



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2019 Rhif 1039 (Cy. 182)

2019 No. 1039 (W. 182)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**EXITING THE EUROPEAN
UNION, WALES**

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Addysg (Cymorth i
Fyfyrwyr) (Graddau Meistr Ôl-
raddedig) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

The Education (Student Support)
(Postgraduate Master's Degrees)
(Wales) (Amendment) (EU Exit)
Regulations 2019

NODYN ESBONIADOL

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae Rheoliadau Addysg (Cymorth i Fyfyrwyr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019 ("Rheoliadau 2019") yn darparu ar gyfer gwneud grantiau a benthyciadau i fyfyrwyr sy'n preswyllo fel arfer yng Nghymru ar gyfer cyrsiau gradd feistr ôl-raddedig sy'n dechrau ar neu ar ôl 1 Awst 2019.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Rheoliadau 2019 i adlewyrchu ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd ac i sicrhau y bydd myfyrwyr a fyddai wedi bod yn gymwys i gael cymorth yn union cyn y diwrnod ymadael yn parhau i fod yn gymwys i gael cymorth.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 ("the 2019 Regulations") provide for the making of grants and loans to students who are ordinarily resident in Wales for postgraduate master's degree courses that begin on or after 1 August 2019.

These Regulations make amendments to the 2019 Regulations to reflect the withdrawal of the United Kingdom from the European Union and to ensure that students who would have been eligible for support immediately before exit day will continue to be eligible for support.

The Welsh Ministers Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

2019 Rhif 1039 (Cy. 182)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ADDYSG, CYMRU

Rheoliadau Addysg (Cymorth i
Fyfyrwyr) (Graddau Meistr Ôl-
raddedig) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

Gwnaed 20 Mehefin 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 24 Mehefin 2019

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir 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 a ganlyn.

2019 No. 1039 (W. 182)

**EXITING THE EUROPEAN
UNION, WALES**

EDUCATION, WALES

The Education (Student Support)
(Postgraduate Master's Degrees)
(Wales) (Amendment) (EU Exit)
Regulations 2019

Made 20 June 2019

Laid before the National Assembly for Wales
24 June 2019

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, in exercise of the powers conferred on 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.

(1) 1998 p. 30; diwygiwyd adran 22 gan Ddeddf Dysgu a Sgiliau 2000 (p. 21), adran 146 ac Atodlen 11; Deddf Treth Incwm (Enillion a Phensiynau) 2003 (p. 1), Atodlen 6; Deddf Cyllid 2003 (p. 14), adran 147; Deddf Addysg Uwch 2004 (p. 8), adrannau 42 a 43 ac Atodlen 7; Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 257; Deddf Addysg 2011 (p. 21), adran 76; O.S. 2013/1181 a Deddf Addysg Uwch ac Ymchwil 2017 (p. 29), adran 88. *Gweler* adran 43(1) o Ddeddf Addysgu ac Addysg Uwch 1998 am y diffiniad o "prescribed" a "regulations".

(2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol yn adran 22(2)(a) i (i) a (k) o Ddeddf Addysgu ac Addysg Uwch 1998 i Gynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â gwneud darpariaeth o ran Cymru gan adran 44 o Ddeddf Addysg Uwch 2004 (p. 8), ac mae swyddogaethau o dan is-adrannau (a), (c) a (k) yn arferadwy ar y cyd â'r Ysgrifennydd Gwladol. Trosglwyddwyd swyddogaeth yr Ysgrifennydd Gwladol yn adran 42, i'r graddau y mae'n arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672. 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), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147; the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011 (c. 21), section 76; S.I. 2013/1181 and the Higher Education and Research Act 2017 (c. 29), section 88. *See* section 43(1) of the Teaching and Higher Education Act 1998 for the definition of "prescribed" and "regulations".

