



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 538 (Cy.51)

2008 No. 538 (W.51)

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Grant Dysgu'r
Cynulliad (Addysg Bellach)
2008

The Assembly Learning Grant
(Further Education) Regulations
2008

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn darparu ar gyfer talu grant ar sail prawf moddion i fyfyrwyr mewn addysg ôl-orfodol sydd fel arfer yn preswyllo yng Nghymru ac sy'n dilyn cyrsiau addysg bellach dynodedig yn ystod y flwyddyn ariannol sy'n dechrau ar neu ar ôl 1 Medi 2008 i'w helpu i dalu costau astudio. Bydd y grant ar gael i fyfyrwyr cymwys p'un ai yng Nghymru neu yn rhywle arall yn y DU y byddant yn dewis astudio.

These Regulations provide for the payment of a means tested grant to help meet the costs of studying, to students in post compulsory education who are ordinarily resident in Wales and who are taking designated further education courses during the academic year beginning on or after 1 September 2008. The grant will be available to eligible students whether they choose to study in Wales or elsewhere in the UK.

Daw'r Rheoliadau i rym ar 1 Ebrill 2008 ac maent yn gymwys mewn cysylltiad â grantiau ar gyfer y flwyddyn academaidd sy'n dechrau ar neu ar ôl 1 Medi 2008 ond cyn 1 Medi 2009.

The Regulations come into force on 1 April 2008 and apply in respect of grants for the academic year beginning on or after 1 September 2008 but before 1 September 2009.

Mae canllawiau manwl ar weithredu'r Rheoliadau wedi eu paratoi. Gellir cael copïau gan Lywodraeth Cynulliad Cymru, Yr Is-adran Cyllid Myfyrwyr, Adeiladau'r Goron, Parc Cathays, Caerdydd, CF10 3NQ.

Detailed guidance has been prepared on the operation of the Regulations. Copies can be obtained from the Welsh Assembly Government, Student Finance Division, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.

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ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Grant Dysgu'r
Cynulliad (Addysg Bellach)
2008**

**The Assembly Learning Grant
(Further Education) Regulations
2008**

Gwnaed 26 Chwefror 2008
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 29 Chwefror 2008
Yn dod i rym 1 Ebrill 2008

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

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

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:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Grant Dysgu'r Cynulliad (Addysg Bellach) 2008.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2008 ac maent yn gymwys o ran Cymru.

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.

(1) 1998 p. 30; diwygiwyd adran 22 gan Ddeddf Dysgu a Medrau 2000 (p. 21), adrannau 146, 153 ac Atodlen 11, Deddf Treth Incwm (Enillion a Phensiynau) 2003 (p. 1), adrannau 722, 723 ac Atodlen 6, Deddf Cyllid 2003 (p.14), adran 147 a Deddf Addysg Uwch 2004 (p. 8), adrannau 42, 43, 50, 52 ac Atodlen 7. Diwygiwyd adran 42 ac adran 43 gan Ddeddf Addysg 2002 (p. 32), adran 148 ac Atodlen 12 a Deddf Addysg Uwch 2004 (p.8) adran 49 ac Atodlen 6.

(2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 22 o Ddeddf Addysgu ac Addysg Uwch 1998 i Gynulliad Cenedlaethol Cymru gan adran 44 o Ddeddf Addysg Uwch 2004. Gweler Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005 (O.S. 2005/1833 (Cy.149)) 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)). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(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).

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "addysg uwch" ("*higher education*") yw addysg a ddarperir drwy gyfrwng cwrs o unrhyw ddisgrifiad a geir yn Atodlen 6 i Ddeddf Diwygio Addysg 1988(1);

ystyr "Aelod-wladwriaeth" ("*Member State*") yw un o Aelod-wladwriaethau'r Gymuned Ewropeaidd;

ystyr "Blwyddyn Academaidd 2008/2009" ("*Academic Year 2008/2009*") yw'r cyfnod o 12 mis sy'n dechrau ar 1 Medi 2008, 1 Ionawr 2009, 1 Ebrill 2009 neu 1 Gorffennaf 2009, yn ôl a yw blwyddyn academaidd y cwrs o dan sylw yn dechrau ar neu ar ôl 1 Medi 2008 a chyn 1 Ionawr 2009, ar neu ar ôl 1 Ionawr 2009 a chyn 1 Ebrill 2009, ar neu ar ôl 1 Ebrill 2009 a chyn 1 Gorffennaf 2009 neu ar neu ar ôl 1 Gorffennaf 2009 a chyn 1 Medi 2009;

ystyr "blwyddyn ariannol" ("*financial year*") yw'r cyfnod o ddeuddeg mis y mae incwm person y mae ei incwm gweddilliol yn cael ei gyfrifo o dan ddarpariaethau rheoliadau 9 i 12 yn cael ei gyfrifiannu mewn perthynas ag ef at ddibenion deddfwriaeth treth incwm sy'n gymwys i incwm y person hwnnw;

ystyr "blwyddyn ariannol flaenorol" ("*preceding financial year*") yw'r flwyddyn ariannol sydd yn union o flaen y flwyddyn berthnasol;

ystyr "blwyddyn berthnasol" ("*relevant year*") yw'r flwyddyn academaidd y mae incwm yr aelwyd i'w asesu mewn perthynas â hi;

ystyr "cwrs dynodedig" ("*designated course*") yw cwrs a ddynodwyd fel y cyfryw gan Weinidogion Cymru at ddibenion y Rheoliadau hyn, ac mae'r cyfryw gwrs yn cynnwys addysg (ac eithrio addysg uwch) neu hyfforddiant sy'n gwrs neu'n rhaglen astudio ac—

- (a) sy'n ei gwneud yn ofynnol i fyfyrwr fynychu sefydliad addysg bellach neu fangre darparydd arall ym maes addysg neu hyfforddiant, a
- (b) sy'n cael ei ariannu gan Gynulliad Cenedlaethol Cymru neu'r Cyngor Dysgu a Sgiliau o dan Ddeddf Dysgu a Medrau 2000, neu sy'n cael ei ariannu gan awdurdod cyhoeddus sy'n gyfrifol am ariannu addysg (ac eithrio addysg uwch) a hyfforddiant sy'n addas at ofynion personau 19 oed neu drosodd o dan gyfraith yr Alban neu Ogledd Iwerddon;

(1) 1988 p.40.

