OFFERYNNAU STATUDOL CYMRU

2007 Rhif 3509 (Cy.308)

ADDYSG, CYMRU

Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) (Diwygio) (Cymru) 2007

Gwnaed - - - - 12 Rhagfyr 2007
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru - - 13 Rhagfyr 2007
Yn dod i rym - - 10 Ionawr 2008

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 22, 42(6) a 43(1) o Ddeddf Addysgu ac Addysg Uwch 1998(**1**), ac sydd bellach yn arferadwy ganddynt hwy(**2**), yn gwneud y Rheoliadau canlynol:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) (Diwygio) (Cymru) 2007 a deuant i rym ar 10 Ionawr 2008.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Diwygio Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2000

2. Diwygir Rheoliadau (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2000)(**3**) fel a ganlyn.

3. Ailrifer rheoliad 2 yn rheoliad 2(1) ac—

(**1**) 1998 p. 30; diwygiwyd adran 22 gan Ddeddf Dysgu a Medrau 2000 (p.21), adran 146 ac Atodlen 11 iddi, Deddf Treth Incwm (Enillion a Phensiynau) 2003 (p.1), Atodlen 6 iddi, Deddf Cyllid 2003 (p.14), adran 147 a Deddf Addysg Uwch 2004 (p.8), adran 42. Diwygiwyd adran 42 ac adran 43 gan Ddeddf Addysg 2002 (p.32), Atodlen 12 iddi. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan adran 44 o Ddeddf Addysg Uwch 2004, Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005 (O.S. 2005/1833 (Cy.149) (C.79) a Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) (Diwygio) 2006 (O.S. 2006/1660 (Cy.159)(C.56)).

(**2**) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan Ddeddf Addysgu ac Addysg Uwch 1998 i Gynulliad Cenedlaethol Cymru gan adran 44 o Ddeddf Addysg Uwch 2004 a Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005 (O.S. 2005/1833 (Cy.149)(C.79)) fel y'i diwygiwyd gan Orchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) (Diwygio) 2006 (O.S. 2006/1660 (Cy.159)(C.56)). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraffau 30(1) a 30(2)(a) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(**3**) O.S. 2000/944; mae O.S. 2001/971, 2004/2752 a 2006/2009 yn offerynnau diwygio perthnasol.

(a) yn rheoliad 2(1) (fel y'i hailrifir) mewnosoder ar ddiwedd y diffiniad o "the Assembly" y geiriau, "and includes any person exercising functions on its behalf pursuant to section 23 (4) of the Act;" ;

(b) yn rheoliad 2(1) (fel y'i hailrifir) yn y man priodol yn nhrefn yr wyddor mewnosoder—

""Welsh Ministers" includes any person exercising functions on their behalf pursuant to section 23(4) of the Act;";

(c) ar ôl rheoliad 2(1) (fel y'i hailrifir) mewnosoder paragraffau newydd—

"(2) Subject to paragraph (3), any reference in any provision in Part 2 of these Regulations to the Secretary of State is to be read, in relation to a student loan made by the Welsh Ministers, as a reference to the Welsh Ministers.

(3) Paragraph (2) does not apply to any reference to the Secretary of State in a provision to the extent that the provision relates to Part 3 or 4.".

4. Yn rheoliad 3(5), yn y diffiniad o "Secretary of State" hepgorer, "and includes any person exercising functions on behalf of the Assembly pursuant to section 23(4) of the Act".

5. Yn rheoliad 9, yn y diffiniad o "the 2006 Regulations", ar ôl "2006" mewnosoder, "in relation to England;", ac ar ôl y diffiniad hwnnw mewnosoder y diffiniad canlynol—

""the 2006 Welsh Regulations" means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(**4**);".

6. Yn lle rheoliad 12, rhodder y canlynol —

"**12.**—(1) This regulation applies in relation to Wales.

(2) This regulation applies where a borrower is not in breach of any obligation to repay a student loan under Part 5 or any obligation to repay any loan mentioned in paragraph (5).

(3) In this regulation "post-2006 student loan" means any student loan paid under the 2006 Welsh Regulations or any subsequent regulations made by the Welsh Ministers under section 22 of the Act and taken out by the following —

(a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1 September 2006; or

(b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions —

(i) it begins on or after 1 September 2006;

(ii) it is not an end-on course following on from a course which he or she began before 1 September 2006; and

(iii) it is not one to which his or her status as a student eligible for support under regulations made under section 22 of the Act has been transferred from another course which he or she began before 1 September 2006.

(4) The Welsh Ministers must cancel the borrower's liability to repay his or her student loan when one of the following occurs —

(a) the borrower dies;

(b) the borrower receives a disability related benefit and because of his or her disability is permanently unfit for work;

(c) in the case of post-2006 student loans, the 25th anniversary of the date on which the borrower became liable to repay the student loan; or

(**4**) O.S.2006/126 (Cy.19) fel y'i diwygiwyd gan O.S. 2006/1863 (Cy.196).