(2) The Secretary of State's functions in section 22(2)(a) to (i) and (k) of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with functions under subsections (a), (c) and (k) exercisable concurrently with the Secretary of State. The Secretary of State's function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by S.I. 1999/672. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

RHAN 1
ENWI A CHYCHWYN

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Cymorth i Fyfywrwr) (Graddau Meistr Ôl-raddedig) (Cymru) (Diwygio) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

RHAN 2
DIWYGIADAU

2. Mae Rheoliadau Addysg (Cymorth i Fyfywrwr) (Graddau Meistr Ôl-raddedig) (Cymru) 2019(1) wedi eu diwygio yn unol â rheoliadau 3 i 5.

Diwygiad i reoliad 16

3. Yn rheoliad 16(1)(b)(iii) (myfywrwr sy'n dod yn gymwys yn ystod cwrs), ar ôl "gwladolyn UE" mewnosoder " person a ddisgrifir ym mharagraff 8(1)(a)(ii) o Atodlen 2 neu berson sy'n gymwys ac eithrio fel aelod o deulu o dan baragraff 8(1) o Atodlen 2 yn rhinwedd paragraff 8(1A) o'r Atodlen honno".

Diwygiadau i Atodlen 2

4.—(1) Mae Atodlen 2 (categoriâu o fyfyrwrwr cymwys) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 1(2)(d) (categori 1 – personau sydd wedi setlo yn y Deyrnas Unedig), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr".

(3) Ym mharagraff 6 (categori 6 – gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teuluoedd)—

(a) yn is-baragraffau (1)(b) a (2)(b), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr";

(b) yn is-baragraffau (3) a (4), hepgorer "ac eithrio'r Deyrnas Unedig" ym mhob lle y mae'n digwydd.

(4) Ym mharagraff 7(1)(d) ac (e) (categori 7 – personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo yn rhywle arall), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr".

(1) O.S. 2019/895 (Cy. 161).

PART 1
TITLE AND COMMENCEMENT

Title and commencement

1.—(1) The title of these Regulations is the Education (Student Support) (Postgraduate Master's Degrees) (Wales) (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

PART 2
AMENDMENTS

2. The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019(1) are amended in accordance with regulations 3 to 5.

Amendment to regulation 16

3. In regulation 16(1)(b)(iii) (students becoming eligible during a course), after "EU national" insert " a person described in paragraph 8(1)(a)(ii) of Schedule 2 or of a person who is eligible other than as a family member under paragraph 8(1) of Schedule 2 by virtue of paragraph 8(1A) of that Schedule".

Amendments to Schedule 2

4.—(1) Schedule 2 (categories of eligible students) is amended as follows.

(2) In paragraph 1(2)(d) (category 1 – persons settled in the United Kingdom), after "the territory comprising" insert "the United Kingdom, Gibraltar,".

(3) In paragraph 6 (category 6 – workers, employed persons, self-employed persons and their family members)—

(a) in sub-paragraphs (1)(b) and (2)(b), after "the territory comprising" insert "the United Kingdom, Gibraltar,";

(b) in sub-paragraphs (3) and (4), omit "other than the United Kingdom" each time it occurs.

(4) In paragraph 7(1)(d) and (e) (category 7 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), after "the territory comprising" insert "the United Kingdom, Gibraltar,".

(1) S.I. 2019/895 (W. 161).