Interpretation

2. In these Regulations—

"the 2007 Regulations" ("*Rheoliadau 2007*") means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007(1) 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 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(2);

"household income" ("*incwm yr aelwyd*") has the meaning given in regulation 8;

(1) S.I. 2007/1045 (W.104).

(2) 1988 c.40.

ystyr "cyfnod o astudio llawnamser" ("*period of full time study*") yw cyfnod o astudio ar un neu fwy o gyrsiau dynodedig sy'n gyfnod o 500 neu fwy o oriau cyswllt yn ystod y cyfnod o 12 mis sy'n dechrau ar ddiwrnod cyntaf y flwyddyn academiaidd y cwrs o dan sylw;

ystyr "cyfnod o astudio rhan-amser" ("*period of part-time study*") yw cyfnod o astudio ar un neu fwy o gyrsiau dynodedig sy'n gyfnod o ddim llai na 275 o oriau cyswllt nac o ddim mwy na 499 o oriau cyswllt yn ystod y cyfnod o 12 mis sy'n dechrau ar ddiwrnod cyntaf blwyddyn academiaidd y cwrs o dan sylw;

ystyr "incwm gweddilliol" ("*residual income*") yw incwm trehadwy ar ôl cymhwyso rheoliad 9 (yn achos myfyriwr cymwys), rheoliad 10 (yn achos rhiant myfyriwr cymwys), rheoliad 11 (yn achos partner myfyriwr cymwys) neu reoliad 12 (yn achos partner rhiant myfyriwr cymwys);

mewn perthynas â rheoliad 9, ystyr "incwm trehadwy" ("*taxable income*"), o ran Blwyddyn Academiaidd 2008/2009 ac, mewn perthynas â rheoliad 10, o ran y flwyddyn ariannol flaenorol (yn ddarostyngedig i baragraffau (3), (4) a (5) o reoliad 10) yw incwm trehadwy person o bob ffynhonnell wedi ei gyfrifiannu fel pe bai at ddibenion—

- (i) y Deddfau Treth Incwm;
- (ii) deddfwriaeth treth incwm Aelod-wladwriaeth arall sy'n gymwys i incwm y person; neu
- (iii) os yw deddfwriaeth mwy nag un Aelod-wladwriaeth yn gymwys i'r cyfnod, y ddeddfwriaeth y mae Gweinidogion Cymru o'r farn y bydd y person yn talu'r swm mwyaf o dreth oddi tani yn y cyfnod hwnnw (ac eithrio fel y darperir fel arall yn rheoliad 10);

mae i'r ymadrodd "incwm yr aelwyd" ("*household income*") yr ystyr a roddir iddo yn rheoliad 8;

mae i'r ymadrodd "myfyriwr cymwys" ("*eligible student*") yr ystyr a roddir iddo yn rheoliad 3;

mae i'r ymadrodd "myfyriwr cymwys annibynnol" ("*independent eligible student*") yr ystyr a roddir iddo yn rheoliad 13;

ystyr "oriau cyswllt" ("*contact hours*") yw'r cyfnod o amser a fynegir mewn oriau ac y mae myfyriwr cymwys yn cael addysg neu oruchwyliaeth mewn perthynas ag ef yn ystod cyfnodau astudio neu ymarfer;

ystyr "partner" ("*partner*") mewn perthynas â myfyriwr cymwys yw unrhyw un o'r canlynol—

"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;

"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;

- (i) priod myfyriwr cymwys;
- (ii) partner sifil myfyriwr cymwys;
- (iii) person sydd fel arfer yn byw gyda myfyriwr cymwys fel pe bai'n bartner sifil iddo pan fo'r myfyriwr cymwys yn dod o dan reoliad 13(1)(a);
- (iv) person sydd fel arfer yn byw gyda myfyriwr cymwys fel pe bai'n briod â'r myfyriwr cymwys;

ystyr "partner" ("*partner*") mewn perthynas â rhiant myfyriwr cymwys yw unrhyw un o'r canlynol ac eithrio rhiant arall i'r myfyriwr cymwys—

- (i) priod rhiant myfyriwr cymwys;
- (ii) partner sifil rhiant myfyriwr cymwys;
- (iii) person sydd fel arfer yn byw gyda rhiant myfyriwr cymwys fel pe bai'n briod â'r rhiant;
- (iv) person sydd fel arfer yn byw gyda rhiant myfyriwr cymwys fel pe bai'n bartner sifil i'r rhiant;

ystyr "Rheoliadau 2007" (*the 2007 Regulations*) yw Rheoliadau Grantiau a Benthyciadau Dysgu y Cynulliad (Addysg Uwch) (Cymru) 2007(1) fel y'u diwygiwyd neu y'u disodlwyd; ac

ystyr "rhiant" ("*parent*") yw rhiant naturiol neu fabwysiadol.

Cymhwysra

3.—(1) Mae myfyriwr cymwys yn gymhwysol i gael Grant Dysgu'r Cynulliad mewn cysylltiad â chyfnod o astudio llawnamser neu gyfnod o astudio rhan-amser yn ddarostyngedig i'r Rheoliadau hyn ac yn unol â hwy.

(2) Mae person yn fyfyriwr cymwys mewn cysylltiad â chwrs dynodedig:

- (a) os bydd Gweinidogion Cymru, wrth asesu cais y person am gymorth, yn canfod ei fod yn dod o dan un o'r categorïau a geir yn Rhan 2 o Atodlen 1 i Reoliadau 2007;
- (b) os nad yw'r person hwnnw'n cael ei wahardd gan baragraff (3); ac
- (c) os yw'r person wedi cyrraedd 19 oed ar 1 Medi 2008 neu cyn y dyddiad hwnnw.

(3) Ni fydd person yn fyfyriwr cymwys:

- (a) os paragraff 9 yw'r unig baragraff yn Rhan 2 o Atodlen 1 i Reoliadau 2007 y mae'n dod oddi tano;
- (b) os yw'r myfyriwr, ym marn Gweinidogion Cymru, wedi dangos ei fod yn an-ffit oherwydd ei ymddygiad i gael Grant Dysgu'r Cynulliad;

"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;

(1) O.S. 2007/1045 (Cy.104).

