

**2008 No. 2140 (W. 189)**

**EDUCATION, WALES**

**The Assembly Learning Grants and  
Loans (Higher Education) (Wales)  
(Amendment) Regulations 2008**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008 (S.I. 2008/1273) (W.130) (“the 2008 Regulations”) provide for financial support for students who are ordinarily resident in Wales taking designated higher education courses in respect of academic years beginning on or after 1 September 2008.

These Regulations amend the 2008 Regulations.

Regulations 4 to 7, 9 to 11, 13, 14, 25 and 27 (d) and (k) deal with typographical errors in the 2008 Regulations.

Regulations 8, 12, 15 and 16 amend regulations 23, 38, 56 and 59 of the 2008 Regulations. Those provisions of the 2008 Regulations provide for grants and loans for living costs for full-time eligible students, together with the payment of such grants and loans. Regulations 23 and 38 of the 2008 Regulations are amended by regulations 8 and 12 of these Regulations such that, where a student spends part of an academic year in prison, that student will qualify for grants and loans for living costs on a pro-rated daily basis for the days that the student is not in prison. Regulations 56 and 59 of the 2008 Regulations are amended by regulations 15 and 16 of these Regulations such that the Welsh Ministers may pay a grant or loan for living costs in respect of a day of an academic year on which the student is a prisoner, provided that the Welsh Ministers are of the opinion that it would be appropriate in all the circumstances. In deciding whether it would be appropriate, the Welsh Ministers must have regard to the financial hardship that not paying the support would cause and whether

not paying the support would affect the student's ability to continue the course.

Regulations 17 and 23 amend regulations 67 and 82 of the 2008 Regulations so that income related employment and support allowance introduced by the Welfare Reform Act 2007 is added to the list of means-tested benefits for full-time distance learning students and part-time students. These amendments come into force on 27 October 2008 to coincide with the coming into force of Part 1 of that 2007 Act.

Regulations 18 to 22 and 24 to 29 amend Part 12 of the 2008 Regulations, which provides for support to eligible part-time students. Regulation 24 of these Regulations inserts new regulations 83A to 83J into Part 12 of the 2008 Regulations. Those new regulations provide that eligible part-time students may qualify for support by way of grants for dependants, namely part-time adult dependants' grant, part-time childcare grant and part-time parents' learning allowance ("part-time grants for dependants"). Qualifying criteria for the part-time grants for dependants are similar to the criteria for the equivalent support for full-time eligible students, payable under regulations 26 to 29 of the 2008 Regulations. New regulation 83F provides for the initial calculations to be undertaken in relation to the part-time grants for dependants and new regulation 83H provides that deductions may be made from the part-time grants for dependants. Such deductions are calculated in accordance with the new Schedule 6 to the 2008 Regulations, which is inserted by regulation 31 of these Regulations. Any such deductions are applied in accordance with new regulation 83I. The amount payable in respect of a particular element of the part-time grants for dependants is determined according to the intensity of part-time study, on a pro-rata basis, as determined by new regulation 83J.

Regulations 25 to 29 also make consequential amendments to Part 12 of the 2008 Regulations as a result of the insertion of new regulations 83A to 83J.

Regulation 30 extends eligibility for support to students who are settled in the United Kingdom but left Wales and exercised a right of residence in the EEA or Switzerland and subsequently returned to the United Kingdom to study at a higher education institution.

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Loans (Higher Education) (Wales)  
(Amendment) Regulations 2008**

*Made* *5 August 2008*

*Laid before the National Assembly for Wales*

*8 August 2008*

*Coming into force in accordance with  
regulation 1*

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998<sup>(1)</sup>, and now exercisable by them<sup>(2)</sup> make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2008.

(2) Subject to paragraph (3), these Regulations come into force on 29 August 2008 and apply in relation to Wales.

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(1) 1998 c.30; section 22 was amended by the Learning and Skills Act 2000 (c.21), sections 146, 153 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 722 and Schedule 6, the Finance Act 2003 (c.14), section 147 and the Higher Education Act 2004 (c.8), sections 42 and 43 and Schedule 7.

(2) The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 (except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22) were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 and the Higher Education Act 2004 (Commencement No.2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149) (C.79)) as amended by the Higher Education Act 2004 (Commencement No.2 and Transitional Provision) (Wales) (Amendment) Order 2006 (S.I. 2006/1660 (W.159) (C.56)), refers. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2)(a) of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) Regulations 17 and 23 come into force on 27 October 2008 and apply in relation to Wales.

## Amendments

2. The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008(1) are amended in accordance with the following regulations.

3.—(1) In regulation 2(1), in the appropriate place, insert—

““part-time adult dependants’ grant” (“*grant rhan-amser ar gyfer dibynyddion mewn oed*”) means the grant payable under regulation 83C;

“part-time childcare grant” (“*grant rhan-amser ar gyfer gofal plant*”) means the grant payable under regulation 83D;

“part-time grants for dependants” (“*graniau rhan-amser ar gyfer dibynyddion*”) means the grants and allowance listed in regulation 83B(1);

“part-time parents’ learning allowance” (“*lwfans dysgu rhan-amser ar gyfer rhieni*”) means the allowance payable under regulation 83E;”.

4.—(1) In regulation 3(8)(a), for “the Act”, substitute “the Higher Education Act 2004(2)”.

(2) In regulation 3(8)(b), for “the Act”, substitute “the Higher Education Act 2004”.

