

2007 Rhif 3509 (Cy. 308)

ADDYSG, CYMRU

Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) (Diwygio) (Cymru) 2007

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2000 (O.S. 2000/944) ("y prif Reoliadau").

O dan adran 44 o Ddeddf Addysg Uwch 2004 trosglwyddwyd rhai o swyddogaethau'r Ysgrifennydd Gwladol yn ymwneud â chymorth i fyfyrwyr o dan adran 22 o Ddeddf Addysgu ac Addysg Uwch 1998 i Weinidogion Cymru.

Mae rheoliad 3 yn mewnosod yn rheoliad 2 o'r prif Reoliadau baragraffau newydd i'r perwyl bod unrhyw gyfeiriad mewn unrhyw ddarpariaeth yn Rhan 1 neu Ran 2 o'r prif Reoliadau i'w ddarllen, mewn perthynas â benthyciadau i fyfyrwyr a wneir gan Weinidogion Cymru, fel cyfeiriad at Weinidogion Cymru.

Mae rheoliad 4 yn diwygio'r diffiniad o "Secretary of State" yn rheoliad 3 o'r prif Reoliadau.

Mae rheoliad 5 yn mewnosod diffiniad newydd yn rheoliad 9 o'r prif Reoliadau.

Mae rheoliad 6 yn mewnosod rheoliad 12 newydd yn y prif Reoliadau o ran Cymru. Mae Gweinidogion Cymru'n dileu rhwymedigaeth benthyciwr i ad-dalu ei fenthyciad i fyfyrwr mewn amgylchiadau penodol. Caiff y benthyciad ei ddileu os bydd farw'r benthyciwr, os bydd y benthyciwr yn cyrraedd 65 oed, neu os bydd y benthyciwr yn derbyn budd-dal ar sail anabledd a'i fod, o ganlyniad i'r anabledd, yn an-ffit yn barhaol i weithio. Bydd categorïau penodol o fenthycwyr a gymerodd fenthyciadau ar gyfer cyrsiau yn dechrau ar neu ar ôl 1 Medi 2006 yn gweld dileu eu benthyciadau i fyfyrwyr 25 o flynyddoedd ar ôl iddynt

ddod yn atebol am eu had-dalu. Bydd benthyciadau'r benthycwyr sy'n weddill yn cael eu dileu pan fydd y benthycwyr yn cyrraedd 65 mlwydd oed.

Mae rheoliad 7 yn rhoi Rhan 5 newydd yn y prif Reoliadau, gan fewnosod rheoliadau 53 i 57C newydd o ran Cymru. Mae'r Rhan hon yn ymwneud ag ad-dalu benthyciadau i fyfyrwyr gan fenthycwyr sy'n mynd dramor i fyw yn dilyn eu cyrsiau addysg uwch. Mae'n ddyletswydd ar fenthycwyr i hysbysu Gweinidogion Cymru pan fyddant yn mynd dramor i fyw am gyfnod o fwy na thri mis. Rhaid iddynt hefyd ddarparu gwybodaeth am eu hincwm (rheoliad 54 o'r prif Reoliadau).

Pan fydd benthyciwr yn mynd dramor i fyw, caiff Gweinidogion Cymru gyflwyno iddo hysbysiad yn ei gwneud yn ofynnol iddo ad-dalu ei fenthyciad yn unol â'r prif Reoliadau. Yn y cyfryw hysbysiad, caiff Gweinidogion Cymru ei gwneud yn ofynnol i'r benthyciwr sydd wedi methu â darparu ar eu cyfer wybodaeth y mae ei hangen o dan reoliad 54 o'r prif Reoliadau wneud ad-daliad i ostwng y swm sy'n weddill o'i fenthyciad fel bod y swm yn cyfateb i swm a fyddai ar ôl i'w dalu pe bai'r benthyciwr wedi darparu'r wybodaeth.