- (c) os yw'r myfyriwr eisoes wedi cael Grant Dysgu'r Cynulliad mewn perthynas â mynychu unrhyw gwrs yn ystod Blwyddyn Academaidd 2008/2009; neu
- (ch) os rhoddwyd i'r person neu os talwyd iddo mewn perthynas â mynychu'r cwrs—
 - (i) bwrsari gofal iechyd;
 - (ii) bwrsari gan Goleg Harlech neu fwrsari cwrs-hir cyfatebol a ddarparwyd gan y Pwyllgor Colegau Preswyl neu gan Gyngor Cyllido Addysg Bellach yr Alban;
 - (iii) cyllid ar wahân gan Lywodraeth Cynulliad Cymru mewn cysylltiad â Rhaglen Dysgu Seiliedig ar Waith; neu
 - (iv) y cyfryw gymorth ariannol arall o gronfeydd cyhoeddus yn ôl penderfyniad Gweinidogion Cymru.

Dilyniant academaidd

4.—(1) Yn ddarostyngedig i baragraff (2) a rheoliad 5, rhaid i Weiniogion Cymru beidio â thalu Grant Dysgu'r Cynulliad i fyfyrwr mewn cysylltiad â Blwyddyn Academaidd 2008/2009 neu ran o'r flwyddyn academaidd honno onid oes sail resymol iddynt fod yn fodlon bod y cyfnod o astudio o dan sylw yn golygu dilyniant academaidd i'r myfyriwr o'i gymharu â'r astudiaethau a ddilynodd y myfyriwr mewn blynyddoedd academaidd blaenorol.

(2) Caiff Gweinidogion Cymru dalu Grant Dysgu'r Cynulliad i fyfyrwr am flwyddyn academaidd sy'n cael ei hail-wneud os yw'r flwyddyn honno yn flwyddyn ail-wneud blwyddyn academaidd flaenorol na allodd y myfyriwr ei chwblhau am resymau personol cadarn.

Trosglwyddiadau

5. Pan fo myfyriwr sydd â hawl i gael Grant Dysgu'r Cynulliad yn unol â'r Rheoliadau hyn yn trosglwyddo i gwrs dynodedig arall sy'n gyfnod o astudio llawnamser neu'n gyfnod o astudio rhan-amser yn ystod Blwyddyn Academaidd 2008/2009, caiff Gweinidogion Cymru dalu Grant Dysgu'r Cynulliad i'r myfyriwr hwnnw am weddill Blwyddyn Academaidd 2008/2009, ac eithrio—

- (a) os oes sail resymol i Weiniogion Cymru fod yn fodlon nad yw'r cwrs newydd yn golygu dilyniant academaidd i'r myfyriwr o'i gymharu â'r cwrs y mae wedi trosglwyddo ohono; a
- (b) os yw'r myfyriwr yn ymrestru i ddilyn y cwrs y mae'n trosglwyddo iddo fwy nag 20 wythnos ar ôl dechrau'r cwrs blaenorol,

na fydd unrhyw Grant Dysgu'r Cynulliad yn daladwy.

- (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 enrolls 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.

Ceisiadau

6.—(1) Rhaid i berson wneud cais am gymorth mewn cysylltiad â'r Rheoliadau hyn drwy gwblhau a chyflwyno i Weinidogion Cymru gais ar y cyfryw ffurf ac ynghyd â'r cyfryw ddogfennaeth ac erbyn y cyfryw amser ag y byddo Gweinidogion Cymru yn eu gwneud yn ofynnol.

(2) Caiff Gweinidogion Cymru gymryd y cyfryw gamau a gwneud y cyfryw ymholiadau ag y maent o'r farn eu bod yn angenrheidiol i ganfod a yw'r ceisydd yn fyfyrwr cymwys, a yw'r ceisydd yn gymhwysol i gael cymorth a faint o gymorth sy'n daladwy, os o gwbl.

(3) Rhaid i Weinidogion Cymru hysbysu'r ceisydd ynghylch a yw'r ceisydd yn gymhwysol i gael cymorth ac os yw'r ceisydd yn gymhwysol, swm y cymorth sy'n daladwy, os o gwbl, mewn cysylltiad â'r Flwyddyn Academaidd 2008/2009.

Hawlogoeth i gael grant

7.—(1) Bydd myfyriwr cymwys sy'n gymhwysol i gael cymorth mewn cysylltiad â chyfnod o astudio llawnamser yn unol â'r Rheoliadau hyn yn cael swm fel a ganlyn—

- (a) os £5,745 neu lai yw incwm yr aelwyd, bydd yn cael £1,500;
- (b) os bydd incwm yr aelwyd yn fwy na £5,745 ond heb fod yn fwy nag £11,490, bydd yn cael £750; ac
- (c) os bydd incwm yr aelwyd yn fwy nag £11,490 ond heb fod yn fwy na £17,250 bydd yn cael £450.

(2) Bydd myfyriwr cymwys sy'n gymhwysol i gael cymorth mewn cysylltiad â chyfnod o astudiaeth ran-amser yn unol â'r Rheoliadau hyn yn cael swm fel a ganlyn—

- (a) os £5,745 neu lai yw incwm yr aelwyd, bydd yn cael £750;
- (b) os yw incwm yr aelwyd yn fwy na £5,745 ond heb fod yn fwy nag £11,490, bydd yn cael £450; ac
- (c) os yw incwm yr aelwyd yn fwy nag £11,490 ond heb fod yn fwy na £17,250 bydd yn cael £300.

Incwm yr aelwyd

8.—(1) Cyfrifir incwm yr aelwyd at ddibenion y Rheoliadau hyn yn unol â'r rheoliad hwn ac â rheoliadau 9 i 12.

(2) Incwm yr aelwyd—

- (a) yn achos myfyriwr cymwys nad yw'n fyfyrwr cymwys annibynnol—
 - (i) yw incwm gweddilliol y myfyriwr cymwys, neu

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) yw incwm gweddilliol rhiant y myfyriwr cymwys (yn ddarostyngedig i reoliad 10(9)) wedi ei agregu ag incwm gweddilliol partner rhiant y myfyriwr cyhyd â bod Gweinidogion Cymru wedi dethol y rhiant hwnnw o dan reoliad 10(9),

p'un bynnag o'r ddau incwm yw'r uchaf;

- (b) yn achos myfyriwr cymwys annibynnol sydd â phartner, yw incwm gweddilliol y myfyriwr cymwys neu incwm gweddilliol partner y myfyriwr cymwys, p'un bynnag o'r ddau incwm yw'r uchaf; neu
- (c) yn achos myfyriwr cymwys annibynnol nad oes ganddo bartner, yw incwm gweddilliol y myfyriwr cymwys.

