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WELSH STATUTORY INSTRUMENTS

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**2007 No. 2851**

The Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) (No.2) Regulations 2007

**PART 3**

AMENDMENTS TO THE 2007 REGULATIONS

**Amendment of regulation 2 of the 2007 Regulations**

**8.** In regulation 2(1) of the 2007 Regulations, in the appropriate place in the alphabetical order, insert—

““bursary year” (“blwyddyn bwrsari”) means an academic year of the course—

- (a) in relation to which the student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his or her income; or
- (b) in relation to which the student is eligible to receive any payment under a Scottish healthcare allowance the amount of which is calculated by reference to his or her income;

“designated distance learning course” (“*cwrs dysgu o bell dynodedig*”) means a course designated by the Welsh Ministers under regulation 61C;”;

“disabled distance learning students' allowance” (“*lwfans myfyrwyr dysgu o bell anabl*”) means the grant payable under regulation 61H;”;

“eligible distance learning student” (“*myfyriwr dysgu o bell cymwys*”) has the meaning given in regulation 61A;”;

“present distance learning course” (“*cwrs dysgu o bell presennol*”) means the designated distance learning course in respect of which a person is applying for support;”.

**9.** In the English text of regulation 2(1A) of the 2007 Regulations, after the word, “his” insert “or her”.

**Amendment of regulation 4 of the 2007 Regulations**

**10.** In regulation 4 of the 2007 Regulations—

(a) after paragraph (6)(a), insert—

“(aa) a designated course and a designated distance learning course;”;

(b) for paragraph (12), substitute—

“(12) Where—

(a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was—

- (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in

relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his or her status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or

- (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, 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),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.”;

- (c) for paragraph (13), substitute—

“(13) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was—
  - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his or her status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or
  - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his or her status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain 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),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.”.

### **Amendment of regulation 5 of the 2007 Regulations**

#### **11. In regulation 5 of the 2007 Regulations—**

- (a) in paragraph (1)—
  - (i) for “paragraph (2)”, substitute “paragraphs (2), (3) and (3A)”;
  - (ii) after sub-paragraph (b), insert—

- “(bb) not designated under regulation 61C;”;
- (b) in paragraph (2)—
  - for “paragraph 6 or 7”, substitute “paragraph 7 or 8”.
- (c) after paragraph (2), insert—
  - “(2A) A course that is taken as part of an employment based teacher training scheme is not a designated course.”;
- (d) after paragraph (3), insert—
  - “(3A) Paragraph (1)(bb) does not apply where the person applying for support in connection with the course is—
    - (a) a disabled student; and
    - (b) undertaking that course in the United Kingdom but not in attendance because he or she is unable to attend for a reason which relates to his or her disability.”.

#### **Amendment of regulation 6 of the 2007 Regulations**

**12.** In regulation 6(15) (a) of the 2007 Regulations for “has not converted or will not convert”, substitute “has not transferred or converted or will not transfer or convert” and for the words “under regulation 70(1),” substitute, “under regulation 8, regulation 61M, regulation 61N and regulation 70.”.

**13.** In regulation 6 of the 2007 Regulations —

- (a) in paragraph (19) after “compressed degree course”, insert “or a designated distance learning course”;
- (b) in paragraph (20)(b) after “attendance on”, insert “or, in the case of a designated distance learning course, undertaking”.

#### **Amendment of regulation 12 of the 2007 Regulations**

**14.** In regulation 12, omit paragraphs (4) and (5).

#### **Amendment of regulation 16 of the 2007 Regulations**

**15.** In regulation 16 of the 2007 Regulations—

- (a) for paragraph (4), substitute—
  - “(4) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is the lesser of—
    - (a) £2,195; and
    - (b) the fees payable by the student in connection with that year.”;
- (b) for paragraph (5), substitute—
  - “(5) In the case of a designated course at Guildhall School of Music and Drama, the amount of grant for fees in respect of an academic year is the lesser of—
    - (a) £4,455; and
    - (b) the fees payable by the student in connection with that year.”.

