

## SCHEDULES

### SCHEDULE 1

Regulation 4(1)

#### Interpretation

#### Meaning of academic year

- 1.—(1) An “academic year”, in respect of a course, is determined as follows—
- (a) identify the period in Column 2 of Table 14 within which the academic year actually begins;
  - (b) the academic year is the period of 12 months beginning on the date specified in the entry in Column 1 of the Table corresponding to the period set out in Column 2.
- (2) But if the course is a compressed first year course, “academic year”, in respect of the first year of the course, means the period of 8 months beginning on the date so specified.
- (3) Any reference in these Regulations to an “academic year” is a reference to a year determined in accordance with sub-paragraphs (1) and (2).

**Table 14**

<i>Column 1 Start date of academic year for the purposes of these regulations</i>	<i>Column 2 Period within which academic year begins</i>
1 September	On or after 1 August but before 1 January
1 January	On or after 1 January but before 1 April
1 April	On or after 1 April but before 1 July
1 July	On or after 1 July but before 1 August

#### Educational institutions

2. In these Regulations—
- (a) “recognised educational institution” means—
    - (i) a Welsh regulated institution,
    - (ii) an English regulated institution,
    - (iii) an institution maintained or assisted by recurrent grants out of funds provided by the Scottish Ministers, or
    - (iv) an institution maintained or assisted by recurrent grants out of funds provided by the Northern Ireland Executive;
  - (b) “Welsh regulated institution” means an institution which has a fee and access plan approved by the Higher Education Funding Council for Wales under section 7 of the Higher Education (Wales) Act 2015<sup>M1</sup> and which remains in force;

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- (c) “English regulated institution” means an institution maintained or assisted by recurrent grants from the Higher Education Funding Council for England.

**Marginal Citations**

**M1** 2015 anaw 1.

**Location of an eligible student**

3.—(1) In these Regulations, in relation to an eligible student—

- (a) “living at home” means that the student is living at the student's parent's home while undertaking the present course;
- (b) “living away from home, studying in London” means that the student is living away from the student's parent's home while—
- (i) undertaking a course at the University of London,
  - (ii) undertaking a course at an institution requiring attendance in the academic year at a site that is wholly or partly in London where at least half of any quarter of the course is provided at such a site, or
  - (iii) undertaking a sandwich course in the academic year at an institution that requires the student to undertake work experience, or a combination of work experience and study, in London where that work experience, or combination of work experience and study, is undertaken for at least half of any quarter;
- (c) “living away from home, studying elsewhere” means that the eligible student is living away from the student's parent's home but not studying in London, including attending an institution outside the United Kingdom as part of the student's course or undertaking an overseas work placement in an Erasmus year.

(2) For the purposes of sub-paragraph (1), “London” means the area comprising the City of London and the former Metropolitan Police District.

(3) In sub-paragraph (2), “former Metropolitan Police District” means—

- (a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple,
- (b) in the county of Essex, in the district of Epping Forest—
- (i) the area of the former urban district of Chigwell, and
  - (ii) the parish of Waltham Abbey,
- (c) in the county of Hertfordshire—
- (i) in the borough of Broxbourne, the area of the former urban district of Cheshunt,
  - (ii) the district of Hertsmere, and
  - (iii) in the district of Welwyn Hatfield, the parish of Northaw, and
- (d) in the county of Surrey—
- (i) in the borough of Elmbridge, the area of the former urban district of Esher,
  - (ii) the boroughs of Epsom and Ewell and Spelthorne, and
  - (iii) in the district of Reigate and Banstead, the area of the former urban district of Banstead.

**Meaning of Erasmus year**

4.—(1) In these Regulations, an “Erasmus year” is an academic year in which a student—

- (a) participates in the ERASMUS scheme as part of a course provided wholly by a recognised educational institution, and
  - (b) satisfies condition A, B, or C in sub-paragraph (2).
- (2) The conditions are— *Condition A*
- (a) The course is provided by an institution in Northern Ireland, and
  - (b) the student completes all periods of study or work placement under the scheme outside the United Kingdom.

*Condition B*

- (a) The course is provided by an institution in England, Scotland or Wales,
- (b) at least one period of study or work placement under the scheme is attended at an institution or workplace outside the United Kingdom during the academic year, and
- (c) during that academic year, the aggregate of any one or more periods of full-time study at the institution in England, Scotland or Wales is less than 10 weeks.

*Condition C*

- (a) The course is provided by an institution in England, Scotland or Wales,
- (b) at least one period of study or work placement under the scheme is attended at an institution or workplace outside the United Kingdom during the academic year, and
- (c) during that academic year and any previous academic years of the course, the aggregate of any one or more periods of attendance (which are not periods of full-time study at the institution in England, Scotland or Wales), disregarding any intervening vacations, exceeds 30 weeks.

(3) In sub-paragraph (1), “ERASMUS scheme” means the European Union's action scheme for the mobility of university students <sup>M2</sup>.

**Marginal Citations**

**M2** ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000 p.1.

**Part-time students – calculation of intensity of study**

5.—(1) In these Regulations, a reference to the intensity of study in relation to a part-time course is a reference to the lower of—

- (a) the percentage calculated in accordance with sub-paragraph (2), or
  - (b) 75%.
- (2) The percentage is calculated as follows—

$$\frac{PT}{FT} \times 100$$

Where—

PT is the number of modules, credits, credit points, points or other units to be awarded to the student undertaking the part-time course by the academic authority if the student successfully completes the academic year in connection with which the student is applying for support, and  
FT is—

- (a) where the course is provided by or on behalf of the Open University, 120;

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- (b) where the course is provided by or on behalf of any other institution, the number of modules, credits, credit points, points or other units that a standard full-time student would be required to obtain in each academic year in order to complete the full-time equivalent within the period ordinarily required to complete that course.
- (3) For the purposes of sub-paragraph (2)—
- (a) “full-time equivalent” means a full-time course leading to the same qualification as the part-time course in question;
- (b) the “period ordinarily required to complete the full-time equivalent” means the period in which a standard full-time student would complete the full-time equivalent;
- (c) “standard full-time student” means a student who is taken—
- (i) to have started the full-time equivalent on the same date as the student undertaking the part-time course in question,
  - (ii) not to have been excused any part of the full-time equivalent,
  - (iii) not to have repeated any part of the full-time equivalent, and
  - (iv) not to have been absent from the full-time equivalent other than during vacations.

### Interpretation of other key terms

#### 6.—(1) In these Regulations—

“academic authority” (“*awdurdod academiadd*”) means, in relation to an institution, the governing body or other body having the functions of a governing body and includes a person acting with the authority of that body;

“accelerated graduate entry course” (“*cwrs mynediad graddedig carlam*”) means a full-time course—

- (a) which leads to a qualification as a medical doctor or dentist,
- (b) the standard of which is not higher than a first degree course,
- (c) where the normal entry requirement is a first degree or equivalent qualification, and
- (d) which does not exceed 4 years duration;

“close relative” (“*perthynas agos*”) (in relation to a person (“P”)) means—

- (a) P's spouse or civil partner;
- (b) a person ordinarily living with P as if the person were P's spouse or civil partner;
- (c) P's parent, where P is under the age of 25;
- (d) [F<sup>1</sup>P's child, where P is dependent on that child;]

“compressed degree course” (“*cwrs gradd cywasgedig*”) means a course determined as such by—

- (a) the Welsh Ministers in accordance with sub-paragraph (2), or
- (b) the Secretary of State in accordance with regulation 2(2) of the Education (Student Support) Regulations 2011 <sup>M3</sup>;

“compressed first year course” (“*cwrs blwyddyn gyntaf gywasgedig*”) means a course where—

- (a) the first year is to be completed in a period of not more than seven months, and
- (b) no other years of the course are undertaken on such a compressed basis;

“course for the initial training of teachers” (“*cwrs ar gyfer hyfforddiant cychwynnol athrawon*”) includes a teacher training course leading to a first degree but excludes an employment-based teacher training scheme (within the meaning given by regulation 7(2));

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“distance learning course” (“*cwrs dysgu o bell*”) means a course in relation to which a student undertaking the course is not required to be in attendance by the institution providing the course, other than to satisfy any requirement imposed by the institution to attend any institution—

- (a) for the purposes of registration, enrolment or examination, or
- (b) on a weekend or during a vacation;

“end-on course” (“*cwrs penben*”) means—

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student undertakes immediately after ceasing to undertake a full-time relevant education course,
- (b) a full-time honours degree course which, disregarding any intervening vacation, a student undertakes immediately after ceasing to undertake a full-time relevant degree course,
- (c) a part-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student undertakes immediately after ceasing to undertake a part-time relevant education course, or
- (d) a part-time honours degree course which, disregarding any intervening vacation, a student undertakes immediately after ceasing to undertake a part-time relevant degree course;

and in this definition—

“relevant degree course” (“*cwrs gradd perthnasol*”) means—

- (a) a foundation degree course, or
- (b) an ordinary degree course,  
for which the student received or was entitled to receive support under these Regulations;

“relevant education course” (“*cwrs addysg perthnasol*”) means—

- (a) a course for the diploma of higher education,
- (b) 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, or
- (c) a course for the certificate of Higher Education,

for which the student received or was entitled to receive support under these Regulations;

“fees” (“*ffioedd*”) has the meaning given in section 57(1) of the Higher Education (Wales) Act 2015<sup>M4</sup> but this definition does not apply to Oxbridge college fees (see Schedule 5);

“member of the armed forces” (“*aelod o'r lluoedd arfog*”) means a member of the regular naval, military or air forces of the Crown;

“period of work experience” (“*cyfnod o brofiad gwaith*”) means—

- (a) a period of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside that institution;
- (b) a period during which a student is employed and residing in a country whose language is one that the student is studying for the student's present course (provided that the period of residence in that country is a requirement of the student's course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

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“present course” (“*cwrs presennol*”) means the designated course in respect of which a person applies for support under regulation 32;

“prisoner” (“*carcharor*”) means a person who is serving a sentence of imprisonment in the United Kingdom including a person detained in a young offender institution (and “prison” is to be construed accordingly);

“publicly funded institution” (“*sefydliad a gyllidir yn gyhoeddus*”) means an institution in the United Kingdom maintained or assisted by recurrent grants out of funds provided by –