Cyfrifo incwm gweddilliol myfyriwr cymwys

9.—(1) Ac eithrio pan fo'r myfyriwr yn ymgymryd â chwrs dynodedig sy'n gyfnod o astudio rhan-amser, er mwyn canfod incwm gweddilliol myfyriwr cymwys, didynnir o'i incwm trethadwy (onid yw eisoes wedi ei ddidynnu wrth ganfod incwm trethadwy) agregiad unrhyw symiau sy'n dod o dan unrhyw un o'r is-baragraffau canlynol—

- (a) unrhyw gydnabyddiaeth am waith a wnaed yn ystod y flwyddyn berthnasol, ar yr amod nad yw'r gydnabyddiaeth honno'n cynnwys unrhyw symiau a dalwyd mewn cysylltiad ag unrhyw gyfnod pan fydd ganddo ganiatâd i fod yn absennol neu pan fydd wedi ei ryddhau o'i ddyletswyddau arferol er mwyn iddo fynychu'r cwrs hwnnw;
- (b) cyfanswm gros unrhyw bremiwm neu swm arall a dalwyd gan y myfyriwr cymwys mewn perthynas â phensiwn (nad yw'n bensiwn sy'n daladwy o dan bolisi yswiriant bywyd) y mae rhyddhad yn cael ei roi mewn perthynas ag ef o dan adran 273 o Ddeddf Treth Incwm a Threth Gorfforaeth 1988(1), neu o dan adran 188 o Ddeddf Cyllid 2004(2), neu os yw incwm y myfyriwr cymwys yn cael ei gyfrifiannu at ddibenion deddfwriaeth treth incwm Aelod-wladwriaeth arall, cyfanswm gros unrhyw bremiwm neu swm o'r fath y byddai rhyddhad yn cael ei roi mewn cysylltiad ag ef os oedd y deddfwriaeth honno'n gwneud darpariaeth sy'n gyfatebol i'r Deddfau Treth Incwm.

(1) 1988 p. 1; diwygiwyd adran 273 gan Ddeddf Cyllid 1988 (p. 39), adran 35 ac Atodlen 3, paragraff 10; Deddf Treth Incwm (Masnachu ac Incwm Arall) 2005 (p.5), adrannau 882 ac 883 ac Atodlen 1, Deddf Cyllid 2004 (p.12), adran 281 ac Atodlen 35, Deddf Treth Incwm 2007 (p.3), adran 1027 ac Atodlen 1 a Rheoliadau Treth a Phartneriaethau Sifil 2005 (O.S. 2005/3229), rheoliadau 17 a 59.

(2) 2004 p.12; diwygiwyd adran 188 gan Ddeddf Cyllid 2007 (p. 11) adrannau 68, 69, 114 ac Atodlenni 18 ac 19.

- (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 subparagraphs—

- (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(1), or under section 188 of the Finance Act 2004(2), 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.

(1) 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.

(2) 2004 c.12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68, 69, 114 and Schedules 18 and 19.

(2) Os paragraff 9 yw'r unig baragraff yn Rhan 2 o Atodlen 1 i Reoliadau 2007 y mae myfyriwr cymwys yn dod oddi tano a bod ei incwm yn deillio o ffynonellau neu o dan ddeddfwriaeth sy'n wahanol i ffynonellau neu ddeddfwriaeth sydd fel rheol yn berthnasol i berson y cyfeirir ato ym mharagraff 9 o Ran 2 o Atodlen 1 i Reoliadau 2007, nid yw ei incwm yn cael ei ddiystyru yn unol â paragraff (1) ond yn hytrach mae'n cael ei ddiystyru i'r graddau sy'n angenrheidiol er mwyn sicrhau nad yw'r myfyriwr yn cael ei drin yn llai ffafriol nag y câi person y cyfeirir ato yn unrhyw un o baragraffau Rhan 2 o Atodlen 1 i Reoliadau 2007 ei drin pe bai mewn amgylchiadau tebyg a chanddo incwm tebyg.

(3) Pan fo'r myfyriwr cymwys yn cael incwm mewn arian cyfred ac eithrio sterling, gwerth yr incwm hwnnw at ddibenion y paragraff hwn yw—

- (a) os yw'r myfyriwr yn prynu sterling â'r incwm, swm y sterling a gaiff y myfyriwr fel hyn;
- (b) fel arall, gwerth y sterling y byddai'r incwm yn ei brynu gan ddefnyddio'r gyfradd am y mis y daeth i law, sef cyfradd a gyhoeddir gan y Swyddfa Ystadegau Gwladol⁽¹⁾.

Cyfrifo incwm gweddilliol rhiant

10.—(1) At ddibenion canfod incwm trethadwy rhiant myfyriwr cymwys, nid yw unrhyw ddiodyniadau sydd i'w gwneud neu unrhyw esemptiadau a ganiateir—

- (a) ar ffurf rhyddhadau personol y darperir ar eu cyfer ym Mhennod 1 o Ran VII o Ddeddf Treth Incwm a Threth Gorfforaeth 1988 neu, os yw'r incwm yn cael ei gyfriannu at ddibenion deddfwriaeth treth incwm Aelod-wladwriaeth arall, unrhyw ryddhadau personol tebyg;
- (b) yn unol ag unrhyw ddeddfiad neu reol gyfreithiol, na thrinnir taliadau oddi tano neu oddi tani, sy'n daliadau a fyddai fel arall yn rhan o incwm person o dan gyfraith y Deyrnas Unedig, fel taliadau o'r fath; neu
- (c) o dan baragraff (2),

yn cael eu gwneud na'u caniatáu.

(2) At ddibenion canfod incwm gweddilliol rhiant myfyriwr cymwys, didynnir o'r incwm trethadwy a ganfyddir o dan baragraff (1) agregiad unrhyw symiau sy'n dod o dan unrhyw un neu rai o'r is-baragraffau canlynol—

- (a) cyfanswm gros unrhyw bremiwm neu swm mewn perthynas â phensiwn (nad yw'n bremiwm sy'n daladwy o dan bolisi yswiriant bywyd) y rhoddir rhyddhad mewn cysylltiad ag ef o dan adran 273 o Ddeddf Treth Incwm a Threth Gorfforaeth 1988 neu adran 188 o

(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 less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 to the 2007 Regulations would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽¹⁾.