#### **Amendment of regulation 23 of the 2007 Regulations**

**16.** After regulation 23 of the 2007 Regulations, insert—

**“23A.—**(1) A student to whom this regulation applies is treated as if he or she were in attendance on the designated course for the purpose of qualifying for the following grants—

- (a) grant for dependants;
  - (b) disabled students' living costs grant;
  - (c) maintenance grant or special support grant;
  - (d) higher education grant.
- (2) This regulation applies to—
- (a) a compressed degree student;
  - (b) a disabled student who—
    - (i) is not a compressed degree student; and
    - (ii) is undertaking a designated course in the United Kingdom but is not in attendance because he or she is unable to attend for a reason which relates to his or her disability.”

### **Amendment of regulation 30 of the 2007 Regulations**

**17.** In regulation 30(1) of the 2007 Regulations—

- (a) at the beginning of sub-paragraph (a), insert “subject to sub-paragraph (m),”;
- (b) in sub-paragraph (g) for “and (k)”, substitute, “(k) and (l)”;
- (c) after sub-paragraph (d), insert—
  - “(da) “dependent child” (“plentyn dibynnol”) means, in relation to an eligible student, a child dependent on the student;”;
- (d) after sub-paragraph (k), insert—
  - “(l) for the purposes of determining whether a person is the former partner of an eligible student’s partner, “partner” (“partner”) in relation to an eligible student’s partner means—
    - (i) the spouse of an eligible student’s partner;
    - (ii) the civil partner of an eligible student’s partner;
    - (iii) where the eligible student began the specified designated course on or after 1 September 2000, a person ordinarily living with an eligible student’s partner as if he or she were his or her spouse;
    - (iv) where the eligible student began the specified designated course on or after 1 September 2005, a person ordinarily living with an eligible student’s partner as if he or she were his or her civil partner;
- (m) subject to sub-paragraph (n), for the purposes of the definitions of “adult dependent” (“dibynnydd mewn oed”) and “dependent child” (“plentyn dibynnol”), the Welsh Ministers may treat an adult person or child as dependent on an eligible student if they are satisfied that the adult person or child—
  - (i) is not dependent on—
    - (aa) the eligible student; or
    - (bb) his or her partner; but
  - (ii) is dependent on the eligible student and his or her partner together.
- (n) the Welsh Ministers must not treat an adult person (“A”) as dependent on an eligible student in accordance with sub-paragraph (m), if A is—

- (i) the spouse or civil partner of the eligible student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible student's partner is separated); or
- (ii) the former partner of the eligible student's partner.”.

### **Insertion of a new Part in the 2007 Regulations**

**18.** After regulation 61 of the 2007 Regulations, insert—

## **“PART 10A**

### **SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES**

#### **Eligible distance learning students**

**61A.**—(1) An eligible distance learning student qualifies for support in connection with his or her undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing his or her application for support the Welsh Ministers determine that the person falls within one of the categories set out in Part 2 of Schedule 1.

- (3) A person is not an eligible distance learning student if—
- (a) subject to paragraph (4), there has been bestowed on him or her or paid to him or her in connection with the distance learning course—
    - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his or her income;
    - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992; or
    - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his or her income;
  - (b) he or she is in breach of any obligation to repay any loan;
  - (c) he or she has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
  - (d) he or she has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive support; or
  - (e) subject to paragraph (5), he or she is a prisoner serving a custodial sentence.
- (4) Paragraph (3) (a) does not apply if—
- (a) the person applying for support is a disabled student; and
  - (b) there has been bestowed on him or her or paid to him or her in connection with the distance learning course—
    - (i) a healthcare bursary the amount of which is calculated by reference to his or her income; or
    - (ii) a Scottish Healthcare Allowance whether or not the amount of such allowance is calculated by reference to his or her income.