5. In the Welsh text of regulation 4(7)—

- (a) for “mae”, substitute “os yw”;
- (b) for “os nad”, substitute “nid”; and
- (c) for “os yw’n” substitute “mae’n”.

6. In regulation 7(2), for “paragraphs (4) and (5)”, substitute “paragraphs (3), (4) and (5)”.

7. In regulation 21(1), omit “Subject to paragraph (9),”.

8. In regulation 23(12), for “in respect of an academic year during any part of which”, substitute “if”.

9. In regulation 27(6)(b), for “paragraph (4)”, substitute “paragraph (5)”.

10. In regulation 30(1)(h), omit “(h),” following the words “subject to sub-paragraphs”.

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(1) S.I. 2008/1273 (W. 130).

(2) 2004 c.8.

**11.** In the Welsh text of regulation 38(7), for “Mae paragraff (7)”, substitute “Mae paragraff (6)”.

**12.** In regulation 38(9), for “in respect of an academic year during any part of which”, substitute “if”.

**13.** In regulation 40(4)(b), after “exceeding £1,255” insert “, £1,255”.

**14.** In regulation 54—

(a) after paragraph (8)(b) insert—

“(ba) **GFF** is the amount, if any, of grant for fees for which the eligible student qualifies under Part 4;” and

(b) in paragraph (9), for “regulation 54(1)(d)” substitute “regulation 54(1)(e)”.

**15.** In regulation 56, after paragraph (6), insert—

“(6A) Subject to paragraph (6B), no support under Part 5 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of that day.

(6B) Paragraph (6A) does not apply in respect of grants for disabled students’ living costs.

(6C) In deciding whether it would be appropriate for support to be due under paragraph (6A) the circumstances to which the Welsh Ministers must have regard include the financial hardship not paying the support would cause and whether not paying the support would affect the student’s ability to continue the course.”.

**16.** In regulation 59, after paragraph (8), insert—

“(8A) Subject to paragraph (8B), no support under Part 6 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of that day.

(8B) In deciding whether it would be appropriate for support to be due under paragraph (8A) the circumstances to which the Welsh Ministers must have regard include the financial hardship which not paying the support would cause and whether not paying the support would affect the student’s ability to continue the course.”.

**17.** In regulation 67(1)(a)—

- (a) after sub-sub-paragraph (i) omit “or”; and
- (b) after sub-sub-paragraph (ii) insert—  
“or
- (iii) under Part 1 of the Welfare Reform Act 2007<sup>(1)</sup> to income related employment and support allowance;”.

**18.** In regulation 79(13), for “or regulation 83”, substitute “, regulation 83 or regulations 83A to 83J”.

**19.** In regulation 79(14)(b), for “regulation 82(1)(b) or 83”, substitute “regulations 82(1)(b), 83 or 83A to 83J”.

**20.** In regulation 79(15), after “regulation 82” insert “or regulations 83A to 83J”.

**21.** In regulation 79(17), after “regulation 82” insert “or regulations 83A to 83J”.

**22.** After regulation 79(19), insert—

“(19A) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (21) occurs in the course of an academic year, a student may qualify for part-time grants for dependants in accordance with this Part in respect of all or part of that academic year but he or she does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.”.

**23.** In regulation 82(5)(a)—

- (a) after sub-sub-paragraph (i) omit “or”; and
- (b) after sub-sub-paragraph (ii) insert—  
“; or
- (iii) under Part 1 of the Welfare Reform Act 2007 to income related employment and support allowance;”.

**24.** After regulation 83, insert—

**“Part-time grants for dependants – general**

**83A.**—(1) An eligible part-time student qualifies for part-time grants for dependants provided that—

- (a) the part-time student is not excluded from qualification by any of the following paragraphs, regulation 79 or regulation 81; and

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(1) 2007 c.5.

(b) the part-time student satisfies the qualifying conditions for the particular grant for which he or she is applying.

(2) An eligible part-time student does not qualify for part-time grants for dependants if the student is a prisoner.

**83B.**—(1) The part-time grants for dependants consist of the following elements—

- (a) part-time adult dependants' grant;
- (b) part-time childcare grant;
- (c) part-time parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable in respect of each element are, respectively, set out in and determined in accordance with regulations 83C to 83J.

(3) A deduction may be made from any element of the part-time grants for dependants in accordance with regulations 83H and 83I.

#### **Part-time adult dependants' grant**

**83C.**—(1) An eligible part-time student qualifies for a part-time adult dependants' grant in connection with his or her attendance on a designated part-time course in accordance with this regulation.

(2) The part-time adult dependants' grant is available in respect of one dependant of an eligible part-time student who is either—

- (a) the eligible part-time student's partner; or
- (b) an adult dependant of the eligible part-time student whose net income does not exceed £3,705.

(3) The amount of part-time adult dependants' grant payable in respect of an academic year is calculated in accordance with regulations 83F and 83H to 83J, the basic amount being—

- (a) £2,580; or
- (b) where the person in respect of whom the eligible part-time student is applying for part-time adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,580 as the Welsh Ministers consider reasonable in the circumstances.

#### **Part-time childcare grant**

**83D.**—(1) An eligible part-time student qualifies, in connection with his or her

attendance on a designated part-time course, for a part-time childcare grant in accordance with this regulation.

(2) Subject to paragraphs (3) and (4), the part-time childcare grant is available in respect of an academic year in which the student incurs prescribed childcare charges for—

- (a) a dependent child who is under the age of 15 immediately before the beginning of the academic year; or
- (b) a dependent child who has special educational needs within the meaning of section 312 of the Education Act 1996<sup>(1)</sup> and is under the age of 17 immediately before the beginning of the academic year.