Calculation of parent's residual income

10.—(1) For the purposes of determining the taxable income of an eligible student's parent, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under paragraph (2),

are not made or permitted.

(2) For the purposes of determining the residual income of an eligible student's parent, there is to be deducted from the taxable income determined under paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988 or section 188 of the Finance Act 2004,

⁽¹⁾ Financial Statistics (ISSN 0015-203X)

⁽¹⁾ Financial Statistics (ISSN 0015-203X)

Ddeddf Cyllid 2004, neu os yw'r incwm yn cael ei gyfrifiannu at ddibenion deddfwriaeth treth incwm Aelod-wladwriaeth arall, cyfanswm gros unrhyw breimiwm o'r fath y rhoddid rhyddhad mewn cysylltiad ag ef pe bai'r deddfwriaeth honno'n gwneud darpariaeth gyfatebol i'r Deddfau Treth Incwm;

- (b) mewn unrhyw achos lle y mae incwm yn cael ei gyfrifiannu at ddibenion y Deddfau Treth Incwm yn rhinwedd paragraff (6) unrhyw symiau sy'n cyfateb i'r didyniad a grybwyllir ym mharagraff (2)(a), ar yr amod nad yw unrhyw symiau a ddidynnir felly'n fwy na'r didyniadau a wneid pe byddai'r cyfan o incwm rhiant y myfyriwr cymwys mewn gwirionedd yn incwm at ddibenion y Deddfau Treth Incwm;

(3) Os bydd Gweinidogion Cymru'n fodlon bod incwm y rhiant yn y flwyddyn ariannol sy'n dechrau'n union cyn y flwyddyn berthnasol ("y flwyddyn ariannol gyfredol"), o ganlyniad i ryw ddigwyddiad y tu hwnt i reolaeth y rhiant, yn debyg o fod yn llai na gwerth sterling ei incwm yn y flwyddyn ariannol flaenorol i'r graddau y byddai'n effeithio ar hawlogaeth y myfyriwr pe byddai hawlogaeth i'w seilio ar y flwyddyn ariannol gyfredol, cânt, at ddibenion galluogi'r myfyriwr cymwys i fynychu'r cwrs heb ddioddef caledi, gadarnhau beth yw incwm yr aelwyd ar gyfer y flwyddyn ariannol gyfredol.

(4) Os bydd Gweinidogion Cymru'n fodlon bod incwm y rhiant mewn unrhyw flwyddyn ariannol, o ganlyniad i ryw ddigwyddiad y tu hwnt i reolaeth y rhiant, yn debyg o fod, ac o barhau i fod ar ôl y flwyddyn honno, yn llai na gwerth sterling ei incwm yn y flwyddyn ariannol flaenorol, i'r graddau y byddai'n effeithio ar hawlogaeth y myfyriwr pe bai hawlogaeth i'w seilio ar y flwyddyn ariannol bresennol, cânt, er mwyn galluogi'r myfyriwr cymwys i fynychu'r cwrs heb ddioddef caledi, sicrhau beth yw incwm yr aelwyd ar gyfer blwyddyn academaidd cwrs y myfyriwr cymwys y digwyddodd y digwyddiad hwnnw ynddi drwy gymryd cyfartaledd incwm gweddilliol y rhiant ar gyfer pob un o'r blynnyddoedd ariannol y mae'r flwyddyn academaidd honno'n dod oddi mewn iddi yn incwm gweddilliol y rhiant.

(5) Os bydd rhiant y myfyriwr cymwys yn bodloni Gweinidogion Cymru fod ei incwm yn gyfan gwbl neu'n bennaf yn deillio o elw busnes y mae'n ei redeg neu broffesiwn y mae'n ei ddilyn, yna ystyr unrhyw gyfeiriad yn y rheoliad hwn at flwyddyn ariannol flaenorol yw'r cyfnod cynharaf o ddeuddeg mis sy'n dod i ben ar ôl dechrau'r flwyddyn ariannol flaenorol ac y mae cyfrifon sy'n ymwneud â'r busnes hwnnw neu â'r proffesiwn hwnnw'n cael eu cadw mewn cysylltiad ag ef.

or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;

- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of paragraph (6) any sums equivalent to the deduction mentioned in paragraph (2)(a), provided that any sums so deducted do not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;

(3) Where the Welsh Ministers are satisfied that the income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is, as a result of some event beyond his or her control, likely to be less than the sterling value of his or her income in the preceding financial year to such an extent that it would affect the student's entitlement if entitlement were to be based on the current financial year they may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the income of the parent in any financial year is, as a result of some event beyond his or her control, likely to be and to continue after that year to be less than the sterling value of his or her income in the previous financial year to such an extent that it would affect the student's entitlement if entitlement were to be based on the current financial year they may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his or her residual income for each of the financial years in which that academic year falls.

(5) Where the eligible student's parent satisfies the Welsh Ministers that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, then any reference in this regulation to a preceding financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(6) Os bydd gan riant myfyriwr cymwys unrhyw incwm nad yw'n rhan o'i incwm at ddibenion y Deddfau Treth Incwm neu ddeddfwriaeth treth incwm Aelod-wladwriaeth arall dim ond oherwydd—

- (a) nad yw'n preswyllo, fel arfer yn preswyllo, neu wedi ymgartrefu yn y Deyrnas Unedig neu mewn Aelod-wladwriaeth arall;
- (b) nad yw'r incwm yn deillio yn y Deyrnas Unedig neu mewn Aelod-wladwriaeth arall; neu
- (c) bod yr incwm yn deillio o swydd, gwasanaeth neu o gyflogaeth, y mae incwm sy'n deillio ohoni neu ohono'n esempt rhag treth yn unol ag unrhyw ddeddfwriaeth,

bydd ei incwm trethadwy at ddibenion y Rheoliadau hyn yn cael ei gyfrifiannu fel pe bai'r incwm o dan y paragraff hwn yn rhan o'i incwm at ddibenion y Deddfau Treth Incwm neu ddeddfwriaeth treth incwm Aelod-wladwriaeth arall, yn ôl y digwydd.

