



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2007 Rhif 2311 (Cy.182)

2007 No. 2311 (W.182)

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Lwfansau Cynhaliaeth
Addysg (Cymru)
2007

Education Maintenance
Allowances (Wales) Regulations
2007

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 cymorth ariannol i bobl ifanc i'w galluogi i gael addysg ar ôl iddynt gyrraedd oedran gorfodol ymadael â'r ysgol. Mae lwfans cynhaliaeth addysg hyd at £30 yr wythnos ar gael i bersonau cymwys sy'n dilyn cyrsiau cymwys. Yn ychwanegol, telir taliadau bonws o £100 hyd at dair gwaith y flwyddyn os bydd person cymwys yn bodloni amcanion ei gwrs a'r amodau a osodir yn y Rheoliadau hyn.

These Regulations provide for financial assistance to young people to enable them to undertake education after they have reached compulsory school leaving age. An education maintenance allowance of up to £30 per week is available to eligible persons who undertake eligible courses. In addition, bonus payments of £100 are made up to three times a year if an eligible person meets the objectives of his or her course and the conditions set out in these Regulations.

Mae'r Rheoliadau hyn yn dod i rym ar 31 Awst 2007.

These Regulations come into force on 31 August 2007.

Mae Llywodraeth Cynulliad Cymru wedi paratoi canllawiau manwl ar weithrediad y Rheoliadau. Gellir cael copïau oddi wrth. Lywodraeth Cynulliad Cymru, Yr Is-adran Cyllid Myfyrwyr, Adeiladau'r Goron, Parc Cathays, Caerdydd CF10 3NQ. Gellir dod o hyd i gopïau ar wefan Llywodraeth Cynulliad Cymru hefyd. www.cymru.gov.uk.

The Welsh Assembly Government has prepared detailed guidance 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. Copies can also be found on the Welsh Assembly Government website; www.wales.gov.uk.

2007 Rhif 2311 (Cy.182)

2007 No. 2311 (W.182)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Lwfansau Cynhaliaeth
Addysg (Cymru)
2007**

**Education Maintenance
Allowances (Wales) Regulations
2007**

Wedi'u gwneud 4 Awst 2007

Mad 4 August 2007

*Wedi'u gosod gerbron Cynulliad
Cenedlaethol Cymru* 7 Awst 2007

*Laid before the National
Assembly for Wales* 7 August 2007

Yn dod i rym 31 Awst 2007

Coming into force 31 August 2007

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adran 181 o Ddeddf Addysg 2002(), ac sydd bellach yn arferadwy ganddynt(), yn gwneud y Rheoliadau a ganlyn:-

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:

Enwi, cychwyn a chymhwys

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Lwfansau Cynhaliaeth Addysg (Cymru) 2007.

(2) Daw'r Rheoliadau hyn i rym ar 31 Awst 2007 ac maent yn gymwys o ran Cymru.

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.

Dehongli

2.-(1) Yn y Rheoliadau hyn -

ystyr "blwyddyn academiaidd" ("*academic year*") yw'r cyfnod rhwng 1 Medi mewn un flwyddyn hyd at 31 Awst yn y flwyddyn nesaf, ac eithrio pan fo tymor cyntaf sefydliad addysgol cydnabyddedig yn dechrau cyn 1 Medi, y flwyddyn academiaidd yw'r cyfnod sy'n cychwyn ar ddechrau'r tymor hwnnw ac sy'n dod i ben yn union cyn dechrau'r tymor cyntaf hwnnw yn y flwyddyn ddilynol;

ystyr "cwrs addysg cymwys" ("*eligible education course*") yw cwrs a ddisgrifir yn rheoliad 4;

Interpretation

2.-(1) In these Regulations -

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

"academic year" ("*blwyddyn academiaidd*") 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;

(1) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weiniogion Cymru yn rhinwedd paragraffau 30(1) a 30(2)(d) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(2) p.32.

(1) 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).

(2) c.32.

ystyr "cyrchnodau dysgu" ("*learning goals*") yw amcanion a gytunwyd rhwng person cymwys a'r sefydliad addysgol cydnabyddedig y mae'n ei fynychu a hwythau'n amcanion sy'n ymwneud â chynnydd addysgol y person cymwys;

ystyr "Cytundeb Dysgu Rhan 1" ("*Learning Agreement Part 1*") yw contract a lofnodir rhwng person cymwys a'i sefydliad addysgol cydnabyddedig sy'n nodi'r cyfrifoldebau priodol sy'n llywodraethu'i bresenoldeb a thalu dyfarndaliadau wythnosol fel y'u disgrifir ym mharagraffau 5(2) a 5(3);

ystyr "Cytundeb Dysgu Rhan 2" ("*Learning Agreement Part 2*") yw contract a lofnodir rhwng person cymwys a'i sefydliad addysgol cydnabyddedig sy'n nodi'r amcanion y mae'n rhaid i berson cymwys eu cyflawni er mwyn bod yn gymhwysol i gael bonws ysbeidiol fel y'i disgrifir yn rheoliad 8;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Addysg 2002;

ystyr "incwm aelwyd" ("*household income*") yw incwm fel y'i diffinnir ac fel y'i cyfrifir at ddibenion credyd treth plant yn Rheoliadau Credydau Treth (Diffinio a Chyfrifo Incwm) 2002(1) fel y'u diwygiwyd o dro i dro;

mae i "lwfans cynhaliaeth addysg" ("*education maintenance allowance*") (LCA) yr ystyr a roddir iddo yn rheoliadau 5(1) i 5(4);

mae i "person cymwys" ("*eligible person*") yr ystyr a roddir iddo yn rheoliad 3(1) i 3(4);

ystyr "sefydliad addysgol cydnabyddedig" ("*recognised educational institution*") yw-

- (a) ysgol yng Nghymru a gynhelir gan awdurdod lleol,
- (b) ysgol annibynnol yng Nghymru a gofrestrwyd o dan Ran 10 o Ddeddf Addysg 2002,
- (c) sefydliad yng Nghymru yn y sector addysg bellach, neu
- (ch) unrhyw sefydliad addysgol arall yng Nghymru y mae Gweinidogion Cymru o'r farn ei fod yn briodol;

ystyr "sesiwn ddysgu" ("*learning session*") yw cyfnod pryd y mae sefydliad addysgol cydnabyddedig yn monitro presenoldeb ac yn adrodd arno.

"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).

"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(1) 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;

Personau Cymwys

3.-(1) Mae person cymwys yn cymhwyso i gael lwfans cynhaliaeth addysg mewn cysylltiad â chwrs addysg cymwys yn ddarostyngedig i'r Rheoliadau hyn ac yn unol â hwy.

