

## SCHEDULES

### SCHEDULE 4

Regulation 98

#### Disabled postgraduate student's grant

##### **Disabled postgraduate student's grant**

1.—(1) A disabled postgraduate student's grant is a grant made available by the Welsh Ministers to an eligible postgraduate student with a disability to assist with additional expenditure in respect of living costs which the student is obliged to incur in connection with undertaking a designated postgraduate course by reason of the student's disability.

(2) In this Schedule, "present postgraduate course" means the course in respect of which a person applies for a disabled postgraduate student's grant under paragraph 17.

##### **Designated postgraduate courses**

2.—(1) In this Schedule (and for the purposes of section 22 of the 1998 Act), a course is a designated postgraduate course if it satisfies each of the following conditions—

###### *Condition 1*

A first degree (or equivalent qualification) or higher is normally required for entry onto the course.

###### *Condition 2*

The course is not a sandwich course.

###### *Condition 3*

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

###### *Condition 4*

The course is provided by a publicly funded institution.

###### *Condition 5*

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

###### *Condition 6*

The course is not a course for the initial training of teachers or a course taken as part of an employment based teacher training scheme (within the meaning given by regulation 7(2)).

(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;
- (c) an institution is not regarded as a recognised educational institution by reason only that it is a connected institution within the meaning of section 65(3B) of the Further and Higher

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Education Act 1992 which receives from the governing body of another institution the whole or part of any grants, loans or other payments provided to that other institution in accordance with section 65(3A)(1) of that Act.

### **Designation of other postgraduate courses**

**3.—(1)** The Welsh Ministers may specify that a postgraduate course is to be treated as a designated postgraduate course despite the fact that, but for the specification, it would not otherwise be a designated postgraduate course.

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

### **Eligible postgraduate students**

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

- (a) the person has a disability, and
- (b) either—
  - (i) the person falls within one of the categories of persons set out in Schedule 2 and none of the exceptions set out in paragraph 5 of this Schedule applies to the person, or
  - (ii) the person’s circumstances fall within one of the cases set out in paragraph 6.

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

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

#### *Exception 1*

At any one time, P also qualifies for support in connection with a designated course by virtue of these Regulations or any other regulations made under section 22 of the 1998 Act unless the course is one for which a first degree (or equivalent qualification) or higher is a normal entry requirement.

#### *Exception 2*

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

- (a) a healthcare bursary,
- (b) an allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007,
- (c) an allowance, bursary or award of similar description made by the Research Council, or
- (d) an allowance, bursary or award of similar description made—
  - (i) by the institution providing the course,
  - (ii) under section 67(4)(a) of the Care Standards Act 2000(2), or
  - (iii) under section 116(2)(a) of the Regulation and Inspection of Social Care (Wales) Act 2016(3),

(1) 1992 c.13; subsections (3A) and (3B) of section 65 were inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(2) 2000 c.14. Section 67(4) was amended by the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), Schedule 3, Part 2, paragraphs 40 and 43.

(3) 2016 anaw 2.

which includes any payment for the purpose of meeting additional expenditure incurred by P by reason of P's disability.

*Exception 3*

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

*Exception 4*

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 5*

The Welsh Ministers think that P's conduct is such that P is not fit to receive a disabled postgraduate student's grant.

*Exception 6*

P is a prisoner.

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

- (a) P's application for a disabled postgraduate student's grant is in respect of the academic year during which P enters or is released from prison, or
- (b) P has been authorised by the prison Governor or Director or other appropriate authority to study the designated postgraduate course and P's earliest release date is within 6 years of the first day of the first academic year of the course.

*Exception 7*

P is a Category 6 student by virtue only of paragraph 6(1) of Schedule 2 and does not fall within any other categories of student specified in that Schedule.

(2) In Exceptions 3 and 4, "student loan" means a loan made under—

- (a) the Education (Student Loans) Act 1990;
- (b) the Education (Scotland) Act 1980;
- (c) the Education (Student Loans) (Northern Ireland) Order 1990;
- (d) the Education (Student Support) (Northern Ireland) Order 1998;
- (e) regulations made under any of those Acts or Orders;
- (f) regulations made under the 1998 Act.