(7) Os bydd incwm riant y myfyriwr cymwys yn cael ei gyfrifiannu fel pe bai at ddibenion deddfwriaeth treth incwm Aelod-wladwriaeth arall, caiff ei gyfrifiannu o dan ddarpariaethau'r Rheoliadau hyn yn arian cyfred yr Aelod-wladwriaeth honno ac incwm riant y myfyriwr cymwys at ddibenion y Rheoliadau hyn fydd gwerth sterling yr incwm hwnnw a ganfyddir yn unol â'r gyfradd am y mis y digwydd diwrnod olaf y flwyddyn ariannol o dan sylw ynddo, fel y'i cyhoeddir gan y Swyddfa Ystadegau Gwladol.

(8) Os bydd farw un o rieni'r myfyriwr cymwys naill ai cyn neu yn ystod y flwyddyn berthnasol a bod incwm y riant hwnnw wedi ei gymryd i ystyriaeth neu y byddai'n cael ei gymryd i ystyriaeth er mwyn canfod incwm yr aelwyd, bydd incwm yr aelwyd fel a ganlyn—

- (a) os bydd farw'r riant cyn y flwyddyn berthnasol, fe'i canfyddir drwy gyfeirio at incwm y riant sy'n goroesi; neu
- (b) os bydd farw'r riant yn ystod y flwyddyn berthnasol, bydd yn agregiad—
 - (i) o'r gyfran briodol o incwm yr aelwyd a ganfyddir drwy gyfeirio at incwm y ddau riant, sef y gyfran mewn cysylltiad â'r rhan honno o'r flwyddyn berthnasol pan oedd y ddau riant yn dal yn fyw; a
 - (ii) o'r gyfran briodol o incwm yr aelwyd a ganfyddir drwy gyfeirio at incwm y riant sy'n goroesi, sef y gyfran mewn cysylltiad â'r rhan honno o'r flwyddyn berthnasol sy'n weddill ar ôl i'r riant arall farw.

(9) Os bydd Gweinidogion Cymru'n canfod nad yw'r rhieni fel arfer yn byw gyda'i gilydd drwy gydol y

(6) Where an eligible student's parent is in receipt of any income which does not form part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

- (a) he or she is not resident, ordinarily resident or domiciled in the United Kingdom or another Member State;
- (b) the income does not arise in the United Kingdom or another Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his or her taxable income for the purposes of these Regulations is computed as though the income under this paragraph were part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(7) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it is computed under the provisions of these Regulations in the currency of that Member State and the income of the eligible student's parent for the purposes of these Regulations is the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the eligible student's parents dies either before or during the relevant year and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income is—

- (a) where the parent dies before the relevant year, determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, the aggregate of—
 - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
 - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(9) Where the Welsh Ministers determine that the parents do not ordinarily live together throughout the

flwyddyn berthnasol, canfyddir incwm yr aelwyd drwy gyfeirio at incwm p'un bynnag o'r rhieni yw'r mwyaf priodol o dan yr amgylchiadau ym marn Gweinidogion Cymru.

(10) Os bydd Gweinidogion Cymru'n canfod bod y rhieni heb fod fel arfer yn byw gyda'i gilydd am ran yn unig o'r flwyddyn berthnasol, canfyddir incwm yr aelwyd drwy gyfeirio at agregiad y canlynol—

- (a) y gyfran briodol o incwm yr aelwyd a ganfyddir yn unol â pharagraff (9), sef y gyfran mewn cysylltiad â'r rhan honno o'r flwyddyn berthnasol pan nad yw'r rhieni'n byw gyda'i gilydd felly; a
- (b) y gyfran briodol o incwm yr aelwyd a ganfyddir fel arall mewn cysylltiad â gweddill y flwyddyn berthnasol.

Cyfrifo incwm gweddilliol partner myfyriwr cymwys

11.—(1) Yn ddarostyngedig i baragraffau (2), (3) a (4) o'r rheoliad hwn a chan eithrio paragraffau (8), (9) a (10) o reoliad 10, canfyddir incwm gweddilliol partner myfyriwr cymwys yn unol â rheoliad 10, gan ddehongli cyfeiriadau at y rhiant fel pe baent yn gyfeiriadau at bartner y myfyriwr cymwys.

(2) Os bydd Gweinidogion Cymru'n canfod nad yw'r myfyriwr cymwys a'i bartner fel arfer yn byw gyda'i gilydd drwy gydol y flwyddyn berthnasol, ni chymerir i ystyriaeth incwm y partner wrth ganfod incwm yr aelwyd.

(3) Os bydd Gweinidogion Cymru'n canfod bod y myfyriwr cymwys a'i bartner heb fod fel arfer yn byw gyda'i gilydd am ran yn unig o'r flwyddyn berthnasol, canfyddir incwm gweddilliol y partner drwy gyfeirio at ei incwm gweddilliol o dan baragraff (1) wedi ei rannu â hanner cant a dau a'i luosi â nifer yr wythnosau cyfan yn y flwyddyn berthnasol y mae Gweinidogion Cymru'n canfod bod y myfyriwr cymwys a'i bartner fel arfer yn byw gyda'i gilydd.

(4) Os bydd gan fyfyriwr cymwys fwy nag un partner mewn unrhyw un flwyddyn academaidd, mae darpariaethau'r paragraff hwn yn gymwys mewn perthynas â phob un ohonynt.

Cyfrifo incwm gweddilliol partner rhiant

12. Canfyddir incwm gweddilliol partner rhiant myfyriwr cymwys y mae ei incwm gweddilliol yn rhan o incwm yr aelwyd yn rhinwedd rheoliad 8(2)(a) yn unol â rheoliad 11, gan ddehongli cyfeiriadau at bartner y myfyriwr cymwys fel pe baent yn gyfeiriadau at bartner rhiant y myfyriwr cymwys a chyfeiriadau at y myfyriwr cymwys fel pe baent yn gyfeiriadau at riant y myfyriwr cymwys.

relevant year, the household income is determined by reference to the income of whichever parent the Welsh Ministers consider the more appropriate under the circumstances.

(10) Where the Welsh Ministers determine that the parents do not ordinarily live together for part only of the relevant year, the household income is determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with paragraph (9), being the proportion in respect of that part of the relevant year for which the parents do not so live together; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

Calculation of eligible student's partner's residual income

11.—(1) Subject to paragraphs (2), (3) and (4) of this regulation and with the exception of paragraphs (8), (9) and (10) of regulation 10, an eligible student's partner's residual income is determined in accordance with regulation 10, references to the parent being construed as references to the eligible student's partner.

