

2012 No. 1156 (W. 139)

EDUCATION, WALES

**The Assembly Learning Grants and
Loans (Higher Education) (Wales)
(No.2) (Amendment) (No.2)
Regulations 2012**

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011 (“the Principal Regulations”) provide for financial support for students who are ordinarily resident in Wales and taking designated higher education courses in respect of academic years beginning on or after 1 September 2012.

These Regulations amend the Principal Regulations.

These Regulations introduce three new terms into the list of defined terms in the Principal Regulations. The term “distance learning course” refers to a full time distance course beginning on or after 1 September 2012. An “eligible prisoner” is a prisoner who meets certain eligibility requirements set out in the definition including being authorised to study a course of higher education which begins on or after 1 September 2012. The term “prisoner” refers to a person who is serving a sentence of imprisonment in the United Kingdom including a person detained in a young offender institution.

Regulation 4 amends regulation 4 of the Principal Regulations. This amendment ensures that, subject to certain exceptions, only prisoners who are eligible prisoners will be able to access financial support under the Principal Regulations in respect of higher education courses beginning on or after 1 September 2012.

Regulation 5 amends regulation 5 of the Principal Regulations by adding to the criteria for the designation of courses under the Principal Regulations. This amendment will only apply to the designation of courses which begin on or after 1 September 2012.

Regulation 6 amends regulation 6 of the Principal Regulations which deals with an eligible student's period of eligibility under the Principal Regulations. This amendment has the effect that a student who has failed to complete a previous course because of compelling personal reasons, may, in some circumstances, have an additional year added to their period of eligibility under the Principal Regulations.

Regulation 7 amends regulation 13 of the Principal Regulations. This amendment confirms that students who undertake full time distance learning courses on or after 1 September 2012 will not be able to access fee support under the Principal Regulations unless the Welsh Ministers consider that they are undertaking the course in Wales.

Regulation 8 amends regulation 25 of the Principal Regulations which makes provision on the availability of grants for living costs under the Principal Regulations. This amendment provides that a grant for disabled students' living costs will only be available to prisoners who began courses of higher education prior to 1 September 2012. It also provides that students who begin full time distance learning courses on or after this date will not be entitled to any grant for living costs under the Principal Regulations other than a grant for disabled students' living costs.

Regulation 9 amends regulation 26 of the Principal Regulations which deals with grants for disabled students' living costs in respect of full-time courses. This amendment ensures that these grants are available to students who begin full time distance learning courses on or after 1 September 2012.

Regulation 10 amends regulation 46 of the Principal Regulations to confirm that loans for living costs under the Principal Regulations are not available in respect of full time distance learning courses beginning on or after 1 September 2012.

Regulation 11 amends regulation 74 of the Principal Regulations to confirm that, subject to certain exceptions, full time distance learning courses may not be designated distance learning courses under the Principal Regulations unless they began before 1 September 2012.

Regulation 12 amends regulation 89 of the Principal Regulations to allow part-time students to qualify for financial support under those regulations in respect of part-time courses beginning on or after 1 September 2012

Regulation 13 amends regulation 105 of the Principal Regulations by extending the time limit for submitting applications for financial support under those regulations in respect of part-time courses.

Regulation 14 inserts additional provision into Schedule 1 to the Principal Regulations. Schedule 1 sets out the various categories of eligible student for the purposes of the Principal Regulations.

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(No.2) (Amendment) (No.2)
Regulations 2012**

Made 26 April 2012

Laid before the National Assembly for Wales
27 April 2012

Coming into force 18 May 2012

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(1), and now exercisable by them(2) make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) (Amendment) (No.2) Regulations 2012.

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- (1) 1998 c.30; section 22 was amended by the Learning and Skills Act 2000 (c.21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003 (c.14), section 147, the Higher Education Act 2004 (c.8), sections 42 and 43 and Schedule 7 and the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 257. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.
- (2) The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 (except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22) were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149) (C.79)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159) (C.56)). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30(1) and 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 (c.32).

(2) These Regulations come into force on 18 May 2012 and apply in relation to Wales.

Amendments

2. The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011(1) are amended in accordance with the following regulations.

3. In regulation 2(1), in the appropriate place, insert—

““distance learning course” (*“cwrw dysgu o bell”*) means a full-time course beginning on or after 1 September 2012 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 any examination; or
- (b) on a weekend or during any vacation;

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

- (a) who begins the present course on or after 1 September 2012;
- (b) has been authorised by the prison Governor or Director or other appropriate authority to study the present course;
- (c) whose earliest release date is within 6 years of the first day of the first academic year of the present course;
- (d) who has not transferred to the present course under regulation 8 from a course beginning before 1 September 2012; and
- (e) is not beginning an end-on course on or after 1 September 2012;

“prisoner” (*“carcharor”*) means a person who is serving a sentence of imprisonment in the United Kingdom including a person who is detained in a young offender institution;”.