(3) An eligible part-time student does not qualify for a grant under this regulation if the student or the student's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002<sup>(2)</sup>.

(4) An eligible part-time student does not qualify for a grant under this regulation if the prescribed childcare charges that he or she incurs are paid or to be paid by the student to his or her partner.

(5) Subject to paragraph (6), regulation 83F and regulations 83H to 83J, the basic amount of childcare grant for each week is —

- (a) for one dependent child, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £157.25 per week; or
- (b) for two or more dependent children, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £ 267.75 per week,

except that the student does not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

(6) For the purposes of calculating the basic amount of part-time childcare grant —

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(1) 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31 and the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 56 and the Education and Inspections Act 2006 (c.40), Schedule 1, paragraph 3.

(2) 2002 (c. 21) to which there are amendments not relevant to these Regulations.

- (a) a week runs from Monday to Sunday;  
and
- (b) where a week in respect of which prescribed childcare charges are incurred falls partly within and partly outside the academic year in respect of which part-time childcare grant is payable under this regulation, the maximum weekly amount of grant is calculated by multiplying the relevant maximum weekly amount in paragraph (5) by the number of days of that week falling within the academic year and dividing the product by seven.

(7) In this regulation “prescribed childcare charges” (“*costau gofal plant rhagnodedig*”) means childcare charges of a description prescribed for the purposes of section 12 of the Tax Credits Act 2002(1).

#### **Part-time parents’ learning allowance**

**83E.**—(1) An eligible part-time student qualifies in connection with the student’s attendance on a designated part-time course for the part-time parents’ learning allowance if the student has one or more dependants who are dependent children.

(2) The amount of part-time parents’ learning allowance payable in respect of an academic year is calculated in accordance with regulations 83F and 83H to 83J, the basic amount being £1,470.

#### **Part-time grants for dependants – initial calculations**

**83F.**—(1) Subject to the following paragraphs and regulations 83H to 83J, the amount payable in respect of a particular element of the part-time grants for dependants for which the eligible part-time student qualifies is the amount of that element remaining after applying, until it is extinguished, an amount equal to **(A - B)** as follows and in the following order—

- (a) to reduce the basic amount of the part-time adult dependants’ grant where the

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(1) Regulation 14 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) as amended by S.I. 2003/701, S.I. 2003/2815, S.I. 2004/762, S.I. 2004/1276, S.I. 2004/2663, S.I. 2005/769, S.I. 2005/2919, S.I. 2006/766, S.I. 2007/824, S.I. 2007/2479 and S.I. 2008/604 sets out the charges that are prescribed, and thus relevant childcare charges, for the purposes of section 12 of the Tax Credits Act 2002.

eligible part-time student qualifies for that element under regulation 83C;

- (b) to reduce the basic amount of the part-time childcare grant for the academic year where the eligible part-time student qualifies for that element under regulation 83D; and
- (c) to reduce the basic amount of the part-time parents' learning allowance where the eligible part-time student qualifies for that element under regulation 83E.

(2) Subject to paragraphs (4), (5) and (13), where **B** is greater than or equal to **A**, the basic amount of each element of the part-time grants for dependants for which the eligible part-time student qualifies is payable.

(3) Where  $(\mathbf{A} - \mathbf{B})$  is equal to or exceeds the aggregate of the basic amounts of the elements of the part-time grants for dependants for which the eligible part-time student qualifies, the amount payable in respect of each element is nil.

(4) The amount of the part-time adult dependants' grant calculated under paragraph (1) in respect of an adult dependant is reduced by one half where—

- (a) the eligible part-time student's partner—
  - (i) is an eligible part-time student; or
  - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he or she is entitled under the statutory award.

(5) The amount of the part-time childcare grant calculated under paragraph (1) is reduced by one half where—

- (a) the eligible part-time student's partner—
  - (i) is an eligible part-time student; or
  - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he or she is entitled under the statutory award.

(6) Where the amount of the part-time parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than

£50, the amount of part-time parents' learning allowance payable is £50.

(7) In this regulation—

**A** is the aggregate of the net income of each of the eligible part-time student's dependants; and

**B** is—

- (a) £1,130 where the eligible part-time student has no dependent child;
- (b) £3,385 where the eligible part-time student is not a lone parent and has one dependent child;
- (c) £4,515 where the eligible part-time student—
  - (i) is not a lone parent and has more than one dependent child; or
  - (ii) is a lone parent and has one dependent child;
- (d) £5,650 where the eligible part-time student is a lone parent and has more than one dependent child.

(8) Paragraphs (9) to (12) apply where, in the course of the academic year, any of the following occurs —

- (a) there is a change in the number of the eligible part-time student's dependants;
- (b) a person becomes or ceases to be a dependant of the eligible part-time student;
- (c) the eligible part-time student becomes or ceases to be a lone parent;
- (d) a student becomes an eligible part-time student as a result of an event referred to in regulation 79(21)(a), (b), (e), (f), (g), (h) or (i).

(9) For the purposes of determining the respective values of **A** and **B** and whether part-time adult dependants' grant or part-time parents' learning allowance is payable, the Welsh Ministers must determine the following in relation to each relevant quarter by reference to the student's circumstances in the relevant quarter —

- (a) how many dependants the eligible part-time student is to be treated as having;
- (b) who those dependants are;
- (c) whether the student is to be treated as a lone parent.