- (a) Parliament;
  - (b) the Welsh Ministers;
  - (c) the Scottish Ministers;
  - (d) the Northern Ireland Executive,
- or from funds attributable to such funds;

“qualified teacher” (“*athro cymwysiedig neu athrawes gymwysiedig*”) means a person who satisfies requirements specified in regulations under section 132 of the Education Act 2002<sup>M5</sup>;

“quarter” (“*chwarter*”) means a period of the academic year—

- (a) beginning on 1 September and ending on 31 December;
- (b) beginning on 1 January and ending on 31 March;
- (c) beginning on 1 April and ending on 30 June;
- (d) beginning on 1 July and ending on 31 August;

“Research Council” (“*Cyngor Ymchwil*”) means any of the following research councils—

- (a) Arts and Humanities Research Council;
- (b) Biotechnology and Biological Sciences Research Council;
- (c) Economic and Social Research Council;
- (d) Engineering and Physical Sciences Research Council;
- (e) Medical Research Council;
- (f) Natural Environment Research Council;
- (g) Science and Technology Facilities Council;

“sandwich course” (“*cwrs rhyngosod*”) means a course—

- (a) which consists of alternate periods of full-time study in an institution and periods of work experience, and
- (b) where, taking the course as a whole, the student attends the periods of full-time study at the institution for an average of not less than 18 weeks in each year (and where days of full-time study alternate with days of work experience in any week, those days of study may be aggregated with each other and with any full weeks of full-time study in determining the number of weeks of full-time study in a year);

for the purposes of paragraph (b) the course is to be treated as beginning with the first period of full-time study and ending with the last such period;

but a course for the initial training of teachers is not a sandwich course;

nor is an academic year of a designated course which is an Erasmus year to be treated as a sandwich course;

“statutory award” (“*dyfarddal statudol*”) means any award bestowed, grant paid, or other support provided, by virtue of the 1998 Act or the Education Act 1962, or any comparable

award, grant, or other support, in respect of undertaking a course which is paid out of funds provided by a publicly funded institution;

“support” (“*cymorth*”), except where otherwise indicated, means financial support by way of grant or loan made by the Welsh Ministers under—

- (a) these Regulations, or
- (b) any other regulations made under section 22 of the 1998 Act.

(2) The Welsh Ministers may determine that a course is a compressed degree course if the course—

- (a) is a full-time designated course for a first degree (other than a foundation degree), and
- (b) is of two academic years' duration.

#### Textual Amendments

- F1** Words in [Sch. 1 para. 6\(1\)](#) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **15**

#### Marginal Citations

- M3** [S.I. 2011/1986](#), amended by [S.I. 2012/1653](#), [S.I. 2013/235](#), [S.I. 2013/630](#), [S.I. 2013/1728](#), [S.I. 2013/3106](#), [S.I. 2014/1766](#), [S.I. 2014/2103](#), [S.I. 2014/2765](#), [S.I. 2015/1951](#), [S.I. 2016/211](#), [S.I. 2016/270](#), [S.I. 2016/584](#), [S.I. 2017/52](#), [S.I. 2017/114](#) and [S.I. 2017/204](#).
- M4** 2015 anaw 1.
- M5** [2002 c.32](#); the regulations are the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999, [S.I. 1999/2817](#), the Education (School Teachers' Qualifications) (England) Regulations 2003, [S.I. 2003/1662](#), the School Teachers' Qualifications (Wales) Regulations 2012, [S.I. 2012/724](#) and the Education Workforce Council (Accreditation of Initial Teacher Training) (Wales) Regulations 2017, [S.I. 2017/165](#).

## SCHEDULE 2

Regulation 9(1)(a)

### Categories of eligible student

#### Category 1 – Persons settled in the United Kingdom

- 1.—(1) A person—
- (a) who on the first day of the first academic year of the course—
    - (i) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence, and
    - (ii) is ordinarily resident in Wales,
  - (b) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course, and
  - (c) whose residence in the United Kingdom and Islands has not, during any part of the period referred to in paragraph (b), been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 9(2)).
- (2) A person who—

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- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the EEA and Switzerland immediately before the period of ordinary residence referred to in sub-paragraph (c).

## **Category 2 – Refugees and their family members**

2.—(1) A person who—

- (a) is a refugee,
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was recognised as a refugee, and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who—

- (a) is the spouse or civil partner of a refugee,
- (b) was the spouse or civil partner of the refugee on the date on which the refugee made the application for asylum,
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom, and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person who—

- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee,
- (b) on the date on which the refugee made the application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date,
- (c) was under 18 years old on the date on which the refugee made the application for asylum,
- (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to remain in the United Kingdom, and
- (e) is ordinarily resident in Wales on the first day of the first academic year of the course.

## **[F2]Category 2A - Persons granted stateless leave and their family members**

2A.—(1) A person granted stateless leave who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course, and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(2) A person—

- (a) who—
  - (i) is the spouse or civil partner of a person granted stateless leave, and
  - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave,



- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
  - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who—
    - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave, and
    - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave,
  - (b) who was under 18 on the leave application date,
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
  - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (4) In this paragraph—
- (a) “leave application date” (“*dyddiad y cais i gael caniatâd i aros*”) means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules,
  - (b) “person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”) means a person who—
    - (i) has extant leave to remain as a stateless person under the immigration rules, and
    - (ii) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave.]

#### Textual Amendments

**F2** Sch. 2 para. 2A inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **16(a)**

### Category 3 – Persons with leave to enter or remain and their family members

- 3.—(1) A person—
- (a) with leave to enter or remain,
  - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
  - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (2) A person—
- (a) who is the spouse or civil partner of a person with leave to enter or remain,
  - [<sup>F3</sup>(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date,]
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course, and

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- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain,
- [<sup>F4</sup>(b) who, on the leave application date, was under 18 years old and was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date,]
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course, and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (4) In this paragraph, a “person with leave to enter or remain” means a person (“P”)—
- [<sup>F5</sup>(a) who has—
- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is considered not to qualify for recognition as a refugee it is thought right to allow P to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly,
- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly,
- (iii) been granted leave to remain on the grounds of private life under the immigration rules,
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, P has been granted leave to remain outside the rules on the grounds of Article 8 of the European Convention on Human Rights,]
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002), and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since P was granted leave to enter or remain.

[<sup>F6</sup>(5) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.]

#### Textual Amendments

- F3** Sch. 2 para. 3(2)(b) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **16(b)(i)**
- F4** Sch. 2 para. 3(3)(b) substituted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **16(b)(ii)**

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| <b>F5</b> | Sch. 2 para. 3(4)(a) substituted for Sch. 2 para. 3(4)(a)(b) (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), <b>16(b)(iii)</b> |
| <b>F6</b> | Sch. 2 para. 3(5) inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), <b>16(b)(iv)</b>                                    |

#### Category 4 – Workers, employed persons, self-employed persons and their family members

4.—(1) A person who—

- (a) is one of the following—
- (i) an EEA migrant worker or an EEA self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course;
  - (ii) a Swiss employed person or a Swiss self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii), who is ordinarily resident in Wales on the first day of the first academic year of the course;
  - (iv) an EEA frontier worker or an EEA frontier self-employed person;
  - (v) a Swiss frontier employed person or a Swiss frontier self-employed person;
  - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v), and
- (b) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course,
- (b) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council on freedom of movement for workers within the Union, as extended by the EEA Agreement <sup>M6</sup>.

(3) In sub-paragraph (1)—

“EEA frontier self-employed person” (“*person hunangyflogedig trawsffiniol AEE*”) means an EEA national who—

- (a) is a self-employed person in Wales, and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, at least once a week;

“EEA frontier worker” (“*gweithiwr trawsffiniol AEE*”) means an EEA national who—

- (a) is a worker in Wales, and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, at least once a week;

“EEA migrant worker” (“*gweithiwr mudol AEE*”) means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

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“EEA self-employed person” (“*person hunangyflogedig AEE*”) means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“family member” (“*aelod o deulu*”) means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
  - (i) the person's spouse or civil partner,
  - (ii) direct descendants of the person or of the person's spouse or civil partner who are under the age of 21 or who are 21 or over and are dependants of the person or the person's spouse or civil partner, or
  - (iii) dependent direct relatives in the ascending line of the person or that of the person's spouse or civil partner;
- (b) in relation to a Swiss frontier employed person, a Swiss employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
  - (i) the person's spouse or civil partner, or
  - (ii) the person's child or the child of the person's spouse or civil partner;

“Swiss employed person” (“*person cyflogedig Swisaidd*”) means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” (“*person cyflogedig trawsffiniol Swisaidd*”) means a Swiss national who—

- (a) is an employed person in Wales, and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, at least once a week;

“Swiss frontier self-employed person” (“*person hunangyflogedig trawsffiniol Swisaidd*”) means a Swiss national who—

- (a) is a self-employed person in Wales, and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to the national's residence in Switzerland or that EEA State, as the case may be, at least once a week;

“Swiss self-employed person” (“*person hunangyflogedig Swisaidd*”) means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom.

- (4) For the purposes of sub-paragraph (3)—

“EEA national” (“*gwladolyn AEE*”) means a national of an EEA State other than the United Kingdom;

“employed person” (“*person cyflogedig*”) means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“self-employed person” (“*person hunangyflogedig*”) means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be, or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“worker” (“*gweithiwr*”) means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be.

**Marginal Citations**

**M6** OJ No L141, 27.05.2011, p. 1.

**Category 5 – Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere**

5.—(1) A person who—

- (a) is settled in the United Kingdom,
- (b) was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence,
- (c) is ordinarily resident in the United Kingdom on the day on which the course begins,
- (d) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (e) in a case where the person's ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if sub-paragraph (3) or (4) applies to the person.

(3) This sub-paragraph applies to a person who is—

- (a) a United Kingdom national,
- (b) a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement), or
- (c) a person who has a right of permanent residence,

who has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.

(4) This paragraph applies to a person (“P”)—

- (a) who is settled in the United Kingdom and has a right of permanent residence, and
- (b) who goes to the state within the territory comprising the EEA and Switzerland of which P is a national or of which the person in relation to whom P is a family member is a national.

