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WELSH STATUTORY INSTRUMENTS

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**2013 No. 1965 (W. 190)**

**EDUCATION, WALES**

**The Education (Student Support and European  
Institutions) (Wales) Regulations 2013**

<i>Made</i>	- - - -	<i>1 August 2013</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>7 August 2013</i>
<i>Coming into force</i>	- -	<i>30 August 2013</i>

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 Education (Student Support and European Institutions) (Wales) Regulations 2013.

(2) These Regulations come into force on 30 August 2013 and apply in relation to Wales.

**Amendment of the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011**

2. The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011(3) are amended in accordance with regulations 3 to 11.

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

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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 sub-section (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 paragraphs 30(1) and 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 (c.32).
- (3) S.I. 2011/886 (W.130) as amended by S.I. 2011/1978 (W.218), S.I. 2012/14 (W.5) and S.I. 2012/1156 (W.139).

““council tax reduction scheme” (“*cynllun gostyngiadau’r dreth gyngor*”) means a scheme made by a billing authority in accordance with the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012(4) or which applies in default in accordance with paragraph 6(1)(e) of Schedule 1B to the Local Government Finance Act 1992(5);

“universal credit” (“*credyd cynhwysol*”) means universal credit under Part 1 of the Welfare Reform Act 2012(6);”.

4. In regulation 29(3), after “2002” insert —

“or is entitled to an award of universal credit which includes an amount under regulation 31 of the Universal Credit Regulations 2013(7) (childcare costs element)”

5. In regulation 32(6)—

- (a) at the end of sub-paragraph (g) omit “and”;
- (b) at the end of sub-paragraph (h) for “.” substitute “; and”; and
- (c) after sub-paragraph (h) insert—

“(i) in the ca se of a dependant who is entitled to an award of universal credit—

(i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and

(ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).”.

6. In regulation 42, for sub-paragraph (4) substitute—

“(4) A new system eligible student qualifies for a special support grant if that eligible student—

- (a) falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992(8);
- (b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act(9); or
- (c) is liable, or treated as being liable to make payments in respect of the accommodation they occupy as their home under regulation 25(3) of the Universal Credit Regulations 2013.”.

7. In regulation 77(1)—

- (a) at the end of sub-paragraph (a)(ii) omit “or”;
- (b) at the end of sub-paragraph (a)(iii) for “,” substitute “;”;
- (c) after sub-paragraph (a)(iii) insert—

“(iv) to universal credit; or

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(4) S.I. 2012/3144 (W.316)

(5) 1992 c.14; Schedule 1B was inserted by the Local Government Finance Act 2012, section 10 and Schedule 4.

(6) 2012 c.5.

(7) S.I. 2013/376.

(8) 1992 c.4. There are amendments to section 124 which are not relevant to these Regulations. Categories under section 124(1)(e) are prescribed by regulations. The relevant regulation is regulation 4ZA of the Income Support (General) Regulations 1987 (S.I. 1987/1967). Regulation 4ZA was inserted by S.I. 1996/206, amended by S.I. 1997/2197, S.I. 2000/636, S.I. 2000/1981, S.I. 2001/3070, S.I. 2006/2144, S.I. 2008/1826, S.I. 2009/583, S.I. 2009/2655, and S.I. 2009/3152.

(9) There are amendments to section 130 which are not relevant to these Regulations. The relevant regulation is regulation 56 of the Housing Benefit Regulations 2006 (S.I. 2006/213 as amended by S.I. 2006/718, S.I. 2008/1042, S.I. 2008/1082, S.I. 2009/583, and S.I. 2010/641).

- (v) to a reduction under a council tax reduction scheme;”.
8. In regulation 93(5)—
- (a) at the end of sub-paragraph (a)(ii) omit “or”;
  - (b) after sub-paragraph (a)(iii) insert—
    - “(iv) to universal credit; or
    - (v) to a reduction under a council tax reduction scheme;”.
9. In regulation 98(3), after “2002” insert—
- “or is entitled to an award of universal credit which includes an amount under regulation 31 of the Universal Credit Regulations 2013 (childcare costs element)”.
10. In regulation 101(6)—
- (a) at the end of sub-paragraph (g) omit “and”;
  - (b) at the end of sub-paragraph (h) for “.” substitute “; and”;
  - (c) after sub-paragraph (h) insert—
    - “(i) in the case of a dependant who is entitled to an award of universal credit—
      - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and
      - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).”.
11. In paragraph 5(7)(a) of Schedule 5 omit the words “, ordinarily resident” wherever they appear.

### **Amendment of the Education (Student Support) (Wales) Regulations 2012**

12. The Education (Student Support) (Wales) Regulations 2012(10) are amended in accordance with regulations 13 to 24.

13. In regulation 2(1)—

(a) in the appropriate place, insert—

““council tax reduction scheme” (“*cynllun gostyngiadau'r dreth gyngor*”) means a scheme made by a billing authority in accordance with the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012 or which applies in default in accordance with paragraph 6(1)(e) of Schedule 1B to the Local Government Finance Act 1992;

“universal credit” (“*credyd cynhwysol*”) means universal credit under Part 1 of the Welfare Reform Act 2012;”;

(b) in the definition of “person with leave to enter or remain” (“*person sydd â chaniatâd i ddod i mewn neu i aros*”), for sub-paragraph (a) substitute—

