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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2011 Rhif 823 (Cy.122)**

**2011 No. 823 (W.122)**

**PLANT A PHOBL IFANC,  
CYMRU**

**CHILDREN AND YOUNG  
PERSONS, WALES**

Rheoliadau Deddf Plant 1989  
(Bwrsari Addysg Uwch) (Cymru)  
2011

The Children Act 1989 (Higher  
Education Bursary) (Wales)  
Regulations 2011

**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 wedi eu gwneud o dan adran 23C(5B) o Ddeddf Plant 1989 ("Deddf 1989"). Gan mai dyma'r tro cyntaf y mae'r pwerau yn adran 23C(5B)(b) (sy'n rhagnodi beth yw ystyr "*higher education*" at ddibenion adran 23C(5A)) wedi eu harfer gan Weinidogion Cymru, mae'r Rheoliadau wedi eu gosod ar ffurf drafft gerbron Cynulliad Cenedlaethol Cymru, ac wedi eu cymeradwyo drwy benderfyniad ganddo, yn unol ag adran 104A(3) a (4) o Ddeddf 1989.

These Regulations are made under section 23C(5B) of the Children Act 1989 ("the 1989 Act"). As this is the first time the powers in section 23C(5B)(b) (prescribing the meaning of "*higher education*" for the purposes of section 23C(5A)) have been exercised by the Welsh Ministers, the Regulations have been laid in draft before, and approved by a resolution of, the National Assembly for Wales in accordance with section 104A(3) and (4) of the 1989 Act.

Mae rheoliad 3 yn rhagnodi mai £2,000 yw'r swm perthnasol (bwrsari addysg uwch) sy'n daladwy o dan adran 23C(5A) o Ddeddf 1989 gan awdurdod lleol i gyn blentyn perthnasol. Mae bwrsari addysg uwch yn daladwy i gyn blentyn perthnasol sy'n dechrau cwrs addysg uwch ar neu ar ôl 1 Medi 2010 yn unol â'i gynllun llwybr.

Regulation 3 prescribes that the relevant amount (higher education bursary) payable under section 23C(5A) of the 1989 Act by a local authority to a former relevant child is £2,000. A higher education bursary is payable to a former relevant child who begins a higher education course on or after 1 September 2010 in accordance with their pathway plan.

Mae cyn blentyn perthnasol yn berson sy'n 18 oed neu'n hŷn ac a oedd gynt naill ai'n blentyn perthnasol neu'n blentyn cymwys at ddibenion Deddf 1989.

A former relevant child is a person aged 18 or above who was previously either a relevant child or an eligible child for the purposes of the 1989 Act.

Mae cynllun llwybr yn gynllun sy'n nodi'r cyngor, y cymorth a'r gefnogaeth y mae awdurdod lleol yn bwriadu eu rhoi i gyn blentyn perthnasol.

A pathway plan is a plan setting out the advice, assistance and support which a local authority intend to provide to a former relevant child.

Mae rheoliad 4 yn rhagnodi mai ystyr "addysg uwch" yw cwrs addysg uwch sy'n arwain at radd gyntaf neu gymhwyster arall o safon gyfwerth, sy'n para am ddwy flynedd o leiaf (pan fo'n cael ei ddilyn fel cwrs amser-llawn neu gwrw rhan-amser sy'n gyfwerth â'r cwrs amser-llawn) ac sydd wedi ei ddynodi gan neu o dan

Regulation 4 prescribes the meaning of "*higher education*" as being a course of higher education leading to a first degree or other qualification of an equivalent standard, that is of at least two years' duration (when taken as a full-time course or a part-time equivalent) and is designated by or under

Reoliadau a wnaed o dan adran 22 o Ddeddf Addysgu ac Addysg Uwch 1998.