(5) For the purposes of sub-paragraph (4), P is a family member of another person (“Q”) if P—

- (a) is Q's spouse or civil partner,
- (b) is a direct descendant of Q or of Q's spouse or civil partner and P—
  - (i) is under the age of 21, or
  - (ii) is 21 or over and a dependant of Q or of Q's spouse or civil partner, or
- (c) where Q is an EU national who falls within Article 7(1)(b) of Directive 2004/38, is a dependent direct relative in Q's ascending line or that of Q's spouse or civil partner.

**Category 6 – EU nationals**

6.—(1) A person—

- (a) who is either—

**Status:** Point in time view as at 01/08/2018.

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

- (i) an EU national on the first day of the first academic year of the course, other than a person who is a United Kingdom national who has not exercised a right of residence, or
  - (ii) a family member of such a person,
  - (b) who is undertaking a designated course in Wales,
  - (c) who has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
  - (d) whose ordinary residence in the territory comprising the EEA and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).
- (2) A person who—
- (a) is an EU national other than a United Kingdom national on the first day of the first academic year of the course,
  - (b) is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (c) 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, and
  - (d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).
- (3) Where a state accedes to the European Union after the first day of the first academic year of the course and a person is a national of that state, the requirement in sub-paragraph (1)(a) or (2) (a) is treated as being satisfied.
- (4) For the purposes of sub-paragraph (1)(a), a United Kingdom national has not exercised a right of residence if that person has not exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.
- (5) For the purposes of sub-paragraph (1)(a), a person (“P”) is a family member of another person (“Q”) if—
- (a) P is Q's spouse or civil partner,
  - (b) P is a direct descendant of Q or of Q's spouse or civil partner and P—
    - (i) is under the age of 21, or
    - (ii) is 21 or over and a dependant of Q or of Q's spouse or civil partner, or
  - (c) in a case where Q is an EU national who falls within Article 7(1)(b) of Directive 2004/38, P is a dependent direct relative in Q's ascending line or that of Q's spouse or civil partner.

#### **Category 7 – Children of Swiss nationals**

- 7.—(1) A person who—
- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement,
  - (b) is ordinarily resident in Wales on the first day of the first academic year of the course,

- (c) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) in a case where the person's ordinary residence referred to in sub-paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).

### **Category 8 – Children of Turkish workers**

- 8.—**(1) A person who—
- (a) is the child of a Turkish worker,
  - (b) is ordinarily resident in Wales on the first day of the first academic year of the course, and
  - (c) has been ordinarily resident in the territory comprising the EEA, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.
- (2) In this paragraph, “Turkish worker” means a Turkish national who—
- (a) is ordinarily resident in the United Kingdom and Islands, and
  - (b) is, or has been, lawfully employed in the United Kingdom.

### **Ordinary residence – additional provision**

**9.—**(1) For the purposes of this Schedule, a person who is ordinarily resident in England, Wales, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the present course, or
- (b) a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which the person moved.

(2) For the purposes of this Schedule, a person (“P”) is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the EEA, Switzerland and Turkey if P would have been so resident but for the fact that—

- (a) P,
- (b) P's spouse or civil partner,
- (c) P's parent, or
- (d) in the case of a dependent direct relative in the ascending line, P's child or child's spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom and Islands or the territory comprising the EEA, Switzerland and Turkey.

(3) For the purposes of sub-paragraph (2), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the EEA, Switzerland and Turkey includes—

- (a) in the case of members of the armed forces, any period which they serve outside the United Kingdom as members of such forces;
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the EEA and Switzerland as members of such forces;

**Status:** Point in time view as at 01/08/2018.

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- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the EEA, Switzerland and Turkey as members of such forces.
- (4) For the purposes of this Schedule, an eligible student who is a prisoner is to be considered to be ordinarily resident in the part of the United Kingdom where the prisoner resided prior to sentencing.
- (5) For the purposes of this Schedule, an area which—
- (a) was previously not part of the EU or the EEA, but
  - (b) at any time before or after these Regulations come into force becomes part of one or other or both of these territories,
- is to be considered to have always been a part of the EEA.

### Further provision on ordinary residence: care leavers

**10.**—(1) A care leaver is treated as being ordinarily resident in Wales on the first day of the first academic year of the present course even if, on that day, the care leaver—

- (a) is looked after outside Wales (in a case where regulation 49(c)(i) applies to the student), or
- (b) is residing outside Wales under a special guardianship order (in a case where regulation 49(c)(ii) applies to the student),

under arrangements made by a Welsh local authority.

(2) In paragraph (1)—

“care leaver” (“*person sy'n ymadael â gofal*”) has the meaning given in regulation 49;

“looked after” (“*derbyn gofal*”) has the meaning given in section 74 of the Social Services and Well-being (Wales) Act 2014;

“Welsh local authority” (“*awdurdod lleol Cymreig*”) means a local authority within the meaning given by section 197(1) of that Act.

### Interpretation

**11.** In this Schedule—

“Directive 2004/38” (“*Cyfarwydddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004 on the rights of citizens of the Union and their family members to move and reside freely in the territory of the member States<sup>M7</sup>;

“EEA” (“*AEE*”) means the European Economic Area, that is to say the territory comprised by the EEA States;

[<sup>F7</sup>“immigration rules” (“*rheolau mewnfudo*”) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;]

“Islands” (“*Ynysoedd*”) means the Channel Islands and the Isle of Man;

“parent” (“*rhiant*”) includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly;

“refugee” (“*ffoadur*”) means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28 July 1951<sup>M8</sup> as extended by its 1967 Protocol<sup>M9</sup>;

“right of permanent residence” (“*hawl i breswyllo'n barhaol*”) means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“settled” (“*wedi setlo*”) has the meaning given by section 33(2A) of the Immigration Act 1971<sup>M10</sup>,



“Swiss Agreement” (“*Cytundeb y Swistir*”) means the Agreement between the EU and its Member States, of the one part, and the Swiss Confederation of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999<sup>M11</sup> and which came into force on 1 June 2002.

#### Textual Amendments

- F7** Words in [Sch. 2 para. 11](#) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **16(c)**

#### Marginal Citations

- M7** OJ No L158, 30.04.2004, p.77-123.  
**M8** Cmnd. 9171.  
**M9** Cmnd. 3906, the Protocol entered into force on 4 October 1967.  
**M10** [1971 c.77](#); section 33(2A) was inserted by paragraph 7 of Schedule 4 to the [British Nationality Act 1981 \(c. 61\)](#).  
**M11** Cm. 4904 and OJ No L1 14, 30.04.02, p6.

## SCHEDULE 3

Regulations 48, 65(3), 66(2)(a) and 70(3)

### Calculation of income

## PART 1

### Introduction

#### Overview of Schedule

1.—(1) This Schedule is arranged as follows.

(2) Part 2 makes provision about the calculation of an eligible student's household income for the purposes of determining the amount of—

- (a) maintenance grant (see regulations 46 and 47),
- (b) grant for travel (see regulations 65 and 66), or
- (c) grants for dependants (see Part 11),

payable to the student.

(3) Part 3 sets out the meaning of “taxable income”, which is required in order to calculate a person's residual income.

(4) Part 4 makes provision about the calculation of residual income where—

- (a) Chapter 1 sets out how to calculate the residual income of an eligible student for the purposes of calculating the student's household income, and
- (b) Chapter 2 sets out how to calculate the residual income of the following other persons—
  - (i) an eligible student's parent, eligible student's partner or eligible student's parent's partner for the purposes of calculating the student's household income;
  - (ii) an eligible student's dependent adult for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).

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

- (5) Part 5 makes provision about the calculation of the net income of—
- (a) an eligible student's adult dependant, for the purposes of determining whether an eligible student qualifies for an adult dependants grant (see regulation 71);
  - (b) an eligible student's dependent children, for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).
- (6) Part 6 defines certain terms used in this Schedule.

## PART 2

### Household income

#### Household income of eligible student

2. This Part makes provision about the calculation of an eligible student's household income.

#### Calculation of household income

3.—(1) An eligible student's household income is calculated by applying the following steps—  
Step 1 If the student is not an independent eligible student (see paragraph 4), aggregate the total residual income of the persons listed in List A. If the student is an independent eligible student, aggregate the total residual income of the persons listed in List B.

##### List A

The persons are—

- (a) the eligible student, plus
- (b) either—
  - (i) each of the eligible student's parents (subject to paragraph 5), or
  - (ii) where the student's parents have separated, the parent selected under paragraph 6(3) and that parent's partner (if that parent has one), (subject to paragraph 7).

##### List B

The persons are—

- (a) the independent eligible student, plus
- (b) the student's partner (if the student has one), (subject to paragraphs 7 and 8).

Step 2 Calculate the applicable amount of dependent child deduction (see sub-paragraphs (2) to (4)) and deduct that from the aggregated total calculated under Step 1. The result is the eligible student's household income.

(2) A dependent child deduction is a deduction made in respect of each child wholly or mainly financially dependent on—

- (a) the eligible student,
- (b) the eligible student's partner,
- (c) the eligible student's parent, or
- (d) the partner of the eligible student's parent,

where the income of that person is taken into account for the purposes of calculating household income.

- (3) But no deduction is to be made in respect of a child of—
- (a) the eligible student's parent, or

(b) the partner of the eligible student's parent,  
if the child is the eligible student.

(4) In Table 15, Column 2 sets out the amount of dependent child deduction in respect of the academic year set out in the corresponding entry in Column 1.

**Table 15**

<i>Column 1 Academic year</i>	<i>Column 2 Amount of dependent child deduction</i>
Beginning on or after 1 September 2018	£1,130

### **Independent eligible students**

4.—(1) An eligible student is an independent eligible student if one of the following cases applies—  
*Case 1* The student is aged 25 or over on the first day of the current academic year. *Case 2* The student is married or is in a civil partnership before the beginning of the first day of the current academic year, whether or not the marriage or civil partnership continues to subsist after that date. *Case 3* The student has no parent living. *Case 4* The Welsh Ministers are satisfied that—

- (a) neither of the student's parents can be found, or
- (b) it is not reasonably practicable to get in touch with either of the student's parents.

*Case 5* Either—

- (a) the student has not communicated with either of the student's parents for a period of one year or more ending on the day before the first day of the current academic year, or
- (b) in the opinion of the Welsh Ministers, the student is irreconcilably estranged from the student's parents on other grounds.