4. After regulation 4(11) insert—

“(12) Subject to paragraph (13), a prisoner who begins the present course on or after 1 September 2012 will not be an eligible student unless—

- (a) they are an eligible prisoner;
- (b) they are an eligible student who has transferred to the present course on or after 1 September 2012 under regulation 8 from a

(1) S.I. 2011/886 (W.130) as amended by S.I. 2011/1978 (W.218) and S.I. 2012/14 (W.5).

course beginning before 1 September 2012;
or

(c) the present course is an end-on course.

(13) Paragraph (12) does not apply in respect of an academic year during which the student enters or is released from prison.”

5. In regulation 5(1)—

(a) at the end of sub-paragraph (b)(ii) omit “or”;

(b) at the end of sub-paragraph (b)(iii) insert “or”;

(c) after sub-paragraph (b)(iii) insert—

“(iv) a distance learning course other than a course to which regulation 74(5) applies;”;

(d) at the end of sub-paragraph (d) omit “and”;

(e) at the end of sub-paragraph (e) for “.” substitute “; and”; and

(f) after sub-paragraph (e) insert—

“(f) for a course beginning on or after 1 September 2012 which falls within paragraphs 1, 2, 4, 6, 7 or 8 of Schedule 2, a course leading to an award granted or to be granted by a body falling within section 214(2)(a) or (b) of the Education Reform Act 1988(1).”

6. In regulation 6(9), for sub-paragraph (b) substitute—

“(b) in the case of an eligible student who did not successfully complete the latest previous course because of compelling personal reasons—

(i) one additional year is added; and

(ii) a further additional year may be added if the Welsh Ministers consider it appropriate to do so having regard to those reasons.”

7. After regulation 13(4) insert—

“(5) An eligible student who is undertaking a distance learning course does not qualify for any fee support under this Part unless the Welsh Ministers consider that the student is undertaking the course in Wales.”

8. In regulation 25—

(a) after the words “living costs” in paragraph (13) insert “which is payable in connection with a designated course beginning before 1 September 2012”; and

(b) after paragraph (15) insert—

(1) 1988 c.40; section 214(2) was amended by the Further and Higher Education Act 1992 (c.13), section 93 and Schedule 8.

“(16) An eligible student who is undertaking a distance learning course does not qualify for any grant under this Part other than a grant for disabled students’ living costs pursuant to regulation 26.”

9. In regulation 26—

- (a) after the words “attendance on” in paragraph (1) insert “or undertaking of”; and
- (b) after paragraph (5) insert—

“(6) An eligible student does not qualify for a grant for disabled students’ living costs under this regulation in respect of a distance learning course unless the Welsh Ministers consider that the student is undertaking the course in Wales.”

10. After regulation 46(9) insert—

“(10) An eligible student does not qualify for a loan for living costs under this Part if the eligible student is undertaking a distance learning course.”

11.—(1) In regulation 74(2)—

- (a) at the end of sub-paragraph (c) omit “and”;
- (b) at the end of sub-paragraph (d) for “.” substitute “; and”; and
- (c) after sub-paragraph (d) insert—
 - “(e) subject to paragraph (5), the course began before 1 September 2012.”

(2) After paragraph (4) insert—

“(5) A course which begins on or after 1 September 2012 is a designated distance learning course where—

- (a) a student transfers to that course pursuant to regulation 83 from a previous designated distance learning course which began before 1 September 2012; and
- (b) that course would otherwise be a designated course for the purposes of regulation 5.”

12. In regulation 89(3)—

- (a) at the end of sub-paragraph (d) insert “or”;
- (b) at the end of sub-paragraph (e) for “; or” substitute “.”; and
- (c) omit sub-paragraph (f).

13.—(1) In regulation 105(3) for the word “six” substitute “nine”.

(2) In regulation 105(4)(a) for the word “six” substitute “nine”.

14. After paragraph 1(6) of Part 1 of Schedule 1 insert—

“(7) For the purposes of this Schedule an eligible prisoner is to be considered ordinarily resident in

the part of the United Kingdom where the prisoner resided prior to sentencing.”

Leighton Andrews

Minister for Education and Skills, one of the Welsh Ministers

26 April 2012