Bydd yn ofynnol i fenthycwyr ad-dalu eu benthyciadau drwy randaliadau penodol o dan reoliad 56 o'r prif Reoliadau, onid yw rheoliad 57 yn gymwys. Bydd yn rhaid iddynt ad-dalu, bob mis, randaliad penodol a fydd yn cael ei gyfrifo yn unol â rheoliad 57A.

O dan reoliad 57 o'r prif Reoliadau caiff benthyciwr sydd wedi cydymffurfio â chais am roi gwybodaeth ad-dalu ei fenthyciad am gyfnod o 12 mis mewn 12 rhandaliad ar sail ei incwm. Rhandaliad ydyw sy'n un rhan o ddeuddeg o 9% o incwm gros y benthyciwr o ddiystyru incwm hyd at drothwy cymwys, ac unrhyw incwm y bydd y benthyciwr yn gwneud ad-daliadau ar fenthyciad mewn cysylltiad ag ef drwy system drethi'r DU. Ar ddiwedd y cyfnod o 12 mis, gellir ailasesu ad-daliadau'r benthyciwr, neu gall y benthyciwr ad-dalu yn unol â rheoliadau 56 a 57. Caiff y benthyciwr hefyd ofyn am i'r rhandaliadau ar sail ei incwm gael eu hailbenderfynu yn ystod y cyfnod o 12 mis.

Mae rheoliad 57A yn nodi sut y cyfrifir y trothwy cymwys a'r rhandaliadau penodol. Cyfrifir y rhain drwy gyfeirio at fynegai lefel prisiau'r wlad y mae'r benthyciwr yn preswyllo ynddi. Cyfrifir y mynegai lefel prisiau ar gyfer y wlad honno drwy ddefnyddio'r mynegeion lefel prisiau cymharol dros dro diweddaraf wedi eu mesur fel cynnyrch domestig gros a lunnir gan Swyddfa Ystadegau y Cymunedau Ewropeaidd ("Eurostat"). Ceir y trothwy cymwys a'r rhandaliad penodol ar gyfer pob un o gyfres o fandiau o fynegeion lefel prisiau mewn tabl yn rheoliad 57A. Pan nad oes

unrhyw ddata ar gael gan Eurostat, bydd data Banc y Byd yn cael ei ddefnyddio. Os nad oes unrhyw ddata mewn cysylltiad â gwlad ar gael gan Fanc y Byd, bydd y trothwy cymwys a'r rhandaliad penodol ar gyfer band A yn gymwys.

Mae rheoliad 57B yn darparu i fenthycwyr sy'n dychwelyd i fyw i'r Deyrnas Unedig roi'r gorau i wneud ad-daliadau o dan y rhan hon o'r Rheoliadau.

Mae rheoliad 57C yn darparu y caiff Gweinidogion Cymru ei gwneud yn ofynnol i fenthyciwr ad-dalu'r cyfan o'i fenthyciad os yw'n fenthyciwr sy'n peidio ag ad-dalu.

2007 Rhif 3509 (Cy.308)

ADDYSG, CYMRU

**Rheoliadau Addysg (Benthyciadau i
Fyfyrwyr) (Ad-dalu) (Diwygio)
(Cymru) 2007**

Gwnaed *12 Rhagfyr 2007*

Gosodwyd gerbron Cynulliad Cenedlaethol

Cymru *13 Rhagfyr 2007*

Yn dod i rym *10 Ionawr 2008*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 22, 42(6) a 43(1) o Ddeddf Addysgu ac Addysg Uwch 1998(1), ac sydd bellach yn arferadwy ganddynt hwy(2), yn gwneud y Rheoliadau canlynol:

