

2019 No. (W.)

EDUCATION, WALES

**The Cancellation of Student Loans
for Living Costs Liability (Wales)
Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern the student loan liability of full-time students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2019/2020.

These Regulations provide for up to £1,500 of a 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.

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

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Made 2 July 2019

Laid before the National Assembly for Wales
3 July 2019

Coming into force 1 August 2019

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

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- (1) 1998 c. 30; section 22 was amended by section 146 of and Schedule 11 to the Learning and Skills Act 2000 (c. 21), Schedule 6(2), paragraph 236 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), section 257 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 76 of the Education Act 2011 (c. 21), and paragraph 6 of the Schedule to the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013/1881.
- (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)(j), (3)(e) or (f) or (5) of section 22) were transferred to the National Assembly for Wales so far as they relate to making provision in relation to Wales by section 44 of the Higher Education Act 2004 (c. 8), with the functions under subsection (2)(a), (c) and (k) being exercisable concurrently with the Secretary of State. The Secretary of State's function in section 42 was transferred, in so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, article 2 and Schedule 1 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Title and commencement

1.—(1) The title of these Regulations is the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2019.

(2) These Regulations come into force on 1 August 2019.

Application

2. These Regulations apply in relation to Wales and to the provision of support to students in respect of the Academic Year 2019/2020.

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, respectively;

“Academic Year 2019/2020” (“*Blwyddyn Academaidd 2019/2020*”) means an academic year which begins on or after 1 September 2019 but before 1 September 2020;

“borrower” (“*benthyciwr*”) means a person who has received a loan for living costs;

“loan for living costs” (“*benthyciad at gostau byw*”) is a loan received from the Welsh Ministers in respect of the Academic Year 2019/2020 under Part 6 of the Education (Student Support) (Wales) Regulations 2017(2) or under Part 8 of the Education (Student Support) (Wales) Regulations 2018(3) in respect of a full-time course;

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

“Repayment Date” (“*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

(1) 2008 c. 10.

(2) S.I. 2017/47 (W. 21), amended by S.I. 2018/191 (W. 42), S.I. 2018/814 (W. 165) and S.I. 2019/235 (W. 54).

(3) S.I. 2018/191 (W. 42), amended by S.I. 2018/813 (W. 164), S.I. 2018/814 (W. 165) and S.I. 2019/235 (W. 54).

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;

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

“Specified Amount” (“*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⁽²⁾ 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 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;
- (b) does not have outstanding penalties, costs, expenses or charges in relation to such a loan pursuant to any such agreement or regulations; and
- (c) has not received a cancellation (including a cancellation of £0.00) under the provisions of the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2010⁽³⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2011⁽⁴⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2012⁽⁵⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2013⁽⁶⁾, the Cancellation of Student Loans for Living

(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).

(2) Section 23 was amended by section 146 of the Learning and Skills Act 2000 (c. 21), S.I. 2002/808 and S.I. 2010/1158.

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

(4) S.I. 2011/1654 (W. 189).

(5) S.I. 2012/1518 (W. 201).

(6) S.I. 2013/1396 (W. 135).

Costs Liability (Wales) Regulations 2014⁽¹⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2015⁽²⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2016⁽³⁾, the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2017⁽⁴⁾; or the Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2018⁽⁵⁾ of any of their liability for payment in respect of a loan received from the Welsh Ministers.

Specified Amount

- 6.** The Specified Amount is the lesser of—
- (a) £1,500; or
 - (b) 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 or any 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 or any 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⁽⁶⁾.

Cancellation

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

⁽¹⁾ S.I. 2014/1314 (W. 134).

⁽²⁾ S.I. 2015/1418 (W. 142).

⁽³⁾ S.I. 2016/48 (W. 20).

⁽⁴⁾ S.I. 2017/489 (W. 102).

⁽⁵⁾ S.I. 2018/818 (W. 166).

⁽⁶⁾ 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). See in particular regulations 17, 29, 44 and 76.

9. If any of the Circumstances in regulation 5 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”).

Kirsty Williams

Minister for Education, one of the Welsh Ministers

2 July 2019