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OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2013 Rhif 1792 (Cy. 179)

2013 No. 1792 (W. 179)

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Addysg (Ffioedd Myfyrwyr, Dyfarniadau, a Chyrsiau a Phersonau Cymhwysol) (Cymru) 2013

The Education (Student Fees, Awards, Qualifying Courses and Persons) (Wales) Regulations 2013

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio:

These Regulations amend:

- (a) Rheoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007 (O.S. 2007/2310 (Cy.181)) ("Rheoliadau 2007");
- (b) Rheoliadau Ffioedd Myfyrwyr (Cyrsiau a Phersonau Cymhwysol) (Cymru) 2011 (O.S. 2011/691 (Cy.103)) ("Rheoliadau 2011").

- (a) Education (Fees and Awards) (Wales) Regulations 2007 (S.I. 2007/2310 (W.181)) ("the 2007 Regulations");
- (b) Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011 (S.I. 2011/691 (W.103)) ("the 2011 Regulations").

Mae rheoliadau 4 a 7 yn mewnosod cyfeiriad at St-Barthélemy yn Rheoliadau 2007 a 2011 yn dilyn Penderfyniad y Cyngor Ewropeaidd 2010/718/EU a newidiodd statws St-Barthélemy o un o ranbarthau pellaf yr Undeb Ewropeaidd i wlad neu diriogaeth dramor.

Regulations 4 and 7 insert reference to St-Barthélemy into the 2007 and 2011 Regulations following European Council Decision 2010/718/EU which changed the status of St-Barthélemy from one of the outermost regions of the European Union to an overseas country or territory.

Mae rheoliadau 5 ac 8 yn diwygio Rheoliadau 2007 a 2011 i ddileu'r gofyniad i bobl nad ydynt yn wladolion o'r UE eu hunain, ond sy'n aelodau o deulu gwladolyn o'r UE, fod wedi bod yn preswyllo fel arfer yn yr AEE am y 3 blynedd yn union cyn dechrau eu cwrs. Effaith y diwygiadau hyn yw y bydd yr aelodau teulu hyn yn gymwys i gael statws ffioedd cartref os yw'r gwladolyn o'r UE y mae eu hawl i breswyllo yn deillio ohono yn bodloni dau amod; hynny yw, naill ai nad yw'r person yn wladolyn o'r DU, neu ei fod yn wladolyn o'r DU sydd wedi arfer hawl i symud yn rhydd o dan gyfraith yr UE, a bod y person wedi bod yn preswyllo fel arfer yn yr AEE am y 3 blynedd yn union cyn diwrnod cyntaf blwyddyn academaidd gyntaf cwrs yn aelod o'i deulu.

Regulations 5 and 8 amend the 2007 and 2011 Regulations to remove the requirement for non-EU family members of EU nationals to have been ordinarily resident in the EEA for the 3 years immediately preceding the start of their course. The effect of these amendments is that these family members will qualify for home fee status if the EU national from whom they derive their right of residence satisfies two conditions; that is, that the person is either not a UK national, or is a UK national who has exercised an EU law right of free movement, and that the person has been ordinarily resident in the EEA for the 3 years immediately preceding the first day of the first academic year of their family member's course.

Mae'r Rheoliadau hyn yn gymwys i'r myfyrwyr hynny sy'n dechrau eu cyrsiau ar neu ar ôl 1 Medi 2013.

These Regulations apply to those students starting their courses on or after 1 September 2013.

2013 Rhif 1792 (Cy. 179)

2013 No. 1792 (W. 179)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg (Ffioedd
Myfyrwyr, Dyfarniadau, a Chyrsiau
a Phersonau Cymhwysol) (Cymru)
2013**

**The Education (Student Fees,
Awards, Qualifying Courses and
Persons) (Wales) Regulations 2013**

Gwnaed 16 Gorffennaf 2013

Made 16 July 2013

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 19 Gorffennaf 2013

*Laid before the National
Assembly for Wales* 19 July 2013

Yn dod i rym 1 Medi 2013

Coming into force 1 September 2013

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 1 a 2 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983(1), ac sydd bellach yn arferadwy ganddynt hwy(2), a thrwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 28(6) a 47(5) o Ddeddf Addysg

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 1 and 2 of the Education (Fees and Awards) Act 1983(1) and now exercisable by them(2) and in exercise of the powers conferred on the National Assembly for Wales by sections 28(6) and 47(5) of the Higher Education