(2) Mae person yn berson cymwys sy'n cymhwyso i gael lwfans cynhaliaeth addysg-

- (a) os bydd Gweinidogion Cymru, yn ddarostyngedig i baragraff (4), wrth asesu cais person am gymorth, yn penderfynu ei fod yn dod o fewn un o'r categorïau a osodir yn Rhan 2 o'r Atodlen; a
- (b) os bydd yn dilyn cwrs addysg cymwys y cyfeirir ato yn rheoliad 4; ac
- (c) os bydd incwm aelwyd ei riant, ei warcheidwad neu ei ofalydd yn £30,810 neu lai yn y flwyddyn dreth sy'n dod i ben ym mis Ebrill yn union cyn dechrau'r flwyddyn academaidd pryd y mae'r lwfans cynhaliaeth addysg i'w dalu; ac
- (ch) mae'n bodloni'r amodau ym mharagraff (3).

(3) Yr amodau yw-

- (a) yn y flwyddyn academaidd 2005/06 mae'n dathlu ei ben blwydd yn ddwy ar bymtheg; neu
- (b) yn y flwyddyn academaidd 2006/07 mae'n dathlu ei ben blwydd yn ddwy ar bymtheg neu'n ddeunaw; neu
- (c) yn y flwyddyn academaidd 2007/08 mae'n dathlu ei ben blwydd yn ddwy ar bymtheg neu'n ddeunaw neu'n bedair ar bymtheg.

(4) Nid yw person cymwys yn cymhwyso i gael lwfans cynhaliaeth addysg os paragraff 9 yw'r unig baragraff o baragraffau 1 i 11 o Ran 2 o'r Atodlen y mae'r person yn gweddu iddo.

(5) Ni thelir lwfans cynhaliaeth addysg oni fydd person cymwys yn bodloni'r amodau yn rheoliad 7 neu reoliad 8.

(6) Mae person cymwys yn cymhwyso i gael lwfans cynhaliaeth addysg o ran y cyfnod cymhwyso y cyfeirir ato ym mharagraff (7).

(7) Yn ddarostyngedig i baragraff (8) ystyr "y cyfnod cymhwyso" yw'r cyfnod o dair blynedd academaidd olynol sy'n dechrau yn y flwyddyn academaidd pan fydd y person cymwys yn peidio â bod mewn oedran ysgol gorffodol ynddi.

(8) Caiff person cymwys dderbyn taliad yn y flwyddyn academaidd pan fydd yn dathlu ei ben blwydd yn ugain oed neu os bydd wedi derbyn lwfans cynhaliaeth addysg mewn dim mwy na dwy flynedd o'r tair blynedd academaidd flaenorol a bod y sefydliad addysgol cydnabyddedig yn penderfynu ar ôl ymgynghori ag unrhyw gorff addysg arall neu gorff arall y gwêl yn dda, y dylai'r person cymwys dderbyn

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.

(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

lwfans cynhالياeth addysg ar gyfer y flwyddyn academaidd o dan sylw.

(9) Rhaid i berson wneud cais am lwfans cynhالياeth addysg mewn cysylltiad â phob blwyddyn academaidd o gwrs addysg cymwys y mae'n cymhwyso i gael cymorth ar ei gyfer.

Cwrs addysg cymwys

4.-(1) Mae cwrs yn gwrs addysg cymwys at ddibenion rheoliad 3-

- (a) os yw'n rhaglen addysg academaidd lawn-amser neu'n rhaglen addysg alwedigaethol lawnamser;
- (b) os yw hyd rhaglen addysg academaidd lawn-amser neu'r rhaglen addysg alwedigaethol lawnamser yn ddeng wythnos o leiaf;
- (c) os darperir y rhaglen gan neu mewn sefydliad addysgol cydnabyddedig;
- (ch) pe bai'r amserlen y mae'r person cymwys yn ei dilyn ar draws pob cwrs yn ei gwneud yn ofynnol iddo fod mewn dosbarth, neu mewn sesiwn astudio arall a addysgir neu lle y rhoddir arweiniad, gan gynnwys gwaith ymarferol neu brofiad gwaith nad oes tâl amdano, am ddim llai na deudeng awr yr wythnos; ac
- (d) os yw'n ymwneud â chymwysterau hyd at a chan gynnwys Cymwysterau Cenedlaethol Lefel 3.

Strwythur a lefel y taliadau, ac asesu

5.-(1) Llunnir y lwfans cynhالياeth addysg o :

- (a) dyfarndal, fel y'i disgrifir ym mharagraffau (2) a (3) a rheoliad 7 a delir bob pythefnos i'r person cymwys;
- (b) taliad bonws ysbeidiol fel y'i disgrifir ym mharagraff (4) a rheoliad 8.

(2) Mae'r dyfarndal wythnosol y mae person cymwys yn ei gael yn 2006/07 i'w benderfynu yn unol â'r tabl a ganlyn:

<i>Incwm aelwyd</i>	<i>Dyfarndal wythnosol</i>
Hyd at £20,270	£30
£20,271 ond yn llai na £24,850 neu'n hafal iddo	£20
£24,851 ond yn llai na £30,000 neu'n hafal iddo	£10

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:

<i>Household Income</i>	<i>Weekly award</i>
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) Mae'r dyfarndal wythnosol y mae person cymwys yn ei gael yn 2007/08 i'w benderfynu yn unol â'r tabl a ganlyn:

<i>Incwm aelwyd</i>	<i>Dyfarndal wythnosol</i>
Hyd at £20,817	£30
£20,818 ond yn llai na £25,521 neu'n hafal iddo	£20
£25,522 ond yn llai na £30,810 neu'n hafal iddo	£10

(4) Swm y taliad bonws ysbeidiol a ddyfernir yn unol â rheoliad 8 yw £100.

(5) Yn ddarostyngedig i baragraffau (6) i (8), bydd yr asesiad o gymhwysra ariannol person cymwys am lwfans cynhaliath addysg a wneir o dan y rheoliad hwn yn ddilys am y flwyddyn academaidd gyfan y gwneir yr asesiad ar ei chyfer.

(6) Os aseswyd bod yr incwm yn fwy na £20,270 yn 2006/07 neu'n fwy na £20,817 yn 2007/08, caiff person cymwys wneud cais i gael ei ailasesu os bodlonir un neu fwy o'r amodau canlynol:

- (a) mae person y cymerwyd ei incwm i ystyriaeth wrth benderfynu ei gymhwysra ariannol wedi marw; neu
- (b) ers i'r asesiad o incwm gael ei wneud, nid yw'r person cymwys bellach yn byw gyda'i rieni, ei warcheidwaid neu gyda pherson arall yr ystyriwyd ei incwm wrth benderfynu cymhwysra ariannol ac mae'n gyfrifol amdano'i hun; neu
- (c) y mae'r person cymwys wedi dod yn rhiant; neu
- (ch) ers i'r asesiad gael ei wneud bu gostyngiad mewn incwm nad yw o natur dros dro.

(7) Os bydd Gweinidogion Cymru wedi'u bodloni bod un neu fwy o'r amodau ym mharagraff (6) yn gymwys a bod y person cymwys wedi gwneud cais i gael ei ailasesu, caniateir iddynt benderfynu bod gan berson cymwys yr hawl i gael lwfans cynhaliath addysg neu lefel uwch o lwfans cynhaliath addysg sy'n daladwy o dan reoliad 7.

