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STATUTORY INSTRUMENTS

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**2002 No. 195**

**EDUCATION, ENGLAND AND WALES**

**The Education (Student Support) Regulations 2002**

*Made* - - - - *4th February 2002*  
*Laid before Parliament* *4th February 2002*  
*Coming into force* - - *25th February 2002*

The Secretary of State for Education and Skills, in exercise of the powers conferred on ...her by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(1), hereby makes the following Regulations—

**PART I**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Education (Student Support) Regulations 2002 and shall come into force on 25th February 2002.

**Interpretation**

2.—(1) In these Regulations, except where the context otherwise requires—

“the 1962 Act” means the Education Act 1962(2);

“the 1998 Regulations” means the Education (Student Support) Regulations 1998(3);

“the 1999 Regulations” means the Education (Student Support) Regulations 1999(4);

“the 2000 Regulations” means the Education (Student Support) Regulations 2000(5);

“**the 2001 Regulations**” means **the Education (Student Support) Regulations 2001(6)**;

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(1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146.

(2) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).

(3) S.I. 1998/2003.

(4) S.I. 1999/496, amended by S.I. 1999/2266 and by S.I. 2000/1120.

(5) S.I. 2000/1121, amended by S.I. 2000/1490, by S.I. 2000/2142 and by S.I. 2000/2912.

(6) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.

“academic authority” means in relation to an institution, the governing body, or other body having the functions of a governing body and includes a person acting with the authority of that body;

“academic year” has the meaning given in paragraph (6);

“accelerated course” means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration;

“the Act” means the Teaching and Higher Education Act 1998;

“award” means an award under the 1962 Act;

“borrower” means a person to whom a loan has been made;

“contribution” means an eligible student’s contribution calculated pursuant to regulation 23 and Schedule 3;

“designated course” means a course designated by regulation 5 or by the Secretary of State under regulation 5;

“designated part-time course” means a course designated by regulation 29 or by the Secretary of State under regulation 29;

“disability related benefit” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disabled person’s tax credit, all payable under the Social Security Contributions and Benefits Act 1992(7), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(8);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(9) as adjusted by the Protocol signed at Brussels on 17th March 1993(10);

“EEA migrant worker” has the meaning assigned to it in paragraph (5);

“eligible student” means a person whom the Secretary of State has determined is eligible for support in connection with his attendance at a course in accordance with regulation 6, 7 or 35 of these Regulations;

“eligible part-time student” means a person whom the Secretary of State has determined is eligible for support in connection with his undertaking a part-time course in accordance with regulation 32, 34 or 35 of these Regulations;

“end-on course” means

- (a) a course mentioned in paragraph 1 of Schedule 2, which a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 2 or 3 of Schedule 2 (disregarding any intervening vacation) for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations, or support under the 1999, 2000 or 2001 Regulations; or
- (b) a course for the initial training of teachers mentioned in paragraph 4 of Schedule 2 the duration of which does not exceed two years (a part-time course being treated as its full-time equivalent), which a student begins to attend immediately after ceasing to attend a

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(7) 1992 c. 4, amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2, and by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a) and (b) and 2(h) and by section 14(1) to (5), the Welfare Reform and Pensions Act 1999, section 88 and Schedule 13, Part IV, the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 34 and by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 2.

(8) S.I. 1987/1967 (see Parts III and IV of Schedule 2); the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/203, 1995/482, 1995/516.

(9) Cmnd. 2073.

(10) Cmnd. 2183.

course mentioned in paragraph 1 or 4 (but only where the course leads to a first degree) of Schedule 2 (disregarding any intervening vacation) for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations, or support under the 1999, 2000 **or 2001** Regulations;

“European Community” means the territory comprised by the member States of the European Community as constituted from time to time;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“high cost country” means Austria ... countries of the Commonwealth of Independent States, **Denmark**, Eire, Finland, France (excluding Départements-d'Outre Mer), Germany, **Hong Kong**, Iceland, Indonesia, Israel, Luxembourg, the Netherlands, Norway, ... Sweden **and Taiwan**;

“higher cost country” means.... Japan **and** Switzerland...

“higher education course” means a course referred to in Schedule 2 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;

“...Islands” means the Channel Islands and the Isle of Man;

“loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Act, including the interest accrued on the loan and any penalties or charges made in connection with it;

“lone parent” means an eligible student who does not ordinarily live with a spouse or with another person as a spouse, and who has a **dependent child or dependent children** within the meaning of regulation 15(12);

“Metropolitan Police District” means the areas referred to in section 76 of the London Government Act 1963(**11**) as it had effect prior to the substitution by section 323 of the Greater London Authority Act 1999(**12**) of subsection (1);

“old award” means an award under section 1 (1) of the 1962 Act which is an old award within the meaning of the Education (Mandatory Awards) Regulations 1998(**13**) or an award under section 1(6) of that Act which is an old award for the purposes of those regulations as applied to such awards by virtue of section 1(7) of that Act;

“periods of work experience” has the meaning given it in regulation 5(4);

“public funds” means moneys provided by Parliament;

“quarter” in relation to an academic year, means one of the periods in that year from 1st January to 31st March, 1st April to 30th June, 1st July to 31st August, or 1st September to 31st December;

“refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**14**) as extended by the Protocol thereto which entered into force on 4th October 1967(**15**) and any reference to the child of a refugee includes a reference to a step-child;

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(11) 1963 c. 33; section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), article 11.

(12) 1999 c. 29.

(13) S.I. 1998/1166, amended by the Education (Mandatory Award) Regulations 1998 (Amendment) Regulations 1998 (S.I. 1998/1972).

(14) Cmnd. 9171.

(15) Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG or the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

“sandwich course” has the meaning given it in regulation 5(2);

“statutory award” means any award bestowed, grant paid or other support provided by virtue of the Act or the 1962 Act, or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

“student loan account number” means the account number assigned by the lender to a loan made under the Act, the Education (Student Loans) Act 1990<sup>(16)</sup>, the Education (Student Loans)(Northern Ireland) Order 1990<sup>(17)</sup>, the Education (Scotland) Act 1980<sup>(18)</sup> or the Education (Student Support)(Northern Ireland) Order 1998<sup>(19)</sup>;

“support” means financial support by way of grant or loan made by the Secretary of State pursuant to regulations made under section 22 of the Act;

“transitional award” means an award under section 1 (1) of the 1962 Act which is a transitional award within the meaning of the Education (Mandatory Awards) Regulations 1998 or an award under section 1(6) of that Act which is a transitional award for the purposes of those regulations as applied to such awards by virtue of section 1(7) of that Act.

(2) For the purposes of these Regulations a person who is ordinarily resident in England and Wales, Scotland, Northern Ireland, the Channel Islands or the Isle of Man as a result of having moved from another of those areas for the purpose of undertaking—

- (a) his current course, or
- (b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his current course

shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971<sup>(20)</sup> for the purposes of these Regulations, a person shall be treated as ordinarily resident in England and Wales, the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child, or was temporarily employed outside the United Kingdom, the United Kingdom and Islands, or as the case may be, outside the European Economic Area and paragraph 8(c) of Schedule 1 shall not apply in the case of such person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the United Kingdom as members of such forces.

(4) For the purposes of these Regulations an area which—

- (a) was previously not part of the European Community or the European Economic Area, but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(5) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

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<sup>(16)</sup> 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

<sup>(17)</sup> S.I. 1990/1506 (N. I. 11).

<sup>(18)</sup> 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

<sup>(19)</sup> S.I. 1998/1760 (N.I.14).

<sup>(20)</sup> 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

- (a) under Council Regulation ([EEC](#)) No. 1612/68 on freedom of movement of workers within the Community(21), as extended by the EEA Agreement; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above-mentioned Council Regulation.

(6) In these Regulations “academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September, according as the academic year of the course in question begins in the winter, the spring, the summer or the autumn respectively, but if students are required to begin the course during August or September and to continue it through the autumn the academic year of the course shall be considered to begin in the autumn rather than the summer.

### **Revocations and transitional provisions**

3.—(1) The **2001 Regulations, the Education (Student Support) Regulations 2001 (Amendment) Regulations 2001(22), the Education (Student Support) (Amendment) (No. 2) Regulations 2001(23), and the Education (Student Support) (Amendment) (No. 3) Regulations 2002(24)** shall be revoked on 1st September **2002**.

(2) The **2001 Regulations** shall apply to the provision of support to students in relation to an academic year which begins before 1st September **2002**, and these Regulations shall apply in relation to the provision of support in connection with undertaking a course during an academic year which begins on or after 1st September **2002**, whether anything done under either Regulations is done before or after 1st September **2002**.

(3) Accordingly the revocation of the **2001 Regulations** shall not affect their continued operation after 1st September **2002** for the purpose of providing support as aforesaid.

(4) Notwithstanding any other provision of these Regulations where—

- (a) a person attends a course in respect of which a transitional award was bestowed on him, or
- (b) no award was bestowed but a transitional award would have been bestowed on him if he had applied for an award and his resources had not exceeded his requirements,

he shall be eligible for support by way of grant under Parts III and IV in connection with his attendance at the course, or in connection with his attendance at any subsequent course to which the award (either bestowed or which would have been bestowed) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (5) applies he shall only be eligible for support by way of loan under Part V if he satisfies the conditions for eligibility in these Regulations.

(5) Notwithstanding any other provision of these Regulations where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he shall be eligible for support by way of loan under Part V in connection with his attendance at the course, or any subsequent designated course which (disregarding any intervening vacation) he starts attending immediately after ceasing to attend that course, but unless paragraph (4) applies he shall only be eligible for support by way of grant under Parts III and IV if he satisfies the conditions for eligibility in these Regulations.

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(6) Where under the 1998 Regulations a person received or was eligible to receive a loan in relation to an academic year of a part-time course of initial training for teachers he shall be eligible for support by way of loan under Part V calculated in accordance with these Regulations, except that

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(21) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II), p. 457).

(22) [S.I. 2001/1730](#).

(23) [S.I. 2001/2355](#).

(24) [S.I. 2002/174](#).

where regulation 12(2)(c) applies regulation 20(13) shall not apply, and for the amounts referred to in regulation 20(1) and (2) there shall be substituted for the amounts in column one the corresponding amounts in column two:

<b>£3,090</b>	<b>£2,565</b>
<b>4,815</b>	<b>3,465</b>
<b>4,770</b>	<b>3,435</b>
<b>5,670</b>	<b>4,085</b>
<b>3,905</b>	<b>3,015</b>
<b>2,700</b>	<b>2,170</b>
<b>4,175</b>	<b>2,825</b>
<b>4,150</b>	<b>2,810</b>
<b>4,935</b>	<b>3,340</b>
<b>3,390</b>	<b>2,495</b>

(7) Part IX of the 2001 Regulations shall apply to loans until 1st September 2002, and Part IX of these Regulations shall apply to loans on and after 1st September 2002.

## PART II

### ELIGIBILITY

#### Eligible students

4.—(1) Subject to and in accordance with these Regulations a person shall be eligible for support in connection with his attendance at a designated course if he is a person mentioned in Schedule 1.

(2) A person shall not be eligible under this regulation if:

- (a) an award bestowed on him in respect of his attendance on the course is an old award or where no award was bestowed an award would have been an old award if it had been bestowed;
- (b) he is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on him or paid to him in relation to his attendance on the course—
  - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(25) or article 44 of the Health and Personal Social

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(25) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No.2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).



Services (Northern Ireland) Order 1972<sup>(26)</sup> the amount of which is not calculated by reference to his income; or

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992<sup>(27)</sup>;

(d) he is in breach of any obligation to repay any loan;

(e) he has not ratified any agreement for a loan made with him when he was under the age of 18; or

(f) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

(3) For the purposes of paragraph (2)(d) and (e) “loan” means a loan made under the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998 and regulations made thereunder, or the Act and regulations made thereunder.

(4) Paragraph (2)(e) shall only apply in a case where the agreement for a loan is subject to the law of Scotland if it was made—

(a) before 25th September 1991, and

(b) with the concurrence of the borrower’s curator, or at a time when he had no curator.

(5) A person in respect of whom the first academic year of the course begins on or after 1st September 2000 shall not, at any one time, be eligible for support for—

(a) more than one designated course, or

(b) a designated course and a designated part-time course.

### **Designated courses**

**5.—**(1) A course shall be designated for the purposes of section 22(1) of the Act and regulation 4 if it is—

(a) mentioned in Schedule 2;

(b) a full-time course, sandwich course, or part-time course for the initial training of teachers;

(c) of at least one academic year’s duration; and

(d) wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) For the purposes of these Regulations a sandwich course is a course other than a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year; and for the purposes of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period.

(3) For the purposes of paragraph (2) where periods of full-time study and work experience alternate within any week of the course the days of full-time study shall be aggregated with any weeks of full-time study in determining the number of weeks of full-time study in each year.

(4) For the purposes of these Regulations “periods of work experience” means—

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<sup>(26)</sup> S.I. 1972/1265 (N. I. 14).

<sup>(27)</sup> S.I. 1992/580.

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution, and
- (b) in the case of a course which includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, such periods of residence during which the student is employed.

(5) For the purposes of these Regulations a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course.

(6) For the purposes of paragraph (1) a university and any constituent college or institution in the nature of a college of a university shall be regarded as maintained or assisted by recurrent grants out of public funds if either the university or the constituent college or institution is so maintained or assisted.

(7) For the purposes of paragraph (1) an institution shall not be regarded as maintained or assisted by recurrent grants out of public funds by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(28).

(8) For the purposes of these Regulations a course the standard of which is not higher than a first degree course which leads to a qualification as a medical doctor, a dentist, a veterinary doctor, an architect, a landscape architect, a landscape designer, a landscape manager, a town planner or a town and country planner shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and notwithstanding that part of the course may be optional.