(d) in the case of student loans which are not post-2006 student loans, the borrower reaches the age of 65.

(5) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(**5**), the Education (Student Loans) (Northern Ireland) Order 1990(**6**), the Education (Scotland) Act 1980(**7**) and regulations made under it and the Education (Student Support) (Northern Ireland) Order 1998(**8**) and regulations made under it.

(6) The cancellation of the borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments under Part 3 subject to and in accordance with that Part in respect of any year of assessment —

(a) in the case of cancellation under paragraph (4)(a), during which the borrower was alive; and

(b) in any other case, preceding the year of assessment during which the student loan was cancelled.

(7) The cancellation of a borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments by way of deductions made under Part 4 subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.".

7. Yn lle Rhan 5 rhodder y canlynol —

"PART 5

Repayment by Overseas Borrowers

52D. This Part applies in relation to Wales.

Interpretation

53. In this Part —

"gross income" means income from all sources before deductions for or relief from tax or other statutory charge;

"residence" in or outside the United Kingdom has the same meaning as it has in the Taxes Acts;

"Eurostat" means the Statistical Office for the European Communities.

Notice of overseas residence

54.—(1) A borrower must notify the Welsh Ministers of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower must provide such information about his or her income during any such period of residence as the Welsh Ministers may require.

(**5**) 1990 p.6: a ddiddymwyd gan Ddeddf Addysgu ac Addysg Uwch 1998 (p.30), Atodlen 4 .
(**6**) O.S. 1990/1506 (N.I.11), a ddiwygiwyd gan O.S. 1996/1274 (N.I.1) erthygl 43 ac Atodlen 5 Rhan 11, O.S. 1996/1918 (N.I. 15), erthygl 3 a'r Atodlen iddo ac O.S. 1998/258 (N.I.1), erthyglau 3 i 6.
(**7**) 1980 p.44: a ddiwygiwyd gan Ddeddf Addysgu ac Addysg Uwch 1998 (p.30), adran 29; Deddf Addysg (Gwaddol i Raddedigion a Chymorth i Fyfyrwyr) (Yr Alban) 2001 (dsa 6), adran 3; a Deddf Ysgolion Sy'n Llywodraethu Eu Hunain etc. (Yr Alban) 1989 (p.39), Atodlen 10.
(**8**) O.S. 1998/1760 (N.I.14).

Notice of liability to make repayments

55.—(1) Subject to regulation 57, where the Welsh Ministers are satisfied that a borrower is resident outside the United Kingdom they may serve a notice on the borrower requiring the borrower to repay his or her student loan in accordance with regulation 56.

(2) In a notice served under paragraph (1) the Welsh Ministers may require a borrower who has failed to —

(a) give the notice required by regulation 54(1), or

(b) provide any information required by the Welsh Ministers under regulation 54(2)

to repay immediately such part of his or her student loan as will reduce the amount outstanding to the amount which the Welsh Ministers consider would have been outstanding if the borrower had given the notice or provided the information required of him or her.

Repayment by fixed instalments

56. A borrower must not later than the day specified in a notice served under regulation 55 and not later than the same day of each subsequent month pay the Welsh Ministers a fixed instalment, calculated in accordance with regulation 57A.

Repayment by income-related instalments

57.—(1) Where the Welsh Ministers are satisfied that a borrower to whom regulation 55 applies has complied with a requirement to provide information under regulation 54, they may determine that the borrower may repay his or her loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a date determined by the Welsh Ministers being a date not more than two months later than the date of the determination, and subsequent instalments must be paid on the same date in each subsequent month for up to twelve months.

(3) Each instalment must be one twelfth of the relevant amount.

(4) The relevant amount is 9% of the gross income which the Welsh Ministers consider the borrower is likely to receive during the twelve month period following the date of the determination referred to in paragraph (2), disregarding —

(a) income up to the applicable threshold, calculated in accordance with regulation 57A; and

(b) income in respect of which the Welsh Ministers are satisfied that repayments are likely to be made under Part 3 or 4.

(5) The amount of the instalment must be stated in the determination.

(6) At the end of the period referred to in paragraph (2), the borrower must pay fixed instalments under regulation 56, subject to a further determination under paragraph (1).

(7) At any time during the period referred to in paragraph (2) the Welsh Ministers may make a re-determination under paragraph (1).

Calculation of fixed instalment and applicable threshold

57A.—(1) The fixed instalment in regulation 56 and the applicable threshold in regulation 57 are to be determined by reference to the most recent price level index for the borrower's country of residence and in accordance with the following tables—