*Case 6* The student's parents reside outside the European Union and the Welsh Ministers are satisfied that—

- (a) the assessment of the household income by reference to the parents' income would place those parents in jeopardy, or
- (b) it would not be reasonably practicable for the parents to send funds to the United Kingdom for the purposes of supporting the student.

*Case 7* Where paragraph 6 (separation of parents) applies, the parent selected by the Welsh Ministers under sub-paragraph (3) of that paragraph has died, irrespective of whether that parent had a partner.

*Case 8* On the first day of the current academic year, the student has the care of a person under the age of 18. *Case 9* The student has been supported by the student's earnings for any period of three years (or periods which together aggregate at least three years) ending before the first day of the first academic year of the present course. *Case 10* Where a student is an independent eligible student by virtue of Case 9 in respect of one academic year, the student continues to be an independent eligible student for any subsequent academic year of the designated course. *Case 11* The student is a care leaver within the meaning given by regulation 49.

(2) For the purposes of Case 9, an eligible student is treated as being supported by the student's earnings if during the period or periods referred to in Case 9 one of the following grounds applies—

*Ground 1* The eligible student was participating in arrangements for training unemployed persons under a scheme operated, sponsored or funded by a public body. *Ground 2* The eligible student received a benefit payable by a public body in respect of a person who is available for employment but is unemployed. *Ground 3* The eligible student was available for employment and had complied with any registration requirement of a public body as a condition of entitlement for participation in arrangements for training or the receipt of benefits. *Ground 4* The eligible student held a state

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studentship or comparable award. *Ground 5* The eligible student received a pension, allowance or other benefit paid by reason of the student's disability, injury or sickness or for a reason associated with childbirth.

#### **Eligible student's parent dies leaving a surviving parent**

5.—(1) Where—

- (a) the parent of an eligible student dies before the current academic year, and
- (b) that parent's income has been or would have been taken into account for the purpose of determining household income,

only the residual income of the surviving parent is aggregated for the purposes of Step 1 in paragraph 3(1).

(2) Where the parent dies during the current academic year, the residual income of the eligible student's parents, for the purposes of Step 1 in paragraph 3(1), is the aggregate of—

- (a) the residual income of both parents for the applicable financial year multiplied by  $X/52$ , and
- (b) the residual income of the surviving parent for the applicable financial year multiplied by  $Y/52$ , where—

X is the number of weeks in the current academic year during which both parents were alive, and

Y is the remaining number of weeks in the current academic year.

#### **Separation of eligible student's parents**

6.—(1) Where the eligible student's parents are separated for the duration of the current academic year, only the residual income of the parent selected under sub-paragraph (3) is aggregated for the purposes of Step 1 in paragraph 3(1).

(2) Where the student's parents have separated during the current academic year the residual income of the eligible student's parents, for the purposes of Step 1 in paragraph 3(1), is the aggregate of—

- (a) the residual income of both parents for the applicable financial year multiplied by  $X/52$ , and
- (b) the residual income of the parent selected under sub-paragraph (3) for the applicable financial year multiplied by  $Y/52$ , where—

X is the number of weeks in the current academic year during which the parents were not separated, and

Y is the number of weeks in the current academic year during which the parents were separated.

(3) Where sub-paragraph (1) or (2) applies, the Welsh Ministers must select the parent whose residual income it is the most appropriate to take into account in the circumstances.

#### **Separation of eligible student's parent or independent eligible student from partner**

7.—(1) Where—

- (a) the parent of an eligible student, or
- (b) an independent eligible student,

is separated from his or her partner for the duration of the current academic year, the income of the partner is not aggregated under Step 1 in paragraph 3(1).

(2) Where—

- (a) the parent of the eligible student, or
- (b) an independent eligible student,

has separated from his or her partner during the current academic year, the amount of the partner's residual income to be aggregated under Step 1 is calculated by applying the formula in sub-paragraph (3).

(3) The formula to be applied is—  $X \times C / 52$  Where—

X is the residual income of—

- (a) the eligible student's parent's partner, where List A of Step 1 applies, or
  - (b) the independent eligible student's partner where List B of Step 1 applies,
- for the applicable financial year;

C is the number of complete weeks of the current academic year during which—

- (a) the eligible student's parent and his or her partner, or
  - (b) the independent eligible student and the student's partner,
- were not separated.

(4) Where an eligible student has more than one partner in any one academic year, this paragraph and Step 1 of paragraph 3(1) apply in relation to each partner.

### **Independent eligible student or partner is a parent of an eligible student**

8. Where—

- (a) an independent eligible student (I) or the partner of the independent eligible student (PI) is a parent of an eligible student (S), and
- (b) a statutory award payable to S is calculated by reference to the residual income of I or PI, or both,

the residual income of PI is not aggregated under List B of Step 1 in paragraph 3(1) for the purposes of calculating the household income of I.

## **PART 3**

### **Taxable income**

#### **Taxable income**

9.—(1) In this Schedule, a person's taxable income means—

- (a) the aggregate of—
  - (i) the total income on which the person is charged to income tax under Step 1 of section 23 of the Income Tax Act 2007 <sup>M12</sup>, and
  - (ii) if not already a component of total income under sub-paragraph (i), payments and other benefits specified in section 401(1) of the Income Tax (Earnings and Pensions) Act 2003 <sup>M13</sup> received by the person or treated as received by the person (but disregard section 401(2) of that Act for the purposes of this sub-paragraph), or
- (b) where the income tax legislation of another member State applies to the person's income, the person's total income from all sources as determined for the purposes of the income tax legislation of that member State.

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

(2) For the purposes of sub-paragraph (1)(b), where the income tax legislation of more than one member State applies to the person in respect of the year under consideration, the person's total income from all sources is the amount derived from the determination resulting in the greatest amount of total income, including any income which is required to be taken into account under paragraph 18.

(3) But a person's taxable income does not include income paid to another person under a pension arrangements order.

#### Marginal Citations

**M12** 2007 c. 3; section 23 was amended by the Finance Act 2009 (c. 10), **Schedule 1**, paragraph 6(o)(i), the Finance Act 2013 (c. 29), **Schedule 3**, paragraph 2(2) and the Finance Act 2014 (c. 26), **Schedule 17**, paragraph 19.

**M13** 2003 c. 1; section 401 was amended by S.I. 2005/3229, S.I. 2011/1037 and S.I. 2014/211.

## PART 4

### Residual income

#### CHAPTER 1

##### Residual income of an eligible student

#### Calculation of eligible student's residual income

**10.** — For the purposes of calculating an eligible student's household income under Part 2, the student's residual income is calculated as follows—

The eligible student's taxable income in respect of the current academic year.

*Plus*

Income payable to the eligible student under a pension arrangements order during the current academic year, net of income tax.

*Minus*

The aggregate of the deductions set out in paragraph 11 (unless already deducted for the purposes of determining the student's taxable income).

#### Deductions for the purpose of calculating residual income of an eligible student

**11.** — For the purposes of calculating an eligible student's residual income, the deductions are—

*Deduction A*

Remuneration paid to the eligible student in the current academic year for work done during any academic year of the course, but not remuneration in respect of any—

- (a) period of leave taken by the student, or
- (b) other period during which the student is relieved of a duty to attend work,

so that the student may undertake the course.

*Deduction B*

The gross amount of any premium or sum paid by the eligible student during the current academic year in relation to a pension in respect of which—

- (a) relief is given under section 188 of the Finance Act 2004 <sup>M14</sup>, or
- (b) where the student's income is computed for the purposes of the income tax legislation of another member State, relief would be given if that legislation made provision equivalent to the Income Tax Acts,

but not including any sum paid as a premium under a policy of life assurance.

**Marginal Citations**

**M14** 2004 c.12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68 and 114 and Schedules 18, 19 and 27, the Finance Act 2013 (c. 29), section 52 and the Finance Act 2014 (c. 26), Schedule 7.

**Income of eligible student received in currency other than sterling**

**12.**—(1) Where the eligible student receives income in a currency other than sterling, the value of the income is—

- (a) the amount of sterling the eligible student receives for the income, or
- (b) where the student does not convert the income into sterling, the value of the sterling which the income would purchase using the HMRC exchange rate.

(2) The HMRC exchange rate <sup>M15</sup> is the rate published by HM Revenue and Customs for the month corresponding to the month in which the income is received.

**Marginal Citations**

**M15** See <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>.

CHAPTER 2

Residual income of persons other than an eligible student

**Persons to whom this chapter applies**

**13.** This Chapter makes provision for the calculation of a person's ("P's") residual income where P means the following—

- (a) where P's income is aggregated under Step 1 in paragraph 3(1) for the purpose of calculating an eligible student's household income—
  - (i) the parent of the eligible student,
  - (ii) the eligible student's partner, or
  - (iii) the eligible student's parent's partner,as the case may be;
- (b) the adult dependant of an eligible student for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).

**Calculation of residual income of persons other than eligible student**

**14.** P's residual income is calculated as follows—

P's taxable income for the applicable financial year.

**Status:** Point in time view as at 01/08/2018.

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

*Plus*

Income payable to P under a pension arrangements order during the applicable financial year, net of income tax.

*Minus*

The aggregate of the deductions set out in paragraph 15 (unless already deducted for the purposes of determining P's taxable income).

**Deductions for the purpose of calculating residual income of persons other than eligible student**

**15.**—(1) For the purposes of calculating P's residual income, the deductions are— *Deduction A* The gross amount of any premium or sum paid by P in respect of a pension during the applicable financial year, in relation to which—

- (a) relief is given under section 188 of the Finance Act 2004, or
- (b) where P's income is computed for the purposes of the income tax legislation of another member State, relief would be given if that legislation made provision equivalent to the Income Tax Acts,

but not including any sum paid as a premium under a policy of life assurance. *Deduction B* Where paragraph 18 applies, a sum equivalent to Deduction A provided that this sum does not exceed the deductions which would be made if the whole of P's income were in fact income for the purposes of the Income Tax Acts. *Deduction C* £1,130, where P—

- (a) is an eligible student in respect of the current academic year but is also the parent of an eligible student, or
- (b) holds a statutory award in respect of the same period.

**Applicable financial years: calculating residual income of persons other than eligible student**

**16.**—(1) This paragraph specifies the applicable financial year for the purposes of calculating P's residual income.

(2) Unless sub-paragraph (3) or (5) applies, the applicable financial year is PY-1.

