous course).

But no deduction is to be made if the student is a teacher training student or is undertaking an accelerated graduate entry course.

(3) If the eligible student did not successfully complete the latest previous course for compelling personal reasons—

- (a) one additional year is to be added to the calculation made under paragraph (2), and
- (b) a further additional year may be added if the Welsh Ministers think it appropriate to do so having regard to those reasons.

(4) If the Welsh Ministers determine that regulation 18 applies to a student, they may add one or more additional years to the calculation made under paragraph (2) as they think appropriate.

(5) Where this regulation and regulation 16 apply to an eligible student, the student's maximum period of eligibility for a—

- (a) tuition fee loan,
- (b) base grant,
- (c) maintenance grant, or
- (d) grant for travel.

is to be calculated in accordance with regulation 16.

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(6) In paragraph (2), “teacher training student” means a student who is not a qualified teacher undertaking a full-time course for the initial training of teachers the duration of which is no more than 2 years.

### **Maximum period of eligibility – tuition fee loans and grants for certain continuing students**

**16.—(1)** This regulation applies to—

- (a) an eligible student whose present course is a full-time end-on course (the course in relation to which the present course is an end-on course being referred to in paragraph (2) as the “preliminary course”);
- (b) an eligible student—
  - [<sup>F6</sup>(i) who has completed a relevant course (the “preliminary course”),]
  - (ii) whose present course is a full-time first degree course (other than a first degree course for the initial training of teachers) that the student did not begin immediately after the preliminary course, and
  - (iii) who has not undertaken a full-time first degree course after the preliminary course and before the present course;
- (c) an eligible student—
  - (i) who has completed a full-time foundation degree course [<sup>F7</sup>or ordinary degree course] (the “preliminary course”),
  - (ii) whose present course is a full-time honours degree course that the student did not begin immediately after the preliminary course, and
  - (iii) who has not undertaken a full-time first degree course after the preliminary course and before the present course.

(2) Where this regulation applies, the maximum period of eligibility for a tuition fee loan, a base grant, a maintenance grant [<sup>F8</sup>or], a grant for travel <sup>F9</sup>... is the period calculated as follows—

The greater of three years or the ordinary duration of the present course.

*Plus*

The greater of one year or the ordinary duration minus one year of the preliminary course (or preliminary courses in total if the student completed more than one course which is to be treated as a preliminary course).

*Less*

Number of academic years undertaken by the eligible student on the preliminary course (or preliminary courses) excluding years repeated by the eligible student for compelling personal reasons.

(3) If the Welsh Ministers determine that regulation 18 applies to a student, they may add one or more additional years to the calculation made under paragraph (2) as they think appropriate.

[<sup>F10</sup>(4) In paragraph (1)(b)(i), “relevant course” means a full-time course for the—

- (a) Diploma of Higher Education,
- (b) Certificate of Higher Education, or
- (c) Higher National Diploma or Higher National Certificate of either the Business and Technology Education Council or the Scottish Qualification Authority.]

### Textual Amendments

- F6** Reg. 16(1)(b)(i) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **4(a)**
- F7** Words in reg. 16(1)(c)(i) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **4(b)**
- F8** Word in reg. 16(2) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **4(c)(i)**
- F9** Words in reg. 16(2) omitted (30.7.2018) by virtue of [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **4(c)(ii)**
- F10** Reg. 16(4) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **4(d)**

### Maximum period of eligibility – interpretation

17.—(1) For the purposes of regulations 12 and 14 to 16, the “ordinary duration” of a course is the number of academic years ordinarily required to complete it.

(2) For the purposes of calculating—

- (a) a student's maximum period of eligibility under regulation 14(2), 15(2) or 16(2), or
- (b) whether a student's period of eligibility has ended,

any part-year undertaken by the student is to be counted as a whole academic year.

(3) In regulations 14 and 15, “previous course” means a course which—

- (a) is—
  - (i) a full time higher education course, or
  - (ii) a part-time course for the initial training of teachers, that the student began to undertake before the present course,
- (b) meets one of the conditions set out in paragraph (4), and
- (c) is not excluded from being a previous course by virtue of paragraph (5), (6) or (7).

(4) The conditions are—

#### Condition 1

The course is provided by an institution in the United Kingdom which was a recognised educational institution for some or all of the academic years during which the student undertook the course.