**Eligible postgraduate students continuing on a course**

6.—(1) A person ("P")—

- (a) who has a disability, and
- (b) whose circumstances fall within one of the following cases,

is an eligible postgraduate student (accordingly P need not fall within any of the categories of eligible student set out in Schedule 2 and the exceptions set out in paragraph 5 do not apply to P).

(2) The cases are—

*Case 1*

- (a) P qualified as an eligible postgraduate student in connection with an earlier academic year of the present postgraduate course, and
- (b) P was ordinarily resident in Wales on the first day of the first academic year of the present postgraduate course.

*Case 2*

*Status: This is the original version (as it was originally made).*

- (a) P was an eligible postgraduate student in connection with a designated postgraduate course (the “earlier course”) other than the present postgraduate course,
- (b) P’s status as an eligible postgraduate student in connection with the earlier course has been transferred to the present postgraduate course (see paragraph 15), and
- (c) P was ordinarily resident in Wales on the first day of the first academic year of the earlier course.

### **Period of eligibility**

7.—(1) A student’s status as an eligible postgraduate student in connection with a designated postgraduate course is retained until the end of the student’s period of eligibility unless terminated in accordance with paragraph 9, 10, 12 or 13.

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

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

8. Where the present postgraduate course is a part-time course, the eligible postgraduate student is not eligible for a disabled postgraduate student’s grant 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).

### **Early termination of eligibility**

9. An eligible postgraduate student’s (“P’s”) period of eligibility terminates at the end of the day on which—

- (a) P withdraws from P’s designated postgraduate course and the Welsh Ministers do not transfer P’s status as an eligible postgraduate student under paragraph 15,
- (b) P abandons or is expelled from P’s designated postgraduate course, or
- (c) P also qualifies for support in connection with a designated course by virtue of these Regulations or any other regulations made under section 22 of the 1998 Act unless the course is one for which a first degree (or equivalent qualification) or higher is a normal entry requirement.

### **Termination due to misconduct or failure to provide accurate information**

10.—(1) The Welsh Ministers may terminate an eligible postgraduate 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 a disabled postgraduate student’s grant.

(2) Sub-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 imposed by this Schedule, or
- (b) has provided information or documentation which was materially inaccurate.

(3) Where this sub-paragraph applies, the Welsh Ministers may—

- (a) terminate the student’s period of eligibility;
- (b) determine that the student does not qualify for a disabled postgraduate student’s grant or an amount of such grant as they think appropriate.

### **Reinstatement of eligibility after termination**

**11.**—(1) Where a student’s period of eligibility terminates under paragraph 9 or 10 during the academic year in which the student completes the present postgraduate 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 academic year in which the student completes the designated postgraduate course.

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

**12.**—(1) This paragraph applies where—

(a) a person (“P”) was a category 2 eligible postgraduate student (see Schedule 2) in connection with an application for a disabled postgraduate student’s grant—

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

(ii) in connection with a course from which P’s status as an eligible postgraduate student has been transferred to the present course under paragraph 15, 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 a disabled postgraduate student’s grant, the refugee status of—

(i) P, or

(ii) the person whose status as a refugee meant that P was a category 2 eligible postgraduate 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).

(2) Where this paragraph applies, P’s status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student’s grant.

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

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

**13.**—(1) This paragraph applies where—

(a) a person (“P”) was a category 3 eligible postgraduate student (see Schedule 2) in connection with an application for a disabled postgraduate student’s grant—

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

(ii) in connection with a course from which P’s status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, 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 a disabled postgraduate student’s grant, 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 postgraduate 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 paragraph applies, P’s status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student’s grant.

**Becoming eligible during an academic year**

14.—(1) Where one of the events in paragraph (3) occurs, the student may become eligible for a disabled postgraduate student's grant.

(2) But the amount of grant payable to the eligible postgraduate student will only be in respect of the quarter or quarters of the academic year beginning after the relevant event occurs.

(3) The events are—

- (a) the student's course becomes a designated postgraduate course;
- (b) the student becomes an eligible postgraduate student on the grounds that—
  - (i) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;
  - (ii) a state of which the student is a national accedes to the European Union 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;
  - (iii) the student acquires the right of permanent residence;
  - (iv) the student becomes a child of a Turkish worker;
  - (v) the student becomes a person described in paragraph 4(1)(a) of Schedule 2;
  - (vi) the student becomes the child of a Swiss national.

