
WELSH STATUTORY INSTRUMENTS

2015 No. 54

The Education (Student Support) (Wales) Regulations 2015

PART 12

SUPPORT FOR PART-TIME COURSES

Part-time grants for dependants - interpretation

100.—(1) In regulations 94 to 99—

- (a) subject to paragraph (4), “adult dependant” (“*dibynnydd mewn oed*”) means, in relation to an eligible part-time student, an adult person dependent on the eligible part-time student other than the eligible part-time student’s child, the eligible part-time student’s partner (including a spouse or civil partner from whom the Welsh Ministers consider the eligible part-time student is separated) or the eligible part-time student’s former partner;
- (b) “child” (“*plentyn*”) in relation to an eligible part-time student includes any child of the eligible part-time student’s partner who is dependent on the eligible part-time student and any child for whom the eligible part-time student has parental responsibility who is dependent on the eligible part-time student;
- (c) “dependant” (“*dibynnydd*”) means, in relation to an eligible part-time student, the eligible part-time student’s partner, the eligible part-time 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” (“*dibynnoI*”) means wholly or mainly financially dependent;
- (e) “dependent child” (“*plentyn dibynnoI*”) means, in relation to an eligible part-time student, a child dependent on the eligible part-time student;
- (f) “financial year” (“*blwyddyn ariannoI*”) means the period of twelve months in respect of which the income of a dependant (whose income is calculated under regulations 94 to 99) is computed for the purposes of the income tax legislation which applies to it;
- (g) “lone parent” (“*rhiant unigol*”) means an eligible part-time student who does not have a partner and who has a dependent child;
- (h) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (i) “net income” (“*incwm net*”) has the meaning given in paragraph (6);
- (j) subject to sub-paragraphs (i), (j), (k) and paragraphs (2) and (3) “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 the person were the eligible part-time student’s spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which household income falls to be assessed for the purposes 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 the person were the eligible part-time student's civil partner where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which household income falls to be assessed for the purposes of Schedule 6 and began the designated part-time course on or after 1 September 2005;
- (k) "preceding financial year" (*"blwyddyn ariannol flaenorol"*) means the financial year immediately preceding the relevant year;
- (l) "prior financial year" (*"blwyddyn ariannol gynharach"*) means the financial year immediately preceding the preceding financial year;
- (m) "relevant year" (*"blwyddyn berthnasol"*) means the academic year of the present course in respect of which the eligible part-time student's dependant's income falls to be assessed;
- (n) "residual income" (*"incwm gweddilliol"*) means taxable income after the application of paragraph (10) (in the case of an eligible part-time student's partner) or paragraph (11) (in the case of an eligible part-time student's adult dependant);
- (o) "taxable income" (*"incwm trethadwy"*) means, in respect of the prior financial year—
- (i) the total income on which a person is charged to income tax as determined at Step 1 of the calculation in section 23 of the Income Tax Act 2007⁽¹⁾, together with any payments and other benefits mentioned in section 401(1) of the Income Tax (Earnings and Pensions) Act 2003⁽²⁾ (ignoring section 401(2) of that Act), received or treated as received by a person, to the extent that they are not a component of the total income on which a person is charged to income tax;
 - (ii) a person's total income from all sources as determined for the purposes of the income tax legislation of another Member State which applies to the person's income; or
 - (iii) where the legislation of more than one Member State applies to the period, a person's total income from all sources as determined for the purposes of the income tax legislation under which the Welsh Ministers consider that a person's total income in that period is greatest,
- except that no account is taken of the income referred to in paragraph (2) which is paid to another party;
- (p) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (j) 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;
- (q) 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 is not aged 25 or over on the first day of the academic year in respect of which household income falls to be assessed for the purposes of Schedule 6;
- (r) 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

(1) 2007 c. 3; section 23 was amended by the Finance Act 2009 (c. 10), Schedule 1, paragraph 6(o)(i), and the Finance Act 2013 (c. 29), Schedule 3, paragraph 2(2).

(2) 2003 c. 1; section 401 was amended by S.I. 2005/3229, S.I. 2011/1037 and S.I. 2014/211.

person is ordinarily living is not aged 25 or over on the first day of the academic year in respect of which household income falls to be assessed for the purposes of Schedule 6.