#### Condition 2

The course is one in relation to which—

- (a) a scholarship, exhibition, bursary, grant, allowance or award of any description was paid in respect of the student undertaking the course to defray fees, and
  - (b) the payment was provided by a publicly funded institution.
- (5) A course which falls within paragraph (3)(a) and (b) is nevertheless not a previous course if—
- (a) the present course is a full-time course for the initial training of teachers of no more than two years duration, and
  - (b) the student is not a qualified teacher.

(6) A course for the Certificate in Education which falls within paragraph (3)(a) and (b) is nevertheless not a previous course if—

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- (a) the present course is a course for the degree (including an honours degree) of Bachelor of Education, and
  - (b) the student—
    - (i) transferred to the present course from the course for the Certificate in Education before the completion of that course, or
    - (ii) began the present course on completion of the course for the Certificate in Education.
- (7) A course for the degree (other than an honours degree) of Bachelor of Education is not a previous course if—
- (a) the present course is a course for the honours degree of Bachelor of Education, and
  - (b) the student—
    - (i) transferred to the present course from the course for the degree (other than an honours degree) of Bachelor of Education before the completion of that course, or
    - (ii) began the present course on completion of the course for the degree (other than an honours degree) of Bachelor of Education.

#### **Extension of maximum period where student receives incorrect notification**

- 18.**—(1) This regulation applies to an eligible student (“P”)—
- (a) whose maximum period of eligibility is to be calculated in accordance with regulation 15 or 16,
  - (b) who has provided all the information required by the Welsh Ministers in relation to—
    - (i) a previous course undertaken by P, and
    - (ii) any qualifications held by P, and
  - (c) who has received a notification from the Welsh Ministers stating an incorrect maximum period of eligibility.
- (2) But this regulation does not apply if the notification is incorrect because the information provided by P was materially inaccurate.

### *SECTION 3*

#### *Termination of eligibility*

#### **Early termination of eligibility**

- 19.**—(1) An eligible student's (“P's”) period of eligibility terminates at the end of the day on which—
- (a) P withdraws from P's designated course and the Welsh Ministers do not transfer P's status as an eligible student under regulation 28, or
  - (b) P abandons or is expelled from P's designated course.
- (2) Where—
- (a) an eligible student's (“P's”) designated course is a distance learning course, and
  - (b) P undertakes the course outside the United Kingdom,

P's period of eligibility terminates at the beginning of the first day on which P undertakes the course outside the United Kingdom.

[<sup>F11</sup>(3) But paragraph (2) does not apply if P is undertaking a distance learning course outside the United Kingdom because—

- (a) P or a close relative of P is serving as a member of the armed forces, or
- (b) P is unable to be in the United Kingdom for a reason related to coronavirus.]

#### Textual Amendments

- F11** Reg. 19(3) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by The Education (Student Support) (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2020 (S.I. 2020/708), regs. 1(2), 5

#### Misconduct and failure to provide accurate information

**20.**—(1) The Welsh Ministers may terminate an eligible student's period of eligibility if they are satisfied that the student's conduct is such that the student is no longer fit to receive support.

- (2) Paragraph (3) applies if the Welsh Ministers are satisfied that an eligible student—
  - (a) has failed to comply with a requirement to provide information or documentation under these Regulations, or
  - (b) has provided information or documentation which was materially inaccurate.
- (3) Where this paragraph applies, the Welsh Ministers may—
  - (a) terminate the student's period of eligibility;
  - (b) determine that the student does not qualify for a particular category of support or amount of such support.

#### Reinstatement of eligibility after termination

**21.**—(1) Where a student's period of eligibility terminates under regulation 19 or 20 during the academic year in which the student completes the present course, the Welsh Ministers may reinstate the student's period of eligibility for such period as they think appropriate.

(2) But a reinstated period of eligibility may not extend beyond the end of the maximum period of eligibility calculated in accordance with Section 2 of this Chapter.

#### Refugees who cease to have leave to remain

- 22.**—(1) This regulation applies where—
- (a) a person (“P”) was a Category 2 eligible student (see Schedule 2) in connection with an application for support—
    - (i) for an earlier year of the present course,
    - (ii) for a full-time course in relation to which the present course is a full-time end-on course, or
    - (iii) for a course from which P's status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
  - (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the refugee status of—
    - (i) P, or
    - (ii) the person whose status as a refugee meant that P was a Category 2 eligible student, 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)

M14

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Education (Student Support) (Wales) Regulations 2018, PART 4. (See end of Document for details)*

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

(3) In this regulation, “refugee” has the meaning given by paragraph 11 of Schedule 2.

