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WELSH STATUTORY INSTRUMENTS

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**1999 No. 2862 (W. 22)**

**EDUCATION, WALES**

**The Education (Student Fees)  
(Exceptions) (Wales) Regulations 1999**

*Made* - - - - *26th August 1999*

*Coming into force* - - *1st September 1999*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 28(1)(e) and 42(6) and (7) of the Teaching and Higher Education Act 1998(1), and now vested in the National Assembly for Wales(2):

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Education (Student Fees) (Exceptions) (Wales) Regulations and shall come into force on 1st September 1999.

(2) In these Regulations “the Act” means the Teaching and Higher Education Act 1998.

**Application**

2. These Regulations shall apply to the definition of fees payable to institutions in Wales for the purposes of Chapter I of Part II of the Act.

**Fees excluded from the definition of fees in section 28(1) of the Act**

3. Any fee of a description specified in the Schedule to these Regulations is prescribed for the purpose of section 28(1)(e) of the Act (which provides that fees which are prescribed are excluded from the meaning of fees in Chapter I of Part II of the Act).

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(1) 1998 c. 30.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

Signed on behalf of the Assembly under section 66(1) of the Government of Wales Act 1998<sup>(3)</sup>.

26th August 1999

*Dafydd Elis Thomas*  
The Presiding Officer of the National Assembly  
for Wales

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<sup>(3)</sup> 1998 c. 38.

## SCHEDULE

Regulation 3

### FEES EXCLUDED FROM THE DEFINITION OF FEES IN SECTION 28(1) OF THE ACT.

#### **PART I**

##### **INTERPRETATION**

1. In this Schedule “core provision” in relation to goods or services means the provision of goods or services related to a course which is intended by enabling the student to acquire skills or knowledge, to afford the student the opportunity to attain up to the highest grade or qualification for the course (or, where more than one grade or qualification is comprised in a course, the highest of all the grades or qualifications for the course).

#### **PART II**

##### **DESCRIPTION OF FEES**

2. Any fee payable in connection with the supply to the student (whether by sale or hire) of goods other than individual lecture notes, summaries of lectures or similar materials, where —

- (a) the goods do not form part of the core provision for the course, or
- (b) the goods become the property of the student (whether at the time the fee is paid or at any later time),

provided that where goods form part of the core provision for the course and it is necessary to make available the goods to the student in connection with the student’s health or safety when attending the course, subparagraph (b) shall not apply unless the institution also makes the goods available to the student (without the goods becoming the property of the student) without charge.

3. Any fee payable in connection with the supply of services to the student where the services do not form part of the core provision for the course.

For the purposes of this paragraph the reservation of books or other materials at a library shall be treated as core provision for the course.

4. Any fee which represents a reimbursement of the cost of any fee or charge, which the institution pays to some other person other than a charge made in respect of the supply of goods to the institution, in connection with the student’s attendance on, or completion of, the course.

5. Any fee in respect of any additional administrative expenses incurred by the institution as a result of any negligence or default by the student (including administrative expenses arising from the student re-taking an examination, assessment of course work, or module of a course).

6. Any fee in respect of travel facilities provided by the institution.

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## EXPLANATORY NOTE

*(This Note is not part of the Regulations)*

These Regulations except certain fees from the meaning of “fees” in Chapter 1 of Part II of the Teaching and Higher Education Act 1998 (“The 1998 Act”).

Section 28 of the 1998 Act provides a definition of “fees” for the purposes of Chapter 1 of Part II of that Act, excluding certain categories of fees and “such other fees as may be prescribed”.

These Regulations are made under section 28 of the 1998 Act and prescribe further categories of excepted fees. These are set out in the Schedule.

Higher education institutions are prohibited from charging “top up” fees. The prohibition is made under powers granted by Section 26 of the Teaching and Higher Education Act 1998: a condition is imposed on the Higher Education Funding Council for Wales requiring it to place a condition on the funding it allocates to institutions providing higher education.

Under the Government’s arrangements for funding higher education, students eligible for support make an income-assessed personal contribution to their fees. This may not exceed £1,025 for the year beginning in autumn 1999.

However universities and colleges have in the past and need to continue to charge for goods and services not forming part of the “core provision” of a course. The prohibition on top up fees would prevent this, so these Regulations exclude certain such charges from the definition of fees covered by the condition which has been imposed. The purpose of these Regulations is to allow universities and colleges to continue to charge for goods or services as they have traditionally done. The Regulations therefore give a legal basis for continuing an existing practice.

The Regulations define “core provision” to mean the provision of goods or services related to a course which is intended, by enabling the student to acquire skills or knowledge, to afford the student the opportunity to attain up to the highest grade or qualification for the course (or, where more than one grade or qualification is comprised in a course, the highest of all the grades or qualifications for the course).

The Regulations will allow charges to be made for goods which do not form part of the core provision or where the goods become the property of the student; for services which are not part of the core provision; any fee which represents a reimbursement of any fee or charge which the institution pays to some other person in connection with the student’s attendance on, or completion of the course; any fee in respect of any additional administrative expenses incurred by the institution as a result of any negligence or default by the student; any fee in respect of travel facilities provided by the institution.