WELSH STATUTORY INSTRUMENTS

2007 No. 2311 (W.182)

EDUCATION, WALES

The Education Maintenance Allowances (Wales) Regulations 2007

Made - - - -	*4 August 2007*
Laid before the National Assembly for Wales - -	*7 August 2007*
Coming into force - -	*31 August 2007*

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by section 181 of the Education Act 2002(**1**) and now exercisable by them(**2**), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education Maintenance Allowances (Wales) Regulations 2007.

(2) These Regulations come into force on 31 August 2007 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

"the Act" ("*y Ddeddf*") means the Education Act 2002;

"academic year" ("*blwyddyn academaidd*") means the period from 1 September in one year to 31 August in the next year, except that where the first term of a recognised educational institution begins before 1 September, the academic year is the period beginning at the start of that term and ending immediately before the start of the first such term in the following year;

"education maintenance allowance" ("*Lwfans Cynhaliaeth Addysg*") (EMA) has the meaning given in regulations 5(1) to 5(4);

"eligible education course " ("*cwrs addysg cymwys*") means a course described in regulation 4;

"eligible person" ("*person cymwys*") has the meaning given in regulations 3(1) to 3(4).

(**1**) 2002 c.32.

(**2**) The functions of the National Assembly for Wales 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).

"household income" ("*incwm aelwyd*") means income as defined and calculated for the purposes of child tax credit in the Tax Credits (Definition and Calculation of Income) Regulations 2002(**3**) as amended from time to time;

"Learning Agreement Part 1" ("*Cytundeb Dysgu Rhan 1*") means a signed contract between an eligible person and his or her recognised educational institution setting out respective responsibilities governing his or her attendance and the payment of weekly awards as described in regulations 5(2) and 5(3);

"Learning Agreement Part 2" ("*Cytundeb Dysgu Rhan 2*") means a signed contract between an eligible person and his or her recognised educational institution setting out the objectives an eligible person must achieve to qualify for an intermittent bonus as described in regulation 8;

"learning goals" ("*cyrchnodau dysgu*") means objectives agreed between an eligible person and the recognised educational institution he or she is attending which relate to the eligible person's educational progress;

"learning session" ("*sesiwn dysgu*") means a period for which a recognised educational institution monitors and reports attendance;

"recognised educational institution" ("*sefydliad addysgol cydnabyddedig*") means—

(a) a school in Wales maintained by a local authority,

(b) an independent school in Wales registered under Part 10 of the Education Act 2002,

(c) an institution in Wales within the further education sector or

(d) any other educational institution in Wales which the Welsh Ministers consider appropriate;

Eligible Persons

3.—(1) An eligible person qualifies for an education maintenance allowance in connection with an eligible education course subject to and in accordance with these Regulations.

(2) A person is an eligible person who qualifies for an education maintenance allowance if —

(a) subject to paragraph (4) the Welsh Ministers, in assessing the person's application for support, determine that he or she falls within one of the categories set out in Part 2 of the Schedule; and

(b) he or she undertaking an eligible education course referred to in regulation 4; and

(c) the household income of his or her parent, guardian or carer is £30,810 or less in the tax year ending in April immediately prior to the start of the academic year in which the education maintenance allowance is to be paid; and

(d) he or she satisfies the conditions in paragraph (3).

(3) The conditions are—

(a) in the academic year 2005/06 he or she has his or her seventeenth birthday; or

(b) in the academic year 2006/07 he or she has his or her seventeenth or eighteenth birthday; or

(c) in the academic year 2007/08 he or she has his or her seventeenth, eighteenth or nineteenth birthday.

(4) An eligible person does not qualify for an education maintenance allowance if the only paragraph from 1 to 11 of Part 2 of the Schedule into which the person falls is paragraph 9.

(5) No payment of an education maintenance allowance will be made unless an eligible person satisfies the conditions in regulation 7 or regulation 8.

(**3**) S.I.2002/2006.

(6) An eligible person qualifies for an education maintenance allowance in respect of the qualifying period referred to in paragraph (7).

(7) Subject to paragraph (8) "the qualifying period" means the period of three consecutive academic years beginning in the academic year in which the eligible person ceases to be of compulsory school age.

(8) An eligible person may receive payment in the academic year in which he or she has his or her twentieth birthday if he or she has received an education maintenance allowance in no more than two of the three preceding academic years and the recognised educational institution determines, in consultation with any other educational body or other organisation it sees fit, that the eligible person should receive an education maintenance allowance for the academic year in question.

(9) An eligible person must apply for an education maintenance allowance in connection with each academic year of an eligible education course in respect of which he or she qualifies for support.

Eligible education course

4.—(1) A course is an eligible education course for the purpose of regulation 3 if —

(a) it is a programme of full-time academic or vocational education;

(b) the duration of the programme of full-time academic or vocational education is at least ten weeks;

(c) it is provided by or in a recognised educational institution;

(d) the eligible person's timetable taken across all courses would require him or her to be in a class, or other taught or guided study session, including practical work or unpaid work experience, for not less than twelve hours per week; and

(e) it relates to qualifications up to and including National Qualifications Level 3.

Structure and level of payments, and assessment

5.—(1) Education maintenance allowance consists of :

(a) an award, as described in paragraphs (2) and (3) and regulation 7 paid fortnightly to the eligible person;

(b) an intermittent bonus payment as described in paragraph (4) and regulation 8.