(8) Os bydd Gweinidogion Cymru yn gwneud penderfyniad o dan baragraff (7) rhaid iddynt hysbysu'r person cymwys am y penderfyniad.

(9) Os bydd Gweinidogion Cymru yn penderfynu o dan baragraff (7) bod hawl gan berson cymwys i gael lwfans cynhaliath addysg neu lefel uwch o ddyfarndal wythnosol o dan reoliad 7, caniateir iddynt-

- (a) ôl-ddyddio'r taliad i'r dyddiad y daeth cais y person cymwys i law ar gyfer ailasesu; neu

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

<i>Household Income</i>	<i>Weekly award</i>
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) yn yr amgylchiadau a ddisgrifir ym mharagraff (6)(a) ôl-ddyddio'r taliad i'r dyddiad pan fu farw'r person y cymerwyd ei incwm i ystyriaeth; neu
- (c) talu lwfans cynhaliaeth addysg o dan reoliadau 7 a 8 o ran person cymwys sy'n cymhwyso i gael cymorth o dan y Rheoliadau hyn.

6. Wrth asesu cymhwystera ar gyfer lwfans cynhaliaeth addysg, gan gynnwys ailasesiad o dan reoliad 5(6) i (8), caiff Gweinidogion Cymru gymryd y camau hynny a gwneud yr ymholiadau hynny y maent yn ystyried sy'n angenrheidiol i benderfynu a yw'r ceisydd yn berson cymwys, a yw'r ceisydd yn cymhwyso i gael cymorth a swm y cymorth sy'n daladwy, os oes un.

Cytundeb Dysgu'r Lwfans Cynhaliaeth Addysg a'r dyfarndal wythnosol

7. Mae person cymwys yn cymhwyso i gael dyfarndal o lwfans cynhaliaeth addysg wythnosol a asesir o dan reoliad 5(2) neu (3) os yw wedi llofnodi Cytundeb Dysgu Rhan 1 ac-

- (a) yn ddarostyngedig i baragraff (b) mae'r person cymwys, o ran wythnos y mae'r dyfarndal yn berthnasol iddi, wedi mynychu pob sesiwn ddysgu mewn cysylltiad â chwrs addysg cymwys; neu
- (b) os nad yw'r person cymwys wedi mynychu'r gyfryw sesiwn o ran wythnos y mae'r dyfarndal yn berthnasol iddi, mae'r sefydliad addysgol cydnabyddedig wedi awdurdodi pob absenoldeb.

Cytundeb Dysgu'r Lwfans Cynhaliaeth Addysg a'r taliadau bonws ysbeidiol

8.-(1) Mae person cymwys yn cymhwyso i gael taliad bonws ysbeidiol mis Ionawr, mis Gorffennaf neu fis Medi o lwfans cynhaliaeth addysg os yw'n bodloni'r amodau ym mharagraff (2).

(2) Yr amodau yw-

- (a) o ran taliad bonws mis Ionawr -
 - (i) mae person cymwys wedi cael yn ystod y flwyddyn galendr ond cyn dechrau'r wythnos gyntaf ym mis Chwefror ddau daliad o lwfans cynhaliaeth addysg o dan reoliad 7; a
 - (ii) mae sefydliad addysgol cydnabyddedig yn penderfynu bod person cymwys wedi cyflawni ei nodau dysgu o ran y cyfnod sy'n cychwyn ar ddechrau'r mis Medi blaenorol hyd at ddiwedd y mis Ionawr dilynol;
- (b) o ran taliad bonws mis Gorffennaf mae'r sefydliad addysgol cydnabyddedig yn penderfynu bod person cymwys wedi cyflawni

- (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

ei nodau dysgu o ran y cyfnod sy'n cychwyn ar ddechrau mis Ionawr hyd at ddiwedd y mis Gorffennaf dilynol;

- (c) o ran taliad bonws mis Medi-
- (i) mae person cymwys wedi cael dim llai na dau ddyfarndal wythnosol o lwfans cynhaliaeth addysg o dan reoliad 7 ym mis Medi yn y flwyddyn academaidd; a
 - (ii) mae gan berson cymwys Gytundeb Dysgu Rhan 1 ar waith cyn y flwyddyn academaidd flaenorol.

(3) At ddibenion paragraff (2)(c)(ii) dylid ystyried unrhyw wythnos sy'n cychwyn ar ddydd Llun ym mis calendr mis Medi fel wythnos gymwys at ddibenion talu lwfans cynhaliaeth addysg;

(4) Rhaid i berson cymwys beidio â derbyn taliad bonws mis Ionawr neu daliad bonws mis Gorffennaf onid yw wedi llofnodi Cytundeb Dysgu Rhan 2 ar gyfer y flwyddyn academaidd honno.

Rôl sefydliadau addysgol cydnabyddedig

9. Rhaid i sefydliadau addysgol cydnabyddedig sy'n darparu cyrsiau addysg cymwys i bersonau cymwys o dan y Rheoliadau hyn wneud y canlynol:

- (a) cymryd camau i hybu argaeledd lwfans cynhaliaeth addysg i'w myfyrwyr a'u darpar fyfyrwyr;
- (b) sicrhau bod staff wedi'u hyfforddi'n briodol i weinyddu lwfans cynhaliaeth addysg;
- (c) hysbysu Gweinidogion Cymru o bob person cymwys sydd wedi ymrestru gyda'r sefydliad addysgol cydnabyddedig a chadarnhau ei fod ef a'r person cymwys wedi llofnodi Cytundeb Dysgu Rhan 1;
- (ch) sicrhau bod personau cymwys yn ymwybodol o'r dull y gweinyddir lwfans cynhaliaeth addysg yn y sefydliad addysgol cydnabyddedig;
- (d) sicrhau bod cofnodion presenoldeb yn cael eu cynnal o ran pob person cymwys sydd â hawl i lwfans cynhaliaeth addysg o dan y Rheoliadau hyn sydd wedi ymrestru yn y sefydliad addysgol cydnabyddedig;
- (dd) cyflwyno adroddiadau wythnosol i Weinidogion Cymru gan roi manylion am y personau cymwys a ddylai neu na ddylai gael lwfans cynhaliaeth addysg o ran yr wythnos flaenorol, yn unol â rheoliad 7(a) neu (b);
- (e) hysbysu Gweinidogion Cymru pan fydd Cytundeb Dysgu Rhan 2 wedi cael ei lofnodi gan gynrychiolydd y Sefydliad Addysgol Cydnabyddedig a chan y person cymwys;
- (f) hysbysu Gweinidogion Cymru a ddylid talu

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;
- (h) notify the Welsh Ministers as to whether an

taliad bonws ysbeidiol o dan reoliad 8 i berson cymwys ai peidio, yn unol â rheoliad 8; ac

- (ff) sefydlu a chyhoeddi proses apelio ynglyn â phenderfyniadau p'un a yw person yn cymhwyso i gael dyfardal lwfans cynhaliath addysg o dan reoliadau 7 neu 8.