(9) For the purposes of section 22 of the Act and regulation 4(1) the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

### **Applications for financial support**

6.—(1) Subject to regulation 32, a person shall apply for support in connection with his attendance on a course by completing and submitting to the Secretary of State an application in such form as she may require, but which shall include a declaration signed by him that:

- (a) the particulars given in the form are correct to the best of his knowledge and belief,
- (b) he will notify the Secretary of State (or if a local education authority is exercising functions in relation to his application by virtue of a determination under section 23(1)(a) of the Act he will notify them) of any change in them which might affect his eligibility for support; and
- (c) he will if required to do so repay to the Secretary of State any amount paid to him which for whatever reason exceeds the amount of support to which he is entitled under these Regulations.

(2) The application form must reach the Secretary of State not later than four months after the first day of the academic year of the course in which it is submitted, but where—

- (a) the course becomes a designated course after the first day of that academic year, the application must reach the Secretary of State not later than four months after the date on which the course was designated;
- (b) the student, or his spouse or parent, is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 after the first day of that

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(28) 1992 c. 13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c. 30).



academic year, the application must reach the Secretary of State not later than four months after the date of recognition or the date leave was granted respectively;

- (c) the student is not a student mentioned in paragraph 7 of Schedule 1 on the first day of that academic year but as a result of the accession of the State of which he is a national to the European Community he becomes such a student, the application must reach the Secretary of State not later than four months after the date of the accession;
- (d) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach her not later than such date as she specifies.

(3) An applicant shall demonstrate his eligibility for support by providing such evidence as the Secretary of State may require.

(4) The Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the applicant is entitled to support.

(5) If the Secretary of State considers that an applicant is eligible for support she shall notify him of that fact, and thenceforth the student shall be an 'eligible student' for the purposes of these Regulations.

(6) An eligible student shall demonstrate his eligibility for a particular grant or loan under these Regulations, and the amount of such grant or loan to which he is entitled, by providing such evidence as the Secretary of State may require; and the Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the eligible student is eligible for a particular grant or loan and the amount to which he is entitled.

(7) Without prejudice to the generality of paragraph (6), for the purpose of demonstrating his eligibility for a particular grant or loan, other than a grant under regulation 13, an eligible student shall complete and submit to the Secretary of State an application in such form as she may require not later than nine months after the first day of the academic year; and where the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach the Secretary of State not later than such date as she specifies.

(8) If the Secretary of State considers that an eligible student is eligible for a particular grant or loan she shall notify him of that fact and the amount to which she considers he is entitled.

### **Transfers of eligibility**

7.—(1) An eligible student may request that the Secretary of State transfer his eligibility in any case where—

- (a) on the recommendation of the academic authority the eligible student starts to attend another course at the institution;
- (b) with the . . . consent of the academic **authority** of **the . . . institution** concerned, . . . the eligible student starts to attend a course at another institution;
- (c) after commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;
- (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education the eligible student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education; or
- (e) after commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a course for an honours degree in the same subject or subjects at the institution.

(2) . . . The Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated course, shall transfer the eligible student's eligibility, and thenceforth the eligible student shall for all purposes be an eligible student in connection with his attendance at the second course, whether or not he may have been eligible for support if he had applied under regulation 6.

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(3) For the purposes of the duty of the Secretary of State to transfer eligibility where paragraph (1) (c) or (d) apply it shall be immaterial whether or not the two courses are provided by the same institution.

(4) An eligible student's eligibility for support may not be transferred after it has expired or been terminated under regulation 8.

### **Termination of eligibility**

**8.—**(1) Subject to the following provisions of this paragraph and paragraph (2), an eligible student shall cease to be eligible for support on the expiry of the period ordinarily required for the completion of the course, and accordingly he shall then cease to be an eligible student, but in respect of—

- (a) grants for living costs for which the student is eligible under Part IV and loans for living costs for which he is eligible under regulation 19; and
- (b) grants for fees where the student repeats part of his course and remains eligible under regulation 10(8),

he shall cease to be an eligible student at the end of the academic year in which he completes the course.

(2) The Secretary of State may before or after an eligible student ceases to be an eligible student under paragraph (1) determine that he shall continue to be eligible for support for such further period after the expiry of the period referred to in that paragraph as she specifies, and accordingly he shall be or be considered to have been an eligible student throughout that period until its expiry.

(3) Where an eligible student has withdrawn from a course in circumstances where the Secretary of State has not transferred or will not transfer his eligibility to another course under regulation 7, or has abandoned or been expelled from his course, the Secretary of State shall determine that he is no longer eligible for support, and on such determination he shall then cease to be an eligible student.

(4) Where an eligible student has shown himself by his conduct to be unfitted to receive support the Secretary of State may determine that he is no longer eligible for support, and on such determination he shall then cease to be an eligible student.

### **Information**

**9.—**(1) Every applicant, every eligible student and every eligible part-time student shall as soon as reasonably practicable after he is requested to do so provide the Secretary of State with such information as the Secretary of State considers necessary for the exercise of her functions under these Regulations.

(2) Every applicant, every eligible student and every eligible part-time student shall forthwith inform the Secretary of State if any of the following occurs, and provide her with particulars where—

- (a) he withdraws from, abandons or is expelled from his course;
- (b) he transfers to another course, at the same or a different institution, whether the new course is a designated course, a designated part-time course or neither;
- (c) he ceases to undertake his course and does not intend to or is not permitted to continue it for the remainder of the academic year;

- (d) he is absent from his course for more than 60 days due to illness, or is absent from his course for any period for any other reason;
- (e) the month for the start or completion of the course changes; or
- (f) his home or term time address or telephone number changes.

(3) If the Secretary of State is satisfied that an eligible student or eligible part-time student has wilfully failed to comply with any requirement to provide information or has provided information which the student knows to be false in a material particular or has recklessly provided information which is false in a material particular she may determine that the student shall—

- (a) no longer be eligible for any support, or
- (b) not be eligible for any particular support or particular amount of support as she considers appropriate in the circumstances.

### PART III

#### GRANTS FOR FEES

#### **Eligibility for grants for fees**

**10.**—(1) Subject to the following paragraphs and regulation 11 an eligible student shall in respect of each academic year be eligible for a grant for fees equal to the aggregate of any fees payable by him in respect of, or otherwise in connection with, his attendance on the course (“the present course”), including admission, registration, tuition and graduation fees, but excluding—

- (a) fees payable to an institution for awarding or accrediting any qualification where the institution does not provide the whole or part of the course and is not a publicly funded institution;
- (b) fees payable for board and lodging;
- (c) fees payable for field trips (including any tuition element of such fees);
- (d) fees payable for attending any graduation or other ceremony; and
- (e) fees which are prescribed under paragraph (e) of the definition of fees in section 28(1) of the Act.

(2) Subject to paragraph (3) an eligible student shall not be eligible for a grant under this regulation if he has previously attended any full-time higher education course provided by an institution in the United Kingdom (“the previous course”):

- (a) which was at or before the time the course was provided maintained or assisted by recurrent grants out of public funds; or
- (b) in respect of his attendance at which a scholarship, exhibition, bursary, grant, allowance, or award of any description which was available to defray fees mentioned in paragraph (1) was paid out of public funds or funds attributable to public funds, by any person or body, public or private.

(3) For the purposes of this regulation a course is not a previous course if it is—

- (a) the present course, or
- (b) any course in connection with his attendance at which he was determined to be eligible for support and that eligibility was transferred as a result of one or more transfers under regulation 7 to the present course.

(4) Paragraph (2) shall not apply where:

- (a) the present course is a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 the duration of which does not exceed two years (a part-time course being treated as its full-time equivalent), and the eligible student has not previously attended a course referred to in paragraph (2) the successful completion of which results in the person completing it being a qualified teacher within the meaning of section 218(2)(a) of the Education Reform Act 1988(**29**), except where the previous course was a course
- (i) leading to a first degree within paragraph 4 of Schedule 2, or
  - (ii) for the initial training of teachers referred to in paragraph 4 of Schedule 2 the duration of which does not exceed two years (a part-time course being treated as its full-time equivalent)
- and the eligible student did not successfully complete it; or
- (b) the eligible student has previously attended—
- (i) only one course referred to in paragraph (2), and
  - (ii) the period of attendance for that course did not exceed one academic year; or
- (c) the aggregate duration of the previous course (not being an accelerated course leading to a first degree unless the first academic year of the present course began before 1st September 2000) or courses did not exceed two academic years; or
- (d) the Secretary of State has determined, having regard to the circumstances of the particular case, that the student did not complete the previous course for compelling personal reasons.
- (5) Where paragraph (4)(c) applies the Secretary of State may determine that the eligible student shall not be eligible for grant for fees in respect of any academic year of the present course other than—
- (a) a year which is the only year of the course;
  - (b) the final year of a course of two or three years' duration; or
  - (c) the number of final years of a course which is two years less than its duration.
- (6) In this regulation any reference to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring periods of **work** experience; but for the purposes of paragraph (4)(c) if a student with the consent of the academic authority or authorities concerned—
- (a) ceases to attend one course without completing it, and
  - (b) starts to attend another course at the same or another institution
- the duration of the course shall be treated as the aggregate of the period spent following the first course and the period which the student in question would ordinarily require for the completion of the second course, in the case of either course being a sandwich course ignoring any periods of **work** experience.
- (7) An eligible student shall not be eligible for a grant for fees in respect of an academic year if—
- (a) in relation to that year he is eligible to receive any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968(**30**) or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(**31**) the amount of which is calculated by reference to his income; or

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(29) 1988 c. 40.

(30) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S. I. 1985/39), article 6(1), the Health and

- (b) he is attending a course leading to qualification in a healthcare profession, other than as a medical doctor or dentist and in relation to that year he is eligible to receive an allowance paid to him under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(32) the amount of which is calculated by reference to his income; or
  - (c) he is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(33) and—
    - (i) his course is a course referred to in regulation 5(1)(d), and
    - (ii) all the periods of study during the academic year are at an institution outside the United Kingdom; or
  - (d) he is undertaking a flexible postgraduate course for the initial training of teachers, and for the purposes of this sub-paragraph “flexible postgraduate course for the initial training of teachers” means a course of initial teacher training, which has been approved by the Teacher Training Agency(34), the length and pattern of which is determined by the eligible student’s experience and training requirements.
- (8) Where an eligible student repeats—
- (a) the first year or part of the first year of his course more than once, or
  - (b) any part of his course other than the first year or part of the first year of his course
- the Secretary of State may determine that he shall not be eligible for grant for fees in respect of the academic year during which the student repeats.
- (9) Where the eligibility of an eligible student is transferred under regulation 7(1)(a) or (b) and—
- (a) the necessary recommendation or consent to the transfer is given after the first day on which students were ordinarily required to start attending the second academic year of the first course in respect of which he was determined to be an eligible student (“the first course”),
  - (b) the Secretary of State is satisfied after consulting the academic authority. . . concerned that the recommendation or consent was given after the expiry of the period mentioned not only because the student was required to apply through a clearing admission system, and
  - (c) the Secretary of State is satisfied after consulting the academic authority. . . concerned that the period from the beginning of the first academic year of the first course to the end of the final academic year of the course which he now attends (“the current course”) exceeds the duration of the first course or the current course, or the duration of any intervening course in respect of which he was an eligible student, whichever is the longest,
- the student shall not be eligible for grant for fees in respect of the number of academic years which is the difference between the above mentioned period and the above mentioned duration.
- (10) For the purposes of paragraph (9)—
- (a) the final academic year of the current course shall be the academic year during which the student is expected to complete the course,
  - (b) in determining the period referred to in that paragraph there shall be included vacations, but not periods of **work** experience which form part of a sandwich course,

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Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(31) S.I. 1972/1265 (N. I. 14).

(32) 1980 c. 44; section 74(1) was amended by paragraph 8(17) of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39).

(33) ERASMUS is part of the European Community action programme SOCRATES, OJ No. L87, 20.4.95, p. 10.

(34) The Teacher Training Agency was established under section 1 of the Education Act 1994 (c. 30).

- (c) the duration of a course shall be the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring periods of **work** experience, and
- (d) a difference which is less than a whole academic year shall be treated as a whole academic year.

(11) The academic years in respect of which the eligible student shall not be eligible for grant for fees in accordance with paragraph (9) shall be the first academic year or years of the current course which the student attends.

(12) An eligible student shall be eligible for a grant for fees in respect of—

- (a) any academic year before the expiry of three months from the beginning of which—
  - (i) his course becomes a designated course,
  - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
  - (iii) he becomes a student mentioned in paragraph 7 of Schedule 1 as a result of the accession of the State of which he is a national to the European Community; and
- (b) any academic year which begins after the events referred to in paragraph (a)

but shall not be eligible for a grant for fees in respect of any other academic year.

### **Maximum amounts of grants**

**11.**—(1) The amount of grant for fees in respect of an academic year of a course at an institution which is maintained or assisted by recurrent grants out of public funds shall not exceed:

- (a) in the case of a course not covered by any other sub-paragraph of this paragraph, **£1,100**;
- (b) where the final year of the course is ordinarily required to be completed after less than 15 weeks' attendance, **£540**;
- (c) where during the academic year of a sandwich course any periods of full-time study are in aggregate less than 10 weeks, **£540**;
- (d) where during the academic year of a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 any periods of full-time study are in aggregate less than 10 weeks, **£540**;
- (e) where during the academic year of a course provided in conjunction with an overseas institution the periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks, **£540**;
- (f) in the case of a sandwich course or a course provided in conjunction with an overseas institution where the periods of full-time study at the institution in the United Kingdom are 10 weeks or more, but in respect of the academic year and any previous such academic years the aggregate of any one or two periods of attendance which are not periods of full-time study at the institution (disregarding intervening vacations) exceeds 30 weeks, **£540**;
- (g) in the case of a course provided by the British Institute in Paris which began before 1st September 2001, **£540**.