(10) The amount of part-time grants for dependants for the academic year is the aggregate of the amounts of part-time adult

dependants' grant and part-time parents' learning allowance calculated in respect of each relevant quarter under paragraph (11) and the amount of any part-time childcare grant for the academic year.

(11) The amount of part-time adult dependants' grant and part-time parents' learning allowance in respect of a relevant quarter is one third of what that grant or allowance would be for the academic year if the student's circumstances in the relevant quarter as determined under paragraph (9) applied for the duration of the academic year.

(12) In this regulation, a "relevant quarter" (*"chwarter perthnasol"*) means—

- (a) in the case of a person referred to in paragraph (8)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the Welsh Ministers, the longest of any vacation occurs;
- (b) otherwise, a quarter other than the one quarter during which, in the opinion of the Welsh Ministers, the longest of any vacation occurs.

(13) A deduction may be made in accordance with regulations 83H and 83I from the amount payable in respect of a particular element of the part-time grants for dependants calculated under this Part.

### **Part-time grants for dependants - interpretation**

**83G.**—(1) In regulations 83C to 83F—

- (a) subject to sub-paragraph (n), "adult dependant" (*"dibynnydd mewn oed"*) means, in relation to an eligible part-time student, an adult person dependent on the student other than the student's child, the student's partner (including a spouse or civil partner from whom the Welsh Ministers consider the student is separated) or his or her former partner;
- (b) "child" (*"plentyn"*) in relation to an eligible part-time student includes any child of the student's partner who is dependent on him or her and any child for whom the student has parental responsibility who is dependent on him or her;
- (c) "dependant" (*"dibynnydd"*) means, in relation to an eligible part-time student, the student's partner, the student's dependent child or an adult dependant,

who in each case is not an eligible student and does not hold a statutory award;

- (d) “dependent” (“*dibynnol*”) means wholly or mainly financially dependent;
- (e) “dependent child” (“*plentyn dibynnol*”) means, in relation to an eligible part-time student, a child dependent on the student;
- (f) “lone parent” (“*rhiant unigol*”) means an eligible part-time student who does not have a partner and who has a dependent child or dependent children;
- (g) “net income” (“*incwm net*”) has the meaning given in paragraph (2);
- (h) subject to sub-paragraphs (i), (j), (k), (l) and (m), “partner” (“*partner*”) means any of the following —
  - (i) the spouse of an eligible part-time student;
  - (ii) the civil partner of an eligible part-time student;
  - (iii) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse where an eligible part-time student falls within paragraph 2(1)(a) of Schedule 6 and began the designated part-time course on or after 1 September 2000;
  - (iv) a person ordinarily living with an eligible part-time student as if he or she were the student’s civil partner where an eligible part-time student falls within paragraph 2(1)(a) of Schedule 6 and began the designated part-time course on or after 1 September 2005;
- (i) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (h) is not treated as a partner if —
  - (i) in the opinion of the Welsh Ministers, that person and the eligible part-time student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
- (j) for the purposes of the definition of “adult dependant” (“*dibynnydd mewn*”

- oed*”), a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the fact that the eligible part-time student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 6;
- (k) for the purposes of the definitions of “child” (“*plentyn*”) and “lone parent” (“*rhiant unigol*”), a person is to be treated as a partner if the person would be a partner under sub-paragraph (h) but for the date on which the eligible part-time student began the specified designated part-time course or the fact that the eligible part-time student with whom the person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 6;
- (l) for the purposes of regulation 83D —
- (i) sub-paragraph (i) does not apply; and
  - (ii) a person is to be treated as a partner if he or she would be a partner under sub-paragraph (h) but for the fact that the eligible part-time student with whom he or she is ordinarily living does not fall within paragraph (2) (1) (a) of Schedule 6;
- (m) for the purposes of determining whether a person is the former partner of an eligible part-time student’s partner, “partner” in relation to an eligible part-time student’s partner means—
- (i) the spouse of an eligible part-time student’s partner;
  - (ii) the civil partner of an eligible part-time student’s partner;
  - (iii) where the eligible part-time student began the specified designated part-time course on or after 1 September 2000, a person ordinarily living with an eligible part-time student’s partner as if he or she were his or her spouse;
  - (iv) where the eligible part-time student began the specified designated part-time course on or after 1 September 2005, a person ordinarily living with an eligible part-time student’s partner as if he or she were his or her civil partner;

- (n) subject to sub-paragraph (o), for the purposes of the definitions of “adult dependant” (“*dibynnydd mewn oed*”) and “dependent child” (“*plentyn dibynnol*”), the Welsh Ministers may treat an adult person or child as dependent on an eligible part-time student if they are satisfied that the adult person or child—
  - (i) is not dependent on—
    - (aa) the eligible part-time student; or
    - (bb) his or her partner; but
  - (ii) is dependent on the eligible part-time student and his or her partner together;
- (o) the Welsh Ministers must not treat an adult person (“A”) as dependent on an eligible part-time student in accordance with sub-paragraph (n), if A is—
  - (i) the spouse or civil partner of the eligible part-time student’s partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible part-time student’s partner is separated); or
  - (ii) the former partner of the eligible part-time student’s partner.

(2) Subject to paragraph (3), a dependant’s net income is the dependant’s income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it but disregarding —

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>;
- (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002<sup>(2)</sup>;
- (d) any guardian’s allowance to which the dependant is entitled under section 77

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(1) 1992 c. 4 to which there are amendments not relevant to these Regulations.  
 (2) 2002 c. 38.

of the Social Security Contributions and Benefits Act 1992;

- (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989<sup>(1)</sup>;
- (f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act<sup>(2)</sup>; and
- (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002<sup>(3)</sup>.