Ôl-daliad o lwfans cynhaliath addysg

10. -(1) Rhaid cyflwyno cais am lwfans cynhaliath addysg i Weinidogion Cymru erbyn 31 Mawrth.

(2) Nid yw paragraff (1) yn gymwys -

- (a) os bydd person cymwys yn gwneud cais am lwfans cynhaliath addysg ar ôl dechrau'r flwyddyn academaidd; a
- (b) os daw'r cais i law Gweinidogion Cymru ar neu cyn 31 Hydref,

ac yn yr achos hwnnw ceir ôl-ddyddio'r taliad i ddechrau'r flwyddyn academaidd.

(3) Nid yw paragraff (1) yn gymwys -

- (a) os bydd person cymwys yn gwneud cais am lwfans cynhaliath addysg ar ôl dechrau'r flwyddyn academaidd; a
- (b) os bydd y cais yn dod i law Gweinidogion Cymru ar ôl 31 Hydref,

ac yn yr achos hwnnw ceir ôl-ddyddio'r taliad i'r dyddiad pan ddaeth y ffurflen gais i law Gweinidogion Cymru, neu i ddyddiad dechrau'r cwrs, p'un bynnag yw'r diweddaraf.

(4) Mae unrhyw ôl-daliad a gaiff ei wneud o dan y rheoliad hwn yn ddarostyngedig i'r rheolau ynghylch dyfardaliadau wythnosol o lwfans cynhaliath yn rheoliad 7.

Gwahardd cyllido deuol

11. Ni chaniateir i berson cymwys gael lwfans cynhaliath addysg am unrhyw gyfnod o amser pan fydd yn cael tâl lleoliad gwaith neu'n cael lwfans hyfforddi.

Gordalu

12. Rhaid i berson cymwys, os yw hynny'n ofynnol gan Weinidogion Cymru, ad-dalu unrhyw swm a dalwyd i'r person cymwys o dan y Rheoliadau sydd am ba reswm bynnag-

- (a) yn fwy na swm y lwfans cynhaliath addysg y mae ganddo hawl iddo o dan y Rheoliadau hyn; neu
- (b) nad oedd gan y person cymwys hawl i'w gael o dan y Rheoliadau hyn.

intermittent bonus payment under regulation 8 should be paid to an eligible person or not, in accordance with regulation 8; and

- (i) establish and publish an appeals process in relation to decisions as to whether a person qualifies for an of award education maintenance allowance under regulations 7 or 8.

Back-payment of Education Maintenance Allowance

10.-(1) An application for education maintenance allowance must be submitted to the Welsh Ministers by 31 March.

(2) Paragraph (1) does not apply where-

- (a) an eligible person applies for an education maintenance allowance after the start of the academic year; and
- (b) the application is received by the Welsh Ministers on or before 31 October,

in which case payment may be backdated to the start of the academic year.

(3) Paragraph (1) does not apply where-

- (a) an eligible person applies for an education maintenance allowance after the start of the academic year; and
- (b) the application is received by the Welsh Ministers after 31 October,

in which case payment may be backdated to the date on which the Welsh Ministers received the application form, or the start date of the course, whichever is later.

(4) Any back-payment made under this regulation is subject to the rules about weekly awards of maintenance allowance in regulation 7.

Prohibition of dual funding

11. An eligible person is not to receive education maintenance allowance for any period of time during which he or she is in receipt of a paid work placement or training allowance.

Overpayment

12. An eligible person must, if so required by the Welsh Ministers, repay any amount paid to the eligible person under these Regulations which for whatever reason-

- (a) exceeds the amount of education maintenance allowance to which he or she is entitled under these Regulations; or
- (b) the eligible person was not entitled to receive under these Regulations.

Jane E Hart

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.

4 Awst 2007

4 August 2007

Personau Cymwys

Eligible Persons

RHAN 1

PART 1

Dehongli

Interpretation

1.-(1) At ddibenion yr Atodlen hon -

ystyr "aelod o'r teulu" ("*family member*") (oni nodir fel arall) -

- (a) o ran gweithiwr y ffin o'r AEE, gweithiwr mudol o'r AEE, person hunangyflogedig y ffin o'r AEE neu berson hunangyflogedig o'r AEE yw -
 - (i) ei briod neu ei bartner sifil;
 - (ii) ei blentyn neu blentyn ei briod neu blentyn ei bartner sifil; neu
 - (iii) perthnasau uniongyrchol dibynnol yn ei linach esgynnol neu yn llinach esgynnol ei briod neu ei bartner sifil;
- (b) o ran person cyflogedig Swisaidd, person cyflogedig Swisaidd y ffin, person hunangyflogedig Swisaidd y ffin neu berson hunangyflogedig Swisaidd -
 - (i) ei briod neu ei bartner sifil; neu
 - (ii) ei blentyn neu blentyn ei briod neu blentyn ei bartner sifil;
- (c) o ran gwladolyn y GE nad yw'n hunangynhaliol -
 - (i) ei briod neu ei bartner sifil; neu
 - (ii) ei ddisgynyddion uniongyrchol neu ddisgynyddion uniongyrchol ei briod neu ei bartner sifil-
 - (aa)sydd o dan 21 mlwydd oed; neu
 - (bb)sy'n ddibynyddion iddo neu sy'n ddibynyddion i'w briod neu i'w bartner sifil;
- (ch) o ran gwladolyn y GE sy'n hunangynhaliol-
 - (i) ei briod neu ei bartner sifil; neu
 - (ii) ei ddisgynyddion uniongyrchol neu ddisgynyddion uniongyrchol ei briod neu ei bartner sifil-
 - (aa)sydd o dan 21 mlwydd oed; neu
 - (bb)sy'n ddibynyddion iddo neu sy'n ddibynyddion i'w briod neu i'w bartner sifil;
 - (iii) perthnasau uniongyrchol dibynnol yn ei linach esgynnol neu yn llinach esgynnol ei

1.-(1) For the purposes of this Schedule-

"Directive 2004/38" ("*Cyfarwyddeb 2004/38*") means Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004(1) on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

"EC national" ("*Gwladolyn o'r GE*") means a national of a Member State of the European Community;

"EEA" ("*AEE*") means the European Economic Area which is the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

"EEA frontier self-employed person" ("*person hunangyflogedig ffin yr AEE*") means an EEA national who -

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

"EEA frontier worker" ("*gweithiwr ffin yr AEE*") means an EEA national who-

- (a) is a worker in the United Kingdom; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

"EEA migrant worker" ("*gweithiwr mudol AEE*") means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

"EEA national" ("*gwladolyn o'r AEE*") means a national of an EEA State other than the United Kingdom;

"EEA self-employed person" ("*person hunangyflogedig AEE*") means an EEA national who is a self-employed person, other than an EEA

(1) OJ L158, 30.04.2004, pp 77-123.

briod neu ei bartner sifil;