#### Marginal Citations

**M14** 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](#), S.I. 2010/21, the [Immigration Act 2014 \(c. 22\)](#), [Schedule 9](#).

#### [<sup>F12</sup>Persons who cease to have stateless leave

**22A.**—(1) This regulation applies where—

- (a) a person (“P”) was a Category 2A eligible student (see Schedule 2) in connection with an application for support—
  - (i) for an earlier year of the present course,
  - (ii) for a full time-course in relation to which the present course is a full-time end-on course, or
  - (iii) for a course from which P’s status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—
  - (i) P, or
  - (ii) the person, who, as a result of being a person granted stateless leave, caused P to be a Category 2A eligible student,
 

is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules is pending.

(2) Where this regulation applies, P’s status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.]

#### Textual Amendments

**F12** Reg. 22A inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), 5

#### Other persons who cease to have leave to enter or remain

**23.**—(1) This regulation applies where—

- (a) a person (“P”) was a Category 3 eligible student (see Schedule 2) in connection with an application for support—
  - (i) for an earlier year of the present course,
  - (ii) for a full-time course in relation to which the present course is a full-time end-on course, or
  - (iii) for a course from which P's status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and

(b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—

(i) P, or

(ii) the person who, as a result of having leave to enter or remain, caused P to be a category 3 eligible student,

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).

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

### **[<sup>F13</sup>Persons who cease to have section 67 leave to remain**

**23A.**—(1) This regulation applies where—

(a) a person (“P”) was a Category 3A eligible student (see Schedule 2) in connection with an application for support—

(i) for an earlier year of the present course,

(ii) for a full-time course in relation to which the present course is a full-time end-on course, or

(iii) for a course from which P's status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and

(b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—

(i) P, or

(ii) the person who, as a result of having section 67 leave to remain, caused P to be a Category 3A eligible student,

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).

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.]

#### **Textual Amendments**

**F13** [Reg. 23A](#) inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(3)(a), [43](#)

## *SECTION 4*

### *Previous study*

#### **Full-time students – restrictions on support for honours graduates**

**24.**—(1) If an eligible student undertaking a full-time course has attained an honours degree from an institution in the United Kingdom (an “honours graduate”) the student does not qualify for a tuition fee loan, base grant, maintenance grant or maintenance loan under these Regulations unless the student—

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Education (Student Support) (Wales) Regulations 2018, PART 4. (See end of Document for details)*

- (a) falls within one of the Cases set out in paragraph (2), and
  - (b) in each Case, satisfies the particular qualifying conditions relating to the support in question.
- (2) The Cases are—

*Case 1*

An honours graduate may qualify for support under these Regulations if the present course is—

- (a) a course for the initial training of teachers of no more than two years duration, and the graduate is not a qualified teacher, or
- (b) an accelerated graduate entry course.

*Case 2*

An honours graduate may qualify for a maintenance loan if any of the following applies—

- (a) the present course leads to a qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;
- (b) the graduate is to receive any payment under—
  - (i) a healthcare bursary, the amount of which is calculated by reference to the graduate's income, or
  - (ii) a Scottish healthcare allowance, the amount of which is calculated by reference to the graduate's income in respect of any academic year of the present course;
- (c) the present course is a course for the initial training of teachers.

*Case 3*

Despite paragraph (1), if—

- (a) the present course is considered to be a single course by virtue of regulation 6(3) and (4), and
- (b) the course leads to an honours degree from an institution in the United Kingdom being conferred on the eligible student before the final degree or equivalent qualification,

the conferring of that honours degree does not prevent the student from qualifying for support under these Regulations in respect of any part of that single course.

*Case 4*

Regulation 26 applies.

**Part-time students – restrictions on support for graduates**

**25.—**(1) If an eligible student undertaking a part-time course has attained a first degree from an institution in the United Kingdom (a “graduate”) the student does not qualify for support under these Regulations other than a disabled student's grant unless the student falls within one of the Cases set out in paragraph (2).

(2) The Cases are—

*Case 1*

The first degree—

- (a) was not an honours degree, and
- (b) was awarded to the graduate on completion of the modules, examinations or other forms of assessment required for that first degree,



and the graduate is undertaking the present course so as to obtain an honours degree on completion of the required modules, examinations or other forms of assessment (whether or not the graduate continues the course at the same institution from which the first degree was awarded).

