

2011 No. 1654 (W. 189)

EDUCATION, WALES

**The Cancellation of Student Loans
for Living Costs Liability (Wales)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern the student loan liability of students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2011/2012.

These Regulations provide for up to £1,500 of each borrower's living costs loan liability to be cancelled in certain circumstances, with effect from the day after the date on which their first loan repayment is considered to have been received.

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Made 5 July 2011

Laid before the National Assembly for Wales 7
July 2011

Coming into force 1 August 2011

The Welsh Ministers make the following Regulations 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⁽¹⁾ and now exercisable by them⁽²⁾:

Title and commencement

1.—(1) The title of these Regulations is the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2011.

(2) These Regulations come into force on 1 August 2011.

(1) 1998 c.30; section 22 was amended by section 146 of and Schedule 11 to the Learning and Skills Act 2000 (c.21), section 722 of and Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), section 147 of the Finance Act 2003 (c.14), sections 42 and 43 of and Schedule 7 to the Higher Education Act 2004 (c.8) and section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22).

(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)) 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 section 162 of and paragraphs 30(1) and 30(2)(a) of Schedule 11 to the Government of Wales Act 2006 (c.32).

Application

2. These Regulations apply in relation to Wales and to the provision of support to students in respect of the Academic Year 2011/2012.

Interpretation

3. In these Regulations—

“the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998;

“the 2008 Act” (“*Deddf 2008*”) means the Sale of Student Loans Act 2008(1);

“academic year” (“*blwyddyn academaidd*”) means the period of twelve months beginning on 1 September, 1 January, 1 April or 1 July of the calendar year in which the academic year of the course in question begins, according to whether that academic year begins on or after 1 August but before 1 January, on or after 1 January but before 1 April, on or after 1 April but before 1 July, or on or after 1 July but before 1 August;

“Academic Year 2011/2012” (“*Blwyddyn Academaidd 2011/2012*”) means an academic year which begins on or after 1 September 2011 but before 1 September 2012;

“the borrower” (“*y benthyciwr*”) means a person who has received a loan for living costs from the Welsh Ministers in respect of the Academic Year 2011/2012;

“loan for living costs” (“*benthyciad at gostau byw*”) is a loan received from the Welsh Ministers in respect of the Academic Year 2011/2012 under Regulations made pursuant to section 22 of the 1998 Act(2);

(1) 2008 c.10.

(2) The Welsh Ministers disburse loans for living costs in respect of the Academic Year 2011/2012 in accordance with Part 6 of the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011 (S.I. 2011/148 (W.32)).

“the Outstanding Liability” (“*yr Atebolrwydd sydd heb ei Dalu*”) has the meaning given in regulation 7;

“the Repayment Date” (“*y Dyddiad Ad-dalu*”) means the day after the date on which the borrower’s first loan repayment is considered to have been received by either Her Majesty’s Revenue and Customs or the Welsh Ministers, whichever is considered (in accordance with Regulations made under section 22 of the 1998 Act⁽¹⁾) to have received it first;

“the Satisfaction Date” (“*y Dyddiad Bodloni*”) has the meaning given in regulation 9;

“the Specified Amount” (“*y Swm Penodedig*”) has the meaning given in regulation 6; and

“Welsh Ministers” (“*Gweinidogion Cymru*”) includes any person to whom they have transferred or delegated their functions under section 23 of the 1998 Act or to whom they have transferred their rights under section 9 of the 2008 Act.

Qualification for cancellation

4. A borrower qualifies for cancellation of the Specified Amount of their Outstanding Liability in the circumstances set out in regulation 5 (“the Circumstances”).

Circumstances

5. The Circumstances for the purposes of regulation 4 are that—

- (1) the borrower has received a loan for living costs; and
- (2) the Welsh Ministers consider that, on the Repayment Date, the borrower—
 - (a) is not in breach of any obligation contained in any agreement for a student loan or in any Regulations made under section 22 of the 1998 Act; and
 - (b) does not have outstanding penalties, costs, expenses or charges in relation to such a loan pursuant to any such agreement or Regulations; and

(1) At the time of making these Regulations, the date on which a borrower’s repayment is considered to have been received is determined in accordance with regulation 17 of the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) as amended by the Education (Student Loans) (Repayment) (Amendment) Regulations 2010 (S.I. 2010/661), the Consumer Credit (EU Directive) Regulations 2010 (S.I. 2010/1010) and the Education (Student Loans) (Repayment) (Amendment) Regulations 2011 (S.I. 2011/784).

- (c) has not received a cancellation under the provisions of the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2010⁽¹⁾ of any of their liability for payment in respect of a loan received from the Welsh Ministers.

Specified Amount

6. The Specified Amount for cancellation to which regulation 4 refers is the lesser of—

- (1) £1,500;
- (2) the Outstanding Liability.

Outstanding Liability

7.—(1) Subject to paragraph (2), the Outstanding Liability is the total amount considered to be payable by the borrower on the Repayment Date in respect of any loan for living costs, but does not include any interest accrued on that loan, or penalties, costs, expenses or charges incurred in respect of any such loan.

(2) For the purposes of regulation 9, the Outstanding Liability is the total amount considered to be payable by the borrower on the Satisfaction Date in respect of any loan for living costs, but does not include any interest accrued on that loan, or penalties, costs, expenses or charges incurred in respect of any such loan.

(3) For the purposes of calculating the Outstanding Liability in paragraphs (1) and (2), the amount considered to be payable by the borrower is calculated in accordance with Regulations made pursuant to section 22 of the 1998 Act⁽²⁾.

Cancellation

8. In the Circumstances in regulation 5, the Welsh Ministers must cancel the Specified Amount with effect from the Repayment Date.

9. If any of the Circumstances in regulation 5(2) are not satisfied on the Repayment Date, but they become satisfied at a later date, the Welsh Ministers may cancel the Specified Amount with effect from the date that they consider the Circumstances to have been satisfied (“the Satisfaction Date”).

(1) S.I. 2010/1704 (W. 164).

(2) At the time of making these Regulations the amount which a borrower is considered to have repaid and therefore the amount that is considered to still be payable is determined in accordance with the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470), as amended. See in particular regulations 17, 29, 44 and 76.

Leighton Andrews

Minister for Education and Skills, one of the Welsh
Ministers

5 July 2011