(3) Where the Welsh Ministers are satisfied that P's residual income for CY is likely to be at least 15% lower than P's residual income for PY-1, the applicable financial year is CY.

(4) Sub-paragraph (5) applies where the applicable financial year for the previous academic year was the financial year beginning immediately before the first day of the previous academic year.

(5) Where this paragraph applies, the applicable financial year is to be determined as follows—

- (a) if the Welsh Ministers are satisfied that P's residual income for CY is likely to be at least 15% lower than P's residual income for PY, the applicable financial year is CY;
- (b) otherwise, the applicable financial year is PY.

**Income from business or profession**

**17.**—(1) Sub-paragraph (2) applies where—

- (a) the applicable financial year for the purposes of calculating P's residual income is PY-1, and
- (b) the Welsh Ministers are satisfied that P's income is wholly or mainly derived from the profits of a business or profession carried on by P.



(2) Where this paragraph applies, P's residual income is P's income for the earliest period of twelve months ending in PY-1 in respect of which accounts are kept relating to P's business or profession.

#### **Treatment of income not treated as income for income tax purposes**

**18.**—(1) Sub-paragraph (3) applies where P is in receipt of any income which, for any of the reasons set out in sub-paragraph (2), does not form part of P's income for the purposes of the Income Tax Acts or the income tax legislation of another member State.

(2) The reasons are— *Reason 1*

- (a) P is not resident or domiciled in the United Kingdom, or
- (b) P's income is computed for the purposes of the income tax legislation of another member State and P is not resident or domiciled in that member State.

*Reason 2*

- (a) P's income does not arise in the United Kingdom, or
- (b) P's income does not arise in the member State in which P's income is computed for the purposes of that State's income tax legislation.

*Reason 3* The income arises from an office, service or employment, income from which is exempt from tax.

(3) P's taxable income is to be taken to include the income described in sub-paragraph (1) as if it were part of P's income for the purposes of the Income Tax Acts or the income tax legislation of another member State, as the case may be.

#### **P's income in currency other than sterling**

**19.**—(1) Where P's income is computed for the purposes of the income tax legislation of another member State, P's residual income is to be calculated in accordance with this Part in the currency of that member State and is to be taken to be the sterling value of that income determined in accordance with the relevant HMRC rate.

(2) The relevant HMRC rate is the exchange average rate issued by HM Revenue and Customs for the calendar year ending immediately before the end of PY-1.

## **PART 5**

### **Net income of dependants**

#### **Net income of dependants**

**20.** This Part makes provision about the calculation of the net income of the following dependants—

- (a) an eligible student's adult dependant, for the purposes of determining whether an eligible student qualifies for adult dependants grant (see regulation 71);
- (b) an eligible student's dependent children, for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).

**Status:** Point in time view as at 01/08/2018.

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

## Net income

**21.**—(1) The net income of a dependant is the dependant's income from all sources for the relevant year reduced by the amount of income tax and social security contributions payable in respect of that year but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a dependant's disability or incapacity;
  - (b) child benefit payable under Part 9 of the Social Security Contributions and Benefits Act 1992 <sup>M16</sup>;
  - (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002 <sup>M17</sup>;
  - (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992 <sup>M18</sup>;
  - (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989 <sup>M19</sup> or section 81 of the Social Services and Well-being (Wales) Act 2014 <sup>M20</sup>;
  - (f) any payment made to the dependant under section 110(6) of the Social Services and Well-being (Wales) Act 2014 or section 23C(5A) of the Children Act 1989 <sup>M21</sup>;
  - (g) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to—
    - (i) section 24 of that Act <sup>M22</sup>, or
    - (ii) section 104 of the Social Services and Well-being (Wales) Act 2014 in so far as that section applies to category 5 and 6 young persons within the meaning of that Act;
  - (h) any child tax credit to which the dependant is entitled under Part 1 of the Tax Credits Act 2002 <sup>M23</sup>;
  - (i) in the case of a dependant who is entitled to an award of universal credit under Part 1 of the Welfare Reform Act 2012 <sup>M24</sup>—
    - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013 <sup>M25</sup>, in respect of the fact that the dependant has limited capability for work and work-related activity;
    - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations <sup>M26</sup> (the child element).
- (2) For the purposes of this paragraph, payments made to the eligible student towards a dependent child's maintenance are treated as the dependent child's income.
- (3) In this paragraph, “relevant year” means—
- (a) in respect of an eligible student's adult dependant, the current academic year;
  - (b) in respect of an eligible student's dependent child, the applicable financial year determined under paragraph 22.

### Marginal Citations

**M16** 1992 c.4.

**M17** 2002 c. 38. Section 2 was amended by S.I. 2016/413 (W. 131). Section 4 was amended by S.I. 2010/1158; the Health and Social Care Act 2012 (c. 7), **Schedule 5**, paragraphs 104 and 105; and by S.I. 2013/160.

- M18** Section 77 was amended by the Child Benefit Act 2005, section 1(3), Schedule 1, Part 1, paragraphs 1 and 4, the Tax Credits Act 2002, Schedule 6, the Civil Partnership Act 2004, section 254(1), Schedule 24, Part 3, paragraph 34.
- M19** 1989 c.41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), **Schedule 16**, paragraph 12, the Care Standards Act 2000 (c. 14), **Schedule 4**, paragraph 14, the Children Act 2004 (c. 31), **section 49(3)**, the Children and Young Persons Act 2008 (c. 23), **sections 8** and 39 and Schedule 3, paragraphs 1 and 7 and the Children and Families Act 2014 (c. 6), **Schedule 2 paragraph 30**.
- M20** 2014 anaw 4.
- M21** Subsections (5A) to (5C) of section 23C of the Children Act 1989 were inserted, in relation to England, by section 21 of the Children and Young Persons Act 2008 and S.I. 2009/268 and S.I. 2009/2273 refer. Subsections (5A) to (5C) were inserted into section 23C in relation to Wales and S.I. 2010/1329 (W. 112) (C.81) and S.I. 2011/824 (W. 123) (C. 32) refer.
- M22** Section 24 was amended by the Children (Leaving Care) Act 2000 (c. 35), **section 4(1)**, the Adoption and Children Act 2002 (c. 38), **section 139** and Schedule 3, paragraph 60, S.I. 2007/961 (W.85), paragraph 20(2)(b), S.I. 2010/1158, **Schedule 2**, paragraph 2, the Health and Social Care Act 2012 (c. 7), **section 55** and Schedule 5, paragraph 49 and S.I. 2016/413 (W.131), regulation 81.
- M23** 2002 c. 21.
- M24** 2012 c.5.
- M25** S.I. 2013/376. Regulation 27 was amended by S.I. 2017/204, **regulation 4**.
- M26** Regulation 24 of S.I. 2013/376, as amended by S.I. 2014/2088 and the Welfare Reform and Work Act 2016 (c.7), **section 14**, makes further provision about the child element of an award.

### **Applicable financial years: calculating net income of an eligible student's dependent children**

**22.**—(1) This paragraph specifies the applicable financial year for the purposes of calculating the net income of an eligible student's dependent child (“C”).

(2) Unless paragraph (3) or (5) applies, the applicable financial year is PY-1.

(3) Where the Welsh Ministers are satisfied that C's net income for CY is likely to be at least 15% lower than C's net income for PY-1, the applicable financial year is CY.

(4) Sub-paragraph (5) applies where the applicable financial year for the previous academic year was the financial year beginning immediately before the first day of the previous academic year.

(5) Where this paragraph applies, the applicable financial year is to be determined as follows—

(a) if the Welsh Ministers are satisfied that C's net income for CY is likely to be at least 15% lower than C's net income for PY, the applicable financial year is CY;

(b) otherwise, the applicable financial year is PY.

## **PART 6**

### **Interpretation**

#### **Interpretation**

**23.**—(1) In this Schedule, any reference to a person's (“A's”) partner means—

(a) A's spouse or civil partner; or

(b) a person ordinarily living with A as if the person were A's spouse or civil partner.

(2) In this Schedule—

“applicable financial year” (“*blwyddyn academaidd gymwys*”) means the financial year determined in accordance with paragraph 16 or 22;

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“current academic year” (“*blwyddyn academaidd gyfredol*”) means the academic year of the present course in respect of which the eligible student is applying for support;

“CY” (“BG”) means the financial year beginning immediately before the first day of the current academic year;

“financial year” (“*blwyddyn ariannol*”) means the period of twelve months in respect of which the income of a person is computed for the purposes of the income tax legislation which applies to it;

“PY” (“BF”) means the financial year immediately preceding CY;

“PY-1” (“BF-1”) means the financial year immediately preceding PY;

“pension arrangements order” (“*gorchymyn trefniadau pensiwn*”) means an order under which a person pays benefits under a pension arrangement to another person under—

- (a) section 23 of the Matrimonial Causes Act 1973 <sup>M27</sup> which includes provision made by virtue of section 25B(4) (and including such an order as it may have effect by virtue of section 25E(3) of that Act) <sup>M28</sup>, or
- (b) Part 1 of Schedule 5 to the Civil Partnership Act 2004 <sup>M29</sup> which includes provision made by virtue of Part 6 of that Schedule (and including such an order as it may have effect by virtue of Part 7 of that Schedule);

“public body” (“*corff cyhoeddus*”) means a state authority or agency whether national, regional or local.

#### Marginal Citations

**M27** 1973 c.18, **section 23** was amended by the Administration of Justice Act 1982 (c. 53), **section 16**.

**M28** Section 25B was inserted by the Pensions Act 1995 (c. 26), **section 166(1)** and was amended by the Welfare Reform and Pensions Act 1999 (c. 30), **Schedule 4**. Section 25E was inserted by the Pensions Act 2004 (c. 35), **section 319(1)**, **Schedule 12**, paragraph 3 and amended by the Pensions Act 2008 (c. 30), **Schedule 6**, paragraphs 1 and 6 and Schedule 11, Part 4.

**M29** 2004 c.33; paragraph 25 of Schedule 5 was modified by S.I. 2006/1934 and paragraph 30 of Schedule 5 was amended by the Pensions Act 2008 (c.30), **Schedules 6** and 11.