-
- (1) 1998 p. 30; diwygiwyd adran 22 gan Ddeddf Dysgu a Medrau 2000 (p.21), adran 146 ac Atodlen 11 iddi, Deddf Treth Incwm (Enillion a Phensiynau) 2003 (p.1), Atodlen 6 iddi, Deddf Cyllid 2003 (p.14), adran 147 a Deddf Addysg Uwch 2004 (p 8), adran 42. Diwygiwyd adran 42 ac adran 43 gan Ddeddf Addysg 2002 (p.32), Atodlen 12 iddi. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan adran 44 o Ddeddf Addysg Uwch 2004, Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005 (O.S. 2005/1833 (Cy.149)(C.79) a Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) (Diwygio) 2006 (O.S. 2006/1660 (Cy.159)(C.56)).
- (2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan Ddeddf Addysgu ac Addysg Uwch 1998 i Gynulliad Cenedlaethol Cymru gan adran 44 o Ddeddf Addysg Uwch 2004 a Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) 2005 (O.S. 2005/1833 (Cy.149)(C.79)) fel y'i diwygiwyd gan Orchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 2 a Darpariaeth Drosiannol) (Cymru) (Diwygio) 2006 (O.S. 2006/1660 (Cy.159)(C.56)). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraffau 30(1) a 30(2)(a) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Benthyciadau i Fyfyrrwyr) (Ad-dalu) (Diwygio) (Cymru) 2007 a deuant i rym ar 10 Ionawr 2008.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Diwygio Rheoliadau Addysg (Benthyciadau i Fyfyrrwyr) (Ad-dalu) 2000

2. Diwygir Rheoliadau (Benthyciadau i Fyfyrrwyr) (Ad-dalu) 2000(1) fel a ganlyn.

3. Ailrifir rheoliad 2 yn rheoliad 2(1) ac—

(a) yn rheoliad 2(1) (fel y'i hailrifir) mewnosoder ar ddiwedd y diffiniad o “the Assembly” y geiriau, “and includes any person exercising functions on its behalf pursuant to section 23 (4) of the Act;” ;

(b) yn rheoliad 2(1) (fel y'i hailrifir) yn y man priodol yn nhrefn yr wyddor mewnosoder—
““Welsh Ministers” includes any person exercising functions on their behalf pursuant to section 23(4) of the Act;”;

(c) ar ôl rheoliad 2(1) (fel y'i hailrifir) mewnosoder paragraffau newydd—

“(2) Subject to paragraph (3), any reference in any provision in Part 2 of these Regulations to the Secretary of State is to be read, in relation to a student loan made by the Welsh Ministers, as a reference to the Welsh Ministers.

(3) Paragraph (2) does not apply to any reference to the Secretary of State in a provision to the extent that the provision relates to Part 3 or 4.”.

4. Yn rheoliad 3(5), yn y diffiniad o “Secretary of State” hepgorer, “and includes any person exercising functions on behalf of the Assembly pursuant to section 23(4) of the Act”.

5. Yn rheoliad 9, yn y diffiniad o “the 2006 Regulations”, ar ôl “2006” mewnosoder, “in relation to England;”, ac ar ôl y diffiniad hwnnw mewnosoder y diffiniad canlynol—

““the 2006 Welsh Regulations” means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006(2);”.

6. Yn lle rheoliad 12, rhodder y canlynol —

(1) O.S. 2000/944; mae O.S. 2001/971, 2004/2752 a 2006/2009 yn offerynnau diwygio perthnasol.

(2) O.S.2006/126 (Cy.19) fel y'i diwygiwyd gan O.S. 2006/1863 (Cy.196).

“12.—(1) This regulation applies in relation to Wales.

(2) This regulation applies where a borrower is not in breach of any obligation to repay a student loan under Part 5 or any obligation to repay any loan mentioned in paragraph (5).