#### Case 2

The present course is a course for the initial training of teachers of no more than four years duration and the graduate is not a qualified teacher.

#### <sup>F14</sup>Case 3

The present course leads to an honours degree and is—

- (a) concerned with the study of the history, grammar and use of Welsh,
- (b) listed in the Higher Education Classification of Subjects in one of the following subject areas—
  - (i) subjects allied to medicine (CAH02);
  - (ii) biological and sport sciences (CAH03);
  - (iii) psychology (CAH04);
  - (iv) veterinary sciences (CAH05);
  - (v) agriculture, food and related studies (CAH06);
  - (vi) physical sciences (CAH07);
  - (vii) mathematical sciences (CAH09);
  - (viii) engineering and technology (CAH10);
  - (ix) computing (CAH11), or
- (c) a course whose code and label under the Higher Education Classification of Subjects is listed in Schedule 5A.]

#### Case 4

Regulation 26 applies.

<sup>F15</sup>(3) In Case 3 and in Schedule 5A “the Higher Education Classification of Subjects” means the Higher Education Classification of Subjects maintained by the Universities and Colleges Admissions Service and the Higher Education Statistics Agency.]

#### Textual Amendments

- F14** Words in reg. 25(2) substituted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(3)(a), **44(a)**
- F15** Reg. 25(3) substituted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2019 \(S.I. 2019/235\)](#), regs. 1(3)(a), **44(b)**

#### Restrictions lifted where incorrect notification received

**26.**—(1) This regulation applies where—

- (a) an honours graduate within the meaning of regulation 24 or a graduate within the meaning of regulation 25 (“G”) has provided all the information required by the Welsh Ministers in relation to an honours degree or, as the case may be, a first degree, previously attained, and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Education (Student Support) (Wales) Regulations 2018, PART 4. (See end of Document for details)*

- (b) G receives notification from the Welsh Ministers incorrectly stating that G qualifies for support under these Regulations.
- (2) Where this regulation applies, G may qualify for the support specified in the notification for such period as the Welsh Ministers think appropriate.
- (3) But this regulation does not apply if the notification is incorrect because the information provided by G was materially inaccurate.

### **Further restriction on support for part-time students**

27.—(1) An eligible student undertaking a part-time course does not qualify for support under these Regulations other than a disabled student's grant if the student—

- (a) has undertaken one or more part-time courses for an aggregate of at least—
    - (i) 8 academic years (where that course or the earliest of those courses began before 1 September 2014), or
    - (ii) 16 academic years (where that course or the earliest of those courses began on or after 1 September 2014), and
  - (b) has received relevant support in respect of at least 8 or, as the case may be, 16 of those academic years of the part-time course or courses.
- (2) In paragraph (1)(b), “relevant support” means—
- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure made in respect of an academic year—
    - (i) under these Regulations or any other regulations made under section 22 of the 1998 Act, or
    - (ii) under regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 <sup>M15</sup>;
  - (b) a loan made in respect of an academic year under regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980 <sup>M16</sup>.

#### **Marginal Citations**

**M15** S.I.1998/1760 (N.I. 14) to which there are amendments not relevant to these Regulations.

**M16** 1980 c.44; section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998 (c.30) and was amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), **Schedule 6** to the Income Tax (Earnings and Pensions) Act 2003 (c.1), **section 34(1)** of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) and Schedule 8 to the Bankruptcy (Scotland) Act 2016 (asp 21).

## *SECTION 5*

### *Transfers and conversions*

#### **Transfer of status**

28.—(1) Where an eligible student transfers from a designated course (in this Section, the “old course”) to another designated course (in this Section, the “new course”), the Welsh Ministers must transfer the student's status as an eligible student to the new course if—

- (a) they receive a request from the student to do so,
- (b) they are satisfied that one of the grounds of transfer applies (see paragraph (2)), and

- (c) the student's period of eligibility has not ended or been terminated.
- (2) The grounds of transfer are—

*First ground*

The eligible student ceases the old course and undertakes the new course at the same institution.

Including—

- (a) where the old course is not a compressed degree course, undertaking the same course as a compressed degree course, or
- (b) where the old course is a compressed degree course, undertaking the same course on a non-compressed basis.

*Second ground*

The eligible student undertakes the new course at another institution.