## 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 [<sup>F8</sup>publicly funded institution] if either the university or the constituent college or institution is a [<sup>F8</sup>publicly funded institution];
- (c) an institution is not regarded as a [<sup>F8</sup>publicly funded institution] by reason only that it is a connected institution within the meaning of section 65(3B) of the Further and Higher 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) <sup>M30</sup> of that Act.

#### Textual Amendments

**F8** Words in Sch. 4 para. 2(2) substituted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), 17(a)

#### Marginal Citations

**M30** 1992 c.13; subsections (3A) and (3B) of section 65 were inserted by the [Teaching and Higher Education Act 1998 \(c. 30\)](#), [section 27](#).

### 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.

**Status:** Point in time view as at 01/08/2018.

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

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 <sup>M31</sup>, or
  - (iii) under section 116(2)(a) of the Regulation and Inspection of Social Care (Wales) Act 2016 <sup>M32</sup>,

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.

#### Marginal Citations

**M31** 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.

**M32** 2016 anaw 2.

#### 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*

- (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.

*Status: Point in time view as at 01/08/2018.*

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

- (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.

### **[F9]Persons who cease to have stateless leave**

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

- (a) a person (“P”) was a category 2A 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 being a person granted stateless leave, caused P to be a Category 2A eligible postgraduate 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 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.]

#### Textual Amendments

- F9** Sch. 4 para. 12A inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **17(b)**

#### 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—

**Status:** Point in time view as at 01/08/2018.

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- (i) the student or the student's spouse, civil partner or parent is recognised as a refugee or [<sup>F10</sup>becomes a person granted stateless leave 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*”);
  - [<sup>F11</sup>“person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”);]
  - “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*”).

#### Textual Amendments

- F10** Words in Sch. 4 para. 14(3)(b)(i) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **17(c)**
- F11** Words in Sch. 4 para. 14(4) inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **17(d)**

#### 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.

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

### **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* 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

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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.

## SCHEDULE 5

Regulation 99

### Oxbridge college fee loans

#### **Oxbridge college fee loans**

1.—(1) An Oxbridge college fee loan is a loan made available by the Welsh Ministers to an eligible Oxbridge student for the payment of college fees in respect of an academic year of a designated Oxbridge course.

(2) “College fees” means the fees payable by an eligible Oxbridge student to a college or permanent private hall of the University of Oxford, or to a college of the University of Cambridge, in connection with the student's undertaking of a designated Oxbridge course.

#### **Designated Oxbridge courses**

2. A course is a designated Oxbridge course if it meets each of the following conditions—  
*Condition 1* The course is a designated course (see Chapter 1 of Part 4). *Condition 2* It is a full-time course. *Condition 3* It is provided by the University of Oxford or the University of Cambridge. *Condition 4* The course either—

- (a) leads to a qualification as a—
  - (i) social worker,
  - (ii) medical doctor,
  - (iii) dentist,
  - (iv) veterinary surgeon, or
  - (v) architect, or
- (b) is a course where at least one academic year is one in relation to which the eligible Oxbridge student is eligible to apply for—
  - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968 or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972, or
  - (ii) a Scottish healthcare allowance,
 provided that the bursary or similar award or allowance is calculated by reference to the student's income (whether or not the calculation results in a nil amount).

*Condition 5* The course is not a distance learning course (but see paragraph 3(4)).

### Eligible Oxbridge students

3.—(1) A person (“P”) is an eligible Oxbridge student if P—

- (a) satisfies each of the conditions in sub-paragraph (2), and
- (b) does not fall within the exception in sub-paragraph (3).

(2) The conditions are— *Condition 1* P is an eligible student (see Section 1 of Chapter 2 of Part 4). *Condition 2* P has an honours degree from an institution in the United Kingdom. *Condition 3* P is undertaking a designated Oxbridge course. *Condition 4* P is a member of—

- (a) a college or permanent private hall of the University of Oxford, or
- (b) a college of the University of Cambridge.

*Condition 5* P is under the age of 60 on the first day of the first academic year of the designated Oxbridge course.

(3) The exception is that P is ordinarily resident in England, Scotland or Northern Ireland.

(4) Despite Condition 5 of paragraph 2, P is an eligible Oxbridge student if P—

- (a) has a disability,
- (b) is undertaking a designated Oxbridge course in the United Kingdom,
- (c) is not attending the course by reason of P's disability, and
- (d) otherwise satisfies the criteria stated in sub-paragraph (1).

### Students becoming eligible during the course of an academic year

4.—(1) Where a student becomes an eligible student because one of the events listed in sub-paragraph (2) occurs in the course of an academic year, the student may qualify for an Oxbridge college fee loan in accordance with this Schedule in respect of that academic year provided that the event occurred within the first three months of the academic year.

(2) The events are—

- (a) the student or the student's spouse, civil partner or parent is recognised as a refugee or [<sup>F12</sup>becomes a person granted stateless leave or] becomes a person with leave to enter or remain;
- (b) a state accedes to the European Union where the student is a national of that state or a family member of a national of that state;
- (c) the student becomes a family member of an EU national;
- (d) the student acquires the right of permanent residence;
- (e) the student becomes a child of a Turkish worker;
- (f) the student becomes a person described in paragraph 4(1)(a) of Schedule 2;
- (g) the student becomes the child of a Swiss national.

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

“child” (“*plenty*”);

“family member” (“*aelod o deulu*”) (within the meaning given by paragraph 6(5) of Schedule 2);

“parent” (“*rhiant*”);

[<sup>F13</sup>“person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”);]

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

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“refugee” (“*ffoadur*”);

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

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

#### Textual Amendments

**F12** Words in Sch. 5 para. 4(2)(a) inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **19(a)**

**F13** Words in Sch. 5 para. 4(3) inserted (30.7.2018) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/814), regs. 1(2), **19(b)**

#### Period of eligibility

5.—(1) An Oxbridge college fee loan is available in respect of each standard academic year of the designated Oxbridge course and in respect of one academic year of the course that is not a standard academic year.

(2) Where an eligible Oxbridge student is allowed to study the content of one standard academic year of the designated Oxbridge course over two or more academic years, for the purpose of determining whether the student qualifies for an Oxbridge college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

(3) In this paragraph, “standard academic year” means an academic year of the designated Oxbridge course that would be undertaken by a person who does not repeat any part of the course and who enters the course at the same point as the eligible Oxbridge student.

#### Amount of the college fee loan

6.—(1) The amount of an Oxbridge college fee loan in respect of an academic year of a designated Oxbridge course must not exceed the amount equal to the college fees payable by the eligible Oxbridge student to the student's college or permanent private hall in connection with that year.

(2) Where an eligible Oxbridge student has applied for an Oxbridge college fee loan of less than the maximum amount available in relation to the academic year, the student may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

#### Transfers

7.—(1) Where an eligible Oxbridge student transfers from one designated Oxbridge course to another, the Welsh Ministers must transfer the student's status as an eligible Oxbridge student to the other course if—

- (a) they receive a request from the student to do so, and
- (b) the student's period of eligibility has not ended or been terminated.

(2) If the eligible Oxbridge student transfers before the end of the academic year but after applying for an Oxbridge college fee loan, the amount applied for is to be paid to the relevant college or permanent private hall in respect of the designated Oxbridge course to which the student transfers (unless sub-paragraph (4) applies).

(3) Where sub-paragraph (2) applies, the eligible Oxbridge student may not apply for another Oxbridge college fee loan in respect of that academic year.



(4) If an eligible Oxbridge student transfers after the Oxbridge college fee loan is paid and before the end of the academic year, the student cannot apply for another Oxbridge college fee loan in connection with the academic year of the designated Oxbridge course to which the student transfers.

### **Payment**

**8.—(1)** The Welsh Ministers must pay an Oxbridge college fee loan for which an eligible Oxbridge student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The loan must be paid in a single lump sum.

(3) The Welsh Ministers may not pay the loan before—

(a) they have received from the college or permanent private hall—

(i) a request for payment in writing, and

(ii) an attendance confirmation in such form as the Welsh Ministers may specify, and

(b) the period of three months beginning with the first day of the academic year to which the loan relates has expired.

(4) The Welsh Ministers may pay an Oxbridge college fee loan without receiving an attendance confirmation if they think that owing to exceptional circumstances it would be appropriate to do so.

(5) In this paragraph, “attendance confirmation” means a confirmation such as is referred to in regulation 87(1).

(6) The Welsh Ministers must not make a payment of an Oxbridge college fee loan in respect of an academic year of a designated Oxbridge course if—

(a) the eligible Oxbridge student ceases to undertake the course before the expiry of the period of three months beginning with the first day of the academic year, and

(b) the college or permanent private hall has determined or agreed that the student will not commence undertaking the course in the United Kingdom again during the academic year.

(7) Paragraphs 9 and 10 set out other circumstances in which payment of an Oxbridge college fee loan may not be made or may be withheld.

### **Requirement to provide national insurance number**

**9.—(1)** The Welsh Ministers may make it a condition of entitlement to payment of an Oxbridge college fee loan that an eligible Oxbridge student must provide them with the student's United Kingdom national insurance number.

(2) If that condition is imposed, the Welsh Ministers may not make any payment of the loan until the eligible Oxbridge student has complied with it, unless the Welsh Ministers are satisfied that, owing to exceptional circumstances, it would be appropriate to make a payment despite the condition not being complied with.

### **Information requirements and agreements for repayment**

**10.—(1)** The Welsh Ministers may at any time request from an eligible Oxbridge student such information or documentation as they may require for the purposes of—

(a) determining eligibility for an Oxbridge college fee loan, or

(b) recovering a loan.

(2) A request under sub-paragraph (1) may include requesting sight of an eligible Oxbridge student's—

(a) valid passport issued by the state of which that student is a national,

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- (b) valid national identity card, or
- (c) birth certificate.

(3) Where the Welsh Ministers have requested information or documentation under sub-paragraph (1), they may withhold any payment of an Oxbridge college fee loan until the student provides what has been requested or provides a satisfactory explanation for not complying with the request.

(4) The Welsh Ministers may at any time require an eligible Oxbridge student to enter into an agreement to repay an Oxbridge college fee loan by a particular method.

(5) Where the Welsh Ministers have requested an agreement as to the method of repayment, they may withhold any payment of an Oxbridge college fee loan until the student provides what has been requested.