(5) Paragraph (3) (e) does not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(6) For the purposes of paragraphs (3) (b) and (3)(c), “loan” (“benthyciad”) means a loan made under the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3) (c) only applies if the agreement was made—

- (a) before 25 September 1991; and
- (b) with the concurrence of the borrower’s curator or at a time when he or she had no curator.

(8) Despite paragraphs (2) and (3) and subject to paragraphs (11) to (13), a person is an eligible distance learning student for the purposes of this Part if he or she satisfies the conditions in paragraph (9) or (10).

(9) The conditions in this paragraph are—

- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the present designated distance learning course pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) the person was not ordinarily resident in England on the first day of the present designated distance learning course; and
- (c) the person’s status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

- (a) the Welsh Ministers have previously determined that the person is—
  - (i) an eligible student in connection with a designated course;
  - (ii) an eligible distance learning student in connection with a designated distance learning course other than the present distance learning course; or
  - (iii) an eligible part-time student in connection with a designated part-time course;
- (b) the person’s status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the present designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Welsh Ministers under section 22 of the Act;
- (c) the person was not ordinarily resident in England on the first day of the first academic year of the course referred to in sub-paragraph (a); and
- (d) the person’s status as an eligible distance learning student has not terminated.

(11) Where—

- (a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which his or her status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and

- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, 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),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(12) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which his or her status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain 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),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Welsh Ministers determined that he or she was an eligible student or eligible part-time student, as the case may be, before 1 September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

- (a) more than one designated distance learning course;
- (b) a designated distance learning course and a designated course;
- (c) a designated distance learning course and a designated part-time course;
- (d) a designated distance learning course and a designated postgraduate course.

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

**61B.**—(1) Where one of the events listed in paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(2) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and

- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (3) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—
  - (a) a student may qualify for disabled distance learning students' allowance in respect of that academic year in accordance with this Part; and
  - (b) disabled distance learning students' allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (4) The events are—
  - (a) the student's course becomes a designated distance learning course;
  - (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain;
  - (c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
  - (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
  - (e) the state of which the student is a national accedes to the European Community 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;
  - (f) the student acquires the right of permanent residence;
  - (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
  - (h) the student becomes the child of a Swiss national; or
  - (i) the student becomes the child of a Turkish worker.

#### **Designated distance learning courses**

**61C.**—(1) A course is designated for the purposes of section 22(1) of the Act and regulation 61A if it is designated by the Welsh Ministers under this regulation.

(2) Subject to paragraph (4), the Welsh Ministers may designate a course under this regulation if in their opinion—

- (a) the course is mentioned in Schedule 2 other than a course for the initial training of teachers;
- (b) the course is a full-time course;
- (c) the course is of at least one academic year's duration; and
- (d) students undertaking the course in the United Kingdom are not required to be in attendance on it by the institution or institutions providing the course.

(3) For the purposes of determining whether the requirement in paragraph (2)(d) is satisfied the Welsh Ministers may disregard—

- (a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—
  - (i) registration or enrolment;
  - (ii) an examination;



- (b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;
  - (c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.
- (4) The Welsh Ministers may not designate a course as a designated distance learning course if—
- (a) it falls within paragraph 7 or 8 of Schedule 2; and
  - (b) the governing body of a maintained school has arranged for the provision of the course to a pupil of the school.

### **Period of eligibility**

**61D.**—(1) A student retains his or her status as an eligible distance learning student in connection with a designated distance learning course until the status terminates in accordance with this regulation and regulation 61A.

(2) The period for which an eligible distance learning student retains his or her status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 61A, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

(4) The period of eligibility terminates when the eligible distance learning student—

- (a) withdraws from his or her designated distance learning course in circumstances where the Welsh Ministers have not transferred or converted or will not transfer or convert his or her status under regulation 61L, regulation 61M, regulation 61N, regulation 61O or regulation 70; or
- (b) abandons or is expelled from his or her designated distance learning course.