(2) Where the Welsh Ministers determine that the eligible student and his or her partner do not ordinarily live together throughout the relevant year, the partner's income is not taken into account in determining the household income.

(3) Where the Welsh Ministers determine that the eligible student and his or her partner do not ordinarily live together for part only of the relevant year, the partner's residual income is determined by reference to his or her residual income under paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Welsh Ministers determine that the eligible student and his or her partner ordinarily live together.

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

Calculation of parent's partner's residual income

12. The residual income of an eligible student's parent's partner whose residual income is part of the household income by virtue of regulation 8(2)(a) is determined in accordance with regulation 11, references to the eligible student's partner being construed as references to the eligible student's parent's partner and references to the eligible student being construed as references to the eligible student's parent.

Myfyriwr cymwys annibynnol

13.—(1) At ddiben y Rheoliadau hyn mae myfyriwr cymwys annibynnol yn fyfyriwr cymwys ym mhob achos—

- (a) os yw'n 25 oed neu drosodd ar ddiwrnod cyntaf y flwyddyn berthnasol;
- (b) os yw'n briod neu mewn partneriaeth sifil cyn dechrau'r flwyddyn berthnasol, p'un a yw'r briodas neu'r bartneriaeth sifil yn dal mewn bodolaeth ai peidio;
- (c) os nad oes ganddo riant yn dal yn fyw;
- (ch) os bydd Gweinidogion Cymru'n fodlon nad oes modd dod o hyd i'r naill na'r llall o'i rieni neu nad yw'n rhesymol ymarferol dod i gysylltiad â'r naill na'r llall ohonynt;
- (d) os nad yw wedi cyfathrebu â'r naill na'r llall o'i rieni am gyfnod o flwyddyn cyn dechrau'r flwyddyn berthnasol neu os bydd, ym marn Gweinidogion Cymru, yn gallu dangos ar seiliau eraill ei fod wedi ymddieithrio oddi wrth ei rieni mewn ffordd nad oes modd cymodi;
- (dd) os bu'n derbyn gofal gan awdurdod lleol o fewn yr ystyr yn adran 22 o Ddeddf Plant 1989(1) drwy gydol unrhyw gyfnod o dri mis yn diweddu ar neu ar ôl y dyddiad y cafodd ei ben blwydd yn 16 oed a chyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs ("y cyfnod perthnasol") ar yr amod nad yw wedi bod o dan awdurdod neu reolaeth ei rieni mewn gwirionedd ar unrhyw adeg yn ystod y cyfnod perthnasol;
- (e) os bydd ei rieni'n preswyllo y tu allan i'r Gymuned Ewropeaidd a bod Gweinidogion Cymru'n fodlon naill ai—
 - (i) y byddai asesu incwm yr aelwyd drwy gyfeirio at eu hincwm gweddilliol yn gosod y rhieni hynny mewn perygl; neu
 - (ii) na fyddai'n rhesymol ymarferol i'r rhieni hynny, o ganlyniad i gyfrifo unrhyw gyfraniad o dan reoliad 8, anfon unrhyw arian perthnasol i'r Deyrnas Unedig;
- (f) os bydd rheoliad 10(9) yn gymwys a bod y rhiant mwyaf priodol at ddibenion y paragraff hwnnw ym marn Gweinidogion Cymru wedi marw (ni waeth a oedd gan y rhiant o dan sylw bartner neu beidio);
- (ff) os bydd yn aelod o urdd grefyddol sy'n preswyllo yn un o dai'r urdd honno;
- (g) os bydd—

Independent eligible student

13.—(1) For the purpose of these Regulations an independent eligible student is an eligible student in every case where—

- (a) he or she is aged 25 or over on the first day of the relevant year;
- (b) he or she is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
- (c) he or she has no parent living;
- (d) the Welsh Ministers are satisfied that neither of his or her parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he or she has communicated with neither of his or her parents for the period of one year before the beginning of the relevant year or, in the opinion of the Welsh Ministers, he or she can demonstrate on other grounds that he or she is irreconcilably estranged from his or her parents;
- (f) he or she was looked after by a local authority within the meaning of section 22 of the Children Act 1989(1) throughout any three-month period ending on or after the date on which he or she attained the age of 16 and before the first day of the first academic year of the course ("the relevant period") provided that he or she has not in fact at any time during the relevant period been under the charge or control of his or her parents;
- (g) his or her parents are residing outside the European Community and the Welsh Ministers are satisfied that either—
 - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
 - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under regulation 8 to send any relevant funds to the United Kingdom;
- (h) regulation 10(9) applies and the parent whom the Welsh Ministers considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he or she is a member of a religious order who resides in a house of that order;
- (j) he or she—

(1) 1989 p.41; diwygiwyd adran 22 gan Ddeddf Llywodraeth Leol 2000 (p.22), adran 107 ac Atodlen 5, Deddf Plant (Ymadael â Gofal) 2000 (p.35), adran 2, Deddf Mabwysiadu a Phlant 2002 (p.38), adran 116 a Deddf Plant 2004 (p.31), adran 52.

(1) 1989 c.41; section 22 was amended by the Local Government Act 2000 (c.22), section 107 and Schedule 5, the Children (Leaving Care) Act 2000 (c.35), section 2, the Adoption and Children Act 2002 (c.38), section 116 and the Children Act 2004 (c.31), section 52.