### **Overpayment**

**11.** Any overpayment of an Oxbridge college fee loan is recoverable by the Welsh Ministers from the college or permanent private hall.

## SCHEDULE 6

Regulation 100

### Amendments to the Education (Student Support) (Wales) Regulations 2017

1. The Education (Student Support) (Wales) Regulations 2017 are amended as follows.
2. In regulation 1 (title, commencement and application), after paragraph (2) insert—
  - “(3) These Regulations do not apply to the provision of support to students in relation to a course which begins on or after 1 August 2018 unless Regulation 2(3) of the Education (Student Support) (Wales) Regulations 2018 applies to the course.”
3. In regulation 2(1) (interpretation)—
  - (a) in the definition of “2012 accelerated graduate entry student”, at the end insert “ and before 1 August 2018 ”;
  - (b) in the definition of “2012 cohort student”, after “1 September 2012” where it first occurs insert “ and before 1 August 2018 (but including a course starting on or after 1 August 2018 if the course is one in relation to which the student's status has transferred under regulation 8, 75 or 102 or is an end-on course) ”;
  - (c) in the definition of “accelerated graduate entry course”, in sub-paragraph (c), after “1 September 2012” insert “ and before 1 August 2018 ”;
  - (d) in the definition of “compressed degree student”, in sub-paragraph (b)(ii), after “1 September 2013” insert “ and before 1 August 2018 ”;
  - (e) in the definition of “compressed first year course”, in sub-paragraph (a), after “1 September 2013” insert “ and before 1 August 2018 ”;
  - (f) in the definition of “distance learning course”, after “1 September 2012” insert “ and before 1 August 2018 ”;
  - (g) in the definition of “eligible part-time prisoner”, in sub-paragraph (a), after “1 September 2014” insert “ and before 1 August 2018 ”;
  - (h) in the definition of “eligible prisoner”, in sub-paragraph (a), after “1 September 2012” insert “ and before 1 August 2018 ”;

- (i) in the definition of “Erasmus year”, in both sub-paragraphs (b) and (c), after “1 September 2012” insert “ and before 1 August 2018 ”;
  - (j) in the definition of “healthcare bursary”, after “1968” insert “ but not a payment made out of the Learning Support Fund ”;
  - (k) in the definition of “new eligible part-time student”, after “1 September 2014” where it first occurs insert “ and before 1 August 2018 (but including a course starting on or after 1 August 2018 if the course is one in relation to which the student's status has transferred under regulation 8, 75 or 102 or is an end-on course) ”;
  - (l) in the definition of “qualifying course”, after “full-time designated course” insert “ beginning before 1 August 2018 ”;
  - (m) in the definition of “recognised educational institution”, in sub-paragraph (b), after “1 September 2017” insert “ and before 1 August 2018 ”;
  - (n) in the appropriate place insert “ “Learning Support Fund” means the fund made available by NHS England to certain students in respect of qualifying healthcare courses; ”.
4. In regulation 3(16) (application)—
- (a) at the beginning insert “ Subject to regulation 1(3) ”;
  - (b) after “1 September 2017” where it first occurs, insert “ and before 1 August 2018 ”.
5. For paragraph (7) of regulation 4 (eligible students), substitute—
- “(7) Subject to paragraphs (9) to (11), if a person satisfies the conditions in paragraph (8) (a),(b) or (c) and does not satisfy paragraph (3)(c) the person is an eligible student for the purpose of these Regulations and accordingly, paragraphs (2) and (3)(a), (b), (d), (e) and (f) do not apply to the person.”
6. In regulation 16 (new fee grant)—
- (a) in paragraph (3)—
    - (i) in sub-paragraph (a), for “£4,954” substitute “ £4,800 ”;
    - (ii) in sub-paragraph (b), for “£4,046” substitute “ £4,200 ”;
  - (b) in paragraph (4)—
    - (i) in sub-paragraph (a), for “£2,560” substitute “ £2,480 ”;
    - (ii) in sub-paragraph (b), for “£1,940” substitute “ £2,020 ”.
7. In regulation 19 (new fee loan in respect of courses beginning on or after 1 September 2012)—
- (a) in paragraph (3)(a), for “£4,046” substitute “ £4,200 ”;
  - (b) in paragraph (4)(a), for “£1,940” substitute “ £2,020 ”.
8. In regulation 30 (grants for dependants – interpretation)—
- (a) in paragraph (1)(o), in the full-out words following paragraphs (i) to (iii), for “party—“ substitute “ party; ”
  - (b) correct the numbering after paragraph (1)(o) so that—
    - (i) “(p)” is substituted for “(a)”;
    - (ii) “(q)” is substituted for “(b)”;
    - (iii) “(r)” is substituted for “(c)”;
  - (c) in paragraph (3), for “regulation 28” substitute “ regulation 27 ”.
9. In regulation 43 (maximum amount loans for certain students)—
- (a) in paragraph (2)—

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- (i) in sub-paragraph (i), after “£5,358” insert “ for a 2010 cohort student, otherwise £5,529 ”;
  - (ii) in sub-paragraph (ii), after “£9,697” insert “ for a 2010 cohort student, otherwise £10,007 ”;
  - (iii) in sub-paragraph (iii), after “£8,253” insert “ for a 2010 cohort student, otherwise £8,517 ”;
  - (iv) in sub-paragraph (iv), after “£8,253” insert “ for a 2010 cohort student, otherwise £8,517 ”;
  - (v) in sub-paragraph (v), after “£6,922” insert “ for a 2010 cohort student, otherwise £7,143 ”;
- (b) in paragraph (3)—
- (i) in sub-paragraph (i), after “£4,851” insert “ for a 2010 cohort student, otherwise £5,006 ”;
  - (ii) in sub-paragraph (ii), after “£8,830” insert “ for a 2010 cohort student, otherwise £9,112 ”;
  - (iii) in sub-paragraph (iii), after “£7,179” insert “ for a 2010 cohort student, otherwise £7,408 ”;
  - (iv) in sub-paragraph (iv), after “£7,179” insert “ for a 2010 cohort student, otherwise £7,408 ”;
  - (v) in sub-paragraph (v), after “£6,412” insert “ for a 2010 cohort student, otherwise £6,617 ”.
- 10.** In regulation 45 (students with reduced entitlement)—
- (a) in paragraph (1)(a)—
- (i) in paragraph (i), for “£2,544” substitute “ £2,625 ”;
  - (ii) in paragraph (ii), for “£4,768” substitute “ £4,920 ”;
  - (iii) in paragraph (iii), for “£3,392” substitute “ £3,500 ”;
  - (iv) in paragraph (iv), for “£3,392” substitute “ £3,500 ”;
  - (v) in paragraph (v), for “£3,392” substitute “ £3,500 ”;
- (b) in paragraph (1)(b)—
- (i) in paragraph (i), for “£2,544” substitute “ £2,625 ”;
  - (ii) in paragraph (ii), for “£4,768” substitute “ £4,920 ”;
  - (iii) in paragraph (iii), for “£4,056” substitute “ £4,186 ”;
  - (iv) in paragraph (iv), for “£4,056” substitute “ £4,186 ”;
  - (v) in paragraph (v), for “£3,392” substitute “ £3,500 ”;
- (c) in paragraph (1)(c)—
- (i) in paragraph (i), for “£4,019” substitute “ £4,147 ”;
  - (ii) in paragraph (ii), for “£7,273” substitute “ £7,505 ”;
  - (iii) in paragraph (iii), for “£6,190” substitute “ £6,388 ”;
  - (iv) in paragraph (iv), for “£6,190” substitute “ £6,388 ”;
  - (v) in paragraph (v), for “£5,191” substitute “ £5,357 ”;
- (d) in paragraph (2)(a)—
- (i) in paragraph (i), for “£1,934” substitute “ £1,996 ”;

- (ii) in paragraph (ii), for “£3,646” substitute “ £3,763 ”;
  - (iii) in paragraph (iii), for “£2,643” substitute “ £2,727 ”;
  - (iv) in paragraph (iv), for “£2,643” substitute “ £2,727 ”;
  - (v) in paragraph (v), for “£2,643” substitute “ £2,727 ”;
- (e) in paragraph (2)(b)—
- (i) in paragraph (i), for “£1,934” substitute “ £1,996 ”;
  - (ii) in paragraph (ii), for “£3,644” substitute “ £3,763 ”;
  - (iii) in paragraph (iii), for “£2,965” substitute “ £3,060 ”;
  - (iv) in paragraph (iv), for “£2,965” substitute “ £3,060 ”;
  - (v) in paragraph (v), for “£2,643” substitute “ £2,727 ”;
- (f) in paragraph (2)(c)—
- (i) in paragraph (i), for “£3,638” substitute “ £3,755 ”;
  - (ii) in paragraph (ii), for “£6,623” substitute “ £6,834 ”;
  - (iii) in paragraph (iii), for “£5,384” substitute “ £5,556 ”;
  - (iv) in paragraph (iv), for “£5,384” substitute “ £5,556 ”;
  - (v) in paragraph (v), for “£4,809” substitute “ £4,963 ”.
- 11.** In regulation 50 (increases in maximum amount)—
- (a) in paragraph (1), for “regulation 44” substitute “ regulation 43 or, as the case may be, 44 ”;
  - (b) in paragraph (2), for “regulation 44” substitute “ regulation 43 or, as the case may be, 44 ”.
- 12.** In regulation 56 (application of contribution)—
- (a) in paragraph (3)—
    - (i) in sub-paragraph (a), for “£4,019” substitute “ £4,147 ”;
    - (ii) in sub-paragraph (b), for “£7,273” substitute “ £7,505 ”;
    - (iii) in sub-paragraph (c), for “£6,190” substitute “ £6,388 ”;
    - (iv) in sub-paragraph (d), for “£6,190” substitute “ £6,388 ”;
    - (v) in sub-paragraph (e), for “£5,191” substitute “ £5,357 ”;
  - (b) in paragraph (4)—
    - (i) in sub-paragraph (a), for “£3,638” substitute “ £3,755 ”;
    - (ii) in sub-paragraph (b), for “£6,623” substitute “ £6,834 ”;
    - (iii) in sub-paragraph (c), for “£5,384” substitute “ £5,556 ”;
    - (iv) in sub-paragraph (d), for “£5,384” substitute “ £5,556 ”;
    - (v) in sub-paragraph (e), for “£4,809” substitute “ £4,963 ”.
- 13.** In regulation 92(3)(b) (part-time childcare grant), at the beginning insert “ the eligible part-time student or the eligible part-time student's partner ”.
- 14.** In regulation 95(1)(i) (part-time grants for dependants – interpretation), for “(6)” substitute “ (7) ”.
- 15.** In Schedule 2, paragraph 3(a), for “Technician” substitute “ Technology ”.