(2) The amount of grant for fees in respect of an academic year of a course at an institution which is neither maintained nor assisted by recurrent grants out of public funds shall not exceed:

- (a) in the case of a course not covered by sub-paragraph (b)—
  - (i) where it is provided on behalf of an institution which is maintained or assisted by recurrent grants out of public funds and it begins on or after 1st September 2001, the amount which would be available under paragraph (1) if the course were provided at the institution on whose behalf it is provided;



- (ii) otherwise, **£1,025**;
  - (b) in the case of a course at the University of Buckingham, **£2,580**, in the case of a course at the Guildhall School of Music, **£3,960**, and in the case of a course at Heythrop College, **£1,950**.
- (3) For the purposes of paragraphs (1) and (2) an institution which provides courses designated by regulation 4 of the Education (Student Support) (Dance and Drama) Regulations 1999<sup>(35)</sup> shall not be regarded as maintained or assisted by recurrent grants out of public funds by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992.

## PART IV

### GRANTS FOR LIVING COSTS

#### Eligibility for grants for living costs

**12.**—(1) An eligible student shall not be eligible for grant for living costs under this Part if he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

(2) An eligible student shall not be eligible for grant for living costs under this Part in respect of any academic year—

- (a) during which he is eligible to receive any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968<sup>(36)</sup> or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(37)</sup> the amount of which is calculated by reference to his income; or
- (b) of a course leading to a qualification in a healthcare profession, other than as a medical doctor or dentist, during which he is eligible to receive an allowance paid to him under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 the amount of which is calculated by reference to his income; or
- (c) of a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks, **but this sub-paragraph does not apply to an eligible student to whom regulation 13 applies.**

(3) With the exception of grant under regulation 14 an eligible student shall not be eligible for grant for living costs under this Part in respect of any academic year of a sandwich course during which the periods of full-time study are in aggregate less than 10 weeks and the periods of **work** experience are not—

- (a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;

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<sup>(35)</sup> S.I. 1999/2263.

<sup>(36)</sup> 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments)(No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

<sup>(37)</sup> S.I. 1972/1265 (N. I. 14).

- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
  - (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
  - (d) unpaid research in an institution in the United Kingdom or, in the case of a student attending an overseas institution as a necessary part of his course, in an overseas institution; or
  - (e) unpaid service with—
    - (i) a Health Authority established pursuant to section 8 of the National Health Service Act 1977<sup>(38)</sup> or a Special Health Authority established pursuant to section 11 of that Act<sup>(39)</sup>;
    - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(40)</sup>; or
    - (iii) a health and social services board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(41)</sup>.
- (4) An eligible student shall be eligible for a grant for living costs in respect of—
- (a) an academic year during which—
    - (i) his course becomes a designated course,
    - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
  - (b) any academic year which begins after the events referred to in paragraph (a)
- but shall not be eligible for a grant for living costs in respect of any other academic year.

### **Grants for disabled students' living costs**

**13.—(1)** An eligible student shall be eligible for grant for living costs equal to additional expenditure which the Secretary of State is satisfied he is obliged to incur in respect of his attendance at the course by reason of a disability to which he is subject; but the amount of grant shall not exceed the amounts referred to in paragraph (2).

**(2) Subject to paragraph (3)** the amounts referred to in this paragraph are such amounts as the Secretary of State considers appropriate:

- (a) not exceeding **£11,015** in respect of each academic year for expenditure on a non-medical personal helper;
- (b) not exceeding **£4,355** in respect of all the academic years during which the eligible student is eligible for support for expenditure on major items of specialist equipment, but where such payments have been made under the 1962 Act in respect of a transitional award holder the amounts of such payments shall be deducted from this maximum;
- (c) for expenditure incurred—
  - (i) within the United Kingdom for the purposes of attending the institution;

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<sup>(38)</sup> 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1).

<sup>(39)</sup> Section 11 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c. 19), Schedule 10 and the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 2.

<sup>(40)</sup> 1978 c. 29; section 2 was amended by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19), section 28 and Schedule 9, paragraph 19(1).

<sup>(41)</sup> S.I. 1972/1265 (N. I. 14).

- (ii) within or outside the United Kingdom for the purpose of attending, as a necessary part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
- (d) not exceeding **£1,455** in respect of each academic year for any other expenditure including expenditure incurred for the purposes referred to in paragraphs (a) or (b) which exceeds the specified maxima.

**(3) In the case of an eligible student attending a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which in any academic year the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks, paragraph (2) has effect as if the amounts referred to in sub-paragraphs (a) and (d) thereof were £8,265 and £1,090 respectively.**

#### **Grants for students who have left care**

**14.—(1)** An eligible student—

- (a) who is under the age of 21 on the first day of the course;
- (b) in respect of whom a parental contribution is not applicable in accordance with Part II of Schedule 3 because he has pursuant to an order of a competent court been in the custody or care of or has been provided with accommodation as described in paragraph 3(1)(g) of that Schedule; and
- (c) in the opinion of the Secretary of State is subject to greater financial hardship by reason of having been in custody, care or having been provided with accommodation as mentioned in paragraph (b) than he would have been if he had not been in custody, care or having been provided with accommodation

shall be eligible for such amount of grant not exceeding the amount referred to in paragraph (2) as the Secretary of State in all the circumstances considers appropriate.

(2) The maximum amount of grant for which an eligible student shall be eligible under this regulation is £100 for each week or part of a week in an academic year which—

- (a) falls within the longest vacation taken; and
- (b) during no part of which week the student attends his course.

#### **Grants for dependants**

**15.—(1)** Subject to the following paragraphs an eligible student... shall in respect of each academic year be eligible for grant for living costs for his dependants as follows:

- (a) a grant of **£2,225** for only one of the following:
  - (i) a spouse, or
  - (ii) an adult dependant whose net income does not exceed **£3,200**, or
  - (iii) an only or eldest dependent child whose net income does not exceed **£3,200**;
- (b) for each of his dependent children in respect of whom a grant is not payable under sub-paragraph (a) and whose net income does not exceed the amount of grant applicable to his age by more than **£975**—
  - (i) under the age of 11 immediately before the beginning of the academic year, a grant of **£465**;
  - (ii) then aged 11 or over, but under 16, a grant of **£930**;
  - (iii) then aged 16 or over, but under 18, a grant of **£1,240**;
  - (iv) then aged 18 or over, a grant of **£1,780**;

- (c) where an eligible student has not elected to be ineligible for grant under regulation 16 in accordance with paragraph (6), a grant of **£255** in respect of either:
- (i) an only or eldest dependent child whose net income does not exceed **£3,455**, where the grant is determined under paragraph (a), or
  - (ii) a dependent child whose net income does not exceed the amount of grant applicable to his age by more than **£1,230**, where the grant is determined under paragraph (b).
- (2) The aggregate amount of grant under paragraph (1) shall be reduced by the difference between—
- (a) the aggregate of the net income of each of the eligible student's dependants whose net income does not exceed a maximum amount applicable under paragraph (1), if any, and
  - (b) **£975** multiplied by the number of such dependants.
- (3) If the eligible student's spouse is also an eligible student or holds a statutory award and if in calculating the amount of support for which the spouse is eligible or payment to which he is entitled under the award account is taken of his dependants, the aggregate amount of grant calculated under paragraphs (1) and (2) shall be reduced by one half.
- (4) Where the eligible student maintains a dependant who is ordinarily resident outside the United Kingdom the grant under this regulation shall be such amount, if any, not exceeding the aggregate amount of grant calculated under paragraphs (1) to (3) as the Secretary of State considers reasonable in all the circumstances.
- (5) Where an eligible student with dependants maintains a home for himself and a dependant at a place other than that at which he resides while attending the course he shall be eligible for a grant of **£520**, unless he has elected to be ineligible for grant under regulation 16 in accordance with paragraph (6), in which case he shall be eligible for a grant of **£775**.
- (6) Where the eligible student is a lone parent... and he has elected to be ineligible for grant under regulation 16, he shall in addition to any grant referred to in the preceding paragraphs be eligible for a grant of **£1,100** if—
- (a) his course began before 1st September 2001;
  - (b) **his course is an end-on course in relation to a course which began before 1st September 2001; or**
  - (c) **his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (b).**
- (7) For the purposes of paragraph (6) an eligible student may make one election to be ineligible for grant under regulation 16 at any time before or during the academic year and he may revoke such election at any time during the academic year and for the purposes of this regulation and regulation 16, where an eligible student has revoked such election, he shall be treated as a person who has not elected to be ineligible for grant under regulation 16.
- (8) Where the eligible student is eligible for grant under paragraph (1) or under regulation 16 in respect of a dependent child, he shall be eligible for a grant of **£510** in respect of expenditure on travel, books and equipment for the purpose of attending his course.
- (9) Where the number of an eligible student's dependants changes during an academic year the Secretary of State shall determine who the student's dependants are for each of the three quarters of the academic year in respect of which support is payable under regulation 26(2) by reference to the student's circumstances during the relevant quarter.
- (10) Where the Secretary of State has determined who the student's dependants are for a quarter under paragraph (9) the grant for dependants for the quarter shall be one third of the amount of grant for those dependants for an academic year and the amount of grant for the academic year shall be the aggregate of the three amounts so determined.

(11) Where an eligible student is eligible for a grant for living costs in respect of an academic year under regulation 12(4)(a) he shall only be eligible for a grant under this regulation in respect of such of the three quarters of the year in respect of which support is payable under regulation 26(2) as begin after the events referred to in regulation 12(4)(a), and subject to paragraphs (9) and (10) the grant for each such quarter shall be one third of the amount for an academic year and the amount for the academic year shall be the aggregate of the amounts payable in respect of each such quarter.

(12) In this regulation and in regulation 16—

“adult dependant” means, in relation to an eligible student, an adult person dependent on the student not being his child, his spouse (whether ordinarily living with him or not) or a person living with him as his spouse or his former spouse;

“child” in relation to an eligible student includes—

- (a) a step child and any child for whom he has parental responsibility and who is dependent on him; and
- (b) **where paragraph 3(1)(a) of Part II of Schedule 3 applies any child of his partner who is dependent on him where he is on a course which began on or after 1st September 2000 unless**
  - (i) **his course is an end-on course in relation to a course which began before 1st September 2000, or**
  - (ii) **his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (b)(i).**

“dependant” means, in relation to an eligible student, his spouse, his dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;

“dependent” means wholly or mainly financially dependent;

“partner” means a woman ordinarily living with a man student as his wife or a man ordinarily living with a woman student as her husband;

“spouse” in relation to an eligible student to whom paragraph 3(1)(a) of Part II of Schedule 3 applies—

- (a) **includes a partner of the student where he is on a course which began on or after 1st September 2000 unless**
  - (i) **his course is an end-on course in relation to a course which began before 1st September 2000, or**
  - (ii) **his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (a) (i); and**
- (b) **... excludes** a spouse of . . . the student where they have ceased ordinarily to live together, in the case of a married student whether or not an order for their separation has been made by any court, or where the spouse is ordinarily living outside the United Kingdom and is not maintained by him.

(13) For the purposes of this regulation a dependant’s net income shall be his income from all sources 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(42);

- (c) any allowance payable to his spouse by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976<sup>(43)</sup>;
  - (d) any guardian's allowance to which his spouse is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
  - (e) in the case of a spouse with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989<sup>(44)</sup>;
  - (f) any payments made to his spouse in pursuance of an order made under section 34 of the Children Act 1975<sup>(45)</sup> or under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the spouse's child or any assistance given by a local authority pursuant to section 24 of that Act.
- (14) Where an eligible student or his spouse make any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course the spouse's net income shall be reduced by—
- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Secretary of State the obligation had been reasonably incurred; or
  - (b) such lesser amount if any as the Secretary of State considers appropriate, if in her opinion a lesser obligation could reasonably have been incurred.

#### **Grants for dependants—childcare costs**

**16.**—(1) Subject to the following paragraphs an eligible student who . . . has not elected to be ineligible for grant under this regulation in accordance with regulation 15(6) shall in respect of each academic year be eligible for a grant in respect of childcare costs for each dependent child where the childcare is provided by an approved or registered childcare provider, if—

- (a) the child is under the age of 15 immediately before the beginning of the academic year; or
  - (b) the child has registered special educational needs within the meaning of the Education Act 1996<sup>(46)</sup> and is under the age of 17 immediately before the beginning of the academic year.
- (2) The amount of grant for each week for which a student shall be eligible under paragraph (1) is:
- (a) where the academic year begins in the autumn, for the period of 40 weeks beginning on the first day of the first term of the academic year:
    - (i) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75 per week; or
    - (ii) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week;
  - (b) where the academic year begins in the winter, spring or summer, for each week of each term of the academic year and the Christmas and Easter vacations beginning on the first day of the first term of the academic year:
    - (i) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75 per week; or
    - (ii) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week; and

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<sup>(43)</sup> 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030 and 2742.

<sup>(44)</sup> 1989 c. 41.

<sup>(45)</sup> 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

<sup>(46)</sup> 1996 c. 56, section 312.