(2) The weekly award which an eligible person receives in 2006/07 is to be determined according to the following table:

Household Income	*Weekly award*
Up to £20,270	£30
£20,271 but less than or equal to £24,850	£20
£24,851 but less than or equal to £30,000	£10

(3) The weekly award which an eligible person receives in 2007/08 is to be determined according to the following table:

Household Income	*Weekly award*
Up to £20,817	£30
£20,818 but less than or equal to £25,521	£20
£25,522 but less than or equal to £30,810	£10

(4) The amount of an intermittent bonus payment awarded in accordance with regulation 8 is £100.

(5) Subject to paragraphs (6) to (8), the assessment of an eligible person's financial eligibility for an education maintenance allowance made under this regulation will be valid for the whole of the academic year for which the assessment is made.

(6) Where income has been assessed as being greater than £20,270 in 2006/07 or £20,817 in 2007/08, an eligible person may apply to be reassessed if one or more of the following conditions is fulfilled:

(a) a person whose income was taken into account in determining financial eligibility has died; or

(b) since the assessment of income was made, the eligible person no longer lives with his or her parents, guardians or other person whose income was taken into account in determining financial eligibility and is responsible for himself or herself; or

(c) the eligible person has become a parent; or

(d) since the assessment was made there has been a reduction in income of a non temporary nature.

(7) In the event that the Welsh Ministers are satisfied that one or more of the conditions in paragraph (6) applies and the eligible person has applied to be reassessed, they may determine that an eligible person is entitled to receive an education maintenance allowance or higher level of education maintenance allowance payable under regulation 7.

(8) If the Welsh Ministers make a determination under paragraph (7) they must notify the eligible person of the determination.

(9) Where the Welsh Ministers determine under paragraph (7) that an eligible person is entitled to receive an education maintenance allowance or a higher level of weekly award under regulation 7, they may—

(a) back-date payment to the date on which it received the eligible person's application for reassessment; or

(b) in the circumstances described in paragraph (6)(a) back-date payment to the date when the person whose income was taken into account died.; or

(c) make payments of education maintenance allowance under regulations 7 and 8 in relation to an eligible person who qualifies for support under these Regulations.

6. In assessing eligibility for education maintenance allowance, including reassessment under regulation 5(6) to (8), the Welsh Ministers may take such steps and make such enquiries as they consider necessary to determine whether an applicant is an eligible person, whether the applicant qualifies for support and the amount of support payable, if any.

The Education Maintenance Allowance Learning Agreement and weekly award

7. An eligible person qualifies for an award of weekly education maintenance allowance assessed under regulation 5(2) or (3) if he or she has signed a Learning Agreement Part 1 and—

(a) subject to paragraph (b) the eligible person has, in respect of a week to which the award relates, attended every learning session in connection with an eligible education course; or

(b) if the eligible person has not attended every such learning session in respect of a week to which the award relates, the recognised educational institution has authorised each absence.

The Education Maintenance Allowance Learning Agreement and intermittent bonus payments

8.—(1) An eligible person qualifies for an intermittent January, July or September bonus payment of education maintenance allowance if he or she satisfies the conditions in paragraph (2).

(2) The conditions are—

(a) in respect of a January bonus payment —

(i) an eligible person has received during the calendar year but before the start of the first week in February two payments of education maintenance allowance under regulation 7; and

(ii) the recognised educational institution determines that an eligible person has achieved his or her learning goals in relation to the period commencing at the start of the previous September to the end of the following January;

(b) in respect of a July bonus payment the recognised educational institution determines that an eligible person has achieved his or her learning goals in relation to the period commencing at the start of the January to the end of the following July;

(c) in respect of a September bonus payment—

(i) an eligible person has received not less than two weekly awards of education maintenance allowance under regulation 7 in September of the academic year; and

(ii) an eligible person has a Learning Agreement Part 1 in place before the preceding academic year

(3) For the purpose of paragraph (2)(c)(ii) any week commencing on a Monday that falls in the calendar month of September is to be regarded as a qualifying week for the purpose of payment of education maintenance allowance;

(4) An eligible person must not receive a January bonus payment or a July bonus payment unless he or she has signed a Learning Agreement Part 2 for that academic year.

Role of recognised educational institutions

9. Recognised educational institutions which are providing eligible education courses to eligible persons under these Regulations must:

(a) take steps to promote the availability of education maintenance allowance to their students and prospective students;

(b) ensure that staff are properly trained in the administration of education maintenance allowance;

(c) notify the Welsh Ministers of each eligible person enrolled with the recognised educational institution and confirm that they and the eligible person have signed the Learning Agreement Part 1;

(d) ensure that eligible persons are made aware of how education maintenance allowance is administered at the recognised educational institution;

(e) ensure that attendance records are maintained in respect of all eligible persons entitled to education maintenance allowance under these Regulations who are enrolled at the recognised educational institution;

(f) submit weekly reports to the Welsh Ministers detailing the eligible persons who should or should not receive education maintenance allowance in respect of the previous week, in accordance with regulation 7 (a) or (b);

(g) notify the Welsh Ministers when Learning Agreement Part 2 has been signed by both a representative of the Recognised Educational Institution and the eligible person;