(d) o ran gwladolyn y Deyrnas Unedig, at ddibenion paragraff 9 -

(i) ei briod neu ei bartner sifil; neu

(ii) ei ddisgynyddion uniongyrchol neu ddisgynyddion uniongyrchol ei briod neu ei bartner sifil-

(aa) sydd o dan 21 mlwydd oed; neu

(bb) sy'n ddibynyddion iddo neu sy'n ddibynyddion i'w briod neu i'w bartner sifil;

ystyr "AEE" ("EEA") yw Ardal Economaidd Ewropeaidd, sef yr ardal sy'n ffurfio'r Gymuned Ewropeaidd, Gweriniaeth Iwerddon, Brenhiniaeth Norwy a Thywysogaeth Liechtenstein;

ystyr "Cyfarwyddeb 2004/38" ("*Directive 2004/38*") yw Cyfarwyddeb 2004/38/EC Senedd Ewrop a'r Cyngor ar 29 Ebrill 2004(1) ar hawliau dinasyddion yr Undeb ac aelodau o'u teuluoedd i symud ac i breswyllo'n rhydd yn nhiriogaeth yr Aelod-wladwriaethau;

ystyr "Cytundeb y Swistir" ("*Swiss Agreement*") yw'r Cytundeb rhwng y Gymuned Ewropeaidd a'i Haelod-wladwriaethau, o'r naill barti, a'r Conffederasiwn Swisaidd, o'r llall, ar Rydd Symudiad Personau a lofnodwyd yn Luxembourg ar 21 Mehefin 1999(2) ac a ddaeth i rym ar 1 Mehefin 2002;

ystyr "gweithiwr" ("*worker*") yw gweithiwr o fewn ystyr Erthygl 7 o Gyfarwyddeb 2004/38 neu o Gytundeb yr AEE(3), yn ôl y digwydd;

ystyr "gweithiwr mudol o'r AEE" ("*EEA migrant worker*") yw gwladolyn o'r AEE sy'n weithiwr ac eithrio gweithiwr y ffin o'r AEE, yn y Deyrnas Unedig;

ystyr "gweithiwr y ffin o'r AEE" ("*EEA frontier worker*") yw gwladolyn o'r AEE -

(a) sy'n weithiwr yn y Deyrnas Unedig; a

(b) sy'n preswyllo yn y Swistir neu yn nhiriogaeth Gwladwriaeth AEE ac eithrio'r Deyrnas Unedig ac sy'n dychwelyd i'w breswylfa yn y Swistir neu'r Wladwriaeth AEE honno, yn ôl y digwydd, bob dydd neu o leiaf unwaith yr wythnos;

ystyr "gwladolyn y Deyrnas Unedig" ("*United Kingdom national*") yw person sydd i'w drin fel gwladolyn o'r Deyrnas Unedig at ddibenion y Cytuniadau Cymunedol;

frontier self-employed person, in the United Kingdom;

"EEA State" ("*Gwladwriaeth AEE*") means a Member State of the European Economic Area;

"employed person" ("*person cyflogedig*") means an employed person within the meaning of Annex 1 to the Swiss Agreement;

"European Economic Area" ("*Ardal Economaidd Ewropeaidd*") means the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

"family member", ("*aelod o deulu*") unless otherwise indicated, means-

(a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person-

(i) his or her spouse or civil partner;

(ii) his or her child or the child of his or her spouse or civil partner; or

(iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;

(b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person -

(i) his or her spouse or civil partner; or

(ii) his or her child or the child of his or her spouse or civil partner;

(c) in relation to an EC national who is not self sufficient -

(i) his or her spouse or civil partner; or

(ii) direct descendants of his or her or of his or her spouse or civil partner who are-

(aa) under the age of 21; or

(bb) dependants of his or her or of his or her spouse or civil partner;

(d) in relation to an EC national who is self sufficient -

(i) his or her spouse or civil partner; or

(ii) direct descendants of his or her or of his or her spouse or civil partner who are-

(aa) under the age of 21; or

(bb) dependants of his or her or of his or her spouse or civil partner;

(1) OJ L158, 30.04.2004, tt.77-123.

(2) Cm. 4904.

(3) ystyr "Cytundeb yr AEE" yw'r Cytundeb ar yr Ardal Economaidd Ewropeaidd a lofnodwyd yn Oporto ar 2 Mai 1992 - Cm 2073, fel y'i haddaswyd gan y Protocol a lofnodwyd ym Mrwsel ar 17 Mawrth 1993, Cm. 2183.

ystyr "Gwladolyn y GE" ("*EC national*") yw gwladolyn o Aelod-wladwriaeth y Gymuned Ewropeaidd;

ystyr "gwladolyn yr AEE" ("*EEA national*") yw gwladolyn o'r Wladwriaeth AEE ac eithrio'r Deyrnas Unedig;

ystyr "Gwladwriaeth yr AEE" ("*EEA State*") yw Aelod-wladwriaeth yr Ardal Economaidd Ewropeaidd;

ystyr "hawl i breswyllo'n barhaol" ("*right of permanent residence*") yw hawl sy'n codi o dan Gyfarwyddeb 2004/38 i breswyllo yn y Deyrnas Unedig yn barhaol heb gyfyngiad;

ystyr "person cyflogedig" ("*employed person*") yw person cyflogedig o fewn ystyr Atodiad 1 i Gytundeb y Swistir;

ystyr "person cyflogedig Swisaidd" ("*Swiss employed person*") yw gwladolyn Swisaidd sydd yn berson cyflogedig, ac eithrio person Swisaidd cyflogedig y ffin, yn y Deyrnas Unedig;

ystyr "person cyflogedig Swisaidd y ffin" ("*Swiss frontier employed person*") yw gwladolyn Swisaidd-

- (a) sy'n berson cyflogedig yn y Deyrnas Unedig; a
- (b) sy'n preswyllo yn y Swistir neu yn nhiriogaeth Gwladwriaeth AEE ac eithrio'r Deyrnas Unedig ac sy'n dychwelyd i'w breswylfa yn y Swistir neu yn y Wladwriaeth AEE honno, yn ôl y digwydd, bob dydd neu o leiaf unwaith yr wythnos;

ystyr "person hunangyflogedig" ("*self-employed person*") yw-

- (a) o ran gwladolyn AEE, person sy'n hunangyflogedig o fewn ystyr Erthygl 7 o Gyfarwyddeb 2004/38 neu o Gytundeb yr AEE, yn ôl y digwydd; neu
- (b) o ran gwladolyn Swisaidd, person sy'n hunangyflogedig o fewn ystyr Atodiad 1 i Gytundeb y Swistir;

ystyr "person hunangyflogedig AEE" ("*EEA self-employed person*") yw gwladolyn o'r AEE sy'n berson hunangyflogedig, ac eithrio person hunangyflogedig y ffin o'r AEE, yn y Deyrnas Unedig;

ystyr "person hunangyflogedig Swisaidd" ("*Swiss self-employed person*") yw gwladolyn Swisaidd sy'n berson hunangyflogedig, ac eithrio person hunangyflogedig Swisaidd y ffin, yn y Deyrnas Unedig;

- (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9 -
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are-
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;

"person with leave to enter or remain" ("*person sydd â chaniatâd i ddod i mewn neu aros*") means a person who-

- (a) has been informed by a person acting under the authority of the Secretary of the State for the Home Department that, although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly (and which grant has not been revoked); and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain;

"right of permanent residence" ("*hawl i breswyllo'n barhaol*") means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

"self-employed person" ("*person hunangyflogedig*") means-

- (a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

"settled" ("*wedi setlo*") has the meaning given by section 33(2A) of the Immigration Act 1971(1);

"Swiss Agreement" ("*Cytundeb y Swistir*") means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999(2) and which came into force on 1 June 2002;

(1) 1971 c.77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c.61).