(5) The Welsh Ministers may terminate the period of eligibility where the eligible distance learning student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the Welsh Ministers are satisfied that an eligible distance learning student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Welsh Ministers may take such of the following actions as they consider appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 61R.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible distance learning student completes the designated distance learning course the Welsh Ministers may, at any time, renew or extend the period of eligibility for such period as they determine.

### **Support for distance learning courses**

**61E.**—(1) For the purposes of this regulation, the support available is—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—

- (i) £1,150; and
  - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and
  - (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated distance learning course.
- (2) An eligible distance learning student does not qualify for support under paragraph (1) (b) if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.
- (3) An eligible distance learning student does not qualify for support under this regulation if—
- (a) he or she is a disabled student; and
  - (b) there has been bestowed on him or her or paid to him or her in connection with the designated distance learning course—
    - (i) a healthcare bursary the amount of which is calculated by reference to his or her income; or
    - (ii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his or her income.
- (4) An eligible distance learning student does not qualify for support under this regulation unless the Welsh Ministers consider that he or she is undertaking the designated distance learning course in Wales.
- (5) An eligible distance learning student does not qualify for support under this regulation if he or she has undertaken one or more distance learning courses for eight academic years in aggregate and he or she has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).
- (6) The loans and grants are—
- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under section 22 of the Act;
  - (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998; or
  - (c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.
- (7) An eligible distance learning student does not qualify for support under this regulation if he or she holds a first degree from an educational institution in the United Kingdom.
- (8) For the purposes of paragraph (7), a degree is not to be treated as a first degree where—
- (a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for his or her first degree course; and
  - (b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of his or her degree so as to obtain

an honours degree on completion of the required modules, examinations or other form of assessment.

### **Amount of support**

**61F.**—(1) Subject to paragraph (2) and regulation 61L(6), the amount of support payable in respect of an academic year is as follows—

- (a) the maximum amount of support available under regulation 61E(1) is payable if at the date of his or her application the eligible distance learning student or his or her partner is entitled—
  - (i) under Part VII of the Social Security Contributions and Benefits Act 1992 to income support, housing benefit or council tax benefit; or
  - (ii) under Part 1 of the Jobseekers Act 1995 to income-based jobseeker's allowance or under section 2 of the Employment and Training Act 1973 to an allowance under the arrangements known as the New Deal;
- (b) where the relevant income is less than £15,700, the maximum amount of support available under regulation 61E(1) is payable;
- (c) where the relevant income is £15,700, the maximum amount of support available under regulation 61E(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 61E(1)(a);
- (d) where the relevant income exceeds £15,700 but is less than £23,680, the maximum amount of support available under regulation 61E(1)(b) is payable and the amount of support payable under regulation 61E(1)(a) is the amount determined in accordance with paragraph (2);
- (e) where the relevant income is £23,680, the maximum amount of support available under regulation 61E(1)(b) is payable and the amount of support payable under regulation 61E(1)(a) is £50;
- (f) where the relevant income exceeds £23,680 but is less than £24,280, the maximum amount of support available under regulation 61E(1)(b) is payable and no support is payable under regulation 61E(1)(a);
- (g) where the relevant income is £24,280 or more but less than £26,180, no support is available under regulation 61E(1)(a) and the amount of support payable under regulation 61E(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 61E(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,280;
- (h) where the relevant income is £26,180, no support is payable under regulation 61E(1)(a) and the amount of support payable under regulation 61E(1)(b) is £50;
- (i) where the relevant income exceeds £26,180, no support is payable under regulation 61E(1).

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 61E(1)(a) is determined by deducting from the maximum amount of support available under regulation 61E(1)(a) one of the following amounts—

- (a) £50 plus a further £1 for each complete £7.60 by which the relevant income exceeds £15,700; or
- (b) where the actual fees are less than £1,150, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,150 and the actual fees (unless the amount is a negative number in

which case the maximum amount of support available under regulation 61E(1) (a) is payable).

