WELSH STATUTORY INSTRUMENTS

2008 No. 538 (W.51)

EDUCATION, WALES

The Assembly Learning Grant (Further Education) Regulations 2008

Made - - - -	*26 February 2008*
Laid before the National Assembly for Wales - -	*29 February 2008*
Coming into force - -	*1 April 2008*

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 Grant (Further Education) Regulations 2008.

(2) These Regulations come into force on 1 April 2008 and apply in relation to Wales.

Interpretation

2. In these Regulations—

"the 2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(**3**) as amended or replaced;

"Academic Year 2008/2009" ("*Blwyddyn Academaidd 2008/2009*") means the period of 12 months beginning on 1 September 2008, 1 January 2009, 1 April 2009 or 1 July 2009, 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), sections 722, 723 and Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42, 43, 50, 52 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 were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004. See the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I.2005/1833 (W.149)) as amended by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159)). The functions of the National Assembly for Wales were then transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**3**) S.I. 2007/1045 (W.104).

2008 and before 1 January 2009, on or after 1 January 2009 and before 1 April 2009, on or after 1 April 2009 and before 1 July 2009 or on or after 1 July 2009 and before 1 September 2009;

"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, 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;

"higher education" ("*addysg uwch*") means education provided by means of a course of any description in Schedule 6 to the Education Reform Act 1988(**4**);

"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—

(i) the spouse of an eligible student;

(ii) the civil partner of an eligible student;

(iii) 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);

(iv) 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—

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

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

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

(iv) 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 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;

(**4**) 1988 c. 40.

"period of part-time study"("*cyfnod 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 2008/2009 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—

(i) the Income Tax Acts;

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

(iii) 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 2007 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 2008.

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

(a) the only paragraph in Part 2 of Schedule 1 of the 2007 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 an Academic Year 2008/2009; 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; 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 2008/2009 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 2008/2009, the Welsh Ministers may pay an Assembly Learning Grant to that student for the remainder of the Academic Year 2008/2009, 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.

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 2008/2009, 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 £5,745 or less, he or she receives £1,500;

(b) where the household income exceeds £5,745 but does not exceed £11,490, he or she receives £750; and

(c) where the household income exceeds £11,490 but does not exceed £17,250, 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 £5,745 or less, he or she receives £750;

(b) where the household income exceeds £5,745 but does not exceed £11,490, he or she receives £450; and

(c) where the household income exceeds £11,490 but does not exceed £17,250, 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.

Calculation of eligible student's residual income

9.—(1) Except where the student is undertaking a designated course comprising a period of part-time study, for the purpose of determining the residual income of an eligible student, there is deducted from his or her taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs—

(a) any remuneration for work done during the relevant year, provided that such remuneration does not include any sums paid in respect of any period for which he or she has leave of absence or is relieved of his or her normal duties for the purpose of attending that course;

(b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988(**5**), or under section 188 of the Finance Act 2004(**6**), or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 to the 2007 Regulations into which an eligible student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1 to the 2007 Regulations, his or her income is not disregarded in accordance with paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she is treated no

(**5**) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), section 35 and Schedule 3, paragraph 10; the Income Tax (Trading and Other Income) Act 2005 (c. 5), sections 882 and 883 and Schedule 1, the Finance Act 2004 (c. 12), section 281 and Schedule 35, the Income Tax Act 2007 (c. 3), section 1027 and Schedule 1 and the Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regulations 17 and 59.

(**6**) 2004 c. 12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68, 69, 114 and Schedules 18 and 19.