(3) Where an eligible part-time student or the student's partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course, the partner's net income is the net income calculated in accordance with paragraph (2) reduced by —

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Welsh Ministers, the obligation had been reasonably incurred; or
- (b) such lesser amount, if any, as the Welsh Ministers consider appropriate if, in their opinion, a lesser obligation could reasonably have been incurred.

(4) For the purposes of paragraph (2), where the dependant is a dependent child and payments are made to the eligible part-time student towards the child's maintenance, those payments are to be treated as the child's income.

#### **Part-time grants for dependants - calculation of contribution**

**83H.**—(1) An eligible part-time student's contributions in respect of an academic year and part-time dependants' grants payable in respect

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(1) 1989 c. 41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 12, the Care Standards Act 2000 (c.14), Schedule 4, paragraph 14 and the Children Act 2004 (c.31), section 49(3).

(2) There are amendments to sections 15 and 24 and Schedule 1 which are not relevant to these Regulations.

(3) 2002 c. 21 to which there are amendments not relevant to these Regulations.

of that year is the amount, if any, calculated under Schedule 6.

(2) For the purposes of the exercise of the Welsh Ministers' functions under the Act and regulations made under it, the Welsh Ministers may require an eligible part-time student to provide from time to time such information as they consider necessary as to the income of any person whose means are relevant to the assessment of the student's contribution.

### **Part-time grants for dependants - application of contribution**

**83I.**—(1) An amount equal to the contribution or the remainder of the contribution, as the case may be, calculated under Schedule 6, is to be applied until it is extinguished against the amount of the particular element of part-time grants for dependants for which the eligible part-time student qualifies as follows—

- (a) first, to reduce **PTADG**;
- (b) second, to reduce **PTCCG**;
- (c) third, to reduce **PTPLA**.

(2) In this regulation—

- (a) **PTADG** is the amount, if any, of the part-time adult dependants' grant calculated in accordance with regulation 83F;
- (b) **PTCCG** is the amount, if any, of the part-time childcare grant calculated in accordance with regulation 83F;
- (c) **PTPLA** is the amount, if any, of the part-time parents' learning allowance calculated in accordance with regulation 83F (except the first £50 of the allowance).

### **Part-time grants for dependants – final calculation**

**83J.**—(1) The amount payable in respect of a particular element of the part-time grants for dependants is determined in accordance with this regulation.

(2) The amount payable varies according to the intensity of study.

The intensity of study is calculated as follows and expressed as a percentage

$$\frac{PT}{FT} \times 100$$

where PT and FT have the meanings given by regulation 82(2) and (3).

(3) In the case of part-time adult dependants' grant, where the intensity of study is—

- (a) 50 per cent. or more but less than 60 per cent., the amount payable is equal to 50 per cent. of the resulting amount;
- (b) 60 per cent. or more but less than 75 per cent., the amount payable is equal to 60 per cent. of the resulting amount;

(c) 75 per cent. or more, the amount payable is equal to 75 per cent. of the resulting amount.

(4) For the purposes of paragraph (3), “the resulting amount” (“*y swm sy’n deillio o hyn*”) means the amount of part-time adult dependants’ grant determined in accordance with regulation 83F with deductions (if any) having been applied in accordance with regulation 83I.

(5) In the case of part-time childcare grant, where the intensity of study is—

(a) 50 per cent. or more but less than 60 per cent., the amount payable is equal to 50 per cent. of the resulting amount;

(b) 60 per cent. or more but less than 75 per cent., the amount payable is equal to 60 per cent. of the resulting amount;

(c) 75 per cent. or more, the amount payable is equal to 75 per cent. of the resulting amount.

(6) For the purposes of paragraph (5), “the resulting amount” (“*y swm sy’n deillio o hyn*”) means the amount of part-time childcare grant determined in accordance with regulation 83F with deductions (if any) having been applied in accordance with regulation 83I.

(7) In the case of part-time parents’ learning allowance, where the intensity of study is—

(a) 50 per cent. or more, but less than 60 per cent., the amount payable is equal to 50 per cent. of the resulting amount;

(b) 60 per cent. or more but less than 75 per cent., the amount payable is equal to 60 per cent. of the resulting amount;

(c) 75 per cent. or more, the amount payable is equal to 75 per cent. of the resulting amount.

(8) For the purposes of paragraph (7), “the resulting amount” (“*y swm sy’n deillio o hyn*”) means the amount of part-time parents’ learning allowance determined in accordance with regulation 83F with deductions (if any) having been applied in accordance with regulation 83I.

25. In regulation 84(4)(a), for “regulation 79(3)”, substitute “regulation 79(21)”.

26. In regulation 87(5), for “regulation 82(1)(b) or regulation 83”, substitute “regulation 82(1)(b), regulation 83 or regulations 83A to 83J”.

