
WELSH STATUTORY INSTRUMENTS

2018 No. 656

The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018

PART 1

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018.

(2) These Regulations come into force on 25 June 2018 and apply in relation to Wales.

(3) These Regulations apply in relation to the provision of postgraduate doctoral degree loans to students in relation to courses which begin on or after 1 August 2018 whether anything done under these Regulations is done before, on or after 1 August 2018.

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;

“the 2017 Master's Degree Loans Regulations” (“*Rheoliadau Benthyciadau at Radd Feistr 2017*”) means the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017^{M1};

“the 2017 Student Support Regulations” (“*Rheoliadau Cymorth i Fyfyrrwyr 2017*”) means the Education (Student Support) (Wales) Regulations 2017^{M2};

“the 2018 Student Support Regulations” (“*Rheoliadau Cymorth i Fyfyrrwyr 2018*”) means the Education (Student Support) (Wales) Regulations 2018^{M3};

“academic authority” (“*awdurdod academaidd*”) 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;

“course” (“*cwrs*”) means, unless the context otherwise requires, a taught programme of study, a programme of research, or a combination of both, which may include one or more periods of work experience, and which leads, on successful completion, to the award of a postgraduate doctoral degree, but a course which leads to a higher doctorate or a course which leads to a doctorate by publication is not a course;

“course which leads to a doctorate by publication” (“*cwrs sy'n arwain at ddoethuriaeth drwy waith cyhoeddedig*”) means a course which leads to a postgraduate doctoral degree awarded to a person (“P”) on the basis of a thesis consisting of associated published research papers, whether or not P is required by the relevant academic authority to—

(a) register on the course;

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(b) undertake a particular programme of study; or

(c) undertake a final examination;

“course which leads to a higher doctorate” (“*cwrs sy'n arwain at ddoethuriaeth uwch*”) means a course which leads to a qualification awarded to a person (“P”)—

(a) of an academic level which is higher than a postgraduate doctoral degree; and

(b) for distinction regarding P's contribution to the advancement of science or learning;

“designated course” (“*cwrs dynodedig*”) means a course designated by regulation 4(1) or by the Welsh Ministers under regulation 4(5);

“Directive 2004/38” (“*Cyfarwyddeb 2004/38*”) means Directive 2004/38/EC of the European Parliament and of the Council^{M4} on the right of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“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 purpose of registration, enrolment or any examination;

(b) on a weekend or during any vacation; or

(c) on an occasional basis during the week;

“electronic signature” (“*llofnod electronig*”) is so much of anything in electronic form as—

(a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and

(b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

“eligible prisoner” (“*carcharor cymwys*”) means a prisoner—

(a) who begins a designated course or on after 1 August 2018;

(b) who is serving a sentence of imprisonment in the United Kingdom;

(c) who has been authorised by the prison Governor or Director or other appropriate authority within the custodial institution to study the designated course; and

(d) whose earliest release date is within 8 years of the first day of the first academic year of the designated course;

“eligible student” (“*myfyriwr cymwys*”) has the meaning given in regulation 3;

“equivalent or higher qualification” (“*cymhwyster cyfatebol neu uwch*”) means a qualification determined in accordance with paragraph (2) to be an equivalent or higher qualification;

“EU national” (“*gwladolyn UE*”) means a national of a Member State of the EU;

“fees” (“*ffioedd*”) has the meaning given in section 57(1) of the Higher Education (Wales) Act 2015^{M5};

“healthcare bursary” (“*bwrsari gofal iechyd*”) means a bursary or award of similar description under section 63(6) of the Health Services and Public Health Act 1968^{M6} or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972^{M7};

“immigration rules” (“*rheolau mewnfudo*”) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971^{M8};

“information” (“*gwybodaeth*”) includes documents;