(4) In sub-paragraph (3), the following terms have the same meaning as in Schedule 2—

“child” (“*plentyn*”);

“parent” (“*rhiant*”);

“person with leave to enter or remain” (“*person sydd â chaniatâd i ddod i mewn neu i aros*”);

“refugee” (“*ffoadur*”);

“right of permanent residence” (“*hawl i breswyllo 'n barhaol*”);

“Turkish worker” (“*gweithiwr Twrcaid*”).

**Transferring between postgraduate courses**

15.—(1) Where an eligible postgraduate student transfers from a designated postgraduate course to another designated postgraduate course, the Welsh Ministers must transfer the student's status as an eligible postgraduate student to the other 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 sub-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 postgraduate student ceases one designated postgraduate course and undertakes another designated postgraduate course at the same institution.

*Second ground*

The eligible postgraduate student undertakes a designated postgraduate course at another institution.

### **Effect of transfer**

**16.**—(1) Where the Welsh Ministers transfer an eligible postgraduate student's ("P's") status under paragraph 15—

- (a) they may re-assess the amount of disabled postgraduate student's grant payable to P after the transfer;
  - (b) but if no re-assessment is made, P is entitled, in respect of the academic year of the course to which P transfers, to receive the remainder of the disabled postgraduate student's grant which the Welsh Ministers assessed P was entitled to receive in respect of the academic year of the course from which P transferred.
- (2) Where an eligible postgraduate student ("P") transfers—
- (a) after the Welsh Ministers have assessed P's entitlement to disabled postgraduate student's grant in respect of the academic year of the course from which P transferred, but
  - (b) before P completes that year,

P may not apply for a disabled postgraduate student's grant in respect of that academic year in connection with the course to which P has transferred.

### **Applications and decisions**

**17.**—(1) A person does not qualify for a disabled postgraduate student's grant in relation to an academic year unless the person makes an application for the grant in relation to that year.

- (2) An application under sub-paragraph (1) must—
- (a) be in such form and contain such information as the Welsh Ministers may specify,
  - (b) be accompanied by such documentation as the Welsh Ministers may require, and
  - (c) reach the Welsh Ministers as soon as is reasonably practicable.

**18.**—(1) The Welsh Ministers may take such steps and make such inquiries as they think necessary to make a decision on an application.

(2) Those steps may include requiring the applicant to provide further information or documentation.

(3) The Welsh Ministers may make a provisional decision on an application (see paragraph 21 for provision about payments made on the basis of a provisional decision).

- (4) A decision made by the Welsh Ministers after a provisional decision has been made may—
- (a) confirm the provisional decision, or
  - (b) substitute it with a different decision.

(5) The Welsh Ministers must notify the applicant of a decision (including a provisional decision) on an application.

- (6) The notification must state—
- (a) whether the Welsh Ministers consider the applicant to be an eligible postgraduate student,
  - (b) if so, whether the eligible postgraduate student qualifies for a disabled postgraduate student's grant in relation to the academic year,
  - (c) if the student does qualify, the amount payable in relation to the academic year,
  - (d) a breakdown specifying the amounts of grant payable in respect of each of the purposes mentioned in paragraph 20(2), and
  - (e) in the case of a provisional decision, the fact that the decision is provisional and the consequences of that fact.

### **Requirements on eligible postgraduate students to provide information**

**19.**—(1) An eligible postgraduate student must, as soon as reasonably practicable after being requested to do so, provide the Welsh Ministers with such information or documentation as the Welsh Ministers may require for the purposes of this Schedule.

(2) Where an event mentioned in paragraph (3) occurs in respect of an eligible postgraduate student, the student must inform the Welsh Ministers as soon as is reasonably practicable after the event occurs.

(3) The events are—

- (a) the student withdraws from, abandons or is expelled from the present postgraduate course;
- (b) the student transfers to another postgraduate course (whether at the same or at a different institution);
- (c) the student otherwise ceases to undertake the present postgraduate course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) the student is absent from the present postgraduate course—
  - (i) for more than 60 days due to illness, or
  - (ii) for any period for any other reason;
- (e) the month for the start or completion of the present postgraduate course changes;
- (f) the student’s home or term-time—
  - (i) address,
  - (ii) telephone number, or
  - (iii) email address,changes.