Mae rheoliad 5 yn gwneud darpariaeth ar gyfer talu'r bwrsari addysg uwch fel cyfandaliad neu drwy randaliadau. Mater i'r awdurdod lleol yw penderfynu ynghylch y dull talu ar ôl iddo, cyn belled ag y bo'n rhesymol ymarferol, ddarganfod beth yw dymuniadau a theimladau'r cyn blentyn perthnasol a rhoi ystyriaeth briodol iddynt. Os caiff y bwrsari addysg uwch ei dalu fel cyfandaliad, rhaid iddo gael ei dalu gan yr awdurdod lleol i'r cyn blentyn perthnasol yn ystod blwyddyn academaidd gyntaf y cwrs addysg uwch. Os yw'r bwrsari addysg uwch i'w dalu drwy randaliad, rhaid i'r rhandaliad cyntaf gael ei dalu yn ystod blwyddyn academaidd gyntaf y cwrs addysg uwch, gan dalu'r rhandaliad terfynol cyn diwedd y cwrs addysg uwch. Fel arall, os yw'r cwrs yn para am 4 blynedd neu fwy, rhaid i'r rhandaliad terfynol gael ei dalu yn ystod 4 wythnos gyntaf pedwaredd flwyddyn y cwrs.

Mae rheoliad 5(5) yn caniatáu i'r awdurdod lleol atal unrhyw elfen o'r bwrsari addysg uwch sydd heb ei thalu yn ystod cyfnodau pan na fydd cyn blentyn perthnasol yn dilyn cwrs addysg uwch yn unol â'i gynllun llwybr.

Mae rheoliad 6 yn gwneud darpariaeth i'r awdurdod lleol adennill unrhyw symiau a delir drwy gamgymeriad i unrhyw berson.

Mae Asesiad Effaith Rheoleiddiol wedi'i baratoi mewn cysylltiad â'r Rheoliadau hyn. Gellir cael copi gan Llywodraeth Cynulliad Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Regulations made under section 22 of the Teaching and Higher Education Act 1998.

Regulation 5 makes provision for the payment of the higher education bursary as a lump sum or by instalments. It is for the local authority to decide on the method of payment having, as far as reasonably practicable, ascertained and given due consideration to the wishes and feelings of the former relevant child. If the higher education bursary is paid as a lump sum it must be paid by the local authority to the former relevant child during the first academic year of the course of higher education. If the higher education bursary is to be paid by instalment the first instalment must be paid during the first academic year of the course of higher education, with the final instalment being paid before the end of the course of higher education. Alternatively, if the course has a duration of 4 years or more, the final instalment must be paid in the first 4 weeks of the fourth year of the course.

Regulation 5(5) allows the local authority to withhold any unpaid element of the higher education bursary during periods when a former relevant child is not pursuing the higher education course in accordance with their pathway plan.

Regulation 6 makes provision for the local authority to recover any sums paid by mistake to any person.

A regulatory impact assessment has been prepared in connection with these Regulations. A copy can be obtained from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

2011 Rhif 823 (Cy.122)

**PLANT A PHOBL IFANC,  
CYMRU**

Rheoliadau Deddf Plant 1989  
(Bwrsari Addysg Uwch) (Cymru)  
2011

*Gwnaed*

*16 Mawrth 2011*

*Yn dod i rym yn unol â rheoliad 1*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 23C(5B) a 104(4) o Ddeddf Plant 1989(1), yn gwneud y Rheoliadau canlynol:

Yn unol ag adran 104A(3) a (4)(2) o'r Ddeddf honno, cafodd drafft o'r Rheoliadau hyn ei osod gerbron Cynulliad Cenedlaethol Cymru, a'i gymeradwyo ganddo drwy benderfyniad.

**Enwi, cychwyn a chymhwyso**

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Deddf Plant 1989 (Bwrsari Addysg Uwch) (Cymru) 2011.

(2) Daw'r Rheoliadau hyn i rym drannoeth y diwrnod y'u gwneir ac maent yn gymwys o ran Cymru.

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(1) 1989 p.41. Mewnosodwyd is-adran (5B) o adran 23C o Ddeddf Plant 1989 ("Deddf 1989") gan adran 21(2) o Ddeddf Plant a Phobl Ifanc 2008 ("Deddf 2008") (p.23). Ystyr "*prescribed*" yw wedi ei ragnodi mewn Rheoliadau a wnaed o dan Ddeddf 1989 - gweler adran 105 o Ddeddf 1989. Ystyr "*appropriate national authority*", mewn perthynas â Chymru, yw Gweinidogion Cymru - gweler adran 30A o Ddeddf 1989. Diwygiwyd adran 104(4) o Ddeddf 1989 gan baragraffau 1 a 25 o Atodlen 3 i Ddeddf 2008.