27. In regulation 88—

- (a) at the end of paragraph (3)(c) omit “and”;
- (b) at the end of paragraph (3)(d) replace the full-stop with a semi-colon;
- (c) after paragraph (3)(d), insert—
  - “(e) where the Welsh Ministers have determined to pay an amount of grant to the student under regulations 26 to 29 in periodic instalments, no payment in respect of that amount may be made in respect of any instalment period beginning after the date on which the student becomes an eligible part-time student;
  - (f) the maximum amount of part-time grants for dependants to which the student would, apart from this regulation, be entitled pursuant to regulations 83A to 83J in connection with his or her undertaking a designated part-time course in respect of that academic year is reduced by one third where the student became an eligible part-time student during the second quarter of the academic year and by two thirds where he or she became such a student in a later quarter of that year;
  - (g) where an amount of grant has been paid to the student under regulations 26 to 29 in a single instalment, the maximum amount of grant payable to him or her pursuant to regulations 83A to 83J is reduced (or where subparagraph (f) applies, further reduced) by the amount of grant paid to him or her pursuant to regulations 26 to 29, and where the resulting amount is nil or a negative amount that amount is nil.”;
- (d) in paragraph (9)(b), for “regulation 24”, substitute “regulation 69”;
- (e) after paragraph (10) insert—
  - “(10A) Where a student transfers under paragraph (5), the maximum amount of part-time grants for dependants to which the student would, apart from this regulation, be entitled pursuant to regulations 83A to 83J in connection with his or her undertaking a designated part-time course in respect of that academic year is reduced by one third where the student became an eligible part-time student

during the second quarter of the academic year and by two thirds where he or she became such a student in a later quarter of that year.”;

(f) at the start of paragraph (12)(b), insert “subject to sub-paragraphs (ba) and (e),”;

(g) after paragraph 12(b), insert—

“(ba) where the Welsh Ministers have determined to pay an amount of any grant to the student pursuant to regulations 83A to 83J in periodic instalments, no payment in respect of that amount may be made in respect of any instalment period beginning after the date on which the student becomes an eligible student;”;

(h) at the end of paragraph (12)(c), omit “and”;

(i) at the end of paragraph (12)(d), for the full-stop, substitute “; and”;

(j) after paragraph (12)(d), insert—

“(e) where an amount of grant has been paid to the student pursuant to regulations 83A to 83J in a single instalment the maximum amount of that grant payable to him or her pursuant to regulations 26 to 29 is reduced (or where sub-paragraph (c) applies, further reduced) by the amount of grant paid to him or her pursuant to regulations 83A to 83J and where the resulting amount is nil or a negative amount that amount is nil.”; and

(k) in paragraph 16(b)—

(i) for “regulation 83”, substitute “regulation 69”; and

(ii) for “regulation 24”, substitute “regulation 83”.

**28.** After regulation 89, insert—

“**89A.**—(1) Subject to the following paragraphs, the Welsh Ministers may pay part-time grants for dependants in such instalments (if any) and at such times as they consider appropriate.

(2) An institution is required to send an attendance confirmation to the Welsh Ministers.

(3) The Welsh Ministers must not pay the first instalment or, where it has been determined not to pay a part-time grant for dependants by instalments, make any payment of such a grant to an eligible part-time student before they have received an attendance confirmation unless the exception in paragraph (4) applies.

(4) The exception applies if the Welsh Ministers have determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(5) Where a final assessment cannot be made on the basis of the information provided by the student, the Welsh Ministers may make a provisional assessment and payment of part-time grants for dependants.

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

(7) Subject to paragraph (8), no support by way of part-time grants for dependants is due in respect of any day of an academic year on which the eligible part-time student is a prisoner, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of that day.

(8) In deciding whether it would be appropriate for support to be due under paragraph (7) the circumstances to which the Welsh Ministers must have regard include the financial hardship which not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.

(9) No support by way of part-time grants for dependants is due in respect of any payment period beginning after an eligible part-time student's period of eligibility terminates.

(10) Where an eligible part-time student's period of eligibility terminates on or after the relevant date, the Welsh Ministers must determine—

- (a) the amount of each part-time grant for dependants for which the student qualifies that would be payable in respect of the relevant payment period if the eligible part-time student's period of eligibility had not terminated (the "full amount"); and
- (b) how much of the full amount is due in respect of the period which runs from the first day of the relevant payment period up to and including the day on which the eligible part-time student's

period of eligibility terminated (the “partial amount”).

(11) In this regulation, the “relevant date” (“*dyddiad perthnasol*”) is the date on which the first term of the academic year in question actually begins.

(12) If the Welsh Ministers have made a payment of a part-time grant for dependants in respect of the relevant payment period before the point in that period at which the eligible part-time student’s period of eligibility terminated and that payment exceeds the partial amount of that grant—

- (a) they may treat the excess as an overpayment of that grant; or
- (b) if they consider that it is appropriate to do so they may extend the student’s period of eligibility in respect of that part-time grant for dependants until the end of the relevant payment period and determine that the full amount of the grant is due in respect of that payment period.

(13) If a payment of a part-time grant for dependants in respect of the relevant payment period is due to be made or is made after the eligible part-time student’s period of eligibility has terminated, the amount of that part-time grant for dependants due is the partial amount unless the Welsh Ministers consider it appropriate to extend the period of eligibility in respect of that grant until the end of the relevant payment period and to determine that the full amount of that grant is due in respect of that payment period.

(14) No support by way of part-time grants for dependants is due in respect of a payment period during any part of which an eligible part-time student is absent from his or her course, unless in the opinion of the Welsh Ministers it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(15) In deciding whether it would be appropriate for support to be due under paragraph (14) the circumstances to which the Welsh Ministers must have regard include the reason for the student’s absence, the length of the absence and the financial hardship which not paying the support would cause.

(16) An eligible part-time student is not to be considered absent from his or her course if he or she is unable to attend due to illness and his or her absence has not exceeded 60 days.