(4) Information or documentation that is required to be provided to the Welsh Ministers under this Schedule must be provided in such form as the Welsh Ministers may specify.

(5) The Welsh Ministers may require that—

- (a) an application under paragraph 17;
- (b) any other documentation provided to them under this Schedule,

must be signed in such manner (including electronically) as they may specify.

(6) The reference to an eligible postgraduate student in sub-paragraph (1) is to be treated as including a person who makes an application under paragraph 17 even if the Welsh Ministers’ decision on the application is that the person is not an eligible postgraduate student.

(7) See paragraph 10 for provision about the consequences of failing to comply with a requirement imposed by this paragraph.

### **Amount of disabled postgraduate student’s grant**

**20.**—(1) The amount of disabled postgraduate student’s grant payable to an eligible postgraduate student in respect of an academic year is the lesser of—

- (a) £10,590, or
- (b) the amount of eligible expenditure which the Welsh Ministers think that the student is obliged to incur in connection with the present postgraduate course by reason of the student’s disability.

(2) For the purposes of sub-paragraph (1)(b), “eligible expenditure” is expenditure for any of the following purposes—



- (a) expenditure on a non-medical personal helper;
- (b) expenditure on major items of specialist equipment;
- (c) expenditure incurred—
  - (i) within the United Kingdom for the purpose of attending the institution, and
  - (ii) within or outside the United Kingdom for the purpose of attending, as part of the present postgraduate course, any period of study at an overseas institution (including the University of London Institute in Paris).

## **Payment**

**21.**—(1) A disabled postgraduate student's grant is payable in respect of the four quarters of the academic year.

(2) The Welsh Ministers may pay a disabled postgraduate student's grant in such instalments (if any) and at such times as they think appropriate.

(3) The Welsh Ministers may, if they think it appropriate, pay any amount of disabled postgraduate student's grant payable for the purpose of assisting with expenditure on major items of specialist equipment as a single amount in respect of the whole academic year.

(4) Where the Welsh Ministers make a provisional decision on an application for disabled postgraduate student's grant, the Welsh Ministers may make a payment based on that decision.

(5) If the Welsh Ministers think it appropriate to make payments by transfer into a bank or building society account they may require an eligible postgraduate student to provide details of such an account in the United Kingdom into which payments may be made.

(6) If that requirement is imposed, the Welsh Ministers may not make any payment of the disabled postgraduate student's grant until the eligible postgraduate student has complied.

## **Overpayments**

**22.**—(1) Where an eligible postgraduate student has been paid an amount of disabled postgraduate student's grant which exceeds the amount to which the student is entitled, the student must repay the excess amount if required to do so by the Welsh Ministers.

(2) In this paragraph, references to an eligible postgraduate student are to be treated as including a person who has received an amount of disabled postgraduate student's grant but is not, or is no longer, an eligible postgraduate student.

(3) The Welsh Ministers must recover any overpayment of a disabled postgraduate student's grant unless they think it is not appropriate to do so.

(4) A payment of a disabled postgraduate student's grant made before the day on which the course begins is an overpayment if the eligible postgraduate student withdraws from the course before that day.

(5) A payment of disabled postgraduate student's grant is an overpayment if either of the following cases apply—

### *Case 1*

An amount of the grant has been paid for the purpose of assisting with expenditure on major items of specialist equipment but the equipment has not been delivered to the eligible postgraduate student before the student's period of eligibility ends or is terminated.

### *Case 2*

**Status:** This is the original version (as it was originally made).

Payment of an amount of the grant for the purpose of assisting with expenditure on major items of specialist equipment is made after the eligible postgraduate student's period of eligibility ends or is terminated.

(6) Overpayment of a disabled postgraduate student's grant may be recovered by subtracting the overpayment from any grant payable to the eligible postgraduate student from time to time under these Regulations or any other regulations made by the Welsh Ministers under section 22 of the 1998 Act.

(7) Where—

- (a) there is an overpayment of a disabled postgraduate student's grant, and
- (b) any amount of the grant was paid for the purpose of assisting with expenditure on major items of specialist equipment,

the Welsh Ministers may accept the return of specialist equipment by way of recovery of all or part of the overpayment.

(8) Sub-paragraphs (6) and (7) do not prevent the Welsh Ministers from recovering an overpayment by any other method available to them.