- (c) for any other week of the academic year to which sub-paragraphs (a) or (b) do not apply including a week of the summer vacation, except each week falling within the period between the end of the course and the end of the academic year in which the course ends:
- (i) for one dependent child, 70 per cent. of the costs of the childcare, subject to a maximum amount of £94.50 per week; or
  - (ii) for two or more dependent children, 70 per cent. of the costs of the childcare, subject to a maximum amount of £140 per week.
- (3) Where the amount to be deducted from grant in accordance with regulation 15(2) exceeds the amount of grant calculated under regulation 15(1), the amount of grant payable under paragraph (2) shall be reduced by the amount of that excess.
- (4) Where no grant is payable under regulation 15 in respect of a dependent child because his net income exceeds the maximum amount applicable to him under paragraph (1) of that regulation, the amount of grant payable under paragraph (2) shall be reduced by the amount of his net income less **£975**.
- (5) If the eligible student's spouse is also an eligible student or holds a statutory award and if in calculating the amount of support for which the spouse is eligible or payment to which he is entitled under the award account is taken of his dependants, the amount of grant calculated under paragraph (2) shall be reduced by one half.
- (6) Where an eligible student has in an academic year attended his course for a period of 30 weeks 3 days and he attends for a further period and the period of 40 weeks referred to in paragraph (2) (a) has expired, the relevant amounts referred to in paragraph (2)(a) shall apply for each week or part week of such attendance.
- (7) In this regulation—
- “approved childcare provider” means a childcare provider within the meaning of the Tax Credit (New Category of Childcare Provider) Regulations 1999<sup>(47)</sup>, who has been approved in accordance with those regulations;
- “registered childcare provider” means a person who **acts as a child minder or provides day care** and is registered within the meaning of section 79F of the Children Act 1989<sup>(48)</sup>, (**grant or refusal of** registration of child minders and persons providing day care for young children).

### Grants for school meals for dependent children

- 17.—(1) Subject to paragraph (3), where an eligible student is eligible for and entitled to receive a grant under regulation 15(1) in respect of a dependent child, he shall in respect of each academic year also be eligible for a grant under this regulation for that dependent child if the child is either aged three or four during the relevant school year or attends a school maintained by a local education authority or a city technology college or a city college for the technology of the arts<sup>(49)</sup> or a city academy<sup>(50)</sup> during the relevant school year.
- (2) The amount of grant for which a student shall be eligible under paragraph (1) is—
- (a) **£255** for each dependent child aged three or over on 31st December in the relevant school year, but under the age of 11 immediately before the beginning of the relevant school year;
  - (b) **£170** for each dependent child whose third birthday falls after 31st December but on or before 31st March in the relevant school year;

<sup>(47)</sup> S.I. 1999/3110, made in exercise of the powers conferred by sections 15(1) and 15(4) of the Tax Credits Act 1999 (c. 10).

<sup>(48)</sup> 1989 c. 41; Section 79F was inserted by the Care Standards Act 2000 (c. 14).

<sup>(49)</sup> City technology colleges and city colleges for the technology of the arts are established pursuant to section 482 of the Education Act 1996 (c. 56).

<sup>(50)</sup> City academies are established pursuant to section 482 of the Education Act 1996 (c. 56) as amended by the Learning and Skills Act 2000 (c. 21), section 130.

- (c) **£85** for each dependent child whose third birthday falls after 31st March in, but before the end of, the relevant school year;
- (d) **£275** for each dependent child of compulsory school age who is aged 11 or over immediately before the beginning of the relevant school year.

(3) Paragraph (1) shall not apply where a dependent child receives school meals free of charge under section 512 or 512A of the Education Act 1996<sup>(51)</sup> or where similar provision is made for him pursuant to an agreement made between the Secretary of State and a person who establishes and maintains a city technology college or a city college for the technology of the arts or a city academy under section 482 of that Act.

(4) The Secretary of State shall pay a grant for which a student is eligible under this regulation in a single instalment at such time and in such manner as she considers appropriate.

(5) In this regulation “relevant school year” means:

- (a) in the case of a child who attends a school (of a kind referred to in paragraph (1)), the school year whose beginning is closest to the beginning of the academic year in respect of which the eligibility for grant under this regulation is being assessed, where “school year” has the meaning given in section 579(1) of the Education Act 1996<sup>(52)</sup>; and
- (b) in the case of a child aged three or four who does not attend such a school, the period of 12 months beginning on 1st September which falls closest to the beginning of the academic year in respect of which the eligibility for grant under **this** regulation is being assessed.

### Grants for travel

**18.**—(1) Subject to the following paragraphs an eligible student. . . shall in respect of each academic year be eligible for a grant equal to such reasonable expenditure which he is obliged to incur—

- (a) in the case of a student attending a course in medicine or dentistry, a necessary part of which is a period of study by way of clinical training, for the purpose of attending in connection with his course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided, but not incurred for the purpose of residential study away from the institution;
- (b) within or outside the United Kingdom for the purpose of attending for a period of at least eight weeks and as a necessary part of his course an overseas institution or for the purpose of attending the British Institute in Paris.

(2) In determining the expenditure incurred by an eligible student there shall be disregarded the first **£265** of such expenditure.

(3) For the purposes of this regulation any reference to expenditure incurred for the purpose of attending an institution or period of study—

- (a) includes expenditure both before and after so attending; and
- (b) does not include any expenditure in respect of which grant is payable under regulation 13.

(4) Where an eligible student attends for a period of at least eight weeks and as a necessary part of his course an overseas institution or the British Institute in Paris and he reasonably incurs any expenditure in insuring against liability for the cost of medical treatment provided outside the United Kingdom for any illness or bodily injury contracted or suffered during that period he shall be eligible for additional grant under this regulation equal to the amount so incurred.

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<sup>(51)</sup> 1996 c. 56.

<sup>(52)</sup> The definition of “school year” was inserted by the Education Act 1997 (c. 44), Schedule 7, paragraph 43.

## PART V

### LOANS FOR LIVING COSTS

#### **Eligibility for loans for living costs**

**19.**—(1) Subject to and in accordance with the following paragraphs and regulation 20 an eligible student shall be eligible for loan for living costs if:

- (a) he is under the age of 50 on the first day of the first academic year of the course; or
- (b) he is aged 50 or over and under the age of 55 on that day, if the Secretary of State is satisfied that he intends to enter employment after he has completed his course, or such other higher education course which he intends to start undertaking immediately after completing his present course, disregarding any intervening vacation.

(2) An eligible student shall not be eligible for loan for living costs if he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

(3) An eligible student shall be eligible for loan for living costs in respect of—

- (a) an academic year during which—
  - (i) his course becomes a designated course,
  - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
- (b) any academic year which begins after the events referred to in paragraph (a)

but shall not be eligible for loan for living costs in respect of any other academic year.

#### **Maximum amounts of loans**

**20.**—(1) Subject to the following paragraphs the amount of loan for living costs in respect of each academic year shall not exceed:

- (a) for a student who resides at his parent's home while attending the course, **£3,090**;
- (b) for a student who does not—
  - (i) if he attends a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, **£4,815**;
  - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, **£4,770** or in a higher cost country, **£5,670** and if he attends the British Institute in Paris, the amount for France;
  - (iii) otherwise, **£3,905**.

(2) Subject to the following paragraphs the amount of loan for living costs in respect of an academic year which is the final year of a course other than an accelerated course shall not exceed:

- (a) for a student who resides at his parent's home while attending the course **£2,700**;
- (b) for a student who does not—
  - (i) if he attends a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, **£4,175**;
  - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, **£4,150** or in a higher cost country, **£4,935** and if he attends the British Institute in Paris, the amount for France;
  - (iii) otherwise, **£3,390**.

(3) Where an eligible student resides at his parent's home and the Secretary of State is satisfied that in all the circumstances his parents by reason of age, incapacity, or otherwise cannot reasonably be expected to support him and that it would be appropriate for the amounts referred to in paragraphs (1)(b) or (2)(b) to apply the student shall be treated as if he were not residing at his parent's home.

(4) Where an eligible student does not reside at his parent's home but the Secretary of State is satisfied that in all the circumstances he could conveniently attend the course from his parent's home and that it would be appropriate for the amounts referred to in paragraphs (1)(a) or (2)(a) to apply the student shall be treated as if he were residing at his parent's home.

(5) Where an eligible student is a member of a religious order who resides in a house of his order he shall be treated as if he were residing at his parent's home.

(6) Where an eligible student—

- (a) resides at his parent's home for part of the period of attendance during an academic year and resides elsewhere for the remaining part of that period, or is treated as residing at his parent's home or elsewhere under paragraphs (3) to (5) for part of that period, or
- (b) attends a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, or at an overseas institution or at the British Institute in Paris, for part of an academic year and a course at another institution for another part,

the Secretary of State shall determine which of the rates referred to in paragraphs (1) and (2) shall apply for each of the three quarters of the academic year in respect of which support is payable under regulation 26(2) by reference to the student's circumstances during the relevant quarter.

(7) Where the Secretary of State has determined applicable rates for each quarter under paragraph (6) the maximum amount of loan for living costs for the relevant quarter shall be one third of the maximum amount applicable at that rate for an academic year, and the maximum amount for the academic year shall be the aggregate of the three amounts so determined.

(8) Where an eligible student is eligible for loan for living costs in respect of an academic year under regulation 19(3)(a) he shall only be eligible for loan in respect of such of the three quarters of the year in respect of which support is payable under regulation 26(2) as begin after the events referred to in regulation 19(3)(a), and subject to paragraphs (6) and (7) the maximum loan for each such quarter shall be one third of the amount for the academic year and the maximum amount for the academic year shall be the aggregate of the maximum amounts in respect of each such quarter.

(9) For the purposes of paragraphs (1) to (8) where a postgraduate course of initial training for teachers is of only one academic year's duration that year shall not be treated as a final year.

(10) Where an eligible student has in an academic year attended his course for a period of 30 weeks 3 days and attends for a further period the amounts referred to in paragraphs (1) and (2) shall be increased for each week or part week of such attendance:

- (a) for a student who resides or is treated as residing at his parents' home, by **£47**;
- (b) for a student who does not—
  - (i) if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the Metropolitan Police District, by **£90**;
  - (ii) if he attends for at least eight weeks and as necessary part of his course at an overseas institution and the further period of attendance is required at the overseas institution, if the overseas institution is in a high cost country, by **£97**, if the overseas institution is in a higher cost country, by **£127**;
  - (iii) if he attends the British Institute in Paris, by the amount for France;
  - (iv) otherwise by **£69**.

(11) Where an eligible student attends his course for a period of not less than 45 weeks in any continuous period of 52 weeks the amounts referred to in paragraphs (1) and (2) shall in addition be increased for each week during the 52 week period during which he did not attend by the amounts referred to in paragraph (10).

(12) Where in relation to an academic year an eligible student is not eligible for a grant for living costs by virtue of regulation 12(2)(a) he shall be eligible for a loan for living costs under this regulation but—

- (a) in paragraphs (1) and (2) there shall be substituted for the amounts in column one below the corresponding amounts in column two:

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<b>£3,090</b>	<b>£1,465</b>
<b>4,815</b>	<b>2,365</b>
<b>4,770</b>	<b>1,915</b>
<b>5,670</b>	<b>1,915</b>
<b>3,905</b>	<b>1,915</b>
<b>2,700</b>	<b>1,075</b>
<b>4,175</b>	<b>1,725</b>
<b>4,150</b>	<b>1,400</b>
<b>4,935</b>	<b>1,400</b>
<b>3,390</b>	<b>1,400</b>

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and

- (b) paragraphs (10) and (11) shall not apply.

(13) Where in relation to an academic year an eligible student is not eligible for a grant for living costs by virtue of regulation 12(2)(c) or 12(3) he shall be eligible for a loan for living costs under this regulation but—

- (a) in paragraphs (1) and (2) there shall be substituted for the amounts in column one below the corresponding amounts in column two:

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<b>£3,090</b>	<b>£1,465</b>
<b>4,815</b>	<b>2,365</b>
<b>4,770</b>	<b>2,345</b>
<b>5,670</b>	<b>2,785</b>
<b>3,905</b>	<b>1,915</b>
<b>2,700</b>	<b>1,075</b>
<b>4,175</b>	<b>1,725</b>
<b>4,150</b>	<b>1,715</b>
<b>4,935</b>	<b>2,035</b>
<b>3,390</b>	<b>1,400</b>

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and

- (b) paragraphs (10) and (11) shall not apply.

## **Applications for loans**

**21.**—(1) An eligible student who is eligible for a loan for living costs in respect of an academic year shall apply for such a loan not exceeding the maximum amount applicable in his case by completing and submitting to the Secretary of State an application in such form as she may require not later than one month before the end of that year.

- (2) The completed form shall include among other things the following particulars:
  - (a) his United Kingdom national insurance number, unless he does not have one;
  - (b) his most recent student loan account number, if any; and
  - (c) the names, addresses and telephone numbers of two persons who know him.
- (3) The student shall sign a declaration on the application form that—
  - (a) the particulars given in the application form are correct to the best of his knowledge and belief,
  - (b) he will notify the Secretary of State (or if any person is exercising functions in relation to his application by virtue of arrangements under section 23(4) of the Act he will notify that person) of any change in them; and
  - (c) he will repay any amount lent to him, together with interest and applicable charges and penalties, in accordance with the Act and regulations made thereunder from time to time.
- (4) In any case where—
  - (a) the Secretary of State determines that the maximum amount of loan which has been notified to an eligible student in relation to an academic year should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise, and
  - (b) the Secretary of State considers that the increase in the maximum amount does not result from the eligible student—
    - (i) failing to provide information promptly which might affect his eligibility for a loan or the amount of loan for which he is eligible, or
    - (ii) providing information which is inaccurate in any material particular,he may apply to borrow an additional amount which when added to the amount already applied for shall not exceed the increased maximum.
- (5) Such application shall be made by completing and submitting to the Secretary of State an application in such form as she may require not later than one month before the end of the academic year or one month after the date he received notice of the increased maximum amount, whichever is the later.
- (6) The student shall sign a declaration on the application form in the terms set out in paragraph (3).
- (7) Where an eligible student has applied for a loan less than the maximum amount of loan to which he is entitled in relation to the academic year under the preceding paragraphs he may apply to borrow an additional amount, which when added to the amount already applied for shall not exceed the relevant maximum applicable in his case.
- (8) Such application shall be made by completing and submitting to the Secretary of State an application in such form as she may require not later than one month before the end of the academic year.
- (9) The student shall sign a declaration on the application form in the terms set out in paragraph (3).



