WELSH STATUTORY INSTRUMENTS

2008 No. 1259 (W.126)

EDUCATION, WALES

The Education (Fees and Awards) (Wales) Regulations 2008

Made - - - -	*5 May 2008*
Laid before the National Assembly for Wales - -	*6 May 2008*
Coming into force - -	*29 May 2008*

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State and now vested(**1**) in them by sections 1 and 2 of the Education (Fees and Awards) Act 1983(**2**), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Fees and Awards) (Wales) (Amendment) Regulations 2008.

(2) These Regulations come into force on 29 May 2008 and apply in relation to Wales.

Interpretation

2. In these Regulations "the 2007 Regulations" ("*Rheoliadau 2007*") means the Education (Fees and Awards) (Wales) Regulations 2007(**3**).

Amendment of the 2007 Regulations

3. The 2007 Regulations are amended as follows.

(**1**) The functions of the Secretary of State under section 1 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 2006/1458 with effect from 8 June 2006. The functions of the Secretary of State under section 2 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales in relation to sections 1 and 2 of the Education (Fees and Awards) Act 1983 were transferred to the Welsh Ministers by virtue of paragraphs 30 (1) and 30(2) (d) of Schedule 11 of the Government of Wales Act 2006 (c. 32).

(**2**) 1983 c. 40. Section 1 was amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19; the Education Act 1994 (c. 30), Schedule 2, paragraph 7; the Education Act 1996 (c. 56), Schedule 37, paragraph 57; the Teaching and Higher Education Act 1998 (c. 30), Schedule 3, paragraph 5; the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraphs 1 and 11; the Education Act 2002 (c. 32), Schedule 21, paragraph 5 and the Education Act 2005 (c. 18), Schedule 14, paragraph 9. Section 2 was amended by the Teaching and Higher Education Act 1988, section 44 and Schedule 4.

(**3**) S.I. 2007/2310 (W.181).

4. In regulation 2 —

(a) in paragraph (4) for "European Economic Area, Switzerland and Turkey", substitute "European Economic Area, Switzerland, Turkey and the overseas territories";

(b) in paragraph (4)(ch) of the Welsh text, for the words "blentyn ei briod neu ei bartner sifil ;", substitute the words, " briod neu bartner sifil ei blentyn ;";

(c) in paragraph (6)(ch) of the Welsh text, for the words "blentyn ei briod neu ei bartner sifil ;", substitute the words, " briod neu bartner sifil ei blentyn ;";

(d) after paragraph (7), insert —

"(8) For the purposes of these Regulations a person who is ordinarily resident in the United Kingdom as a result of having moved from the Islands for the purpose of undertaking a course is to be considered to be ordinarily resident in the Islands.".

5. In the Schedule —

(a) in paragraph 3(d) for "European Economic Area and Switzerland", substitute "European Economic Area, Switzerland and the overseas territories";

(b) for paragraph 6, substitute—

"**6.**—(1) A person who—

(a) is—

(i) an EEA migrant worker or an EEA self-employed person;

(ii) a Swiss employed person or a Swiss self-employed person;

(iii) a family member of a person mentioned in paragraph (i) or (ii);

(iv) an EEA frontier worker or an EEA frontier self-employed person;

(v) a Swiss frontier employed person or a Swiss frontier self-employed person; or

(vi) a family member of a person mentioned in paragraph (iv) or (v);

(b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and

(c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person falls within paragraph (a)(iv), (v) or (vi) of that sub-paragraph.";

(c) in paragraph 7 (b) for "European Economic Area and Switzerland" substitute "European Economic Area, Switzerland and the overseas territories";

(d) in paragraph 8 (1)(d) for "European Economic Area and Switzerland", substitute "European Economic Area, Switzerland and the overseas territories";

(e) in paragraph 9 (1)—

(i) in paragraph (a) (i) for "the first academic year", substitute "an academic year";

(ii) for paragraph (c), substitute—

"(c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and";