(1) 1983 p.40. Diwygiwyd adran 1 gan Ddeddf Diwygio Addysg 1988 (p.40), adran 237 ac Atodlen 12; Deddf Addysg Bellach ac Uwch 1992 (p.13), adran 93 ac Atodlen 8; Deddf Addysg 1994 (p.30), adran 24 ac Atodlen 2; Deddf Addysg 1996 (p. 56), adran 582(1) ac Atodlen 37; Deddf Dysgu a Sgiliau 2000 (p.21), Atodlen 9; Deddf Addysg 2002 (p.32), adran 215 ac Atodlen 21; Deddf Addysg 2005 (p.18), adran 98 ac Atodlen 14; Gorchymyn Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant (Trosglwyddo Swyddogaethau i Gynulliad Cenedlaethol Cymru a Diddymu'r Cyngor) 2005 (O.S. 2005/3238), Atodlen 1; Gorchymyn Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (Diwygiadau Canlyniadol) (Cymru a Lloegr) 2010 (O.S. 2010/1080), Atodlen 1; Gorchymyn Awdurdodau Addysg Lleol ac Awdurdodau Gwasanaethau Plant (Integreiddio Swyddogaethau) 2010 (O.S. 2010/1158), erthygl 5 ac Atodlen 2; a Deddf Addysg 2011 (p.21), adran 16 ac Atodlen 5 ac Atodlen 16. Diwygiwyd adran 2 gan Ddeddf Addysgu ac Addysg Uwch 1998 (p.30), adran 44 ac Atodlen 4.

(2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 1 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 2006/1458 a hynny'n effeithiol o 8 Mehefin 2006 ymlaen. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adran 2 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru mewn perthynas ag adrannau 1 a 2 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983 i Weinidogion Cymru yn rhinwedd paragraffau 30(1) a 30(2)(a) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(1) 1983 c.40. Section 1 was amended by the Education Reform Act 1988 (c.40), section 237 and Schedule 12; the Further and Higher Education Act 1992 (c.13), section 93 and Schedule 8; the Education Act 1994 (c.30), section 24 and Schedule 2; the Education Act 1996 (c.56), section 582(1) and Schedule 37; the Learning and Skills Act 2000 (c.21) Schedule 9; the Education Act 2002 (c.32), section 215 and Schedule 21; the Education Act 2005 (c.18) section 98 and Schedule 14; the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1; the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080) Schedule 1; the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 5 and Schedule 2; and the Education Act 2011 (c.21), section 16 and Schedule 5, and Schedule 16. Section 2 was amended by the Teaching and Higher Education Act 1998 (c.30), section 44 and Schedule 4.

(2) The functions of the Secretary of State under section 1 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 2006/1458 with effect from 8 June 2006. The functions of the Secretary of State under section 2 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales in relation to sections 1 and 2 of the Education (Fees and Awards) Act 1983 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).

Uwch 2004(1) ac sydd bellach yn arferadwy ganddynt hwy(2), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwysol

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Ffioedd Myfyrwyr, Dyfarniadau, a Chyrsiau a Phersonau Cymhwysol) (Cymru) 2013.

(2) Daw'r Rheoliadau hyn i rym ar 1 Medi 2013 ac maent yn gymwys o ran Cymru.

(3) Nid yw'r diwygiadau a wneir gan y Rheoliadau hyn yn gymwys mewn perthynas â pherson pan fo diwrnod cyntaf blwyddyn academiaidd gyntaf cwrs y person hwnnw cyn 1 Medi 2013.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “Rheoliadau 2007” (“*the 2007 Regulations*”) yw Rheoliadau Addysg (Ffioedd a Dyfarniadau) (Cymru) 2007(3);

ystyr “Rheoliadau 2011” (“*the 2011 Regulations*”) yw Rheoliadau Ffioedd Myfyrwyr (Cyrsiau a Phersonau Cymhwysol) (Cymru) 2011(4).

Diwygio Rheoliadau 2007

3. Mae Rheoliadau 2007 wedi eu diwygio yn unol â rheoliadau 4 a 5.

4. Yn rheoliad 2, paragraff (1), yn y diffiniad o “tiriogaethau tramor”, mewnosoder “St-Barthélemy” yn y man priodol.

5. Ym mharagraff 9 o'r Atodlen—

(a) yn is-baragraff (1)(c), cyn “sydd wedi bod yn preswyl fel arfer”, mewnosoder “yn ddarostyngedig i is-baragraff (1A),”;

(b) ar ôl is-baragraff (1), mewnosoder—
“(1A) Nid yw paragraff (c) o is-baragraff (1) yn gymwys i aelod o deulu gwladolyn o'r UE—

(a) pan—

(i) fo'r gwladolyn hwnnw o'r UE yn wladolyn o'r Deyrnas Unedig

Act 2004(1) and now exercisable by them(2), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Education (Student Fees, Awards, Qualifying Courses and Persons) (Wales) Regulations 2013.

(2) These Regulations come into force on 1 September 2013 and apply in relation to Wales.

(3) The amendments made by these Regulations do not apply in relation to a person where the first day of the first academic year of that person's course is before 1 September 2013.

Interpretation

2. In these Regulations—

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the Education (Fees and Awards) (Wales) Regulations 2007(3);

“the 2011 Regulations” (“*Rheoliadau 2011*”) means the Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011(4).

Amendment of the 2007 Regulations

3. The 2007 Regulations are amended in accordance with regulations 4 and 5.

4. In regulation 2 paragraph (1), in the definition of “overseas territories”, insert “St-Barthélemy” in the appropriate place.