*Third ground*

After commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a designated course for the degree (including an honours degree) of Bachelor of Education.

*Fourth ground*

After commencing a course for the degree (other than an honours degree) of Bachelor of Education, the eligible student is, on or before completion of that course, admitted to a designated course for the honours degree of Bachelor of Education.

*Fifth ground*

After commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a designated course for an honours degree in the same subject at the same institution.

**Effect of transfer – tuition fee loans**

**29.** Where the Welsh Ministers transfer an eligible student's status under regulation 28 during an academic year, the amount of tuition fee loan payable in respect of that academic year is to be determined by the Welsh Ministers as follows—

*Step 1*

Calculate, in accordance with Part 6, the amounts of tuition fee loan that would have been payable in respect of—

- (a) the old course, and
- (b) the new course,

for the whole academic year.

*Step 2*

Reduce those amounts by such proportion as the Welsh Ministers think appropriate having regard to—

- (a) the day on which the transfer occurs, and
- (b) the need to ensure that no amount is payable in respect of both courses for the same period.

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Education (Student Support) (Wales) Regulations 2018, PART 4. (See end of Document for details)*

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### **Effect of transfer – grants and maintenance loans**

**30.**—(1) This regulation applies where the Welsh Ministers transfer an eligible student's status under regulation 28 during an academic year.

(2) If regulation 31 applies to the transfer, the total amount of any grants and maintenance loan payable to the eligible student for the academic year must be reassessed in accordance with that regulation.

(3) If regulation 31 does not apply to the transfer—

- (a) the Welsh Ministers may re-assess the amount of any grants and maintenance loan payable to the eligible student for the academic year, but
- (b) if no re-assessment is made, the total amount of any grants and maintenance loan payable to the eligible student is the amount which the Welsh Ministers assessed as the amount payable to the student for the academic year in respect of the old course.

(4) Paragraph (5) applies where the transfer occurs after the Welsh Ministers have assessed the amount of any grants or maintenance loan payable to the eligible student for the academic year in respect of the old course but before the student completes that year.

(5) Where this paragraph applies, the eligible student may not apply in respect of the academic year of the new course for another grant or loan of a kind for which the student has already applied in respect of the academic year of the old course (unless specifically permitted to do so by these Regulations).

(6) Where, immediately before the transfer, the eligible student—

- (a) was eligible to apply for a maintenance loan for the academic year of the old course, and
- (b) had not applied for the maximum amount for which the student was entitled,

paragraph (5) does not prevent the student from applying for an additional amount of loan (whether or not a reassessment is made under this regulation or regulation 31).

(7) Where an eligible student has applied for a disabled student's grant for the academic year in which the transfer occurs, paragraph (5) does not prevent the student from making a further such application—

- (a) for a purpose for which the student has not already applied, or
- (b) for an additional amount in respect of a purpose for which the student has already applied.

### **Transfers involving conversions between part-time and full-time study**

**31.**—(1) This regulation applies where, in relation to a transfer under regulation 28—

- (a) the old course is a full-time course and the new course is a part-time course, or
- (b) the old course is a part-time course and the new course is a full-time course.

(2) Where this regulation applies, the total amount of any grants and maintenance loan payable to the eligible student for the academic year is to be reassessed by the Welsh Ministers as follows—

#### *Step 1*

Calculate, in accordance with Parts 7 to 11, the amounts of any grants and maintenance loan that would have been payable in respect of—

- (a) the old course, and
- (b) the new course,

for the whole academic year.

*Step 2*

Reduce those amounts by multiplying them by the appropriate fraction.

The total of the two amounts arrived at under Step 2 is the total amount of grants and maintenance loan payable to the student for the academic year during which the transfer occurs.

(3) In Step 2 of paragraph (2), the appropriate fraction in relation to the old course is the fraction where—

- (a) the numerator is the number of days in the academic year up to and including the day on which the transfer occurs, and
- (b) the denominator is the total number of days in the academic year.

(4) In Step 2 of paragraph (2), the appropriate fraction in relation to the new course is the fraction where—

- (a) the numerator is the number of days remaining in the academic year after the day on which the transfer occurs, and
- (b) the denominator is the total number of days in the academic year.

(5) For the avoidance of doubt, where the start date of the academic year of the new course is later than the start date of the academic year of the old course, references in paragraph (4) to the academic year are to the academic year of the new course.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Education (Student Support) (Wales) Regulations 2018, PART 4.