- (i) yn gofalu am berson o dan 18 oed ar ddiwrnod cyntaf y flwyddyn berthnasol; neu
 - (ii) wedi gofalu am berson o dan 18 oed ar unrhyw adeg yn ystod y cwrs presennol cyn diwrnod cyntaf y flwyddyn berthnasol;
- (ng) os bydd wedi ei gynnal ei hun o'i enillion am unrhyw gyfnod neu gyfnodau sy'n diweddu cyn blwyddyn academaidd gyntaf y cwrs a bod agregiad y cyfnodau hynny gyda'i gilydd heb fod yn llai na thair blynedd, a'i fod, at ddibenion y paragraff hwn, yn cael ei drin fel pe bai'n ei gynnal ei hun o'i enillion yn ystod unrhyw gyfnod—
- (i) pan oedd yn cymryd rhan mewn trefniadau ar gyfer hyfforddiant i'r di-waith o dan unrhyw gynllun a oedd yn cael ei weithredu, ei noddi neu ei ariannu gan unrhyw un o awdurdodau neu asiantaethau'r wladwriaeth, boed genedlaethol, rhanbarthol neu leol ("awdurdod perthnasol");
 - (ii) pan oedd yn cael budd-dal sy'n daladwy gan unrhyw awdurdod perthnasol mewn cysylltiad â pherson sydd ar gael i'w gyflogi ond sy'n ddi-waith;
 - (iii) pan oedd ar gael i'w gyflogi a'i fod wedi cydymffurfio ag unrhyw ofyniad ynglyn â chofrestru a osodwyd gan awdurdod perthnasol fel un o amodau hawlogaeth i gymryd rhan mewn trefniadau ar gyfer cael hyfforddiant neu fudd-dal;
 - (iv) pan oedd ganddo Efyrdiaeth y Wladwriaeth neu ddyfarniad tebyg;
 - (v) pan oedd yn cael unrhyw bensiwn, lwfans neu fudd-dal arall a oedd yn cael ei dalu gan unrhyw berson oherwydd anabledd sydd ganddo, neu oherwydd gwelyfod, anaf neu salwch.

- (i) has care of a person under 18 years of age on the first day of the relevant year; or
 - (ii) has had care of a person under 18 years of age at any time during the present course prior to the first day of the relevant year;
- (k) he or she has supported himself or herself out of his or her earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this paragraph he or she is treated as supporting himself or herself out of his or her earnings during any period in which—
- (i) he or she was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");
 - (ii) he or she was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
 - (iii) he or she was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
 - (iv) he or she held a State Studentship or comparable award;
 - (v) he or she received any pension, allowance or other benefit paid by any person by reason of a disability to which he or she is subject, or by reason of confinement, injury or sickness.

Mynychu

14.—(1) Caiff Gweinidogion Cymru ailgyfrifo hawlogaeth ceisydd i gael Grant Dysgu'r Cynulliad yn unol â pharagraff (2) os na fydd y ceisydd wedi mynychu'n foddhaol gwrs dynodedig y gwnaeth gais am Grant Dysgu'r Cynulliad mewn cysylltiad ag ef.

(2) Dyma'r fformiwla ar gyfer ailgyfrifo—

$$\frac{\text{Mynychu Gwir}}{\text{Mynychu Posibl}} \times \text{GDC} = \text{Hawlogaeth a Ailgyfrifwyd}$$

(3) Yn y Rheoliad hwn—

ystyr "GDC" ("ALG") yw hawlogaeth i gael Grant Dysgu'r Cynulliad a gyfrifir yn unol â rheoliad 7;

Attendance

14.—(1) The Welsh Ministers may recalculate an applicant's entitlement to an Assembly Learning Grant in accordance with paragraph (2) if the applicant's attendance on the designated course in respect of which he or she has made an application for an Assembly Learning Grant is unsatisfactory.

(2) The formula for re-calculation is—

$$\frac{\text{Actual Attendance}}{\text{Possible Attendance}} \times \text{ALG} = \text{Recalculated Entitlement}$$

(3) In this Regulation—

"actual attendance" ("*mynychu gwir*") means the number of days attendance by the applicant

ystyr "mynychu gwir" ("*actual attendance*") yw nifer y dyddiau y mynychodd y ceisydd ac yr hysbysodd y sefydliad sy'n cyflwyno'r cwrs Weinidogion Cymru ohonynt, ac eithrio unrhyw nifer o ddyddiau heb fod uwchlaw 60 pan fu'r ceisydd yn absennol oherwydd salwch;

ystyr "mynychu posibl" ("*possible attendance*") yw nifer y dyddiau y mae'n ofynnol mynychu'r cwrs o'r diwrnod cyntaf i'r diwrnod olaf.

Talu Grant Dysgu'r Cynulliad

15.—(1) Rhaid i Weinidogion Cymru dalu'r grant y mae myfyriwr yn gymhwysol i'w gael o dan y Rheoliadau hyn a hynny yn y cyfryw randaliadau (os oes rhandaliadau) ac ar y cyfryw adegau ag y maent o'r farn eu bod yn briodol ac, wrth arfer eu swyddogaethau o dan y rheoliad hwn, cânt gwneud taliadau dros dro hyd oni cheir cyfrifiad terfynol o swm y grant y mae'r myfyriwr yn gymhwysol i'w gael.

(2) Caniateir i daliadau gael eu gwneud yn y cyfryw fodd ag sy'n briodol ym marn Gweinidogion Cymru a chaiff Gweinidogion Cymru ei gwneud yn un o amodau hawlogaeth i gael taliad fod yn rhaid i'r myfyriwr cymwys roi i Weinidogion Cymru fanylion cyfrif banc neu gyfrif cymdeithas adeiladu yn y Deyrnas Unedig y gall taliadau gael eu talu iddo drwy eu trosglwyddo'n electronig.

Gordaliadau

16. Os bydd Gweinidogion Cymru'n gwneud hynny'n ofynnol, rhaid i fyfyrwr cymwys ad-dalu unrhyw swm a dalwyd iddo o dan y Rheoliadau hyn ac sydd, am ba reswm bynnag, yn fwy na swm Grant Dysgu'r Cynulliad y mae ganddo hawl iddo o dan y Rheoliadau hyn.

notified to the Welsh Ministers by the institution delivering the course, excluding any number of days not exceeding 60 on which the applicant was absent due to illness;

"ALG" ("*GDC*") means the entitlement to Assembly Learning Grant calculated in accordance with regulation 7;

"possible attendance" ("*mynychu posibl*") means the number of days from the first to last day of required attendance on the course.

Payment of Assembly Learning Grant

15.—(1) The Welsh Ministers must pay the grant for which an eligible student qualifies under these Regulations and in such instalments (if any) and at such times as they consider appropriate and in the exercise of their functions under this regulation they may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) Payments may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Overpayments

16. An eligible student must, if so required by the Welsh Ministers, repay any amount paid to the student under these Regulations which for whatever reason exceeds the amount of Assembly Learning Grant to which he or she is entitled under these Regulations.

Jane Hutt

Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau, un o Weinidogion Cymru

Minister for Children, Education, Lifelong Learning and Skills, one of the Welsh Ministers

26 Chwefror 2008

26 February 2008

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