(2) Cm. 4904.

ystyr "person hunangyflogedig Swisaidd y ffin" ("*Swiss frontier self-employed person*") yw gwladolyn Swisaidd-

- (a) sy'n berson hunangyflogedig yn y Deyrnas Unedig; a
- (b) sy'n preswyllo yn y Swistir neu yn nhiriogaeth Gwladwriaeth AEE ac eithrio'r Deyrnas Unedig ac sy'n dychwelyd i'w breswylfa yn y Swistir neu yn y Wladwriaeth AEE honno, yn ôl y digwydd, bob dydd neu o leiaf unwaith yr wythnos;

ystyr "person hunangyflogedig y ffin o'r AEE" ("*EEA frontier self-employed person*") yw gwladolyn o'r AEE -

- (a) sy'n berson hunangyflogedig yn y Deyrnas Unedig; a
- (b) sy'n preswyllo yn y Swistir neu yn nhiriogaeth Gwladwriaeth AEE ac eithrio'r Deyrnas Unedig ac sy'n dychwelyd i'w breswylfa yn y Swistir neu'r Wladwriaeth AEE honno, yn ôl y digwydd, bob dydd neu o leiaf unwaith yr wythnos;

ystyr "person sydd â chaniatâd i ddod i mewn neu aros" ("*person with leave to enter or remain*") yw person-

- (a) a gafodd ei hysbysu gan berson sy'n gweithredu o dan awdurdod yr Ysgrifennydd Gwladol dros yr Adran Gartref y tybir, er ystyried nad yw'n gymhwysol i'w gydnabod fel ffoadur, ei bod yn iawn caniatáu iddo ddod i mewn i'r Deyrnas Unedig neu aros yno;
- (b) a gafodd ganiatâd i ddod i mewn neu aros yn unol â hynny (ac na chafodd y caniatâd hwnnw ei ddirymu); ac
- (c) sydd wedi bod yn preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod ers pan gafodd ganiatâd i ddod i mewn neu aros;

mae i "wedi setlo" yr ystyr a roddir i "*settled*" yn adran 33(2A) o Ddeddf Mewnffudo 1971(1).

(2) At ddibenion yr Atodlen hon, mae "rhiant" ("*parent*") yn cynnwys gwarcheidwad, unrhyw berson arall sydd â chyfrifoldeb rhiant dros y plentyn ac unrhyw berson a chanddo ofal plentyn a rhaid dehongli "plentyn" ("*child*") yn unol â hynny.

(3) At ddibenion yr Atodlen hon, mae person i gael ei drin fel petai'n preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd neu yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir pe byddai wedi bod yn preswyllo felly oni bai-

- (a) ei fod ef;
- (b) bod ei briod neu ei bartner sifil;

"Swiss employed person" ("*person Swisaidd cyflogedig*") means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

"Swiss frontier employed person" ("*person Swisaidd cyflogedig y ffin*") means a Swiss national who-

- (a) is an employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

"Swiss frontier self-employed person" ("*person Swisaidd hunangyflogedig y ffin*") means a Swiss national who-

- (a) is a self-employed person in the United Kingdom; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

"Swiss self-employed person" ("*person Swisaidd hunangyflogedig*") means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

"United Kingdom national" ("*gwladolyn o'r Deyrnas Unedig*") means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

"worker" ("*gweithiwr*") means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement(1), as the case may be.

(2) For the purposes of this Schedule, "parent" ("*rhiant*") includes a guardian, any other person having parental responsibility for a child and any person having care of a child and "child" ("*plentyn*") is to be construed accordingly.

(3) For the purposes of this Schedule, a person is to be treated as ordinarily resident in the United Kingdom and Islands or in the territory comprising the EEA and Switzerland if he or she would have been so resident but for the fact that -

- (a) he or she;
- (b) his or her spouse or civil partner;

(1) 1971 p.77; mewnosodwyd adran 33(2A) gan baragraff 7 o Atodlen 4 i Ddeddf Cenedligrwydd Prydeinig 1981 (p.61).

(1) EEA Agreement means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 - Cm 2073, as adjusted by the Protocol signed at Brussels on 17 March 1993, Cm 2183.

- (c) bod ei riant; neu
- (ch) yn achos perthynas uniongyrchol dibynnol yn y llinell esgynnol, bod ei blentyn neu blentyn ei briod neu ei bartner sifil,

mewn cyflogaeth dros dro y tu allan i'r Deyrnas Unedig a'r Ynysoedd neu wedi bod mewn cyflogaeth felly, neu, yn ôl y digwydd, y tu allan i'r diriogaeth sy'n ffurfio'r AEE a'r Swistir.

(4) At ddibenion is-baragraff (4), mae cyflogaeth dros dro y tu allan i'r Deyrnas Unedig a'r Ynysoedd neu'r diriogaeth sy'n ffurfio'r AEE a'r Swistir yn cynnwys -

- (a) yn achos aelodau o lynges, o fyddin neu o awyrlu rheolaidd y Goron, unrhyw gyfnod pan fônt yn gwasanaethu fel aelodau o'r lluoedd hynny y tu allan i'r Deyrnas Unedig; a
- (b) yn achos aelodau o luoedd arfog rheolaidd Gwladwriaeth AEE neu'r Swistir, unrhyw gyfnod pan fônt yn gwasanaethu fel aelodau o'r lluoedd hynny y tu allan i'r diriogaeth sy'n ffurfio'r AEE a'r Swistir.

(5) At ddibenion yr Atodlen hon mae ardal -

- (a) nad oedd gynt yn rhan o'r Gymuned Ewropeaidd neu o'r AEE; ond
- (b) sydd ar unrhyw adeg cyn i'r Rheoliadau hyn ddod i rym neu wedi hynny wedi dod yn rhan o'r naill neu'r llall o'r ardaloedd hyn neu o'r ddwy ohonynt, i gael ei hystyried fel petai wedi bod erioed yn rhan o'r AEE.

