WELSH STATUTORY INSTRUMENTS

2008 No. 2140 (W.189)

EDUCATION,WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008

Made - - - -	*5 August 2008*
Laid before the National Assembly for Wales - -	*8 August 2008*

Coming into force in accordance with regulation 1

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 Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008.

(2) Subject to paragraph (3), these Regulations come into force on 29 August 2008 and apply in relation to Wales.

(3) Regulations 17 and 23 come into force on 27 October 2008 and apply in relation to Wales.

Amendments

2. TheAssembly Learning Grants and Loans (Higher Education) (Wales) Regulations (**3**) are amended in accordance with the following regulations.

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

(**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 and 43 and Schedule 7.

(**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. 2008/1273 (W. 130).

"part-time adult dependants' grant" ("*grant rhan-amser ar gyfer dibynyddion mewn oed*") means the grant payable under regulation 83C;

"part-time childcare grant" ("*grant rhanamser ar gyfer gofal plant*") means the grant payable under regulation 83D;

"part-time grants for dependants" ("*grantiau rhan-amser ar gyfer dibynyddion*") means the grants and allowance listed in regulation 83B(1);

"part-time parents' learning allowance" ("*lwfans dysgu rhan-amser ar gyfer rhieni*") means the allowance payable under regulation 83E;.

4.—(1) In regulation 3(8)(a), for "the Act", substitute "the Higher Education Act 2004(**4**)".

(2) In regulation 3(8)(b), for "the Act", substitute "the Higher Education Act 2004".

5. In the Welsh text of regulation 4(7)—

(a) for "mae", substitute "os yw";

(b) for "os nad", substitute "nid"; and

(c) for "os yw'n" substitute "mae'n".

6. In regulation 7(2), for "paragraphs (4) and (5)", substitute "paragraphs (3), (4) and (5)".

7. In regulation 21(1), omit "Subject to paragraph (9),".

8. In regulation 23(12), for "in respect of an academic year during any part of which", substitute "if".

9. In regulation 27(6)(b), for "paragraph (4)", substitute "paragraph (5)".

10. In regulation 30(1)(h), omit "(h)," following the words "subject to sub-paragraphs".

11. In the Welsh text of regulation 38(7), for "Mae paragraff (7)", substitute "Mae paragraff (6)".

12. In regulation 38(9), for "in respect of an academic year during any part of which", substitute "if".

13. In regulation 40(4)(b), after "exceeding £1,255" insert ",£1,255".

14. In regulation 54—

(a) after paragraph (8)(b) insert—

"(ba) **GFF** is the amount, if any, of grant for fees for which the eligible student qualifies under Part 4;"; and

(b) in paragraph (9), for "regulation 54(1)(d)" substitute "regulation 54(1)(e)".

15. In regulation 56, after paragraph (6), insert—

"(6A) Subject to paragraph (6B), no support under Part 5 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of that day.

(6B) Paragraph (6A) does not apply in respect of grants for disabled students' living costs.

(6C) In deciding whether it would be appropriate for support to be due under paragraph

(6A) the circumstances to which the Welsh Ministers must have regard include the financial hardship not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.".

(**4**) 2004 c. 8.

16. In regulation 59, after paragraph (8), insert—

"(8A) Subject to paragraph (8B), no support under Part 6 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of that day.

(8B) In deciding whether it would be appropriate for support to be due under paragraph (8A) the circumstances to which the Welsh Ministers must have regard include the financial hardship which not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.".

17. In regulation 67(1)(a)—

(a) after sub-sub-paragraph (i) omit "or"; and

(b) after sub-sub-paragraph (ii) insert—

"or

(iii) under Part 1 of the Welfare Reform Act 2007(**5**) to income related employment and support allowance,".

18. In regulation 79(13), for "or regulation 83", substitute ",regulation 83 or regulations 83A to 83J".

19. In regulation 79(14)(b), for "regulation 82(1)(b) or 83", substitute "regulations 82(1)(b), 83 or 83A to 83J".

20. In regulation 79(15), after "regulation 82" insert "or regulations 83A to 83J".

21. In regulation 79(17), after "regulation 82" insert "or regulations 83A to 83J".

22. After regulation 79(19), insert—

"(19A) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (21) occurs in the course of an academic year, a student may qualify for part-time grants for dependants in accordance with this Part in respect of all or part of that academic year but he or she does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.".

