WELSH STATUTORY INSTRUMENTS

2009 No. 2158 (W.182)

EDUCATION, WALES

The Assembly Learning Grant (Further Education) Regulations 2009

Made - - - -	*1 August 2009*
Laid before the National Assembly for Wales - -	*5 August 2009*
Coming into force - -	*1 September 2009*

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 22, 42(6) and 43(1) 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 Grant (Further Education) Regulations 2009.

(2) These Regulations come into force on 1 September 2009 and apply in relation to Wales.

Interpretation

2. In these Regulations—

"the 2008 Regulations" ("*Rheoliadau 2008*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) (No. 2) Regulations 2008(**3**) as amended or replaced;

"Academic Year 2009/2010" ("*Blwyddyn Academaidd 2009/2010*") means the period of 12 months beginning on 1 September 2009, 1 January 2010, 1 April 2010 or 1 July 2010, according to whether the academic year of the course in question begins on or after 1 September

(**1**) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), sections 146, 153 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), section 722 and Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42, 43, 50 and Schedule 7. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), section 148 and Schedule 12 and the Higher Education Act 2004 (c. 8) section 49 and Schedule 6.

(**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)) refers. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2)(a) of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2008/3170 (W.283).

2009 and before 1 January 2010, on or after 1 January 2010 and before 1 April 2010, on or after 1 April 2010 and before 1 July 2010 or on or after 1 July 2010 and before 1 September 2010;

"contact hours" ("*oriau cyswllt*") means the period of time expressed in hours in respect of which an eligible student receives teaching or supervision during periods of study or practice;

"designated course" ("*cwrs dynodedig*") means a course designated as such by the Welsh Ministers for the purposes of these Regulations, such course including education (other than higher education) or training consisting of a course or programme of study—

(a) which requires attendance at a further education institution or at the premises of another provider of education or training, and

(b) which is funded by the Welsh Assembly Government or the Learning and Skills Council under the Learning and Skills Act 2000(**4**), or is funded by a public authority responsible for the funding of education (other than higher education) and training suitable to the requirements of persons aged 19 or over under the law of Scotland or Northern Ireland;

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

"financial year" ("*blwyddyn ariannol*") means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of regulations 9 to 12 is computed for the purposes of the income tax legislation which applies to it;

"the Further Education Regulations 2008" ("*Rheoliadau Addysg Bellach 2008*") means the Assembly Learning Grant (Further Education) Regulations 2008(**5**);

"healthcare bursary" ("*bwrsari gofal iechyd*") means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(**6**) or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(**7**);

"higher education" ("*addysg uwch*") means education provided by means of a course of any description in Schedule 6 of the Education Reform Act 1988(**8**);

"household income" ("*incwm yr aelwyd*") has the meaning given in regulation 8;

"independent eligible student" ("*myfyriwr cymwys annibynnol*") has the meaning given in regulation 13;

"Member State" ("*Aelod-wladwriaeth*") means a Member State of the European Community;

"parent" ("*rhiant*") means a natural or adoptive parent;

"partner" ("*partner*") in relation to an eligible student means any of the following—

(a) the spouse of an eligible student;

(**4**) 2000 c. 21.
(**5**) S.I. 2008/538 (W.51).
(**6**) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No.2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), S.I. 2004/288, article 7; the Children Act 2004 (c. 31), section 55; S.I. 2004/957, the Schedule; the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1 and S.I. 2007/961, the Schedule.
(**7**) S.I. 1972/1265 (N.I. 14) to which there have been amendments not relevant to these Regulations.
(**8**) 1988 c. 40.

(b) the civil partner of an eligible student;

(c) a person ordinarily living with an eligible student as if he or she were his or her civil partner where an eligible student falls within regulation 13(1)(a);

(d) a person ordinarily living with an eligible student as if he or she were the eligible student's spouse;

"partner" ("*partner*") in relation to the parent of an eligible student means any of the following other than another parent of the eligible student—

(a) the spouse of an eligible student's parent;

(b) the civil partner of an eligible student's parent;

(c) a person ordinarily living with the parent of an eligible student as if he or she were his or her spouse;

(d) a person ordinarily living with the parent of an eligible student as if he or she were the parent's civil partner;

"period of full time study" ("*cyfnod o astudio llawnamser*") means a period of study on one or more designated courses comprising 500 or more contact hours during the period of 12 months starting with the first day of the academic year of the course in question;

"period of part-time study" ("*cyfnod o astudio rhan-amser*") means a period of study on one or more designated courses and comprising not less than 275 contact hours nor more than 499 contact hours during the period of 12 months starting with the first day of the academic year of the course in question;

"preceding financial year" ("*blwyddyn ariannol flaenorol*") means the financial year immediately preceding the relevant year;

"relevant year" ("*blwyddyn berthnasol*") means the academic year in respect of which the household income falls to be assessed;

"residual income" ("*incwm gweddilliol*") means taxable income after the application of regulation 9 (in the case of an eligible student), regulation 10 (in the case of an eligible student's parent), regulation 11 (in the case of an eligible student's partner) or regulation 12 (in the case of the partner of an eligible student's parent);

"taxable income" ("*incwm trethadwy*") means, in relation to regulation 9, in respect of the Academic Year 2009/2010 and, in relation to regulation 10, in respect (subject to paragraphs (3), (4) and (5) of regulation 10) of the preceding financial year, a person's taxable income from all sources computed as for the purposes of—

(a) the Income Tax Acts;

(b) the income tax legislation of another Member State which applies to the person's income; or

(c) where the legislation of more than one Member State applies to the period, the legislation under which the Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in regulation 10).