### **Interpretation of regulation 61F**

**61G.**—(1) For the purposes of regulation 61F—

- (a) subject to sub-paragraph (b), “partner” (“partner”) means any of the following—
  - (i) the spouse of an eligible distance learning student;
  - (ii) the civil partner of an eligible distance learning student;
  - (iii) a person ordinarily living with an eligible distance learning student as if he or she were his or her spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which he or she is being assessed for support and where he or she began the specified designated distance learning course before 1 September 2005;
  - (iv) a person ordinarily living with an eligible distance learning student as if he or she were his or her spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1 September 2005;
- (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
  - (i) in the opinion of the Welsh Ministers, that person and the eligible distance learning student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;
- (c) “relevant income” (“*incwm perthnasol*”) has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to his or her financial resources in the preceding financial year less—

- (i) £2,000 in respect of his or her partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his or her partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or his or her partner.

(3) Where the Welsh Ministers are satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than his or her financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, they may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation, an eligible distance learning student’s financial resources in a financial year means the aggregate of his or her income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.

(5) In this regulation—

- (a) “child” (“*plentyyn*”) in relation to an eligible distance learning student includes any child of his or her partner and any child for whom he or she has parental responsibility;

- (b) “current financial year” (“*blwyddyn ariannol gyfredol*”) means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;
- (c) “dependent” (“*dibynnod*”) means wholly or mainly financially dependent;
- (d) “financial year” (“*blwyddyn ariannol*”) means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
- (e) “income” (“*incwm*”) means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
- (f) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the current financial year;
- (g) “specified designated distance learning course” (“*cwrs dysgu o bell dynodedig a bennir*”) means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the present designated distance learning course as a result of one or more transfers of that status by the Welsh Ministers from a distance learning course (the “initial course”) (“*cwrs cychwynnod*”) in connection with which the Welsh Ministers determined the student to be an eligible distance learning student pursuant to regulations made under section 22 of the Act, the specified designated distance learning course is the initial course.

#### **Disabled distance learning students' allowance**

**61H.**—(1) An eligible distance learning student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Welsh Ministers are satisfied he or she is obliged to incur by reason of a disability to which he or she is subject in respect of his or her undertaking a designated distance learning course.

(2) An eligible distance learning student does not qualify for the grant under this regulation if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(3) An eligible distance learning student does not qualify for the grant under this regulation in respect of any academic year that is a bursary year.

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Welsh Ministers consider that he or she is undertaking the designated distance learning course in Wales.

(5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Welsh Ministers consider appropriate in accordance with the student’s circumstances.

(6) The amount of the grant under this regulation must not exceed—

- (a) £12,420 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,905 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
  - (i) within the United Kingdom for the purpose of attending the institution;

- (ii) within or outside the United Kingdom for the purpose of attending, as a part of his or her course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,640 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

### **Applications for support**

**61I.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated distance learning course by completing and submitting to the Welsh Ministers an application in such form as the Welsh Ministers may require.

(2) The application must be accompanied by—

- (a) a declaration completed by the academic authority; and
- (b) such additional documentation as the Welsh Ministers may require.

(3) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether the applicant is an eligible distance learning student, whether he or she qualifies for support and the amount of support payable, if any.

(4) The Welsh Ministers must notify the applicant of whether he or she qualifies for support and, if he or she does qualify, the amount of support payable in respect of the academic year, if any.

(5) The general rule is that the application must reach the Welsh Ministers within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph (4) of regulation 61B occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Welsh Ministers within a period of six months beginning with the day on which the relevant event occurred;
- (b) the applicant is applying for the disabled distance learning students' allowance, in which case the application must reach the Welsh Ministers as soon as is reasonably practicable; or
- (c) the Welsh Ministers consider that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Welsh Ministers not later than such date as they specify.