(5) Ym mharagraff 8 (categori 8 – gwladolion UE)—

- (a) yn lle is-baragraff (1)(a) rhodder—
“(a) sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs—
(i) yn wladolyn UE,
(ii) yn wladolyn o’r Deyrnas Unedig sydd wedi arfer hawl i breswyllo, neu
(iii) yn aelod o deulu person yn is-baragraff (i) neu (ii),”;
- (b) yn is-baragraff (1)(c) a (d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (c) ar ôl is-baragraff (1) mewnosoder—
“(1A) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan is-baragraff (1) yn union cyn y diwrnod ymadael i fod yn gymwys ar ac ar ôl y diwrnod ymadael.”;
- (d) yn is-baragraff (2)(a), hepgorer “ac eithrio gwladolyn o’r Deyrnas Unedig”;
- (e) yn is-baragraff (2)(d), ar ôl “y diriogaeth sy’n ffurfio’r” mewnosoder “Deyrnas Unedig, Gibraltar, yr”;
- (f) yn lle is-baragraff (4) rhodder—
“(4) At ddibenion is-baragraff (1)(a), mae gwladolyn o’r Deyrnas Unedig wedi arfer hawl i breswyllo os yw’r person hwnnw wedi preswyllo yn Gibraltar neu wedi arfer hawl o dan Erthygl 7 o Gyfarwyddeb 2004/38 neu unrhyw hawl gyfatebol o dan Gytundeb yr AEE neu Gytundeb y Swistir mewn gwladwriaeth ac eithrio’r Deyrnas Unedig.”

(6) Yn lle paragraff 9 (categori 9 – plant gwladolion Swisaidd) rhodder—

“Categori 9 – Plant gwladolion Swisaidd

9.—(1) Person—

- (a) sy’n blentyn i wladolyn Swisaidd y mae ganddo hawlogaeth i gael cymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir,
- (b) sy’n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs,

(5) In paragraph 8 (category 8 – EU nationals)—

- (a) for sub-paragraph (1)(a) substitute—
“(a) who, on the first day of the first academic year of the course, is—
(i) an EU national,
(ii) a United Kingdom national who has exercised a right of residence, or
(iii) the family member of a person in sub-paragraph (i) or (ii),”;
- (b) in sub-paragraph (1)(c) and (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) after sub-paragraph (1) insert—
“(1A) Any description of person who would have been eligible under sub-paragraph (1) immediately before exit day is to be eligible on and after exit day.”;
- (d) in sub-paragraph (2)(a), omit “other than a United Kingdom national”;
- (e) in sub-paragraph (2)(d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (f) for sub-paragraph (4) substitute—
“(4) For the purposes of sub-paragraph (1)(a), a United Kingdom national has exercised a right of residence if that person has resided in Gibraltar or has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom.”

(6) For paragraph 9 (category 9 – children of Swiss nationals) substitute—

“Category 9 – Children of Swiss nationals

9.—(1) A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 3(6) of Annex 1 to the Swiss Agreement,
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course,

- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, Gibraltar, yr AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs, a
- (d) mewn achos pan oedd ei breswyllo fel arfer, y cyfeirir ato ym mharagraff (c), yn gyfan gwbl neu'n bennaf at ddiben cael addysg lawnamser, a oedd yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Deyrnas Unedig, Gibraltar, yr AEE a'r Swistir yn union cyn y cyfnod o breswyllo fel arfer y cyfeirir ato ym mharagraff (c).

(2) Mae unrhyw ddisgrifiad o berson a fyddai wedi bod yn gymwys o dan y paragraff hwn yn union cyn y diwrnod ymadael i fod yn gymwys ar neu ar ôl y diwrnod ymadael."

(7) Ym mharagraff 10(1)(c) (categori 10 – plant gweithwyr Twrcaidd), ar ôl "y diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr".

(8) Ym mharagraff 11 (preswyllo fel arfer – darpariaeth ychwanegol)—

- (a) ar ôl "diriogaeth sy'n ffurfio'r" mewnosoder "Deyrnas Unedig, Gibraltar, yr" ym mhob lle y mae'n digwydd;
- (b) yn is-baragraff (5), ar ôl "ardal" mewnosoder "ac eithrio'r Deyrnas Unedig neu Gibraltar".

Diwygiadau i Atodlen 3

5.—(1) Mae Atodlen 3 (cyfrifo incwm) wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 4(1) (myfyrwyr cymwys annibynnol), yn Achos 6, o flaen "Undeb Ewropeaidd" mewnosoder "Deyrnas Unedig, Gibraltar a'r".