RHAN 2

Categorïau

Personau sydd wedi setlo yn y Deyrnas Unedig

2.-(1) Person sydd, ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs -

- (a) wedi setlo yn y Deyrnas Unedig ac eithrio drwy fod wedi caffael yr hawl i breswyllo'n barhaol;
- (b) yn preswyllo fel arfer yn y Deyrnas Unedig;
- (c) wedi bod yn preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; ac
- (ch) yn ddarostyngedig is-baragraff (2), person na fu ei breswyllo yn y Deyrnas Unedig a'r Ynysoedd yn ystod unrhyw ran o'r cyfnod y cyfeirir ato ym mharagraff (c) yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser.

(2) Nid yw Paragraff (ch) o is-baragraff (1) yn gynnwys i berson a drinnir fel petai'n preswyllo fel

- (c) his or her parent; or
- (d) in the case of a dependent direct relative in the ascending line, his or her child or child's spouse or civil partner,

is or was temporarily employed outside the United Kingdom and Islands or, as the case may be, outside the territory comprising the EEA and Switzerland.

(4) For the purposes of sub-paragraph (3), temporary employment outside the United Kingdom and Islands or the territory comprising the EEA and Switzerland includes -

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the EEA and Switzerland as members of such forces.

(5) For the purposes of this Schedule an area which -

- (a) was previously not part of the European Community or the EEA; but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas, is to be considered to have always been a part of the EEA;

PART 2

Categories

Persons who are settled in the United Kingdom

2.-(1) - A person who on the first day of the first academic year of the course -

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in the United Kingdom;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily

arfer yn y Deyrnas Unedig a'r Ynysoedd yn unol â pharagraff 1(4).

3. Person -

- (a) sydd wedi setlo yn y Deyrnas Unedig yn rhinwedd ei fod wedi caffael yr hawl i breswyllo'n barhaol;
- (b) sy'n preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (ch) mewn achos pan fu ei breswyllyad fel y cyfeirir ato ym mharagraff (c) yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser, person a oedd yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn union cyn y cyfnod o breswyllyad arferol y cyfeirir ato ym mharagraff (c).

Ffoaduriaid a phersonau sydd â chaniatâd i ddod i mewn neu aros

4.-(1) Person

- (a) sydd yn ffoadur;
- (b) sy'n preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd nad yw wedi peidio â phreswyllo felly ers pan gafodd ei gydnabod fel ffoadur; ac
- (c) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

(2) Person-

- (a) sydd yn briod neu'n bartner sifil i ffoadur;
- (b) a oedd yn briod neu'n bartner sifil i'r ffoadur ar y dyddiad pan wnaeth y ffoadur gais am loches;
- (c) sy'n preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd nad yw wedi peidio â phreswyllo felly ers pan gafodd ganiatâd i aros yn y Deyrnas Unedig; ac
- (ch) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

(3) Person-

- (a) sydd yn blentyn i ffoadur neu'n blentyn i briod neu i bartner sifil ffoadur;
- (b) a oedd ar y dyddiad pan wnaeth y ffoadur gais am loches yn blentyn i'r ffoadur neu'n blentyn i berson a oedd yn briod neu'n bartner sifil i'r ffoadur ar y dyddiad hwnnw;
- (c) a oedd o dan 18 oed ar y dyddiad pan wnaeth y ffoadur gais am loches;

resident in the United Kingdom and Islands in accordance with paragraph 1(4).

3. A person who-

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her residence as 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 EEA and Switzerland immediately before the period of ordinary residence as referred to in paragraph (c).

Refugees and persons with leave to enter or remain

4.-(1) A person who-

- (a) is a refugee;
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was recognised as a refugee; and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who-

- (a) is the spouse or civil partner of a refugee;
- (b) was the spouse or civil partner of the refugee on the date on which the refugee made his or her application for asylum;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
- (d) is ordinarily resident in Wales on the first day of the first academic year of the course.

(3) A person who-

- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;
- (b) on the date on which the refugee made his or her application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
- (c) was under 18 on the date on which the refugee made his or her application for asylum;

- (ch) sy'n preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd nad yw wedi peidio â phreswyllo felly ers pan gafodd ganiatâd i aros yn y Deyrnas Unedig; a
- (d) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

Personau sydd â chaniatâd i ddod i mewn neu aros ac aelodau o'u teulu

5.-(1) Person-

- (a) sydd â chaniatâd i ddod i mewn neu aros;
- (b) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (c) sydd wedi preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd yn union o flaen diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

(2) Person-

- (a) sydd yn yn briod neu'n bartner sifil i berson sydd â chaniatâd i ddod i mewn neu aros;
- (b) a oedd yn briod neu'n bartner sifil i berson sydd â chaniatâd i ddod i mewn neu aros ar y dyddiad pan wnaeth y person hwnnw gais am loches;
- (c) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (ch) sydd wedi preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd yn union o flaen diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

(3) Person-

- (a) sydd yn yn blentyn i berson sydd â chaniatâd i ddod i mewn neu aros neu'n blentyn i briod neu i bartner sifil person sydd â chaniatâd i ddod i mewn neu aros;
- (b) a oedd ar y dyddiad pan wnaeth y person sydd â chaniatâd i ddod i mewn neu aros gais am loches, yn blentyn i'r person hwnnw neu'n blentyn i berson a oedd yn briod neu'n bartner sifil i'r person hwnnw ar y dyddiad hwnnw;
- (c) a oedd o dan 18 oed ar y dyddiad pan wnaeth y person sydd â chaniatâd i ddod i mewn neu aros gais am loches;
- (ch) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; a
- (d) sydd wedi preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd yn union o flaen diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

- (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he or she was given leave to remain in the United Kingdom; and
- (e) is ordinarily resident in Wales on the first day of the first academic year of the course.

Persons with leave to enter or remain and their family members

5.-(1) A person-

- (a) with leave to enter or remain-
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person-

- (a) who is the spouse or civil partner of a person with leave to enter or remain;
- (b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made his or her application for asylum;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(3) A person-

- (a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;
- (b) who, on the date on which the person with leave to enter or remain made his or her application for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;
- (c) who was under 18 on the date on which the person with leave to enter or remain made his or her application for asylum;
- (d) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

Gweithwyr, personau cyflogedig, personau hunangyflogedig ac aelodau o'u teulu

6.-(1) Person-

- (a) sydd -
- (i) yn weithiwr mudol o'r AEE neu yn berson hunangyflogedig o'r AEE;
 - (ii) yn berson cyflogedig Swisaidd neu'n berson hunangyflogedig Swisaidd;
 - (iii) yn aelod o deulu person a grybwyllir ym mharagraff (i) neu (ii);
 - (iv) yn weithiwr y ffin o'r AEE neu'n berson hunangyflogedig y ffin o'r AEE;
 - (v) yn berson cyflogedig Swisaidd y ffin neu'n berson hunangyflogedig Swisaidd y ffin; neu
 - (vi) yn aelod o deulu person a grybwyllir ym mharagraff (iv) neu (v);
- (b) yn ddarostyngedig i is-baragraff (2), sy'n preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; ac
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs.