“(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;”.
- 14.** In regulation 32(3), after “2002” insert —  
“or is entitled to an award of universal credit which includes an amount under regulation 31 of the Universal Credit Regulations 2013 (childcare costs element)”
- 15.** In regulation 35(6)—
- (a) at the end of sub-paragraph (g) omit “and”;
- (b) at the end of sub-paragraph (h) for “.” substitute “; and”; and
- (c) after sub-paragraph (h) insert—
- “(i) in the case of a dependant who is entitled to an award of universal credit—
- (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and
- (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).”.
- 16.** In regulation 45, for sub-paragraph (4) substitute—
- “(4) A new system eligible student qualifies for a special support grant if that eligible student—
- (a) falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992;
- (b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act; or
- (c) is liable, or treated as being liable to make payments in respect of the accommodation they occupy as their home under regulation 25(3) of the Universal Credit Regulations 2013.”.
- 17.** In regulation 56—
- (a) in sub-paragraph (1)(b) for “28(5)” substitute “28(7)”; and
- (b) in sub-paragraph (2)(b) for “28(5)” substitute “28(7)”.
- 18.** In regulation 63(j)(i) for “28(5)” substitute “28(7)”.
- 19.** In regulation 81(1)—
- (a) at the end of sub-paragraph (a)(ii) omit “or”;
- (b) at the end of sub-paragraph (a)(iii) for “,” substitute “;”;
- (c) after sub-paragraph (a)(iii) insert—
- “(iv) to universal credit; or
- (v) to a reduction under a council tax reduction scheme;”.
- 20.** In regulation 97(5)—
- (a) at the end of sub-paragraph (a)(ii) omit “or”;

- (b) after sub-paragraph (a)(iii) insert—
  - “(iv) to universal credit; or
  - (v) to a reduction under a council tax reduction scheme;”.
- 21.** In regulation 102(3), after “2002” insert—
  - “or is entitled to an award of universal credit which includes an amount under regulation 31 of the Universal Credit Regulations 2013 (childcare costs element)”.
- 22.** In regulation 105(6)—
  - (a) at the end of sub-paragraph (g) omit “and”;
  - (b) at the end of sub-paragraph (h) for “.” substitute “; and”;
  - (c) after sub-paragraph (h) insert—
    - “(i) in the case of a dependant who is entitled to an award of universal credit—
      - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and
      - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).”.
- 23.** In Part 2 of Schedule 1—
  - (a) for paragraph 5(2)(b) substitute—
    - “(b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made—
      - (i) the application for asylum; or
      - (ii) the application for discretionary leave, where no application for asylum was made;”;
  - (b) for paragraph 5(3)(b) substitute—
    - “(b) who, on the date on which the person with leave to enter or remain made—
      - (i) the application for asylum; or
      - (ii) the application for discretionary leave, where no application for asylum was made,was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;
  - (c) for paragraph 5(3)(c) substitute—
    - “(c) who was under 18 on the date on which the person with leave to enter or remain made—
      - (i) the application for asylum; or
      - (ii) the application for discretionary leave, where no application for asylum was made;”.
- 24.** In paragraph 5(7)(a) of Schedule 5 omit the words “, ordinarily resident” wherever they appear.

## **Amendment of the Education (European Institutions) and Student Support (Wales) Regulations 2013**

**25.** The Education (European Institutions) and Student Support (Wales) Regulations 2013(11) are amended in accordance with regulations 26 to 27.

**26.** In regulation 28(2)—

- (a) at the end of sub-paragraph (g) omit “and”;
- (b) at the end of sub-paragraph (h) for “.” Substitute “; and”;
- (c) after sub-paragraph (h) insert—
  - “(i) in the case of a dependant who is entitled to an award of universal credit—
    - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and
    - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).”

**27.** In paragraph 4(6)(a) of Schedule 2 omit the words “, ordinarily resident” wherever they appear.

1 August 2013

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

## EXPLANATORY NOTE

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

These Regulations amend:

- (a) the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011 (S.I. 2011/886 (W.130)) (“the 2011 Regulations”);
- (b) the Education (Student Support) (Wales) Regulations 2012 (S.I. 2012/3097 (W.313)) (“the 2012 Regulations”); and
- (c) the Education (European Institutions) and Student Support (Wales) Regulations 2013 (S.I. 2013/765 (W.91)) (“the 2013 Regulations”).

The 2011 Regulations and the 2012 Regulations provide for financial support for students who are ordinarily resident in Wales and undertaking designated higher education courses in academic years beginning on or after 1 September 2012 or 1 September 2013 respectively. The 2013 Regulations provide for financial support for students who are ordinarily resident in Wales and undertaking postgraduate courses at the graduate school for international relations established by Johns Hopkins University of Bologna (known as the Bologna Center) and at the College of Europe.

Regulations 2 to 10 make a variety of amendments to the 2011 Regulations which relate to changes to the welfare benefits system introduced by the Welfare Reform Act 2012. These changes include the introduction of a new benefit known as ‘universal credit’ which will over time replace a range of existing benefits. Eligibility for certain types and levels of financial support provided under the 2011 Regulations is dependent on a student’s entitlement to existing welfare benefits. These Regulations amend the 2011 Regulations so as to refer to universal credit (and the new council tax reduction schemes) alongside references to existing benefits.

Regulations 12 to 16 and 19 to 22 make corresponding amendments to the 2012 Regulations and regulation 26 makes similar, but less extensive amendments to the 2013 Regulations.

Regulation 13 also amends the definition of “person with leave to enter or remain” in regulation 2(1) of the 2012 Regulations. This extends eligibility for financial support to those persons who have been granted discretionary leave (and their spouses, civil partners and children), whether or not those persons have previously been the subject of a failed asylum application. Regulation 23 also makes amendments to Schedule 1 to the 2012 Regulations which are consequential upon this amendment.

Regulations 11, 24 and 27 remove the term ‘ordinarily resident’ from the Schedules to the 2011 Regulations, the 2012 Regulations and the 2013 Regulations which deal with the financial assessment of students.

Regulations 17 and 18 update certain cross references in the 2012 Regulations.