### **Declarations provided by academic authorities**

**61J.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Welsh Ministers to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” (“*datganiad*”) means—

- (a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—
  - (i) provides the course information; and

- (ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;
- (b) in any other case, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which he or she is applying for support.
- (4) In this regulation, “course information” (“*gwybodaeth am y cwrs*”) means—
  - (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
  - (b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in Wales; and
  - (c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than he or she is unable to attend a designated course for a reason which relates to his or her disability.

### **Information**

**61K.** Schedule 3 deals with the provision of information.

### **Transfer of status**

**61L.**—(1) Where an eligible distance learning student transfers to another designated distance learning course, the Welsh Ministers must transfer the student’s status as an eligible distance learning student to that course where—

- (a) they receive a request from the eligible distance learning student to do so;
  - (b) they are satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
  - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;
  - (b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or
  - (c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.
- (3) Subject to paragraph (4), an eligible distance learning student who transfers under paragraph (1) is to receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies in respect of the academic year of the course from which he or she transfers.
- (4) The Welsh Ministers may re-assess the amount of support payable after the transfer.
- (5) An eligible student who transfers under paragraph (1) after the Welsh Ministers have determined his or her support in connection with the academic year of the course from which he or she is transferring but before he or she completes that year, may not apply for another

grant under regulation 61E(1)(b) or regulation 61H in connection with the academic year of the course to which he or she transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 61E(1)(a) in respect of the academic years to and from which he or she transfers is the amount of support available in connection with the course with the highest actual fees as defined in regulation 61E.

### **Conversion of status — eligible students not in attendance on a designated course**

**61M.**—(1) Where the Welsh Ministers determine before 1 September 2007 that a student—

- (a) is an eligible student; but
- (b) as he or she is undertaking but not in attendance, or treated as being in attendance, on a designated course—
  - (i) qualifies only for disabled students' allowance in connection with that course; or
  - (ii) does not qualify for any support under Parts 4 to 6 in connection with that course,

the Welsh Ministers must convert his or her status to that of an eligible distance learning student in accordance with this regulation.

(2) The Welsh Ministers must convert the status of an eligible student to whom paragraph (1) applies to that of an eligible distance learning student where—

- (a) they are satisfied that the student is undertaking a designated distance learning course in Wales; and
- (b) the period of eligibility has not terminated.

(3) The Welsh Ministers must determine, in accordance with this Part, the amount of support payable under regulation 61E in respect of the current academic year to a student whose status is converted under paragraph (2).

(4) The following applies to a student who falls within paragraph (1)(b)(i) and whose status is converted under paragraph (2)—

- (a) where the Welsh Ministers have determined to pay an amount to the student under regulation 24 (“the previous amount”) in respect of the current academic year, no payment in respect of that amount of grant must be made on or after 1 September 2007;
- (b) the maximum amount of disabled distance learning students' allowance to which the student is entitled in connection with his or her undertaking a designated distance learning course in the current academic year is the greater of the following amounts—
  - (i) the previous amount; and
  - (ii) the “actual amount” being the maximum amount of disabled distance learning students' allowance the Welsh Ministers determine is payable to the student; and
- (c) where an amount is paid to the student for any purpose under regulation 24 before 1 September 2007, the maximum amount of disabled distance learning students' allowance payable to him or her for that purpose for the current academic year is reduced by the amount of grant paid to him or her for that purpose pursuant to Part 5, and where the resulting amount is nil or a negative amount that amount is nil.



(5) In this regulation “current academic year” (“*blwyddyn academaidd gyfredol*”) means an academic year beginning on or after 1 September 2007 but before 1 September 2008.