23. In regulation 82(5)(a)—

(a) after sub-sub-paragraph (i) omit "or"; and

(b) after sub-sub-paragraph (ii) insert—

"; or

(iii) under Part 1 of the Welfare Reform Act 2007 to income related employment and support allowance;".

24. After regulation 83, insert—

"**Part-time grants for dependants — general**

83A.—(1) An eligible part-time student qualifies for part-time grants for dependants provided that—

(a) the part-time student is not excluded from qualification by any of the following paragraphs, regulation 79 or regulation 81; and

(**5**) 2007 c. 5.

(b) the part-time student satisfies the qualifying conditions for the particular grant for which he or she is applying.

(2) An eligible part-time student does not qualify for part-time grants for dependants if the student is a prisoner.

83B.—(1) The part-time grants for dependants consist of the following elements—

(a) part-time adult dependants' grant;

(b) part-time childcare grant;

(c) part-time parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable in respect of each element are, respectively, set out in and determined in accordance with regulations 83C to 83J.

(3) A deduction may be made from any element of the part-time grants for dependants in accordance with regulations 83H and 83I.

Part-time adult dependants' grant

83C.—(1) An eligible part-time student qualifies for a part-time adult dependants' grant in connection with his or her attendance on a designated part-time course in accordance with this regulation.

(2) The part-time adult dependants' grant is available in respect of one dependant of an eligible part-time student who is either—

(a) the eligible part-time student’s partner; or

(b) an adult dependant of the eligible part-time student whose net income does not exceed £3,705.

(3) The amount of part-time adult dependants' grant payable in respect of an academic year is calculated in accordance with regulations 83F and83H to 83J, the basic amount being —

(a) £2,580; or

(b) where the person in respect of whom the eligible part-time student is applying for part-time adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,580 as the Welsh Ministers consider reasonable in the circumstances.

Part-time childcare grant

83D.—(1) An eligible part-time student qualifies, in connection with his or her attendance on a designated part-time course, for a part-time childcare grant in accordance with this regulation.

(2) Subject to paragraphs (3) and (4), the part-time childcare grant is available in respect of an academic year in which the student incurs prescribed childcare charges for—

(a) a dependent child who is under the age of 15 immediately before the beginning of the academic year; or

(b) a dependent child who has special educational needs within the meaning of section 312 of the Education Act (**6**) and is under the age of 17 immediately before the beginning of the academic year.

(3) An eligible part-time student does not qualify for a grant under this regulation if the student or the student's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act (**7**).

(4) An eligible part-time student does not qualify for a grant under this regulation if the prescribed childcare charges that he or she incurs are paid or to be paid by the student to his or her partner.

(5) Subject to paragraph (6), regulation 83F and regulations 83H to 83J, the basic amount of childcare grant for each week is—

(a) for one dependent child, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £157.25 per week; or

(b) for two or more dependent children, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £ 267.75 per week,

except that the student does not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

(6) For the purposes of calculating the basic amount of part-time childcare grant—

(a) a week runs from Monday to Sunday; and

(b) where a week in respect of which prescribed childcare charges are incurred falls partly within and partly outside the academic year in respect of which part-time childcare grant is payable under this regulation, the maximum weekly amount of grant is calculated by multiplying the relevant maximum weekly amount in paragraph (5) by the number of days of that week falling within the academic year and dividing the product by seven.

(7) In this regulation "prescribed childcare charges" ("*costau gofal plant rhagnodedig*") means childcare charges of a description prescribed for the purposes of section 12 of the Tax Credits Act 2002(**8**).

Part-time parents' learning allowance

83E.—(1) An eligible part-time student qualifies in connection with the student's attendance on a designated part-time course for the part-time parents' learning allowance if the student has one or more dependants who are dependent children.

(2) The amount of part-time parents' learning allowance payable in respect of an academic year is calculated in accordance with regulations 83F and 83H to 83J, the basic amount being £1,470.

(**6**) 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31 and the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 56 and the Education and Inspections Act 2006 (c. 40), Schedule 1, paragraph 3.

(**7**) 2002 (c. 21) to which there are amendments not relevant to these Regulations.

(**8**) Regulation 14 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) as amended by S.I. 2003/701, S.I. 2003/2815, S.I. 2004/762, S.I. 2004/1276, S.I. 2004/2663, S.I. 2005/769, S.I. 2005/2919, S.I. 2006/766, S.I 2007/824, S.I. 2007/2479 and S.I. 2008/604 sets out the charges that are prescribed, and thus relevant childcare charges, for the purposes of section 12 of the Tax Credits Act 2002.