(3) In this regulation “post-2006 student loan” means any student loan paid under the 2006 Welsh Regulations or any subsequent regulations made by the Welsh Ministers under section 22 of the Act and taken out by the following —

- (a) a borrower who takes out a student loan for the first time in respect of an academic year beginning on or after 1 September 2006; or
- (b) a borrower who takes out a student loan in respect of a course which satisfies the following conditions —
 - (i) it begins on or after 1 September 2006;
 - (ii) it is not an end-on course following on from a course which he or she began before 1 September 2006; and
 - (iii) it is not one to which his or her status as a student eligible for support under regulations made under section 22 of the Act has been transferred from another course which he or she began before 1 September 2006.

(4) The Welsh Ministers must cancel the borrower’s liability to repay his or her student loan when one of the following occurs —

- (a) the borrower dies;
- (b) the borrower receives a disability related benefit and because of his or her disability is permanently unfit for work;
- (c) in the case of post-2006 student loans, the 25th anniversary of the date on which the borrower became liable to repay the student loan; or
- (d) in the case of student loans which are not post-2006 student loans, the borrower reaches the age of 65.

(5) The loans mentioned in this paragraph are loans made under the Education (Student Loans) Act 1990(1), the Education (Student

(1) 1990 p.6: a ddiddymwyd gan Ddeddf Addysgu ac Addysg Uwch 1998 (p.30), Atodlen 4 .

Loans) (Northern Ireland) Order 1990(1), the Education (Scotland) Act 1980(2) and regulations made under it and the Education (Student Support) (Northern Ireland) Order 1998(3) and regulations made under it.

(6) The cancellation of the borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments under Part 3 subject to and in accordance with that Part in respect of any year of assessment —

- (a) in the case of cancellation under paragraph (4)(a), during which the borrower was alive; and
- (b) in any other case, preceding the year of assessment during which the student loan was cancelled.

(7) The cancellation of a borrower's liability to repay his or her student loan under paragraph (4) does not affect his or her liability to make repayments by way of deductions made under Part 4 subject to and in accordance with that Part in respect of any earnings period ending before the date of cancellation.”.

7. Yn lle Rhan 5 rhodder y canlynol —

“PART 5

Repayment by Overseas Borrowers

52D. This Part applies in relation to Wales.

Interpretation

53. In this Part —

“gross income” means income from all sources before deductions for or relief from tax or other statutory charge;

“residence” in or outside the United Kingdom has the same meaning as it has in the Taxes Acts;

“Eurostat” means the Statistical Office for the European Communities.

-
- (1) O.S. 1990/1506 (N.I.11), a ddiwygiwyd gan O.S. 1996/1274 (N.I.1) erthygl 43 ac Atodlen 5 Rhan 11, O.S. 1996/1918 (N.I. 15), erthygl 3 a'r Atodlen iddo ac O.S. 1998/258 (N.I.1), erthyglau 3 i 6.
 - (2) 1980 p.44: a ddiwygiwyd gan Ddeddf Addysgu ac Addysg Uwch 1998 (p.30), adran 29; Deddf Addysg (Gwaddol i Raddedigion a Chymorth i Fyfyrrwyr) (Yr Alban) 2001 (dsa 6), adran 3; a Deddf Ysgolion Sy'n Llywodraethu Eu Hunain etc. (Yr Alban) 1989 (p.39), Atodlen 10.
 - (3) O.S. 1998/1760 (N.I.14).

Notice of overseas residence

54.—(1) A borrower must notify the Welsh Ministers of any period of residence outside the United Kingdom which exceeds three months.

(2) A borrower must provide such information about his or her income during any such period of residence as the Welsh Ministers may require.

Notice of liability to make repayments

55.—(1) Subject to regulation 57, where the Welsh Ministers are satisfied that a borrower is resident outside the United Kingdom they may serve a notice on the borrower requiring the borrower to repay his or her student loan in accordance with regulation 56.

(2) In a notice served under paragraph (1) the Welsh Ministers may require a borrower who has failed to —

- (a) give the notice required by regulation 54(1), or
- (b) provide any information required by the Welsh Ministers under regulation 54(2)

to repay immediately such part of his or her student loan as will reduce the amount outstanding to the amount which the Welsh Ministers consider would have been outstanding if the borrower had given the notice or provided the information required of him or her.