(2) Nid yw paragraff (b) o is-baragraff (1) yn gymwys pan fo'r person sy'n gwneud cais am gymorth yn dod o fewn paragraff (a)(iv), (v) neu (vi) o is-baragraff (1).

7. Person-

- (a) sy'n preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs;
- (b) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; ac
- (c) sydd â hawl i gymorth yn rhinwedd Erthygl 12 o Reoliad y Cyngor (EEC) Rhif 1612/68 ar rydd symudiad gweithwyr(1), fel y'i hestynnwyd gan Gytundeb yr AEE.

Personau sydd wedi setlo yn y Deyrnas Unedig ac sydd wedi arfer hawl i breswyllo mewn man arall

8.-(1) Person-

- (a) sydd wedi setlo yn y Deyrnas Unedig;
- (b) sydd wedi ymadael â'r Deyrnas Unedig ac wedi arfer hawl i breswyllo ar ôl iddo fod wedi setlo yn y Deyrnas Unedig;

Workers, employed persons, self-employed persons and their family members

6.-(1) A person who-

- (a) is -
- (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who-

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers(1), as extended by the EEA Agreement.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.-(1) A person who-

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;

(1) OJ Rhif L257, 19.10.1968, t2 (OJ/SE 1968 (II) t475).

(1) OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

- (c) sy'n preswyllo fel arfer yn y Deyrnas Unedig ar y diwrnod pan fydd tymor cyntaf y flwyddyn academaidd gyntaf yn dechrau mewn gwirionedd;
- (ch) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r 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 breswyliaid fel y cyfeirir ato ym mharagraff (ch) yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser, oedd yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn union cyn y cyfnod o breswyliaid arferol y cyfeirir ato ym mharagraff (ch).

(2) At ddibenion y paragraff hwn, mae person wedi arfer hawl i breswyllo os yw'n wladolyn o'r Deyrnas Unedig, yn aelod o deulu gwladolyn o'r Deyrnas Unedig at ddibenion Erthygl 7 o Gyfarwyddeb 2004/38 (neu ddibenion cyfatebol o dan Gytundeb yr AEE neu Gytundeb y Swistir) neu'n berson a chanddo hawl i breswyllo'n barhaol sydd ymhob achos 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 neu, yn achos person sydd wedi setlo yn y Deyrnas Unedig ac sydd â hawl i breswyllo'n barhaol, os yw'n mynd i'r wladwriaeth o fewn y diriogaeth sy'n ffurfio'r AEE a'r Swistir y mae'n wladolyn ohoni neu y mae'r person y mae ef yn aelod o'i deulu yn wladolyn ohoni.

Gwladolion o'r GE

9.-(1) Person sydd -

- (a) naill ai -
 - (i) yn wladolyn y GE ar ddiwrnod cyntaf blwyddyn academaidd gyntaf y cwrs; neu
 - (ii) yn aelod o deulu'r cyfryw berson;
- (b) yn dilyn cwrs addysg cymwys; neu
- (c) wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn gyntaf y cwrs; ac
- (ch) yn ddarostyngedig i is-baragraff (2), nad yw ei breswyliaid arferol yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn ystod unrhyw ran o'r cyfnod y cyfeirir ato ym mharagraff (c) wedi bod yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser.

(2) Nid yw paragraff (ch) o is-baragraff (1) yn gymwys i berson a drinnir fel un sy'n preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn unol â pharagraff 1(4).

- (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his or her ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (d) .

(2) For the purposes of this paragraph, a person has exercised a right of residence if he or she is a United Kingdom national, a family member of a United Kingdom National for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he or she goes to the state within the territory comprising the EEA and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national.

EC nationals

9.-(1) A person who -

- (a) is either -
 - (i) an EC national on the first day of the first academic year of the course; or
 - (ii) a family member of a such a person;
- (b) is attending an eligible education course; or
- (c) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the EEA and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the EEA and Switzerland in accordance with paragraph 1(4).

(3) Pan fo gwladwriaeth yn ymaelodi â'r Gymuned Ewropeaidd ar ôl diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs a phan fo person yn wladolyn o'r wladwriaeth honno neu'n aelod o deulu gwladolyn o'r wladwriaeth honno, trinnir y gofyniad ym mharagraff (a) o is-baragraff (1) bod y person yn wladolyn y GE ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs fel gofyniad sydd wedi'i fodloni.

10.-(1) Person sydd-

- (a) yn wladolyn y GE nad yw'n wladolyn o'r Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (b) yn preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (c) wedi bod yn preswyllo fel arfer yn y Deyrnas Unedig a'r Ynysoedd drwy gydol y cyfnod o dair blynedd yn union cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (ch) pan fo'i breswyliaid arferol y cyfeirir ato ym mharagraff (c) yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser, ac yr oedd yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn union cyn cyfnod y preswyliaid arferol y cyfeirir ato ym mharagraff (c).

(2) Pan fo gwladwriaeth yn ymaelodi â'r Gymuned Ewropeaidd ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs a phan fo person yn wladolyn o'r wladwriaeth honno, trinnir y gofyniad ym mharagraff (a) o is-baragraff (1) bod y person yn wladolyn o'r GE nad yw'n wladolyn o'r Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs fel gofyniad sydd wedi'i fodloni.

Plant Gwladolion o'r Swistir

11. Person -

- (a) sy'n blentyn i wladolyn o'r Swistir ac sydd â hawl i gymorth yn y Deyrnas Unedig yn rhinwedd Erthygl 3(6) o Atodiad 1 i Gytundeb y Swistir;
- (b) sydd yn preswyllo fel arfer yn y Deyrnas Unedig ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs;
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (ch) pan fo'i breswyliaid arferol y cyfeirir ato ym mharagraff (c) yn llwyr neu'n bennaf at ddibenion cael addysg lawnamser, ac yr oedd fel arfer yn preswyllo yn y diriogaeth sy'n ffurfio'r AEE a'r Swistir yn union cyn cyfnod y preswyliaid

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

10.-(1) A person who-

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his or her 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 EEA and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

Children of Swiss nationals

11. 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 the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her 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 EEA and Switzerland

arferol y cyfeirir ato ym mharagraff (c).

immediately prior to the period of ordinary residence referred to in paragraph (c).

Plant gweithwyr o Dwrci

12. Person -

- (a) sy'n blentyn i weithiwr o Dwrci;
- (b) sy'n preswyllo fel arfer yng Nghymru ar ddiwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs; ac
- (c) sydd wedi bod yn preswyllo fel arfer yn y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir a Thwrci drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs.

Children of Turkish workers

12. A person who-

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

OFFERYNNAU STATUDOL
CYMRU

2007 Rhif 2311 (Cy.182)

ADDYSG, CYMRU

Rheoliadau Lwfansau Cynhaliaeth
Addysg (Cymru)
2007

WELSH
STATUTORY INSTRUMENTS

2007 No. 2311 (W.182)

EDUCATION, WALES

Education Maintenance
Allowances (Wales) Regulations
2007

© Hawlfraint y Goron 2007

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

© Crown copyright 2007

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

W125/09/07

ON