## Hardship loans

22.—(1) An eligible student who has applied for the maximum amount of loan in respect of an academic year which has been notified to him and received at least one instalment of that loan may apply to the Secretary of State for a determination **in accordance with paragraph (4)** that he is eligible for an additional loan. . . . which shall be known as a “hardship loan”.

(2) A hardship loan shall be £100 or a multiple thereof not exceeding £500.

(3) An eligible student shall demonstrate his eligibility for a hardship loan by providing such evidence of his requirements and resources as the Secretary of State may require.

(4) On being satisfied that an eligible student is in serious financial difficulty such that his access to a course or his continued attendance on a course may be at risk, the Secretary of State shall determine the amount of hardship loan which she considers the student requires, and the student shall be eligible for a hardship loan in that amount.

(5) An eligible student who is eligible for a hardship loan shall apply for a loan not greater than the amount referred to in paragraph (4) by completing and submitting to the Secretary of State an application in such form as she may require not later than one month after the date he receives notice of the determination under paragraph (4) and one month before the end of the academic year.

(6) The student shall sign a declaration on the application form in the terms set out in regulation 21(3).

(7) Where the amount of the hardship loan is determined to be less than £500 under paragraph (4), the student may make one further application for a hardship loan in accordance with the requirements of this regulation, except that the amount of the hardship loan under the second determination when added to the amount under the first determination shall not exceed £500.

## PART VI

### FINANCIAL ASSESSMENT

#### Calculation of contribution

23.—(1) An eligible student’s contribution in respect of an academic year, if any, shall be the aggregate of his income for that year calculated in accordance with Part I of Schedule 3 and any contribution applicable in his case by virtue of Part II or III of that Schedule.

(2) For the purposes of the exercise of the Secretary of State’s functions under the Act and regulations made under it she shall require an eligible student to provide from time to time such information as she considers necessary as to the income of any person whose means are relevant to the assessment of his contribution.

#### Application of contribution

24.—(1) The maximum amounts of grants or loans for which an eligible student shall be eligible shall be the amounts remaining after subtracting in accordance with this regulation his contribution from the maximum amount of any—

- (a) grant for fees for which is he eligible under regulation 10, other than fees payable in respect of his attendance at a course—
  - (i) at an institution which is neither maintained nor assisted by recurrent grants out of public funds other than a course referred to in regulation 11(2)(a)(i), or
  - (ii) for the initial training of teachers referred to in paragraph 4 of Schedule 2 other than a course for a first degree;

- (b) grants for dependants for which he is eligible under regulations 15 and 16;
- (c) loan for living costs for which he is eligible under regulation 19, other than a loan to which a maximum amount referred to in regulation 3(6) or 20(12) or (13) applies;
- (d) grant for travel costs for which he is eligible under regulation 18.

(2) Where the contribution exceeds the maximum amount of grant referred to in paragraph (1) (a) the maximum amount shall be reduced to nil, and the balance of the contribution not required to reduce the amount to nil shall be available to reduce the maximum amount of grant referred to in paragraph (1)(b).

(3) Where—

- (a) regulation 11 (1)(c), (e), (f) or (g) applies to the grant for fees for which the student is eligible, or
- (b) the student is not eligible for grant for fees in pursuance of regulation 10(7)(c),

the amount available to reduce the maximum amount of grant referred to in paragraph (1)(b) shall be calculated in accordance with paragraph (2), but it shall be assumed that the maximum amount of grant referred to in paragraph (1)(a) is **£1,100** rather than the amount referred to in regulation 11 (1)(c), (e) (f) or (g) or, in the case of a student who is not eligible for grant in pursuance of regulation 10(7)(c), rather than nothing.

(4) Where the contribution available to reduce the maximum amount of grant referred to in paragraph (1)(b) exceeds that maximum amount it shall be reduced to nil, and the balance of the contribution not required to reduce the amount to nil shall be available to reduce the maximum amount of loan referred to in paragraph (1)(c).

(5) Subject to paragraph (6) where the contribution available to reduce the maximum amount of loan referred to in paragraph (1)(c) would reduce that amount to less than the following amounts—

- (a) in the case of a student who resides at his parent's home while attending the course, **£2,320**;
- (b) for a student who does not—
  - (i) if he attends a course provided at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, **£3,610**;
  - (ii) if he attends for period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, **£3,580** or in a higher cost country, **£4,250**, and if he attends the British Institute in Paris, the amount for France;
  - (iii) otherwise, **£2,930**

the maximum amount shall be reduced to that amount, and the balance of the contribution not required to reduce the amount of loan to that amount shall be available to reduce the maximum amount of grant referred to in paragraph (1)(d).

(6) Where the academic year in question is the final year of a course other than an accelerated course and the contribution available to reduce the maximum amount of loan referred to in paragraph (1)(c) would reduce that amount to less than the following amounts—

- (a) in the case of a student who resides at his parent's home while attending the course, **£2,020**;
- (b) for a student who does not—
  - (i) if he attends a course provided at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, **£3,130**;
  - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, **£3,115** or in a higher cost country, **£3,700**, and if he attends the British Institute in Paris, the amount for France;
  - (iii) otherwise, **£2,545**

the maximum amount shall be reduced to that amount, and the balance of the contribution not required to reduce the amount of loan to that amount shall be available to reduce the maximum amount of grant referred to in paragraph (1)(d).

(7) Where under regulation 20(6) the Secretary of State determines that different rates shall apply for different quarters of the academic year the amount to which the maximum amount shall be reduced in accordance with paragraph (5) or (6) shall be the aggregate of the three amounts determined under paragraph (8) for the three quarters in respect of which loan is payable.

(8) The amount for each quarter determined under this paragraph shall be one third of the amount referred to in paragraph (5) or (6) which corresponds to the rate which the Secretary of State has determined shall be applicable for the quarter.

(9) Where the contribution available to reduce the maximum amount of grant referred to in paragraph (1)(d) exceeds that amount it shall be reduced to nil.

## PART VII

### PAYMENTS

#### **Payment of grant for fees**

**25.**—(1) The Secretary of State shall pay the grant for fees for which a student is eligible when a valid request for payment has been received from the academic authority, payment to be made to it—

- (a) not before the expiry of three months from the beginning of the academic year;
- (b) not later than 10 weeks after the expiry of that period, or promptly after a valid request for payment has been received, if that is later.

(2) The Secretary of State may make a provisional payment where assessment of the student's contribution or other matters have delayed final calculation of the amount of grant for which the student is eligible.

(3) No payment of grant for fees shall be made if—

- (a) before the expiry of three months from the beginning of the academic year the eligible student ceases to attend the course, and
- (b) the academic authority has determined or agreed that he will not commence attending again during the academic year in respect of which the fees are payable, or at all.

#### **Payment of grants and loans for living costs**

**26.**—(1) Subject to the following paragraphs and to regulation 17(4) the Secretary of State shall pay grants for which a student is eligible under Part IV or loans for which a student has applied under Part V in such instalments (if any) and at such times as she considers appropriate; and in the exercise of her functions under this paragraph she may in particular make provisional payments pending the final calculation of the amount of grant or loan for which the student is eligible.

(2) Grants for which a student is eligible under regulation 15 and loans for which a student has applied under Part V other than a loan under regulation 22 shall be payable in respect of three quarters of the academic year, and shall not be payable in respect of the quarter during which in the opinion of the Secretary of State the longest of any vacations is taken.

(3) The Secretary of State shall pay support referred to in paragraph (2) in the following instalments:

- (a) if the first instalment is paid during the first quarter of the academic year in respect of which the support is payable it shall be paid in three equal instalments during the quarters in respect of which it is payable;
  - (b) if the first instalment is paid during the second quarter of the academic year in respect of which support is payable it shall be paid in two instalments during the quarters in respect of which it is payable, the first amounting to two thirds of the amount to be paid, and the second one third of that amount; and
  - (c) if the first instalment is paid during the third quarter of the academic year in respect of which the support is payable it shall be paid in one instalment.
- (4) Payments shall be made in such manner as the Secretary of State considers appropriate, and she may make it a condition of entitlement to payment that the eligible student shall provide her with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.
- (5) Subject to regulation 7 no support referred to in paragraph (2) shall be payable in respect of a quarter beginning after an eligible student has withdrawn from, abandoned or been expelled from his course; and the amount of such support for the academic year shall be the aggregate of the support, if any, which is payable in respect of each quarter.
- (6) No support referred to in paragraph (2) shall be payable in respect of a quarter during any part of which an eligible student is absent from his course, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances to pay all or part of the support; and the amount of such support for the academic year shall be the aggregate of the support, if any, which is payable in respect of each quarter.
- (7) In deciding whether it would be appropriate to pay all or part of the support under paragraph (6) the circumstances which the Secretary of State shall have regard to shall include the reasons for the student's absence, the length of the absence, and the financial hardship which not paying all or part of the support would cause.
- (8) An eligible student shall not be considered to be absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.
- (9) Where after the Secretary of State has made any payment of support referred to in paragraph (2) she makes a determination of the amount of grant for which the student is eligible in respect of an academic year under regulation 15 either for the first time or by way of revision of a provisional or other determination of that amount—
- (a) if the determination increases the amount of grant for which the student is eligible she shall pay the additional amount in instalments in accordance with paragraph (3), paying the first instalment as soon as is reasonably practicable after the determination and any subsequent instalment with instalments already payable;
  - (b) if the determination decreases the amount of grant for which the student is eligible she shall subtract the amount of the decrease from any instalments of grant which remain to be paid under regulation 15, so that the instalments continue to bear the proportion to each other referred to in paragraph (3);
  - (c) if the amount of the decrease is greater than the amount of grant remaining to be paid that amount shall be reduced to nil, and the balance subtracted from any other grant for which the student is eligible in respect of the academic year;
  - (d) any remaining overpayment shall be recovered in accordance with regulation 27.
- (10) Where the Secretary of State has made any payment of support referred to in paragraph (2) and a student who is eligible for a loan under Part V other than a loan under regulation 22 applies for such a loan or applies for an additional such loan in respect of an academic year the Secretary of State shall pay the loan or the additional loan in instalments in accordance with paragraph (3),

paying the first instalment as soon as is reasonably practicable after a satisfactory application has been received and any subsequent instalment with instalments already payable.

(11) Where the Secretary of State has paid an instalment of loan for which a student is eligible in respect of an academic year under Part V and she makes a determination that the amount of loan for which the student is eligible is less than the amount previously determined, either by way of revision of a provisional determination or otherwise,—

- (a) she shall subtract such amount as is necessary to ensure that the student does not borrow an amount greater than the amount which he is eligible to borrow from any instalments of loan which remain to be paid, so that the instalments continue to bear the proportion to each other referred to in paragraph (3);
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid that amount shall be reduced to nil;
- (c) any remaining overpayment shall be recovered in accordance with regulation 27.

(12) Notwithstanding the above paragraphs where—

- (a) support referred to in paragraph (2) is payable in respect of a period of attendance at an overseas institution, and
- (b) the Secretary of State considers that payment of the support in instalments in accordance with the above paragraphs may prejudice his admission to the overseas country or institution,

she may pay the support in such instalments, if any, as she considers appropriate.

(13) Notwithstanding the above paragraphs where the periods of attendance for a course are such that the payment of instalments during the quarters in respect of which the support is payable may cause the eligible student hardship the Secretary of State may pay the instalments at such other times as she considers appropriate.

(14) Notwithstanding the above paragraphs where by reason of the absence of the student—

- (a) support referred to in paragraph (2) is reduced in accordance with paragraph (6), and
- (b) the Secretary of State considers that the payment of such support in accordance with the above paragraphs would be inappropriate

she may pay such support in such number of instalments and in instalments of such amounts as she considers appropriate.

## **Overpayments**

**27.—**(1) Any overpayment of grant for fees under Part III shall be recovered by the Secretary of State from the academic authority.

(2) Any overpayment of grant for living costs under Part IV other than a grant for dependants under regulations 15 and 16 shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from any other grant other than a grant for dependants under regulations 15 and 16 for which the student is eligible in respect of the academic year in question, or from any other grant other than a grant for dependants under regulations 15 and 16 for which he is eligible in respect of any other academic year;
- (b) where the student upon completion of his course immediately commences another course disregarding any intervening vacation by subtracting the overpayment from any payment of grant for living costs (other than a grant for dependants under regulations 15 and 16) for which he is eligible in respect of any academic year in connection with the second course;

- (c) by taking such other action for the recovery of a payment without statutory authority as is available to her.
- (3) Any overpayment of grant for dependants under Part IV shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:
  - (a) by subtracting the overpayment from any grant for dependants under regulations 15 and 16 for which the student is eligible in respect of the academic year in question or for which he is eligible in respect of any other academic year;
  - (b) where a student upon completion of his course immediately commences another course disregarding any intervening vacation by subtracting the overpayment from any payment of such grant for which he is eligible in respect of any academic year in connection with the second course; and
  - (c) by taking such other action for the recovery of a payment without statutory authority as is available to her.
- (4) Any overpayment of a loan for living costs under Part V in respect of any academic year may be recovered if in the opinion of the Secretary of State—
  - (a) the overpayment is a result of a failure of the student to provide promptly information which might affect his eligibility for a loan or the amount of loan for which he is eligible, or
  - (b) any information which he has provided is inaccurate in a material particularbut otherwise it shall be treated as a loan properly made under Part V which shall be repayable in accordance with the Act and regulations made under it.
- (5) Where an overpayment of loan is treated as properly made under paragraph (4) the Secretary of State may subtract the overpayment from the amount of loan for living costs under Part V for which the student is eligible in respect of any other academic year.
- (6) Where an overpayment of loan for living costs is recoverable in accordance with paragraph (4) it shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:
  - (a) by subtracting the overpayment from the amount of loan for which the student is eligible in respect of any other academic year;
  - (b) where a student upon completion of his course immediately commences another course disregarding any intervening vacation by subtracting the overpayment from any payment of loan for which he is eligible in respect of any academic year in connection with the second course;
  - (c) by taking such other action for the recovery of a payment made without statutory authority as is available to her.