**Status:** Point in time view as at 01/08/2018.

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

## SCHEDULE 7

Regulation 4(2)

## Index of defined terms

1. Table 16 lists expressions defined or otherwise explained in these Regulations.

Table 16

<i>Expression</i>	<i>Defined or referred to in...</i>
“the 1998 Act”	Regulation 5
“the 2017 Regulations”	Regulation 2(3)(a)
“academic authority”	Schedule 1, paragraph 6(1)
“academic year”	Schedule 1, paragraph 1
“accelerated graduate entry course”	Schedule 1, paragraph 6(1)
“adult dependants grant”	Regulation 68(1)
“adult dependant”	Regulation 70(1)
“applicable financial year”	Schedule 3, paragraph 23(2)
“base grant”	Regulation 43
“bursary grant for living costs”	Regulation 10(2)
“care leaver”	Regulation 49
“childcare grant”	Regulation 68(1)
“close relative”	Schedule 1, paragraph 6(1)
“college fees”	Schedule 5, paragraph 1(2)
“compressed degree course”	Schedule 1, paragraph 6(1)
“compressed first year course”	Schedule 1, paragraph 6(1)
“course for the initial training of teachers”	Schedule 1, paragraph 6(1)
“current academic year” (for the purposes of calculating income under Schedule 3)	Schedule 3, paragraph 23(2)
“current academic year” (for the purposes of determining a student's entitlement to GfDs)	Regulation 70(1)
“CY”	Schedule 3, paragraph 23(2)
“dependent child”	Regulation 70(1) (but see also Regulation 75(3) in relation to childcare grant)
“designated course”	Chapter 1 of Part 4
“designated Oxbridge course”	Schedule 5, paragraph 2
“designated postgraduate course”	Schedule 4, paragraphs 2 and 3
“Directive 2004/38”	Schedule 2, paragraph 11
“disability”	Regulation 61(2)
“disabled postgraduate student's grant”	Schedule 4, paragraph 1(1)

“disabled student's grant”	Regulation 61(1)
“distance learning course”	Schedule 1, paragraph 6(1)
“earlier course”	Regulation 11(3)
“EEA”	Schedule 2, paragraph 11
“EEA frontier self-employed person”	Schedule 2, paragraph 4(3)
“EEA frontier worker”	Schedule 2, paragraph 4(3)
“EEA migrant worker”	Schedule 2, paragraph 4(3)
“EEA national”	Schedule 2, paragraph 4(4)
“EEA self-employed person”	Schedule 2, paragraph 4(3)
“eligible expenditure” (in relation to disabled postgraduate student's grant)	Schedule 4, paragraph 20(2)
“eligible Oxbridge student”	Schedule 5, paragraph 3
“eligible postgraduate student”	Schedule 4, paragraphs 4, 5 and 6
“eligible student”	Regulation 9(1)
“employed person”	Schedule 2, paragraph 4(4)
“employment based teacher training scheme”	Regulation 7(2)
“end-on course”	Schedule 1, paragraph 6(1)
“English regulated institution”	Schedule 1, paragraph 2(c)
“ERASMUS scheme”	Schedule 1, paragraph 4(3)
“Erasmus year”	Schedule 1, paragraph 4(1)
“family member” (for the purposes of determining the category of a person under Schedule 2)	Schedule 2, paragraphs 4(3), 5(5) and 6(5)
“fees”	Schedule 1, paragraph 6(1)
“financial year”	Schedule 3, paragraph 23(2)
“former Metropolitan Police District”	Schedule 1, paragraph 3(3)
“full amount”	Regulation 95(4)
“full-time equivalent” (for the purposes of calculating intensity of study)	Schedule 1, paragraph 5(3)
“full-time student” (for the purposes of determining a student's entitlement to a particular category of support)	Regulation 46(1), 55(1)
“graduate”	Regulation 25(1)
“grant for travel”	Regulation 64
“grants for dependants” (“GfDs”)	Regulation 68
“healthcare bursary”	Regulation 10(4)
“honours graduate”	Regulation 24(1)
“household income”	Schedule 3, Part 2

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[ <sup>F14</sup> “immigration rules”	Schedule 2, paragraph 11]
“independent eligible student”	Schedule 3, paragraph 4
“intensity of study” (in relation to a part-time course)	Schedule 1, paragraph 5
“Islands”	Schedule 2, paragraph 11
“the Joint Academic Coding System”	Regulation 25(3)
“Learning Support Fund”	Regulation 10(4)
“living at home”	Schedule 1, paragraph 3(1)(a)
“living away from home, studying elsewhere”	Schedule 1, paragraph 3(1)(c)
“living away from home, studying in London”	Schedule 1, paragraph 3(1)(b)
“London”	Schedule 1, paragraph 3(2)
“lone parent”	Regulation 70(1)
“looked after”	Schedule 2, paragraph 10(2)
“maintained school”	Regulation 7(3)
“maintenance grant”	Regulation 43
“maintenance loan”	Regulation 53
“member of the armed forces”	Schedule 1, paragraph 6(1)
“net income” (of dependants)	Schedule 3, Part 5
“new course”	Regulation 28(1)
“new total payable”	Regulation 88(4)
“old course”	Regulation 28(1)
“ordinary duration”	Regulation 17(1)
“ordinary provider”	Regulation 40(2)(c)(i)
“Oxbridge college fee loan”	Schedule 5, paragraph 1(1)
“parents' learning grant”	Regulation 68(1)
“parent” and “child” (for the purposes of determining the category of a person under Schedule 2)	Schedule 2, paragraph 11
“partial amount”	Regulation 95(4)
“partner” (for the purposes of calculating income under Schedule 3)	Schedule 3, paragraph 23(1)
“partner” (for the purposes of determining a student's entitlement to GfDs)	Regulation 70(2)
“part-time student” (for the purposes of determining a student's entitlement to a particular category of support)	Regulation 47(1), 58(1)
“payment period”	Regulation 95(9)
“pension arrangements order”	Schedule 3, paragraph 23(2)



“period of eligibility” (in relation to a designated course)	Section 2 of Chapter 2 of Part 4
“period of eligibility” (in relation to a designated Oxbridge course)	Schedule 5, paragraph 5
“period of eligibility” (in relation to a designated postgraduate course)	Schedule 4, paragraph 7
“period of work experience”	Schedule 1, paragraph 6(1)
“period ordinarily required to complete the full-time equivalent” (for the purposes of calculating intensity of study)	Schedule 1, paragraph 5(3)
[ <sup>F14</sup> “person granted stateless leave”	Schedule 2, paragraph 2A(4)]
“person with leave to enter or remain”	Schedule 2, paragraph 3(4)
“the placement”	Regulation 66(1)
“preliminary course”	Regulation 16(1)
“prescribed charges” (in relation to childcare grant)	Regulation 75(3)
“present course”	Schedule 1, paragraph 6(1)
“present postgraduate course”	Schedule 4, paragraph 1(2)
“previous course”	Regulation 17(3)
“prisoner”	Schedule 1, paragraph 6(1)
“private institution”	Regulation 40(2)(c)(ii)
“public body”	Schedule 3, paragraph 23(2)
“publicly funded institution”	Schedule 1, paragraph 6(1)
“PY”	Schedule 3, paragraph 23(2)
“PY-1”	Schedule 3, paragraph 23(2)
“qualified teacher”	Schedule 1, paragraph 6(1)
“qualifying quarter”	Regulation 66(1)
“quarter”	Schedule 1, paragraph 6(1)
“recognised educational institution”	Schedule 1, paragraph 2(a)
“refugee”	Schedule 2, paragraph 11
“relevant degree course” (for the purposes of defining “end on course”)	Schedule 1, paragraph 6(1)
“relevant education course” (for the purposes of defining “end on course”)	Schedule 1, paragraph 6(1)
“relevant support”	Regulation 27(2)
“relevant year” (for the purposes of calculating net income)	Schedule 3, paragraph 21(3)
“Research Council”	Schedule 1, paragraph 6(1)
“residual income”	Schedule 3, Part 4

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

“right of permanent residence”	Schedule 2, paragraph 11
“sandwich course”	Schedule 1, paragraph 6(1)
“Scottish healthcare allowance”	Regulation 10(4)
“self-employed person”	Schedule 2, paragraph 4(4)
“settled”	Schedule 2, paragraph 11
“special support payment”	Regulation 50
“standard academic year” (in relation to a designated Oxbridge course)	Schedule 5, paragraph 5(3)
“standard full-time student” (for the purposes of calculating intensity of study)	Schedule 1, paragraph 5(3)
“statutory award”	Schedule 1, paragraph 6(1)
“student loan” (for the purposes of determining whether a student is an eligible student)	Regulation 10(3)
“student loan” (for the purposes of determining whether a student is an eligible postgraduate student)	Schedule 4, paragraph 5(2)
“support”	Schedule 1, paragraph 6(1)
“Swiss Agreement”	Schedule 2, paragraph 11
“Swiss employed person”	Schedule 2, paragraph 4(3)
“Swiss frontier employed person”	Schedule 2, paragraph 4(3)
“Swiss frontier self-employed person”	Schedule 2, paragraph 4(3)
“Swiss self-employed person”	Schedule 2, paragraph 4(3)
“taxable income”	Schedule 3, paragraph 9
“teacher training student”	Regulation 15(6)
“tuition fee loan”	Regulation 38
“Turkish worker”	Schedule 2, paragraph 8(2)
“Welsh local authority”	Schedule 2, paragraph 10(2)
“Welsh regulated institution”	Schedule 1, paragraph 2(b)
“worker”	Schedule 2, paragraph 4(4)

#### Textual Amendments

**F14** Words in Sch. 7 Table 16 inserted (30.7.2018) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2018 \(S.I. 2018/814\)](#), regs. 1(2), **20**

**Status:**

Point in time view as at 01/08/2018.

**Changes to legislation:**

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