(17) Where, after the Welsh Ministers have made any payment of support by way of a part-time grant for dependants, they make a determination of the amount of such a grant for which the student qualifies either for the first time or by way of revision of a provisional or other determination of that amount—

- (a) if the determination increases the amount of that grant for which the student qualifies they must pay the additional amount in such instalments (if any) and at such times as they consider appropriate;
- (b) if the determination decreases the amount of that grant for which the student qualifies they must subtract the amount of the decrease from the amount of that grant which remains to be paid;
- (c) if the amount of the decrease is greater than the amount of that grant remaining to be paid the latter amount is reduced to nil and the balance subtracted from any other element of part-time grants for dependants for which the student qualifies in respect of the academic year;
- (d) any remaining overpayment is recoverable in accordance with regulation 91.”.

**29.** In regulation 91—

- (a) in paragraph (3), for “and the grant for disabled part-time students’ living costs”, substitute “, the grant for disabled part-time students’ living costs and a part-time grant for dependants”; and
- (b) in paragraph (5), after “costs” insert “or a part-time grant for dependants”.

**30.** In paragraph 8 of Part 2 of Schedule 1—

- (a) for sub-paragraph (b), substitute “was ordinarily resident in Wales and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence”; and
- (b) in sub-paragraph (c), for “in Wales”, substitute “in the United Kingdom”.

**31.** After Schedule 5, insert—

## “SCHEDULE 6

Regulation 83H

### FINANCIAL ASSESSMENT – PART-TIME GRANTS FOR DEPENDANTS

#### Definitions

1. In this Schedule—

- (a) “contributing eligible part-time student” (*“myfyriwr rhan-amser cymwys sy’n cyfrannu”*) has the meaning given in paragraph 2;
- (b) “financial year” (*“blwyddyn ariannol”*) means the period of twelve months in respect of which the income of a person, whose residual income is calculated under the provisions of this Schedule, is computed for the purposes of the income tax legislation which applies to it;
- (c) “household income” (*“incwm aelwyd, incwm yr aelwyd, incwm sydd gan yr aelwyd”*) has the meaning given in paragraph 3;
- (d) “Member State” (*“Aelod-wladwriaeth”*) means a Member State of the European Union;
- (e) “parent” (*“rhiant”*) means a natural or adoptive parent and “child” (*“plentyn”*) is construed accordingly;
- (f) “parent student” (*“myfyriwr sy’n rhiant”*) means a contributing eligible part-time student who is the parent of an eligible student;
- (g) “partner” (*“partner”*) in relation to a contributing eligible part-time student means any of the following —
  - (i) the spouse of a contributing eligible part-time student;
  - (ii) the civil partner of a contributing eligible part-time student;
  - (iii) a person ordinarily living with a contributing eligible part-time student as if he or she were his or her spouse where a contributing eligible part-time student falls within paragraph 2(1)(a) and he or she begins the designated part-time course on or after 1 September 2000;

- (iv) a person ordinarily living with a contributing eligible part-time student as if he or she were his or her civil partner where a contributing eligible part-time student falls within paragraph 2(1)(a) and he or she begins the designated part-time course on or after 1 September 2005;
- (h) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (i) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (j) “residual income” (“*incwm gweddilliol*”) means taxable income after the application of paragraph 4 (in the case of a contributing eligible part-time student) or paragraph 5 (in the case of a contributing eligible part-time student’s partner); and
- (k) “taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 84 and, in relation to paragraph 5, in respect (subject to subparagraphs (3), (4) and (5) of paragraph 5) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of —
  - (i) the Income Tax Acts;
  - (i) the income tax legislation of another Member State which applies to the person’s income; or
  - (ii) where the legislation of more than one Member State applies to the period, the legislation under which the Welsh Ministers consider the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Contributing eligible part-time student**

**2.—(1)** For the purposes of this Schedule, a contributing eligible part-time student is an eligible part-time student in every case where—

- (a) he or she is aged 25 or over on the first day of the relevant year;

- (b) he or she is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
- (c) he or she has no parent living;
- (d) the Welsh Ministers are satisfied that neither of his or her parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he or she has communicated with neither of his or her parents for the period of one year before the beginning of the relevant year or, in the opinion of the Welsh Ministers, he or she can demonstrate on other grounds that he or she is irreconcilably estranged from his or her parents;
- (f) he or she was looked after by a local authority within the meaning of section 22 of the Children Act 1989<sup>(1)</sup> throughout any three-month period ending on or after the date on which he or she attained the age of 16 and before the first day of the first academic year of the course (“the relevant period”) provided that he or she has not in fact at any time during the relevant period been under the charge or control of his or her parents;
- (g) his or her parents are residing outside the European Community and the Welsh Ministers are satisfied that either—
  - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
  - (ii) it would not be reasonably practicable for those parents to send any relevant funds to the United Kingdom;
- (h) he or she is a member of a religious order who resides in a house of that order;
- (i) he or she has the care of a person under the age of 18 as at the first day of the relevant year; or

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(1) 1989 c.41. Section 22 has been amended by the Children (Leaving Care) Act 2000 (c. 35), section 2, Local Government Act 2000 (c. 41), Schedule 5, paragraph 19, the Adoption and Children Act 2002 (c. 38), section 116(2) and the Children Act 2004 (c. 31), section 52.