## PART VIII

### SUPPORT FOR PART-TIME COURSES

#### **Eligible part-time students**

**28.**—(1) Subject to and in accordance with this Part a person shall be eligible for support in connection with his undertaking a designated part-time course if he is a person mentioned in Schedule 1.

(2) A person shall not be eligible under this regulation if:

- (a) he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule;



- (b) there has been bestowed on him or paid to him in relation to his undertaking the part-time course—
- (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(53) or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(54) whether the amount of which is calculated by reference to his income or not; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(55); or
  - (iii) any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 where that part-time course leads to a qualification in a healthcare profession, other than as a medical doctor or dentist, whether the amount of which is calculated by reference to his income or not;
- (c) he is in breach of any obligation to repay any loan;
- (d) he has not ratified any agreement for a loan made with him when he was under the age of 18; or
- (e) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.
- (3) For the purposes of paragraph 2(c) and (d) “loan” means a loan made under the Education (Student Loans) Act 1990(56), the Education (Student Loans) (Northern Ireland) Order 1990(57) the Education (Scotland) Act 1980(58) and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(59) and regulations made thereunder, or the Act and regulations made thereunder.
- (4) Paragraph 2(d) shall only apply, in a case where the agreement for a loan is subject to the law of Scotland, if it was made—
- (a) before 25th September 1991, and
  - (b) with the concurrence of the borrower’s curator, or at a time when he had no curator.
- (5) A person shall not be eligible for support for more than one designated part-time course at any one time.
- (6) Where a person who meets the requirements of this regulation is notified of that fact by the Secretary of State under regulation 32(6) he shall thenceforth be an “eligible part-time student” for the purposes of these Regulations.

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(53) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S. I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(54) S.I. 1972/1265 (N. I. 14).

(55) S.I. 1992/580.

(56) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

(57) S.I. 1990/1506 (N. I. 11).

(58) 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

(59) S.I. 1998/1760 (N. I. 14).

### **Designated part-time courses**

**29.**—(1) Subject to paragraph (3), a part-time course shall be designated for the purposes of section 22(1) of the Act and regulation 28(1) if—

- (a) it is mentioned in Schedule 2;
- (b) it exceeds one academic year's duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not designated by or under regulation 5.

(2) Paragraphs (5) and (6) of regulation 5 shall apply for the purposes of paragraph (1) as they apply for the purposes of paragraph (1) of that regulation.

(3) For the purposes of section 22 of the Act and regulation 28(1) the Secretary of State may designate part-time courses of higher education which are not designated by paragraph (1).

### **Eligibility for loans for part-time courses**

**30.**—(1) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be eligible for a loan if:

- (a) he is under the age of 50 on the first day of the first academic year of the course; or
  - (b) he is aged 50 or over and under the age of 55 on that day, if the Secretary of State is satisfied that he intends to enter employment after he has completed his part-time course or such other higher education course which he intends to start undertaking immediately after completing his present course, disregarding any intervening vacation; and
  - (c) in respect of the second and any subsequent year of his part-time course, he is ordinarily resident in England and Wales on the first day of the academic year.
- (2) An eligible part-time student shall not be eligible for a loan if—
- (a) he holds a first degree from an educational institution in the United Kingdom; or
  - (b) there have been paid to him 6 loans in connection with his undertaking one or more designated part-time courses.
- (3) For the purposes of paragraph 2(a) a degree shall not be treated as a first degree where—
- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his first degree course,
  - (b) the course was undertaken at an educational institution in the United Kingdom; and
  - (c) the eligible part-time student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other forms of assessment.
- (4) An eligible part-time student shall be eligible for a loan in respect of—
- (a) an academic year during which—
    - (i) his course becomes a designated part-time course,
    - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
  - (b) any academic year which begins after the events referred to in paragraph (a)

but shall not be eligible for a loan in respect of any other academic year.

(5) Subject to paragraph (6), an eligible part-time student shall not be eligible for a loan if he is a prisoner serving a custodial sentence.

(6) Paragraph (5) shall not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(7) An eligible part-time student who is eligible for a loan in respect of an academic year in accordance with the preceding paragraphs shall be eligible for a loan in respect of that year if—

(a) at the date of his application for the loan, he or his spouse is entitled under Part VII of the Social Security Contributions and Benefits Act 1992<sup>(60)</sup> to income support <sup>(61)</sup>, working families' tax credit <sup>(62)</sup>, disabled person's tax credit <sup>(63)</sup>, housing benefit <sup>(64)</sup> or council tax benefit <sup>(65)</sup>; or

(b) his financial resources for the preceding financial year do not exceed £13,000.

(8) For the purposes of paragraphs (7) and (10) an eligible part-time student's financial resources for a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of his application for the loan is his spouse.

(9) In calculating an eligible part-time student's income under this regulation there shall be disregarded:

(a) £2,000 in respect of his spouse;

(b) £2,000 in respect of the only or eldest child who is dependent on him or his spouse; and

(c) £1,000 in respect of each other such child.

(10) Where the Secretary of State is satisfied that an eligible part-time student's financial resources in the current financial year are unlikely to, or do not, exceed £13,000 she may assess that student's eligibility for a loan under this regulation by reference to those resources in the current financial year.

(11) For the purposes of this regulation—

“child” in relation to an eligible part-time student includes a step-child and any child for whom the student has parental responsibility and, in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for a loan is being assessed, any child of his partner;

“dependent” means wholly or mainly financially dependent;

“financial year” means the period of 12 months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;

“income” means gross income from all sources;

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<sup>(60)</sup> 1992 c. 4.

<sup>(61)</sup> Section 124, which provides for income support, is amended by the Jobseekers Act 1995 (c. 18), section 41 and Schedules 2 and 3 and by the Welfare Reform and Pensions Act 1999 (c. 30), section 70 and Schedule 8, Part IV, paragraph 28.

<sup>(62)</sup> Section 128, which provides for working families' tax credit, is amended by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a), (b) and 2(g) and by the Jobseekers Act 1995 section 41(4) and Schedule 2, paragraph 33.

<sup>(63)</sup> Section 129, which provides for disabled person's tax credit, is amended by the Tax Credits Act 1999 section 1(2) and Schedule 1, paragraphs 1(a) and (b) and 2(h) and by sections 14(1) to (5), the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 10(2) and (3) and 11(1), and Schedule 1, paragraph 32, the Welfare Reform and Pensions Act 1999, section 88 and Schedule 13, Part IV, the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 34 and by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 2.

<sup>(64)</sup> Section 130, which provides for housing benefit, is amended by the Local Government Finance Act 1992, section 103 and Schedule 9, paragraph 3, the Local Government etc (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 174(4) and by the Housing Act 1996 (c. 52), section 227 and Schedule 19, Part VI with savings (see S.I. 1997/618, article 2 and Schedule, paragraph 4).

<sup>(65)</sup> Section 131, which provides for council tax benefit, was substituted by the Local Government Finance Act 1992, section 103, Schedule 9, paragraph 4.

“partner” means a woman ordinarily living with a man part-time student as his wife or a man ordinarily living with a woman part-time student as her husband;

“preceding financial year” means the most recent financial year ending before the first day of the academic year in respect of which a person’s eligibility for a loan is being assessed and “current financial year” means the financial year which includes the first day of that academic year;

“spouse” includes, in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for a loan is being assessed, a partner. It does not include a spouse of an eligible part-time student where they have ceased ordinarily to live together, in the case of a married part-time student whether or not an order for their separation has been made by any court, or where the spouse is ordinarily living outside the United Kingdom and is not maintained by him.

### **Amount of loan**

**31.** The amount of a loan for a designated part-time course in respect of each academic year shall be £500.

### **Applications for support**

**32.—(1)** A person shall apply for support in respect of an academic year of a part-time course (other than a course for the initial training of teachers) by completing and submitting to the Secretary of State an application in such form as she may require; and regulation 6 shall not apply to him in connection with his undertaking that course.

(2) The completed application form shall include among other things the following particulars:

- (a) his United Kingdom national insurance number, unless he does not have one;
- (b) his most recent student loan account number, if any; and
- (c) the names, addresses and telephone numbers of two persons who know the student.

(3) The applicant shall sign a declaration on the application form that—

- (a) the particulars given in the application form are correct to the best of his knowledge and belief;
- (b) he will notify the Secretary of State (or if a local education authority or any other person is exercising functions in relation to his application by virtue of a determination under section 23(1)(a) or 23(4) of the Act he will notify that authority or person) of any change in them;
- (c) in the case of an application for a loan, he shall repay the amount lent to him, together with interest and applicable charges and penalties, in accordance with the Act and regulations made thereunder from time to time; and
- (d) in the case of an application for a grant pursuant to regulation 33, he will if required to do so repay to the Secretary of State any amount paid to him which for whatever reason exceeds the amount of grant to which he is entitled under that regulation.

(4) The application form must reach the Secretary of State not later than 6 months after the first day of the academic year of the course in which it is submitted, but where—

- (a) the course becomes a designated part-time course after the first day of that academic year, the application must reach the Secretary of State not later than 6 months after the date on which the course was designated;
- (b) the student, or his spouse or parent, is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 after the first day of that

academic year, the application must reach the Secretary of State not later than 6 months after the date of recognition or the date leave was granted respectively;

- (c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach the Secretary of State not later than such date as she specifies.

(5) An applicant shall demonstrate his eligibility for support by providing such evidence as the Secretary of State may require; and the Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the applicant is eligible for support.

(6) If the Secretary of State considers that the applicant is eligible for the support for which he has applied under this Part she shall—

- (a) where the application is the first to be made in connection with the applicant's undertaking the part-time course, notify him of the facts that the applicant is an "eligible part-time student" and is eligible for the support for which he has applied; and
- (b) in respect of any subsequent application notify him that he is eligible for the support for which he has applied.

### **Grants for disabled part-time students' living costs**

**33.**—(1) Subject to paragraphs (2) and (3), regulation 13 shall apply in relation to an eligible part-time student in respect of his undertaking a designated part-time course as it applies in relation to an eligible student in respect of his undertaking a designated course with the substitution—

- (a) for the amount specified in regulation 13(2)(a) of **£8,265**; and
- (b) for the amount specified in regulation 13(2)(d) of **£1,090**.

(2) An eligible part-time student shall be eligible for grant under this regulation if, in respect of the second and any subsequent year of his part-time course, he is ordinarily resident in England and Wales on the first day of the academic year.

(3) Subject to paragraph (4), an eligible part-time student shall not be eligible for grant under this regulation if he is a prisoner serving a custodial sentence.

(4) Paragraph (3) shall not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

### **Transfers of eligibility**

**34.**—(1) An eligible part-time student may request the Secretary of State to transfer his eligibility in any case where—

- (a) on the recommendation of the academic authority the student starts to undertake another part-time course at the institution;
- (b) with the . . . consent of the academic **authority of the institution** concerned . . . the student starts to undertake a part-time course at another institution; or
- (c) after commencing a part-time course for a first degree (other than an honours degree) the student is before the completion of that course admitted to a part-time course for an honours degree in the same subject or subjects at the institution.

(2) . . . The Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated part-time course, shall transfer the eligible part-time student's eligibility, and thenceforth the student shall for all purposes be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) An eligible part-time student's eligibility as such may not be transferred after it has expired or been terminated under regulation 36.

...

### Conversion of eligibility

**35.**—(1) An eligible student under Part II may request the Secretary of State to convert his eligibility to that of an eligible part-time student in any case where—

- (a) with the consent of the academic authority the eligible student ceases to attend his course and starts to undertake a designated part-time course at the institution; or
- (b) with the . . . consent of the academic **authority of the institution** concerned . . . the eligible student ceases to attend his course and starts to undertake a designated part-time course at another institution.

(2) Subject to paragraph (3) . . . the Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated part-time course, shall convert the eligible student's eligibility, and thenceforth the student shall for all purposes cease to be an eligible student and shall be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) The Secretary of State shall not under paragraph (2) convert the eligibility of a student who is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

...

(4) An eligible student's eligibility as such may not be converted after it has expired or been terminated under regulation 8.

(5) Where under this regulation an eligible student under Part II becomes an eligible part-time student in the course of an academic year—

- (a) where the Secretary of State has determined to pay an amount of grant to the student under regulation 13 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled pursuant to regulation 33 in connection with his undertaking a designated part-time course in respect of that academic year shall be reduced by one third, where the student became an eligible part-time student during the second quarter of the academic year, and by two thirds where he became such a student in a later quarter of that year;
- (c) where an amount of grant for any purpose has been paid to the student under regulation 13 in a single instalment the maximum amount of grant payable to him pursuant to regulation 33 for that purpose shall be reduced (or where sub-paragraph (b) applies further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 13, and where the resulting amount is nil or a negative amount that amount shall be nil; and
- (d) where immediately before he became an eligible part-time student he was eligible to apply, but had not applied, for a loan for living costs in respect of that year under regulation 21, or had not applied for the maximum amount or increased maximum for which he was entitled under regulation 21 without prejudice to regulation 30 he may apply for such a loan or such additional amount of loan in accordance with regulation 21 as if he had continued to be an eligible student under Part II; and in the circumstances mentioned in paragraph (6) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.