Repayment by fixed instalments

56. A borrower must not later than the day specified in a notice served under regulation 55 and not later than the same day of each subsequent month pay the Welsh Ministers a fixed instalment, calculated in accordance with regulation 57A.

Repayment by income-related instalments

57.—(1) Where the Welsh Ministers are satisfied that a borrower to whom regulation 55 applies has complied with a requirement to provide information under regulation 54, they may determine that the borrower may repay his or her loan by income-related instalments, in accordance with this regulation.

(2) The first such instalment must be paid on a date determined by the Welsh Ministers being a date not more than two months later than the date of the determination, and subsequent

instalments must be paid on the same date in each subsequent month for up to twelve months.

(3) Each instalment must be one twelfth of the relevant amount.

(4) The relevant amount is 9% of the gross income which the Welsh Ministers consider the borrower is likely to receive during the twelve month period following the date of the determination referred to in paragraph (2), disregarding —

- (a) income up to the applicable threshold, calculated in accordance with regulation 57A; and
- (b) income in respect of which the Welsh Ministers are satisfied that repayments are likely to be made under Part 3 or 4.

(5) The amount of the instalment must be stated in the determination.

(6) At the end of the period referred to in paragraph (2), the borrower must pay fixed instalments under regulation 56, subject to a further determination under paragraph (1).

(7) At any time during the period referred to in paragraph (2) the Welsh Ministers may make a re-determination under paragraph (1).

Calculation of fixed instalment and applicable threshold

57A.—(1) The fixed instalment in regulation 56 and the applicable threshold in regulation 57 are to be determined by reference to the most recent price level index for the borrower's country of residence and in accordance with the following tables—

<i>Band</i>	<i>Price Level Index</i>	<i>Fixed Instalment</i>
A	0<30	£49.20
B	30<50	£98.40
C	50<70	£147.60
D	70<90	£196.80
E	90<110	£246
F	110<130	£295.20
G	130+	£344.40
<i>Band</i>	<i>Price Level Index</i>	<i>Applicable Threshold</i>
A	0<30	£3,000
B	30<50	£6,000
C	50<70	£9,000
D	70<90	£12,000
E	90<110	£15,000
F	110<130	£18,000
G	130+	£21,000

(2) The price level index for the United Kingdom is 100.

(3) Price level indices are to be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by Eurostat.

(4) Where a price level index cannot be calculated because Eurostat does not hold the necessary data, it is to be calculated using the most recent provisional comparative price level indices measured in gross domestic product produced by the World Bank's World Development Indicators.

(5) Where a price level index cannot be calculated under paragraph (3) or (4), the applicable threshold and fixed instalment are those for band A.

(6) The Welsh Ministers may determine that the applicable threshold or fixed instalment for a borrower is to be that for a country other than his or her country of residence.

Application to cease repayment by instalments

57B.—(1) A borrower who—

- (a) is required to make repayments under this Part, and
- (b) who has not been required to repay his or her student loan in full immediately under regulation 57C

may apply to the Welsh Ministers for a determination that he or she is no longer required to make such repayments.

(2) Where the Welsh Ministers are satisfied that —

- (a) the borrower is resident in the United Kingdom, and
- (b) he or she is likely to be resident in the United Kingdom for the year of assessment during which the date specified in his or her determination will fall,

they may determine that a borrower who has applied under paragraph (1) is not to be required to make repayments under this Part from a date specified in their determination, being a date not more than two months later than the date of the determination.

(3) A determination under paragraph (2) has effect until the borrower again becomes liable to repay the loan under regulation 56 or 57.

Penalties

57C. If a borrower does not pay an instalment or other amount when it is due the Welsh Ministers may require him or her to repay the loan in full immediately.”.

Jane Hutt

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

12 Rhagfyr 2007