(2) Mewnosodwyd adran 104A o Ddeddf 1989 gan adran 39 o Ddeddf 2008 a pharagraffau 1 a 26 o Atodlen 3 iddi. Mae adran 104A(3) a (4) yn darparu na chaniateir i'r rheoliadau cyntaf sydd i'w gwneud drwy arfer y pŵer a roddwyd gan adran 23C(5B)(b) gael eu gwneud gan Weinidogion Cymru oni fydd drafft o'r offeryn statudol wedi ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy benderfyniad ganddo.

2011 No. 823 (W.122)

**CHILDREN AND YOUNG  
PERSONS, WALES**

The Children Act 1989 (Higher  
Education Bursary) (Wales)  
Regulations 2011

*Made*

*16 March 2011*

*Coming into force in  
accordance with regulation 1*

The Welsh Ministers, in exercise of the powers conferred by sections 23C(5B) and 104(4) of the Children Act 1989(1), make the following Regulations:

In accordance with section 104A(3) and (4)(2) of that Act, a draft of these Regulations was laid before, and approved by resolution of, the National Assembly for Wales.

**Title, commencement and application**

1.–(1) The title of these Regulations is the Children Act 1989 (Higher Education Bursary) (Wales) Regulations 2011.

(2) These Regulations come into force on the day after the day on which they are made and apply in relation to Wales.

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(1) 1989 c.41. Subsection (5B) of section 23C of the Children Act 1989 ("the 1989 Act") was inserted by section 21(2) of the Children and Young Persons Act 2008 ("the 2008 Act") (c.23). "*Prescribed*" means prescribed in Regulations made under the 1989 Act - see section 105 of the 1989 Act. "*Appropriate national authority*" means in relation to Wales the Welsh Ministers - see section 30A of the 1989 Act. Section 104(4) of the 1989 Act was amended by paragraphs 1 and 25 of Schedule 3 to the 2008 Act.

(2) Section 104A of the 1989 Act was inserted by section 39 of and paragraphs 1 and 26 of Schedule 3 to the 2008 Act. Section 104A (3) and (4) provide that the first regulations to be made in exercise of the power conferred by section 23C(5B)(b) shall not be made by the Welsh Ministers unless a draft of the statutory instrument has been laid before and approved by resolution of the National Assembly for Wales.

## Dehongli

2. Yn y Rheoliadau hyn ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Plant 1989.

## Y swm perthnasol

3. £2,000 yw "y swm perthnasol" ("*the relevant amount*") sydd wedi ei ragnodi at ddibenion adran 23C(5A) o Ddeddf 1989.

## Ystyr "addysg uwch"

4.–(1) Mae ystyr "addysg uwch" ("*higher education*") wedi ei ragnodi at ddibenion adran 23C(5A) o Ddeddf 1989 i olygu cwrs addysg sydd–

- (a) yn un o'r canlynol–
  - (i) gradd gyntaf;
  - (ii) cwrs ar gyfer y Diploma Addysg Uwch;
  - (iii) cwrs ar gyfer Diploma Cenedlaethol Uwch y Cyngor Addysg Busnes a Thechnegwyr neu Awdurdod Cymwysterau'r Alban;
  - (iv) cwrs ar gyfer hyfforddiant cychwynnol athrawon;
  - (v) cwrs ar gyfer hyfforddiant pellach i weithwyr ieuenctid a chymuned;
  - (vi) cwrs (nad yw'n ofynnol fel rheol cael gradd gyntaf neu gymhwyster cyfatebol i gael mynediad iddo) i baratoi ar gyfer arholiad proffesiynol ar lefel uwch;
- (b) yn un sy'n para am ddwy flynedd academaidd o leiaf (fel cwrs amser-llawn neu fel cwrs rhan-amser sydd wedi ei fynegi fel un sy'n gyfwerth ag amser llawn); ac
- (c) wedi ei ddynodi gan neu o dan Reoliadau a wnaed o dan adran 22(1) o Ddeddf Addysgu ac Addysg Uwch 1998(1) ar y dyddiad y mae'r cyn blentyn perthnasol(2) yn dechrau'r cwrs.