**Conversion of status — eligible students transferring to designated distance learning courses**

**61N.**—(1) Subject to paragraph (2), where an eligible student ceases to undertake a designated course and transfers to a designated distance learning course at the same or at another institution, the Welsh Ministers must convert his or her status as an eligible student to that of an eligible distance learning student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible distance learning student to do so; and
  - (b) the period of eligibility has not terminated.
- (2) This regulation does not apply to a student to whom regulation 61M applies.
- (3) The following applies to a student who transfers under paragraph (1)—
- (a) where the Welsh Ministers have determined to pay an amount to the student under regulation 24 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;
  - (b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with his or her undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where he or she became such a student in a later quarter of that year;
  - (c) where an amount of disabled students' living cost grant for any purpose has been paid to the student under Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable to him or her for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to Part 5, and where the resulting amount is nil or negative amount that amount is nil; and
  - (d) where immediately before he or she became an eligible distance learning student he or she was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount of increased maximum to which he or she was entitled, he or she may apply for such a loan or such additional amount of loan as if he or she had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable, the maximum amount or increased maximum amount of loan (as the case may be) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

**Conversion of status — eligible distance learning students transferring to designated courses**

**61O.**—(1) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated course at the same or at another institution, the Welsh Ministers must convert his or her status as an eligible distance learning

student to that of an eligible student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible distance learning student to do so; and
  - (b) the period of eligibility has not terminated.
- (2) The following applies to a student who transfers under paragraph (1)—
- (a) where the Welsh Ministers have determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;
  - (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he or she may be entitled in respect of that year under Parts 4 to 6;
  - (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he or she became such a student in a later quarter of that year; and
  - (d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' living costs grant payable to him or her under Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to him or her for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

#### **Payment of grants for fees**

**61P.**—(1) Subject to paragraphs (2) and (3), the Welsh Ministers must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after a valid request for payment has been received.

(2) The Welsh Ministers may make payments under paragraph (1) at such times and in such instalments as they see fit.

(3) The Welsh Ministers may make provisional payments under paragraph (1) in such cases as they deem appropriate.

#### **Payment of grants for books, travel and other expenditure and disabled distance learning students' allowance**

**61Q.**—(1) Payments of the grant for books, travel and other expenditure and the disabled distance learning students' allowance may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible distance learning student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Welsh Ministers cannot make a final assessment on the basis of the information provided by the student, they may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled distance learning students' allowance.

(3) The Welsh Ministers may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance in instalments.

(4) Subject to paragraph (5), the Welsh Ministers may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance at such times as they consider appropriate.

(5) The Welsh Ministers must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled distance learning students' allowance before they have received a declaration under regulation 61J unless an exception applies.

(6) An exception applies if—

- (a) a disabled distance learning students' allowance is payable in which case that particular grant may be paid before the Welsh Ministers have received a declaration;
- (b) the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Overpayments**

**61R.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Welsh Ministers from the academic authority.

(2) An eligible distance learning student must, if so required by the Welsh Ministers, repay any amount paid to him or her under this Part which for whatever reason exceeds the amount of grant to which he or she entitled under this Part.

(3) The Welsh Ministers must recover an overpayment of grant for books, travel and other expenditure and disabled distance learning students' allowance unless they consider that it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Welsh Ministers.

(5) A payment of the disabled distance learning students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(6) In this regulation, the “relevant date” (“*dyddiad perthnasol*”) is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled distance learning students' allowance unless the Welsh Ministers decide otherwise.

(8) The circumstances are—

- (a) the Welsh Ministers apply all or part of the disabled distance learning students' allowance to the purchase of specialist equipment on behalf of the eligible distance learning student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

- (a) the eligible distance learning student's period of eligibility terminates after the relevant date; and
  - (b) a payment of the disabled part-time students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.
- (10) Where there is an overpayment of the disabled distance learning students' allowance, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so."

### **Amendment of regulation 62 of the 2007 Regulations**

#### **19. In regulation 62 of the 2007 Regulations—**

##### **(a) after paragraph (14), insert—**

“(14A) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (fa), (g) or (h) of paragraph (15) occurs in the course of an academic year—

- (a) a student may qualify for a grant under regulation 66 in respect of that academic year in accordance with this Part; and
- (b) a grant under regulation 66 is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.”