Eligibility

3.—(1) An eligible student qualifies for an Assembly Learning Grant in connection with a period of full-time study or a period of part-time study subject to and in accordance with these Regulations.

(2) A person is an eligible student in connection with a designated course if:

(a) 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 to the 2008 Regulations;

(b) the person is not excluded by paragraph (3); and

(c) the person has reached the age of 19 on or before 1 September 2009.

(3) A person shall not be an eligible student if:

(a) the only paragraph in Part 2 of Schedule 1 of the 2008 Regulations into which he or she falls is paragraph 9;

(b) the student has, in the opinion of the Welsh Ministers, shown himself or herself by his or her conduct to be unfitted to receive an Assembly Learning Grant;

(c) the student has already received an Assembly Learning Grant in relation to his or her attendance on any course during the Academic Year 2009/2010; or

(d) there has been bestowed on, or paid to the person in relation to the person's attendance on the course—

(i) a healthcare bursary;

(ii) a Coleg Harlech bursary or an equivalent long course bursary provided by the Residential Colleges Committee or Scottish Further Education Funding Council;

(iii) separate funding by the Welsh Assembly Government in respect of a Work Based Learning Programme(**9**); or

(iv) such other financial support from public funds as determined by the Welsh Ministers.

Academic progression

4.—(1) Subject to paragraph (2) and regulation 5, the Welsh Ministers must not pay an Assembly Learning Grant to a student in respect of the Academic Year 2009/2010 or part of that academic year unless they are satisfied on reasonable grounds that the period of study concerned involves academic progression for the student in comparison with study undertaken by the student in previous academic years.

(2) The Welsh Ministers may pay an Assembly Learning Grant to a student for a repeated academic year if that year is a repeat of a preceding academic year that the student was unable to complete because of compelling personal reasons.

Transfers

5. Where a student who is entitled to an Assembly Learning Grant in accordance with these Regulations transfers to another designated course comprising a period of full-time study or a period of part-time study during the Academic Year 2009/2010, the Welsh Ministers may pay an Assembly Learning Grant to that student for the remainder of the Academic Year 2009/2010, except that if—

(a) the Welsh Ministers are satisfied on reasonable grounds that the new course does not involve academic progression for the student as compared to the course from which he or she has transferred; and

(b) the student enrols on the course to which he or she is transferring more than 20 weeks after the start the previous course,

no Assembly Learning Grant is payable.

(**9**) Work Based Learning Programmes are delivered under sections 31 to 35 of the Learning and Skills Act 2000 (c. 21). Those sections have been amended by S.I. 2005/3238 (W.243) and section 35 has also been amended by the Special Educational Needs and Disability Act 2001 (c. 10), sections 34(8), 42(6) and Schedule 9; and by the Education and Skills Act 2008 (c. 25), Schedule 1, paragraphs 75 and 76.

Applications

6.—(1) A person must apply for support in connection with these Regulations by completing and submitting to the Welsh Ministers an application in such form and accompanied by such documentation and by such time as the Welsh Ministers may require.

(2) The Welsh Ministers may take such steps and make such enquiries as they consider necessary to determine whether the applicant is an eligible student, whether the applicant qualifies for support and the amount of support payable, if any.

(3) The Welsh Ministers must notify the applicant of whether or not the applicant qualifies for support and if the applicant does qualify, the amount of support payable in respect of the Academic Year 2009/2010, if any.

Grant entitlement

7.—(1) An eligible student who qualifies for support in connection with a period of full time study in accordance with these Regulations receives an amount as follows—

(a) where the household income is £5,895 or less, he or she receives £1,500;

(b) where the household income exceeds £5,895 but does not exceed £11,790, he or she receives £750; and

(c) where the household income exceeds £11,790 but does not exceed £17,700, he or she receives £450.

(2) An eligible student who qualifies for support in connection with a period of part-time study in accordance with these Regulations receives an amount as follows—

(a) where the household income is £5,895 or less, he or she receives £750;

(b) where the household income exceeds £5,895 but does not exceed £11,790, he or she receives £450; and

(c) where the household income exceeds £11,790 but does not exceed £17,700, he or she receives £300.

Household Income

8.—(1) Household income for the purpose of these Regulations is calculated in accordance with this regulation and regulations 9 to 12.

(2) The household income is—

(a) in the case of an eligible student who is not an independent eligible student—

(i) the residual income of the eligible student, or

(ii) the residual income of the eligible student's parent (subject to regulation 10(9)) aggregated with the residual income of the partner of the student's parent provided that the Welsh Ministers have selected that parent under regulation 10(9),

whichever of the two incomes is the higher;

(b) in the case of an independent eligible student who has a partner, the residual income of the eligible student or the residual income of the eligible student's partner, whichever of the two incomes is the higher; or

(c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.