(2) At ddibenion is-baragraff (vi) mae arholiad ar lefel uwch yn un y mae ei safon yn uwch na'r canlynol–

- (a) yr arholiad safon uwch ar gyfer y Dystysgrif Addysg Gyffredinol neu'r arholiad lefel uwch ar gyfer Tystysgrif Addysg yr Alban; neu

## Interpretation

2. In these Regulations "the 1989 Act" ("*Deddf 1989*") means the Children Act 1989.

## Relevant amount

3. "The relevant amount" ("*y swm perthnasol*") for the purposes of section 23C(5A) of the 1989 Act is prescribed as £2,000.

## Meaning of "higher education"

4.–(1) "Higher education" ("*addysg uwch*") for the purposes of section 23C(5A) of the 1989 Act is prescribed as a course of education that is–

- (a) one of the following–
  - (i) a first degree;
  - (ii) a course for the Diploma of Higher Education;
  - (iii) a course for the Higher National Diploma of the Business and Technician Education Council or the Scottish Qualification Authority;
  - (iv) a course for the initial training of teachers;
  - (v) a course for the further training of youth and community workers;
  - (vi) a course (for entry to which a first degree or equivalent qualification is not normally required) in preparation for a professional examination at a higher level;
- (b) of at least two academic years' duration (as a full-time course or as a part-time course expressed as its full time equivalent); and
- (c) designated by or under Regulations made under section 22(1) of the Teaching and Higher Education Act 1998(1) on the date on which the former relevant child(2) starts the course.

(2) For the purposes of sub-paragraph (vi) an examination at a higher level is one that is of a standard higher than–

- (a) the examination at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or

(1) 1998 p.30. Adeg gwneud y Rheoliadau hyn y Rheoliadau perthnasol yw Rheoliadau Grantiau a Benthyciadau Dysgu y Cynulliad (Addysg Uwch) (Cymru) 2009 (O.S. 2009/2737) a Rheoliadau Addysg (Cymorth i Fyfrwyr) (Dawnsio a Drama) 1999 (O.S. 1999/2263).

(2) Diffinnir "*former relevant child*" yn adran 23C(1) o Ddeddf 1989. Mae'r Rheoliadau hyn yn ymwneud â chyn blentyn perthnasol yr oedd awdurdod lleol yng Nghymru yn gyfrifol amdano ddiwethaf.

(1) 1998 c.30. At the time of making these Regulations relevant Regulations are the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009 (S.I. 2009/2737) and the Education (Student Support) (Dance and Drama) Regulations 1999 (S.I. 1999/2263).

(2) "Former relevant child" is defined in section 23C(1) of the 1989 Act. These Regulations relate to a former relevant child for whom a local authority in Wales was last responsible.

- (b) yr arholiad ar gyfer Tystysgrif Genedlaethol neu Ddiploma Cenedlaethol y Cyngor Addysg Busnes a Thechnegwyr neu Awdurdod Cymwysterau'r Alban.

- (b) the examination for the National Certificate or the National Diploma of the Business and Technician Education Council or the Scottish Qualification Authority.

### **Darparu ynghylch talu'r swm perthnasol**

5.-(1) Caiff yr awdurdod lleol(1) dalu'r swm perthnasol i gyn blentyn perthnasol fel cyfandaliad neu drwy randaliadau.

(2) Yn achos cyn blentyn perthnasol a ddechreuodd addysg uwch ar neu ar ôl 1 Medi 2010 ond cyn 1 Medi 2011—

- (a) os yw'r swm perthnasol i'w dalu fel cyfandaliad, rhaid iddo gael ei dalu erbyn 30 Mehefin 2011; a
- (b) os yw'r swm perthnasol i'w dalu drwy randaliadau—
  - (i) rhaid i'r rhandaliad cyntaf gael ei dalu erbyn 30 Mehefin 2011; a
  - (ii) rhaid i'r rhandaliad terfynol gael ei dalu cyn diwedd y cwrs neu heb fod yn fwy na phedair wythnos ar ôl dechrau pedwaredd flwyddyn y cwrs, p'un bynnag yw'r cynharaf.