##### **(b) for paragraph (19), substitute—**

“(19) Where—

- (a) the Welsh Ministers determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his or her spouse, civil partner, parent or step-parent, as the case may be, 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),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.”;

##### **(c) for paragraph (20), substitute—**

“(20) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his or her status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain 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),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he or she is applying for support.”;

(d) after paragraph (22)(b), insert—

“(bb) a designated part-time course and a designated distance learning course;”.

### **Amendment of regulation 67 of the 2007 Regulations**

**20.** In the Welsh text of regulation 67(4)(aa) of the 2007 Regulations, omit the word, “nad”.

### **Amendment of regulation 70 of the 2007 Regulations**

**21.** In regulation 70 of the 2007 Regulations—

(a) after paragraph (4), insert—

“(4A) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated part-time course at the same or at another institution, the Welsh Ministers must convert the student's status as an eligible distance learning student to that of an eligible part-time student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(4B) Where, before completing the designated distance learning course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 63(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers.

(4C) Subject to paragraph (4D), a student who transfers under paragraph (4A) will receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies under Part 10A in respect of the academic year of the designated distance learning course from which he or she transfers.

(4D) The Welsh Ministers may re-assess the amount of support payable after the transfer.

(4E) An eligible student who transfers under paragraph (4A) after the Welsh Ministers have determined his or her support in connection with the academic year of the designated distance learning course from which he or she is transferring but before he or she completes that year—

- (a) may not apply for a grant under regulation 65(1)(b) if he or she has already applied for a grant under regulation 61E(1)(b);
- (b) may not apply for a grant under regulation 66 if he or she has already applied for a grant under regulation 61H.

(4F) Where a student transfers under paragraph (4A), the total amount of assistance paid to the student under regulations 61E(1)(a) and 65(1)(a) in respect of the academic

years from and to which he or she transfers must not exceed the amount of support determined to be payable to the student under regulation 61E(1)(a).”;

(b) after paragraph (6), insert—

“(6A) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated distance learning course at the same or at another institution, the Welsh Ministers must convert that student’s status as an eligible part-time student to that of an eligible distance learning student in connection with the course to which he or she is transferring where—

- (a) they receive a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(6B) Subject to paragraph (6C), a student who transfers under paragraph (6A) shall receive in connection with the academic year of the course to which he or she transfers the remainder of the support for which the Welsh Ministers have determined he or she qualifies under Part 11 in respect of the academic year of the designated part-time course from which he or she transfers.

(6C) The Welsh Ministers may re-assess the amount of support payable after the transfer.

(6D) An eligible student who transfers under paragraph (6A) after the Welsh Ministers have determined his or her support in connection with the academic year of the distance learning course from which he or she is transferring but before he or she completes that year—

- (a) may not apply for a grant under regulation 61E(1)(b) if he or she has already applied for a grant under regulation 65(1)(b);
- (b) may not apply for a grant under regulation 61H if he or she has already applied for a grant under regulation 66.

(6E) Where a student transfers under paragraph (6A), the total amount of assistance paid to the student under regulations 61E(1)(a) and 65(1)(a) in respect of the academic years from and to which he or she transfers must not exceed the maximum amount of support determined to be payable to the student under regulation 61E(1)(a).”.

#### **Amendment of regulation 74 of the 2007 Regulations**

**22.** After regulation 74(15)(b) of the 2007 Regulations, insert—

“(bb) a designated postgraduate course and a designated distance learning course;”.

#### **Amendment of Schedule 1 to the 2007 Regulations**

**23.** In the Welsh text of paragraph 1(3)(ch) of Schedule 1 to the 2007 Regulations, for the words, “blentyn ei briod neu ei bartner sifil;”, substitute the words, “briod neu bartner sifil ei blentyn;”.