(2) The income referred to in this paragraph is any benefits under a pension arrangement pursuant to an order made under section 23 of the Matrimonial Causes Act 1973 which includes provision made by virtue of sections 25B(4) and 25E(3) of that Act or pension benefits under Part 1 of Schedule 5 to the Civil Partnership Act 2004 which includes provision made by virtue of Parts 6 and 7 of that Schedule.

(3) For the purposes of regulation 97—

- (a) paragraph (1)(p) does not apply; and
- (b) a person is to be treated as a partner if the person would be a partner under paragraph (1)(j) but for the fact that the eligible part-time student with whom the person is ordinarily living is not aged 25 or over on the first day of the academic year in respect of which household income falls to be assessed for the purposes of Schedule 6.

(4) For the purposes of determining whether a person is the former partner of an eligible part-time student's partner, "partner" ("*partner*") in relation to an eligible part-time student's partner means—

- (a) the spouse of an eligible part-time student's partner;
- (b) the civil partner of an eligible part-time student's partner;
- (c) where the eligible part-time student began the specified designated part-time course on or after 1 September 2000, a person ("A") ordinarily living with an eligible part-time student's partner ("B") as if A were B's spouse;
- (d) where the eligible part-time student began the specified designated part-time course on or after 1 September 2005, a person ("A") ordinarily living with an eligible part-time student's partner ("B") as if A were B's civil partner.

(5) Subject to paragraph (5), 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—

- (a) is not dependent on only—
 - (i) the eligible part-time student; or
 - (ii) the eligible part-time student's partner; but
- (b) is dependent on the eligible part-time student and the eligible part-time student's partner together.

(6) The Welsh Ministers must not treat an adult person ("A") as dependent on an eligible part-time student in accordance with paragraph (4), if A is—

- (a) 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
- (b) the former partner of the eligible part-time student's partner.

(7) A dependant's net income is the dependant's income from all sources (for the relevant year for the purposes of regulation 96(2)(b) and for the prior financial year for the purposes of regulation 99(2)) 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⁽³⁾;
 - (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⁽⁴⁾;
 - (d) any guardian's allowance to which the dependant is entitled under section 77 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⁽⁵⁾;
 - (f) any payment made to the dependant under section 23C(5A) of the Children Act 1989;
 - (g) 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⁽⁶⁾;
 - (h) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002⁽⁷⁾; and
 - (i) in the case of a dependant who is entitled to an award of universal credit—
 - (i) any amount that is included in the calculation of the award under regulation 27(1) of the Universal Credit Regulations 2013, in respect of the fact that the dependant has limited capability for work or limited capability for work and work-related activity; and
 - (ii) any amount or additional amount that is included in the calculation of the award under regulation 24 of those Regulations (the child element).
- (8) Where an eligible part-time student or the eligible part-time student's partner makes any recurrent payments which were previously made by the eligible part-time student in pursuance of an obligation incurred before the first academic year of the eligible part-time student's course, the eligible part-time student's partner's residual income is 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.
- (9) For the purposes of paragraph (6), where the dependant is a dependent child and payments are made to the eligible part-time student towards the dependent child's maintenance, those payments are to be treated as the dependent child's income.
- (10) An eligible part-time student's partner's residual income is determined in accordance with paragraph 4 of Schedule 6.
- (11) An eligible part-time student's adult dependant's residual income is determined in accordance with paragraph 4 of Schedule 6 (other than sub-paragraphs (8), (9) or (10) of paragraph 4) with references to the eligible part-time student's partner being construed as references to the eligible part-time student's adult dependant.

(3) 1992 c. 4 to which there are amendments not relevant to these Regulations.

(4) 2002 c. 38.

(5) 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, the Children Act 2004 (c. 31), section 49(3), the Children and Young Persons Act 2008 (c. 23), section 39 and Schedule 3, paragraphs 1 and 7 and the Children and Families Act 2014 (c. 6), Schedule 2(1).

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

(7) 2002 c. 21 to which there are amendments not relevant to these Regulations.