(3) Yn achos cyn blentyn perthnasol sy'n dechrau addysg uwch ar neu ar ôl 1 Medi 2011—

- (a) os yw'r swm perthnasol i'w dalu fel cyfandaliad, rhaid iddo gael ei dalu erbyn 31 Rhagfyr 2011 neu heb fod yn fwy na thri mis ar ôl dechrau'r cwrs, p'un bynnag yw'r diweddaraf; a
- (b) os yw'r swm perthnasol i'w dalu drwy randaliadau—
  - (i) rhaid i'r rhandaliad cyntaf gael ei dalu erbyn 31 Rhagfyr 2011 neu heb fod yn fwy na thri mis ar ôl dechrau'r cwrs, p'un bynnag yw'r diweddaraf; a
  - (ii) rhaid i'r rhandaliad terfynol gael ei dalu cyn diwedd y cwrs neu heb fod yn fwy na phedair wythnos ar ôl dechrau pedwaredd flwyddyn y cwrs, p'un bynnag yw'r cynharaf.

(4) Cyn gwneud unrhyw benderfyniad ynghylch talu'r swm perthnasol o dan baragraff (1) rhaid i'r awdurdod lleol, cyn belled ag y bo'n rhesymol ymarferol, ddarganfod beth yw dymuniadau a theimladau'r cyn blentyn perthnasol a rhoi ystyriaeth briodol iddynt.

### **Provision as to the payment of the relevant amount**

5.-(1) The local authority(1) may pay the relevant amount to a former relevant child as a lump sum or by instalments.

(2) In the case of a former relevant child who started higher education on or after 1 September 2010 but before 1 September 2011—

- (a) if the relevant amount is to be paid as a lump sum, it must be paid by 30 June 2011; and
- (b) if the relevant amount is to be paid by instalments—
  - (i) the first instalment must be paid by 30 June 2011; and
  - (ii) the final instalment must be paid before the end of the course or not more than four weeks after the start of the fourth year of the course, whichever is the earlier.

(3) In the case of a former relevant child who starts higher education on or after 1 September 2011—

- (a) if the relevant amount is to be paid as a lump sum, it must be paid by 31 December 2011 or not more than three months after the start of the course, whichever is later; and
- (b) if the relevant amount is to be paid by instalments—
  - (i) the first instalment must be paid by 31 December 2011 or not more than three months after the start of the course, whichever is later; and
  - (ii) the final instalment must be paid before the end of the course or not more than four weeks after the start of the fourth year of the course, whichever is the earlier.

(4) Before making any decision about payment of the relevant amount under paragraph (1) the local authority must, as far as reasonably practicable, ascertain and give due consideration to the wishes and feelings of the former relevant child.

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(1) Y cyngor sir neu'r cyngor bwrdeistref sirol yng Nghymru a oedd yn gyfrifol ddiwethaf dros gyn blentyn perthnasol yw "yr awdurdod lleol".

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(1) "The local authority" is the council of a county or county borough in Wales that was last responsible for a former relevant child.

(5) Caiff yr awdurdod lleol atal talu unrhyw ran weddilliol o'r swm perthnasol sydd heb ei thalu yn ystod unrhyw gyfnod pan nad yw'r cyn blentyn perthnasol yn dilyn addysg uwch yn unol â'r cynllun llwybr(1) ar ei gyfer.

#### **Adennill y swm perthnasol gan yr awdurdod lleol**

6. Caiff yr awdurdod lleol adennill y cyfan o'r swm perthnasol neu unrhyw ran ohono oddi wrth berson y mae taliad wedi ei wneud iddo os yw camgymeriad wedi ei wneud ynglŷn â chymhwystra'r person hwnnw i gael y taliad.

(5) The local authority may withhold payment of any unpaid balance of the relevant amount during any period when the former relevant child is not pursuing higher education in accordance with the pathway plan(1) for that person.

#### **Recovery of the relevant amount by the local authority**

6. The local authority may recover the whole of the relevant amount or any part of it from a person to whom payment has been made if there has been a mistake as to the eligibility of that person for the payment.

*Leighton Andrews*

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

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

16 Mawrth 2011

16 March 2011

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(1) Mae "*pathway plan*" wedi ei ddiffinio yn adran 23E o Ddeddf 1989, a fewnosodwyd gan adran 3 o Ddeddf Plant (Ymadael â Gofal) 2000 (p.35).

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(1) "*Pathway plan*" is defined in section 23E of the 1989 Act, inserted by section 3 of the Children (Leaving Care) Act 2000 (c.35).

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OFFERYNNAU STATUDOL  
CYMRU

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**2011 Rhif 823 (Cy.122)**

**PLANT A PHOBL IFANC,  
CYMRU**

Rheoliadau Deddf Plant 1989  
(Bwrsari Addysg Uwch) (Cymru)  
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