(3) Ym mharagraff 9 (incwm trethadwy)—

- (a) yn is-baragraff (1)(b), yn lle "Aelod-wladwriaeth arall" rhodder "Aelod-wladwriaeth";
- (b) yn lle is-baragraff (2) rhodder—
 "(2) At ddibenion is-baragraff (1)(b), pan fo deddfwriaeth treth incwm—
 (a) y Deyrnas Unedig ac un neu ragor o Aelod-wladwriaethau, neu
 (b) mwy nag un Aelod-wladwriaeth,

(c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of course, and

(d) in a case where the person's ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Any description of person who would have been eligible under this paragraph immediately before exit day is to be eligible on or after exit day."

(7) In paragraph 10(1)(c) (category 10 – children of Turkish workers), after "the territory comprising" insert "the United Kingdom, Gibraltar,".

(8) In paragraph 11 (ordinary residence – additional provision)—

- (a) after "the territory comprising" insert "the United Kingdom, Gibraltar," each time it occurs;
- (b) in sub-paragraph (5), after "an area" insert "other than the United Kingdom or Gibraltar".

Amendments to Schedule 3

5.—(1) Schedule 3 (calculation of income) is amended as follows.

(2) In paragraph 4(1) (independent eligible students), in Case 6, before "the European Union" insert "the United Kingdom, Gibraltar and".

(3) In paragraph 9 (taxable income)—

- (a) in sub-paragraph (1)(b), for "another member State" substitute "a member State";
- (b) for sub-paragraph (2) substitute—
 "(2) For the purposes of sub-paragraph (1)(b), where the income tax legislation of—
 (a) the United Kingdom and one or more member State, or
 (b) more than one member State,

yn gymwys i'r person mewn cysylltiad â'r flwyddyn sydd o dan ystyriaeth, cyfanswm incwm y person o bob ffynhonnell yw'r swm sy'n deillio o'r penderfyniad sy'n arwain at swm mwyaf cyfanswm yr incwm, gan gynnwys unrhyw incwm y mae'n ofynnol ei ystyried o dan baragraff 18.”

(4) Yn y paragraffau a ganlyn, yn lle “Aelod-wladwriaeth arall” rhodder “Aelod-wladwriaeth”—

- (a) paragraff 11 (didyniadau at ddiben cyfrifo incwm gweddilliol myfyriwr cymwys), Didyniad B;
- (b) paragraff 15 (didyniadau at ddiben cyfrifo incwm gweddilliol personau ac eithrio myfyriwr cymwys), Didyniad A;
- (c) paragraff 18 (trin incwm nas trinnir fel incwm at ddibenion treth incwm), ym mhob lle y mae'n digwydd;
- (d) paragraff 19(1) (incwm P mewn arian cyfred ac eithrio sterling).

applies to the person in respect of the year under consideration, the person's total income from all sources is the amount derived from the determination resulting in the greatest amount of total income, including any income which is required to be taken into account under paragraph 18.”

(4) In the following paragraphs, for “another member State” substitute “a member State”—

- (a) paragraph 11 (deductions for the purpose of calculating residual income of an eligible student), Deduction B;
- (b) paragraph 15 (deductions for the purpose of calculating residual income of persons other than eligible student), Deduction A;
- (c) paragraph 18 (treatment of income not treated as income for income tax purposes), each time it occurs;
- (d) paragraph 19(1) (P's income in currency other than sterling).

Kirsty Williams

Y Gweinidog Addysg, un o Weinidogion Cymru
20 Mehefin 2019

©©Hawlfraint y Goron 2019

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Jeff James, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

Minister for Education, one of the Welsh Ministers
20 June 2019

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

W201906241001 06/2019

<http://www.legislation.gov.uk/id/wsi/2019/1039>

ISBN 978-0-348-20436-0



9 780348 204360