5. In paragraph 9 of the Schedule—

(a) in sub-paragraph (1)(c) before “has been ordinarily resident”, insert “subject to sub-paragraph (1A),”;

(b) after sub-paragraph (1), insert—
“(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EU national where that EU national—

(a) is—

(i) a United Kingdom national who has exercised a right to reside in

(1) 2004 p.8. Diwygiwyd adran 28 gan Ddeddf Addysg 2005 (p.18), adran 98 ac Atodlen 14; a Deddf Addysg 2011 (p.21), adran 16 ac Atodlen 5.

(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraffau 30(1) a 30(2)(c) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

(3) O.S. 2007/2310 (Cy.181) fel y'i diwygiwyd gan O.S. 2008/1259 (Cy.126), O.S. 2010/1142 (Cy.101), O.S. 2011/1043 a O.S. 2011/1978 (Cy.218).

(4) O.S. 2011/691 (Cy.103) fel y'i diwygiwyd gan O.S. 2011/1978 (Cy.218) ac O.S. 2012/1630 (Cy.209).

(1) 2004 c.8. Section 28 was amended by the Education Act 2005 (c. 18), section 98 and Schedule 14; and the Education Act 2011 (c.21), section 16 and Schedule 5.

(2) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraphs 30(1) and 30(2)(c) of Schedule 11 to the Government of Wales Act 2006.

(3) S.I. 2007/2310 (W.181) as amended by S.I. 2008/1259 (W.126), S.I. 2010/1142 (W.101), S.I. 2011/1043 and S.I. 2011/1978 (W.218).

(4) S.I. 2011/691 (W.103) as amended by S.I. 2011/1978 (W.218) and S.I. 2012/1630 (W.209).

sydd wedi arfer hawl i breswyllo yn nhiriogaeth Aelod-wladwriaeth arall o dan erthygl 7(1) o Gyfarwyddeb 2004/38; neu

- (ii) na fo'r gwladolyn hwnnw o'r UE yn wladolyn o'r Deyrnas Unedig; a
- (b) pan fo'r gwladolyn hwnnw o'r UE wedi bod yn preswyllo fel arfer yn y diriogaeth a ffurfir gan yr Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs."

the territory of another Member State under article 7(1) of Directive 2004/38; or

- (ii) not a United Kingdom national; and
- (b) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course."

Diwygio Rheoliadau 2011

6. Mae Rheoliadau 2011 wedi eu diwygio yn unol â rheoliadau 7 ac 8.

7. Ym mharagraff 1(1) o'r Atodlen, yn y diffiniad o "tiriogaethau tramor", mewnosoder "St-Barthélemy" yn y man priodol.

8. Ym mharagraff 9 o'r Atodlen—

- (a) yn is-baragraff (1)(c), cyn "sydd wedi bod yn preswyllo fel arfer", mewnosoder "yn ddarostyngedig i is-baragraff (1A),";
- (b) ar ôl is-baragraff (1), mewnosoder—
 - "(1A) Nid yw paragraff (c) o is-baragraff (1) yn gymwys i aelod o deulu gwladolyn o'r UE—
 - (a) pan—
 - (i) fo'r gwladolyn hwnnw o'r UE yn wladolyn o'r Deyrnas Unedig sydd wedi arfer hawl i breswyllo yn nhiriogaeth Aelod-wladwriaeth arall o dan erthygl 7(1) o Gyfarwyddeb 2004/38; neu
 - (ii) na fo'r gwladolyn hwnnw o'r UE yn wladolyn o'r Deyrnas Unedig; a
 - (b) pan fo'r gwladolyn hwnnw o'r UE wedi bod yn preswyllo fel arfer yn y diriogaeth sy'n ffurfio'r Ardal Economaidd Ewropeaidd, y Swistir a'r tiriogaethau tramor drwy gydol y cyfnod o dair blynedd cyn diwrnod cyntaf blwyddyn academiaidd gyntaf y cwrs."

Amendment of the 2011 Regulations

6. The 2011 Regulations are amended in accordance with regulations 7 and 8.

7. In paragraph 1(1) of the Schedule, in the definition of "overseas territories", insert "St-Barthélemy" in the appropriate place.

8. In paragraph 9 of the Schedule—

- (a) in sub-paragraph (1)(c) before "has been ordinarily resident", insert "subject to sub-paragraph (1A),";
- (b) after sub-paragraph (1), insert—
 - "(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of an EU national where that EU national—
 - (a) is—
 - (i) a United Kingdom national who has exercised a right to reside in the territory of another Member State under article 7(1) of Directive 2004/38; or
 - (ii) not a United Kingdom national; and
 - (b) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course."

Huw Lewis

Y Gweinidog Addysg a Sgiliau, un o Weinidogion
Cymru

16 Gorffennaf 2013

Minister for Education and Skills, one of the Welsh
Ministers

16 July 2013

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