(6) Where the application is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may

be) shall be reduced by two thirds, and where the application is made during the second quarter of that year that amount shall be reduced by one third.

(7) An eligible part-time student may request the Secretary of State to convert his eligibility to that of an eligible student under Part II in any case where—

- (a) with the consent of the academic authority the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at the institution; or
- (b) with the . . . consent of the academic **authority** of . . . **the institution** concerned . . . the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at another institution.

(8) . . . The Secretary of State, on being satisfied of the matters referred to in paragraph (7) and that the second course is a designated course, shall convert the eligible part-time student's eligibility, and thenceforth the student shall for all purposes cease to be an eligible part-time student and shall be an eligible student in connection with his attendance at the second course, whether or not he may have been so eligible if he had applied under regulation 6.

...

(9) An eligible part-time student's eligibility as such may not be converted after it has expired or been terminated under regulation 36.

(10) Where under this regulation an eligible part-time student becomes an eligible student under Part II in the course of an academic year—

- (a) where the Secretary of State has determined to pay an amount of grant to the student pursuant to regulation 33 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any loan to which the student is entitled under this Part in respect of that year shall be ignored in determining the amount of support to which he may be entitled in respect of that year under Parts III to V;
- (c) the maximum amount of any support under Part IV or V to which the student would, apart from this regulation, be entitled in connection with his attendance at a designated course in respect of that academic year shall be reduced by one third, where the student became an eligible student during the second quarter of the academic year, and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 33 in a single instalment the maximum amount of grant payable to him under regulation 13 for that purpose shall be reduced (or where sub-paragraph (c) applies further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 33, and where the resulting amount is nil or a negative amount that amount shall be nil.

### **Termination of eligibility**

**36.**—(1) Subject to the following paragraphs an eligible part-time student shall cease to be eligible for support at the end of the academic year in which he completes his course.

(2) Where an eligible part-time student has withdrawn from a course in circumstances where the Secretary of State has not transferred or converted, or will not transfer or convert, his eligibility under regulation 34 or 35, or has abandoned, ceased to undertake or been expelled from his course, the Secretary of State shall determine that he is no longer eligible to receive support under this Part and on such determination he shall cease to be an eligible part-time student.

(3) Where an eligible part-time student has shown himself by his conduct to be unfitted to receive support under this Part the Secretary of State may determine that he is no longer eligible to receive such support and on such determination he shall cease to be an eligible part-time student.

### **Payment of support**

**37.**—(1) The Secretary of State shall pay a loan under this Part in a single instalment at such time as she considers appropriate.

(2) The Secretary of State shall pay grant pursuant to regulation 33 in such instalments (if any) and at such times as she considers appropriate.

(3) Payments shall be made in such manner as the Secretary of State considers appropriate, and she may make it a condition of entitlement to payment that the eligible part-time student shall provide her with particulars of a bank or building society account in the United Kingdom into which payment may be made by electronic transfer.

### **Overpayments**

**38.**—(1) Any overpayment of a loan under this Part in respect of any academic year may be recovered if in the opinion of the Secretary of State—

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect his eligibility for a loan under this Part, or
- (b) any information which he has provided is inaccurate in a material particular

but otherwise it shall be treated as a loan properly made which shall be repayable in accordance with the Act and regulations made under it.

(2) Where an overpayment of loan is treated as properly made under paragraph (1) the Secretary of State may subtract the overpayment from the amount of loan under this Part for which the student is eligible in respect of any other academic year.

(3) Where an overpayment of loan is recoverable in accordance with paragraph (1) it shall be recovered in such of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from the amount of loan under this Part for which the student is eligible in respect of any other academic year;
- (b) by taking such other action for the recovery of a payment made without statutory authority as is available to her.

(4) Any overpayment of grant paid pursuant to regulation 33 in respect of an academic year shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from any grant for which the student is eligible pursuant to regulation 33 in respect of any other academic year;
- (b) by subtracting the overpayment from any grant other than a grant for dependants for which the student is eligible under Part IV;
- (c) by taking such other action for the recovery of a payment made without statutory authority as is available to her.



## PART IX

### INTEREST AND INSOLVENCY

#### Interest

**39.**—(1) Subject to paragraph (2) loans shall bear interest at the rate which in relation to a loan made under these Regulations on or after 1st September **2002** will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(**66**) equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March **2001** and that index so published for March **2002**.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974(**67**) loans shall bear interest at the rate so specified.

(3) Interest shall be calculated on the principal outstanding daily, and shall be added to the principal monthly.

(4) The index of prices which the Secretary of State is required by section 22(8) of the Act to have regard to in prescribing the rate of interest which loans shall bear shall be the retail prices all items index mentioned in paragraph (1).

#### Insolvency

**40.**—(1) In England and Wales there shall not be treated as part of a bankrupt's estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986(**68**) any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy.

(2) In Northern Ireland there shall not be treated as part of a bankrupt's estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989(**69**) any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy.

4th February 2002

*Margaret Hodge*  
Minister of State,  
Department for Education and Skills

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(66) S.I. 1980/51, amended by S.I. 1985/1192, 1989/596.

(67) 1974 c. 39.

(68) 1986 c. 45; section 310 was amended by the Pensions Act, 1995 (c. 26), Schedule 3, paragraph 15.

(69) S.I. 1989/2405 (N. I. 19).

## SCHEDULE 1

Regulations 4(1) and 28(1)

## ELIGIBLE STUDENTS

1. A person who on the first day of the first academic year of the course—
  - (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(70), and
  - (b) meets the residence conditions referred to in paragraph 8.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or step-child of such a refugee, in each case who meets the residence condition in paragraph 8(a).
3. A person who—
  - (a)
    - (i) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom, or
    - (ii) before 1st July 1993 applied to the Secretary of State for the Home Department for recognition as a refugee and who has been informed by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow him to enter or remain in the United Kingdom,
  - (b) has been granted leave to enter or to remain accordingly, and
  - (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain

or who is the spouse, child or step-child of such a person, where the person, or as the case may be the spouse, child or step-child meets the residence conditions referred to in paragraph 8.
4. A person who is an EEA migrant worker who—
  - (a) is entitled to support by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement (71) or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3); and
  - (b) meets the residence conditions referred to in paragraph 8.
5. A person who is the spouse of an EEA migrant worker and who—
  - (a) is installed in the United Kingdom with his spouse, and
  - (b) meets the residence conditions referred to in paragraph 8.
- 6.—(1) A person who is the child of an EEA migrant worker and who—
  - (a) is entitled to support by virtue of Article 12 of the above mentioned Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12, and
  - (b) meets the residence conditions referred to in paragraph 8.

(2) For the purposes of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.

(70) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

(71) OJ No. L257, 19.10.68, p2 (OJ/SE 1968(II) p. 475).

7. A person who is a national of a member State of the European Community or the child of such a national—
  - (a) whose course is provided by an institution or institutions in England and Wales, or by an institution or institutions in England and Wales in conjunction with an institution or institutions outside the United Kingdom, and
  - (b) who meets the residence conditions referred to in paragraph 8(b) and (c).
8. The residence conditions referred to above are that—
  - (a) the person is ordinarily resident in England and Wales on the first day of the first academic year of the course;
  - (b) the person has been ordinarily resident throughout the three year period preceding the first day of the first academic year of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraphs 4, 5, 6 or 7, in the European Economic Area; and
  - (c) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.

## SCHEDULE 2

Regulations 5(1) and 29(1)

### DESIGNATED COURSES

1. A first degree course other than a course referred to in paragraph 4.
2. A course for the Diploma of Higher Education.
3. A course for the Higher National Diploma or Higher National Certificate of—
  - (a) the Business & Technician Education Council; or
  - (b) the Scottish Qualification Authority.
4. A course for the initial training of teachers, including such a course leading to a first degree.
5. A course for the further training of teachers or youth and community workers.
6. A course in preparation for a professional examination of a standard higher than that of—
  - (a) examinations at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
  - (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3,not being a course for entry to which a first degree (or equivalent qualification) is normally required;
7. A course providing education (whether or not in preparation for an examination) the standard of which is—
  - (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph (6)(a) or (b) above; but
  - (b) not higher than that of a first degree course,and for entry to which a first degree (or equivalent qualification) is not normally required.

## SCHEDULE 3

Regulation 23(1)

## FINANCIAL ASSESSMENT

## PART I

## STUDENT'S INCOME

**Calculation of student's income**

1.—(1) In calculating an eligible student's income for the purposes of regulation 23 there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, and any payment referred to in paragraphs (b) and (c), whether or not it is income, but there shall be disregarded the following—

- (a) in a case not covered by paragraph (x), the first **£880** of income of any description, or where the eligible student is a lone parent, the first **£1,915** of income of any description, in each case other than any sum treated as income under sub-paragraph (6);
- (b) the first £4,000 of any payment by way of scholarship, studentship, exhibition, bursary, award, grant, allowance or benefit however described payable in connection with the student's attendance on the course, otherwise than under the Act and regulations made under it;
- (c) the case of a student in gainful employment, the first **£1,075** of any payment by way of remuneration (reduced by income tax and social security contributions) paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending the course; except that, if the person's course is a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks, any payments by way of remuneration shall be disregarded;
- (d) any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968<sup>(72)</sup> or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(73)</sup>;
- (e) any allowance paid to him under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 in respect of a course leading to a qualification in a healthcare profession, other than as a medical doctor or dentist;
- (f) any grant to facilitate teacher training paid to the eligible student under regulations made under section 50(1) of the Education (No.2) Act 1986<sup>(74)</sup> or any payment made in respect of the student's training as a teacher by an institution to which grants, loans or other payments for that purpose are provided under section 5 of the Education Act 1994<sup>(75)</sup> or under section 65(3) of the Further and Higher Education Act 1992<sup>(76)</sup>;

<sup>(72)</sup> 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

<sup>(73)</sup> S.I. 1972/1265 (N. I. 14).

<sup>(74)</sup> 1986 c. 61; section 50 was amended by the Education Act 1993 (c. 35), section 278 (6), Schedule 19, paragraph 102, Schedule 21 Part II, and by the Education Act 1994 (c. 30), section 13(2) to (4).

<sup>(75)</sup> 1994 c. 30.

- (g) in the case of an eligible student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5), the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount, including nil, that contribution is ascertained to be);
- (h) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the eligible student is subject and any war widow's or war widower's pension;
- (i) any bounty received as a reservist with the armed forces;
- (j) remuneration for work done during any academic year of the eligible student's course;
- (k) in the case of an eligible student in whose case a parental contribution is by virtue of Part II of this Schedule applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (l) any payment made for a specific educational purpose otherwise than to meet such fees as are mentioned in Part III and living costs as are mentioned in Parts IV and V;
- (m) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(77);
- (n) any allowance payable to the eligible student by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976(78);
- (o) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (p) in the case of an eligible student with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989(79);
- (q) any payments made to the eligible student in pursuance of an order made under section 34 of the Children Act 1975(80) or under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the student's child or any assistance given by a local authority pursuant to section 24 of that Act;
- (r) income support or working families' tax credit under Part VII of the Social Security Contributions and Benefits Act 1992(81);
- (s) any housing benefit or community charge benefits granted to the eligible student in pursuance of a statutory or local scheme under Part VII of the Social Security Contributions and Benefits Act 1992 or any council tax benefit granted to him in pursuance of a statutory or local scheme under that Act;
- (t) in a case not covered by paragraph (x), (the first **£3,340** of any pension, allowance or other benefit payable by reason of the eligible student's old age, his retirement, the death of his spouse or parent or another person on whom he was wholly or mainly financially dependent, or by reason of his military or other public service;

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(76) 1992 c. 13.

(77) 1992 c. 4; there are amendments which are not relevant.

(78) 1976 c. 36; section 57A was introduced by the Children Act 1989 (c. 41), Schedule 10, paragraph 25; the relevant instruments are S.I. 1991/2030, 2130 and 2742.

(79) 1989 c. 41.

(80) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

(81) 1992 c. 4; amendments relating to working families' tax credit were made by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a), (b) and 2(g) and by the Jobseekers Act 1995 section 41(4) and Schedule 2, paragraph 33.

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- (u) any payments made to the eligible student under the action scheme of the European Community for the mobility of university students known as ERASMUS<sup>(82)</sup>, the European Community programme for foreign language competence known as LINGUA<sup>(83)</sup> or the European Community Programme known as LEONARDO DA VINCI<sup>(84)</sup>;
- (v) any payment made to the eligible student out of access bursary funds or hardship funds paid to the institution at which he attends his course under section 65 of the Further and Higher Education Act 1992, sections 73 and 74 of the Education (Scotland) Act 1980<sup>(85)</sup> or out of access funds under article 30 of the Education and Libraries (Northern Ireland) Order 1993<sup>(86)</sup> or article 5 of the Further Education (Northern Ireland) Order 1997<sup>(87)</sup>;
- (w) any payments made to the eligible student for the maintenance of his child by virtue of any agreement, instrument or enactment;
- (x) where a parental contribution does not apply because the eligible student falls within paragraph 3(1) of this Schedule and a spouse's contribution does not apply under Part III of this Schedule, the first £7,500 of income of any description, other than any sum treated as income under sub-paragraph (6).

(2) Where income may be disregarded under more than one of the sub-paragraphs of paragraph (1) it shall be disregarded under the sub-paragraph or sub-paragraphs which will result in the largest amount of the eligible student's income from all sources being disregarded under paragraph (1).

(3) Where an eligible student is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph and his income arises from sources or under legislation different from sources or legislation normally relevant to a person mentioned in paragraph 1 of Schedule 1 his income shall not be disregarded in accordance with paragraph (1) but shall be disregarded to the extent necessary to ensure that he is treated no less favourably than a person in similar circumstances in receipt of similar income who is mentioned in Schedule 1 would be treated.