- “Islands” (“*Ynysoedd*”) means the Channel Islands and the Isle of Man;
- “KESS 2 Scheme” (“*Cynllun KESS 2*”) means the Knowledge Economy Skills Scholarships 2 Scheme which is funded, in part, by the European Social Fund ^{M9};
- “ordinary period of registration” (“*cyfnod arferol y cofrestriad*”) means the number of academic years ordinarily required to complete a course;
- “period of eligibility” (“*cyfnod cymhwysra*”) has the meaning given in regulation 5 in relation to an eligible student;
- “periods of work experience” (“*cyfnodau o brofiad gwaith*”) means—
- (a) periods of industrial, professional or commercial experience, including research, associated with the course at an institution, but at a place outside that institution;
 - (b) periods during which a student is employed and residing in a country whose language is one that the student is studying for that student's course (provided that the period of residence in that country is a requirement of that 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);
- “person granted stateless leave” (“*person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth*”) means a person who—
- (a) has extant leave to remain as a stateless person under the immigration rules; and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;
- “person with leave to enter or remain” (“*person sydd â chaniatâd i ddod i mewn neu i aros*”) means a person (“A” in this definition)—
- (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 A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave; or
 - (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 A to enter or remain in the United Kingdom on the grounds of discretionary leave;
 - (b) who has been granted leave to enter or to remain accordingly;
 - (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 ^{M10}); and
 - (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since A was granted leave to enter or remain;
- “postgraduate doctoral degree loan” (“*benthyciad at radd ddoethurol ôl-raddedig*”) means a loan payable to an eligible student under Part 4;
- “prisoner” (“*carcharor*”) includes a person who is detained in a young offender institution;
- “private institution” (“*sefydliad preifaf*”) means an institution which is not publicly funded;
- “public funds” (“*cronfeydd cyhoeddus*”) means moneys provided by Parliament including funds provided by the Welsh Ministers;

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“publicly funded” (“*a gyllidir yn gyhoeddus*”, “*cael ei gyllido'n gyhoeddus*”) means maintained or assisted by recurrent grants out of public funds, and related expressions are to be interpreted 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 ^{M11} as extended by the Protocol thereto which entered into force on 4 October 1967 ^{M12};

“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;

“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;

“student loans legislation” (“*y ddeddfwriaeth ar fenthyciadau i fyfyrwyr*”) means the Education (Student Loans) Act 1990 ^{M13}, the Education (Student Loans) (Northern Ireland) Order 1990 ^{M14}, the Education (Scotland) Act 1980 ^{M15} and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998 ^{M16} and regulations made under that Order or the 1998 Act and regulations made under the 1998 Act;

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

(2) The Welsh Ministers may determine that a qualification is an equivalent or higher qualification if—

- (a) an eligible student holds a higher education qualification from any institution whether or not in the United Kingdom; and
- (b) the qualification referred to in sub-paragraph (a) is a postgraduate doctoral degree from an institution in the United Kingdom or is of an academic level which, in the opinion of the Welsh Ministers, is equivalent to or higher than a qualification to which the designated course leads.

(3) An academic year, in respect of a course, is determined as follows—

- (4) identify the period in Column 2 of the Table within which the academic year actually begins;
- (5) 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.
- (6) Any reference in these Regulations to an “academic year” is a reference to the year determined in accordance with this paragraph.

Table

<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

Marginal Citations

- M1** S.I. 2017/523 (W. 109), amended by S.I. 2017/712 (W. 169) and S.I. 2018/277 (W. 53).
- M2** S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42).
- M3** S.I. 2018/191 (W. 42).
- M4** OJ No L158, 30.04.2004, p. 77-123.
- M5** 2015 anaw 1.
- M6** 1968 c. 46; section 63(6) was amended by the Health and Medicines Act 1988 (c. 49), **section 20**.
- M7** S.I. 1972/1265 (N.I. 14).
- M8** 1971 c. 77.
- M9** The European Social Fund is established under Article 162 of the Treaty on the Functioning of the European Union.
- M10** 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), **Schedules 2** and 4, the Immigration, Asylum and Nationality Act 2006 (c. 13), **section 9**, S.I. 2010/21 and the Immigration Act 2014 (c. 22), **Schedule 9**, Part 4.
- M11** Cmnd. 9171.
- M12** Cmnd. 3906 (out of print).
- M13** 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), **Schedule 4**, with savings see the Teaching and Higher Education Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998 (S.I. 1998/2004) (C. 46) and amended by S.I. 2010/1158, **Schedule 4**, paragraph 5(2)(e).
- M14** S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/274 (N.I. 1), **Article 43** and Schedule 5, Part II, S.I. 1996/1918 (N.I. 15), **Article 3** and the Schedule and S.I. 1998/258 (N.I. 1), **Articles 3 to 6** and revoked, with savings, by SR (N.I.) 1998 No. 306.
- M15** 1980 c. 44.
- M16** S.I.1998/1760 (N.I. 14) to which there have been amendments not relevant to these Regulations.

Status:

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Changes to legislation:

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