- (j) he or she has supported himself or herself out of his or her earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he or she is to be treated as supporting himself or herself out of his or her earnings during any period in which —
  - (i) he or she was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local (“a relevant authority”);
  - (ii) he or she was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
  - (iii) he or she was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
  - (iv) he or she held a state studentship<sup>(1)</sup> or comparable award; or
  - (v) he or she received any pension, allowance or other benefit paid by any person by reason of a disability to which he or she is subject, or by reason of confinement, injury or sickness.

(2) An eligible part-time student who qualifies as a contributing eligible part-time student under paragraph 2(1)(i) in respect of an academic year of a designated part-time course retains that status for the duration of the period of eligibility.

### **Household income**

**3.—**(1) The amount of a contributing eligible part-time student’s contribution depends on the household income.

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(1) Funding provided by the Research Councils in respect of full time post graduate study.

(2) The household income is —

- (a) in the case of a contributing eligible part-time student who has a partner, the residual income of the contributing eligible part-time student aggregated with the residual income of that student's partner (subject to sub-paragraph (4)); or
- (b) in the case of a contributing eligible part-time student who does not have a partner, the residual income of that student.

(3) In determining the household income under sub-paragraph (2), the sum of £1,100 is deducted for each child wholly or mainly financially dependent on the contributing eligible part-time student or that student's partner.

(4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

#### **Calculation of contributing eligible part-time student's residual income**

**4.—**(1) For the purpose of determining the residual income of a contributing eligible part-time student, there is deducted from his or her taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs —

- (a) any remuneration for work done during any academic year of the contributing eligible part-time student's course, provided that such remuneration does not include any sums paid in respect of any period for which he or she has leave of absence or is relieved of his or her normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the contributing eligible part-time student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273 of the Income and

Corporation Taxes Act 1988<sup>(1)</sup> or under section 188 of the Finance Act 2004<sup>(2)</sup>, or where the contributing eligible part-time student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which a contributing eligible part-time student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

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

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics<sup>(3)</sup>.

#### **Calculation of contributing eligible part-time student's partner's residual income**

**5.**—(1) For the purposes of determining the taxable income of a contributing eligible part-time student's partner, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income

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(1) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10, the Finance Act 2004 (c.12), section 281, schedule 35, the Income Tax (Trading and other Income) Act 2005 (c.5), Schedule 1 and the Income Tax Act 2007, Schedule 1.

(2) 2004 c.12; section 188 was amended by the Finance Act 2007, sections 68, 69 and 114 and Schedules 18, 19 and 27.

(3) "Financial Statistics" (ISSN 0015-203X).

and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;

- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2)

must not be made or permitted.

(2) For the purposes of determining the residual income of a contributing eligible part-time student's partner, there is deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs —

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988, or under section 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in sub-paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of the contributing eligible part-time student's partner's income were in fact income for the purposes of the Income Tax Acts.

(3) Where the Welsh Ministers are satisfied that the residual income of the partner in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent. of the sterling value of his or her residual income in the preceding financial year they may, for the purpose of enabling the contributing eligible part-time student to attend the course without

hardship, ascertain the partner's residual income for the current financial year.

(4) Where the Welsh Ministers are satisfied that the residual income of the partner in any financial year is, as a result of any event, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his or her residual income in the previous financial year they may, for the purpose of enabling the contributing eligible part-time student to attend the course without hardship, ascertain the household income for the academic year of the contributing eligible part-time student's course in which that event occurred by taking as the residual income of the partner the average of his or her residual income for each of the financial years in which that academic year falls.

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

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

- (a) he or she is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;
- (b) the income does not arise in the United Kingdom, or where the partner's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his or her taxable income for the purposes of this Schedule is computed as though the income

under this sub-paragraph were part of his or her income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

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

(8) Where the Welsh Ministers determine that the contributing eligible part-time student and his or her partner are separated for the duration of the relevant year, the partner's income is not taken into account in determining the household income.

(9) Where the Welsh Ministers determine that the contributing eligible part-time student and his or her partner have separated in the course of the relevant year, the partner's income is determined by reference to his or her income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Welsh Ministers determine that the contributing eligible part-time student and his or her partner are not separated.

(10) Where a contributing eligible part-time student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

### **Calculation of contribution**

**6.**—(1) The contribution payable in relation to a contributing eligible part-time student is—

- (a) in any case where the household income exceeds £39,780, £1 for every complete £9.50 by which the household income exceeds £39,780; and
- (b) in any case where the household income is £39,780 or less, nil.

(2) The contribution must not in any case exceed £6,060.

(3) The contribution may be adjusted in accordance with paragraph 7.

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,060.

(5) This sub-paragraph applies where the household income consists of the residual income of a contributing eligible part-time student and his or her partner where both hold a statutory award.

### **Split contributions**

7.—(1) Where a contribution is payable under paragraph 6 in relation to a contributing eligible part-time student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) of this sub-paragraph is held by the contributing eligible part-time student's partner, the contribution payable in respect of the contributing eligible part-time student is such proportion of any contribution calculated under paragraph 7 as the Welsh Ministers after consultation with any other authority involved consider just;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003 or section 63 of the Health Services and Public Health Act 1968 (and no other statutory award) is held by the contributing eligible part-time student's partner, the contribution payable in respect of the contributing eligible part-time student is an amount equal to half the contribution calculated under paragraph 7;
- (c) if, as a result of the apportionment under paragraph (b) of this sub-paragraph, the contribution calculated would not be extinguished by applying it in respect of the contributing eligible part-time student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his or her partner if they are both contributing eligible part-time students.

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his or her statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his or her children under this Schedule.

(3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income."

*John Griffiths*

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

5 August 2008