(4) Where an eligible student makes any payment for the maintenance of his child or former spouse or person who lived with him as his spouse by virtue of any agreement, instrument or enactment, the amount of such payment shall be deducted in calculating his income for the purposes aforesaid.

(5) In the case of an eligible student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom—

- (a) if, in the opinion of the Secretary of State, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (b) if, in his opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to him appropriate;

except that no deduction shall be made from the income of a student who has a spouse who is a dependant for the purpose of regulation 15 and in pursuance of regulation 15(14) the payment is taken into account in determining the spouse's income.

(6) In a case where the eligible student is the parent or step-parent of an eligible student in respect of whom a contribution is ascertained under Part II of this Schedule or of a child who holds an award in respect of which a parental contribution is applicable, so much of the amount (if any) by which the

<sup>(82)</sup> ERASMUS is part of the European Community action programme known as SOCRATES, OJ No. L87, 20.4.95, p. 10.

<sup>(83)</sup> LINGUA is part of the European Community action programme known as SOCRATES, OJ No. L87, 20.4.95, p. 10.

<sup>(84)</sup> OJ No. L340, 29.12.94, p. 8.

<sup>(85)</sup> 1980 c. 44; section 74(1) was amended by paragraph 8(17) of Schedule 10 to the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39).

<sup>(86)</sup> S.I. 1993/2810 (N.I. 12).

<sup>(87)</sup> S.I. 1997/1772 (N.I. 15).

contribution is reduced under paragraph 4(3) as the Secretary of State considers just shall be treated as part of the eligible student's income for the purposes of this regulation.

(7) Where the eligible student is a lone parent having one or more dependent children under the age of 19 and he has elected to be ineligible for grant under regulation 16 in accordance with regulation 15(6), he may also elect to be ineligible for grant under regulation 15 and to have disregarded in calculating his income under this regulation £2,560 in respect of his only or eldest such child and £810 in respect of every other such child.

(8) Where the eligible student receives income in a currency other than sterling the value of the income shall be—

- (a) if the student purchases sterling with the income the amount of sterling the student receives for it, and
- (b) otherwise the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics in "Financial Statistics".

## PART II

### PARENTAL CONTRIBUTION

#### Definitions and construction of Part II

2.—(1) In this Part of this Schedule—

"child" includes a step-child but, except in paragraph 4, does not include a child who holds a statutory award; and, except as otherwise provided by paragraph 5, "parent" shall be construed accordingly;

"financial year" means the period of 12 months for which the income of the eligible student's parent is computed for the purposes of the income tax legislation which applies to it;

"gross income" has the meaning assigned to it by paragraph 5;

"income of the student's parent" means the taxable income of the parent from all sources computed as for the purposes of the Income Tax Acts or as for the purposes of the income tax legislation of another member State of the European Community which applies to the parent's income, or where the legislation of more than one member State applies in respect of the same period, as for the purposes of the legislation pursuant to which the Secretary of State considers that the parent will pay the largest amount of tax in that period, except as otherwise provided by paragraph 5 or 6;

"residual income" means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made.

(2) Where, in a case not falling within paragraph 5(3) or (4), the Secretary of State is satisfied that the income of the parent in any financial year is as a result of some event beyond his control likely to be, and to continue after that year to be, not more than 85 per cent. of his income in the financial year preceding that year, he may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(3) Where the eligible student's parent satisfies the Secretary of State that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then, if the Secretary of State and the parent so agree, any reference in this Part of this Schedule to a financial year shall be construed as a reference to a year ending with such date as appears to the Secretary of State

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expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(4) Where a parent is in receipt of any income which does not form part of his taxable income by reason only that—

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another member State of the European Community, not so resident, ordinarily resident or domiciled in that member State,
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, does not arise in that member State, or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his income for the purposes of this Part of the Schedule shall be computed as though the income first mentioned in this sub-paragraph were part of his taxable income.

(5) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another member State—

- (a) it shall be computed in the currency of that member State,
- (b) the value of any deduction mentioned in paragraph 6(2) shall be the amount of that currency required to purchase the sterling value of the deduction, and
- (c) the value of the sterling which the income of the eligible student's parent in that currency would purchase shall be determined, and shall constitute the income of the student's parent for the purposes of this Part.

(6) The rate applied in determining the sterling value of another currency under sub-paragraph (5) shall be the rate for the month in which the last day of the financial year in question falls published by the Office for National Statistics in "Financial Statistics".

## **Application of Part II**

3.—(1) A parental contribution ascertained in accordance with this Part shall be applicable in the case of every eligible student except where—

- (a) he is aged 25 or over on the first day of the academic year in respect of which the contribution is applicable;
- (b) he has supported himself out of his earnings for periods before the first academic year of the course aggregating not less than three years;
- (c) he has been married ... before the beginning of the academic year in respect of which the contribution is applicable, whether or not the marriage is still subsisting;
- (d) he has no parent living;
- (e) the Secretary of State is satisfied that his parents cannot be found or that it is not reasonably practicable to get in touch with them;
- (f) he is irreconcilably estranged from his parents;
- (g) he has pursuant to an order of a competent court been in the custody or care of or has been provided with accommodation by—
  - (i) a state authority or agency, national, regional or local,
  - (ii) a voluntary or charitable organisation, or
  - (iii) any person who is not the student's parent



throughout any three month period ending on a date on or after the date on which he attains the age of 16 and before the first day of his course; provided that he has not at any time from the beginning of the three month period to the first day of his course in fact been under the charge or control of his parents;

- (h) his parents are residing outside the European Community and the Secretary of State is satisfied either that—
    - (i) the assessment of a parental contribution would place those parents in jeopardy; or
    - (ii) it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
  - (i) paragraph 5(7) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that sub-paragraph has died;
  - (j) he is a member of a religious order who resides in a house of his order.
- (2) For the purposes of sub-paragraph (1)(b) an eligible student shall be treated as having supported himself out of his earnings for any period or periods for which—
- (a) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, national, regional or local;
  - (b) the student was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
  - (c) the student was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit;
  - (d) the student held a State Studentship or comparable award;
  - (e) the student received any pension, allowance or other benefit paid by reason of a disability to which he is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer, or by any other person; or
  - (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent upon him.
- (3) For the purposes of sub-paragraph (1)(f) an eligible student shall be regarded as irreconcilably estranged from his parents if, but not only if, he has communicated with neither of them for the period of one year before the beginning of the year for which payments in pursuance of his support fall to be made.

### **Parental contribution**

4.—(1) The parental contribution shall subject to sub-paragraphs (2) and (3) be in any case in which the residual income is **£20,480** or more £45 with the addition of £1 for every complete £9.50 by which it exceeds **£20,480**, reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly financially dependent on him on the first day of the year for which the contribution falls to be ascertained, by £81; and in any case in which the residual income is less than **£20,480** the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed **£6,749**.

(3) For any year in which a statutory award is held by—

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- (a) more than one child of the parent;
- (b) the parent; or
- (c) the student's step-parent,

the parental contribution for the eligible student shall be such proportion of any contribution ascertained in accordance with this Part as the Secretary of State (after consultation with any other authority involved) considers just; provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award or, if that amount is different in respect of each child, the lower or (as the case may be) lowest such amount.

### **Gross income**

5.—(1) For the purposes of this paragraph “preceding financial year” means the financial year preceding the academic year in respect of which the resources of the eligible student fall to be assessed and “current financial year” means the financial year which includes the first day of the academic year; provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending less than five months before the beginning of an academic year of the eligible student's course, “preceding financial year” shall mean the financial year last ending five or more months before the academic year in respect of which the resources of the eligible student fall to be assessed and “current financial year” shall mean the financial year ending within those five months.

(2) Subject to the provisions of this paragraph, “gross income” means the income of the student's parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in the financial year there mentioned.

(3) Where the Secretary of State is satisfied that the sterling value of the income of the student's parent in the current financial year is likely to be not more than 85 per cent. of the sterling value of his income for the preceding financial year, she may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and in such case sub-paragraph (2) shall have effect, in relation to the academic year in respect of which the eligible student's resources fall to be assessed and, if the Secretary of State so determines, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where—

- (a) one of the eligible student's parents dies either before or during the year in respect of which the resources of the student fall to be ascertained (“the relevant year”); and
- (b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall—

- (c) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (d) where the parent dies during the relevant year, be the aggregate of—
  - (i) the appropriate proportion of the contribution determined by reference to the income of both parents, that is to say such proportion thereof as the part of the relevant year during which both parents were alive bears to the full year; and
  - (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the relevant year remaining after the parent dies bears to the full year.

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of any applicable legislation any income is applied by any person for or towards the maintenance, education or other benefit of the eligible student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any such benefit as is mentioned in paragraph 1 (1)(b) of Part I of this Schedule is provided, by reason of the parent's employment, for any member of his family or household who is an eligible student (whether the student or some other such member) then that benefit shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the year in respect of which the resources of the eligible student fall to be ascertained ("the relevant year"), the parental contribution shall be determined by reference to the income of whichever parent the Secretary of State considers the more appropriate in the circumstances.

(8) Where the parents do not ordinarily live together for part only of the relevant year, the parental contribution shall be the aggregate of—

- (a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year; and
- (b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year.

(9) Where one of the eligible student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

## **Deductions**

**6.—(1)** For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in computing his taxable income as for the purposes of the Income Tax Acts or for the purposes of the income tax legislation of another member State of the European Community any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter I of Part VII of the Income and Corporation Taxes Act 1988<sup>(88)</sup>, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, any comparable personal reliefs;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any legislation or rule of law with the effect that payments which for the purposes of the law of the United Kingdom are treated as income are not treated as income; or
- (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2),

shall not be made or permitted.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income—

- (a) in respect of any person, other than a spouse, child or eligible student, wholly or mainly financially dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which **£2,360** exceeds the income of that person in that year;

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<sup>(88)</sup> S.I. 1998/1760 (N. I. 14).

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- (b) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life insurance) in respect of which relief is given under section 266, 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
  - (c) where the parents ordinarily live together and one of them is incapacitated, or where the parent ordinarily lives with a person who is not the other parent of the eligible student, but that person is the husband or wife of the parent or lives with the parent as the parent's husband or wife, and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,850, if the other parent or person described in this sub-paragraph is wholly or mainly financially dependent on the parent during the year for which the contribution falls to be ascertained;
  - (d) where the parent does not ordinarily live with the other parent or with another person as husband or wife or who is their husband or wife, and the parent is incapacitated, so much of the cost in wages of domestic assistance as does not exceed **£1,850**;
  - (e) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the Secretary of State considers reasonable in all the circumstances;
  - (f) in the case of a parent who is an eligible student or who holds a statutory award, **£950**;
  - (g) any payments made to the parent of the student in pursuance of an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or for whom he provides accommodation;
  - (h) where the parent's income is computed as for the purposes of the income tax legislation of another member State, sums equivalent to any amounts which would not be treated as taxable income if that legislation made provision equivalent to the Income Tax Acts.
- (3) In any case where income is computed as for the purposes of the Income Tax Acts by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deduction mentioned in sub-paragraph (2)(b), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact taxable income for the purposes of the Income Tax Acts.

## PART III

### SPOUSE'S CONTRIBUTION

#### Application of Part III

7.—(1) Subject to paragraph (2), a spouse's contribution ascertained in accordance with this Part shall be applicable in the case of—

- (a) every man student ordinarily living with his wife;
- (b) every man student ordinarily living with a woman as his wife, if he falls within paragraph 3(1)(a) and he is on a course which began on or after 1st September 2000 **unless—**
  - (i) his course is an end-on course in relation to a course which began **before 1st September 2000**, or
  - (ii) **his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (b)(i).**
- (c) every woman student ordinarily living with her husband; and

- (d) every woman student ordinarily living with a man as her husband, if she falls within paragraph 3(1)(a) and she is on a course which began on or after 1st September 2000 **unless**
- (i) **her course is an end-on course in relation to a course which began before 1st September 2000, or**
  - (ii) **her course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (d)(i).**
- (2) Paragraph (1) shall not apply to—
- (a) a student in whose case a parental contribution is applicable in accordance with Part II; and
  - (b) an eligible student whose child holds an award in respect of which a parental contribution is applicable or whose child is an eligible student in respect of whom a contribution is ascertained under Part II of this Schedule.

### **Spouse's contribution**

8.—(1) Subject to sub-paragraphs (3) and (4), Part II above, except paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(d), shall apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed, except where the context otherwise requires, as references to the eligible student's spouse within the meaning of paragraph 7 and, unless the context otherwise requires, this Part shall be construed as one with the said Part II.

(2) The spouse's contribution shall be in any case in which the residual income is **£17,615** or more, £45 with the addition of £1 for every complete £8 by which it exceeds **£17,615**, reduced in any such case by **£81** in respect of each child of the eligible student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than **£17,615** the spouse's contribution shall be nil; provided that the amount of the spouse's contribution shall in no case exceed **£6,749**.

(3) This sub-paragraph applies if the eligible student marries or starts living with a person as their husband or wife within the meaning of paragraph 7 during any academic year for which the contribution falls to be ascertained. The contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage or their starting to live together and whichever is the earlier of the end of that year and the end of the course.

(4) This sub-paragraph applies if the eligible student's marriage terminates or if the student ceases living with a person as their husband or wife within the meaning of paragraph 7 during any academic year for which the contribution falls to be ascertained. The contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage or their ceasing to live together.

(5) In accordance with the provisions of this Part, more than one contribution may be applicable in any academic year.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 25th February 2002, are made under section 22 of the Teaching and Higher Education Act 1998. They provide for support for students attending designated higher education courses in respect of the academic year beginning on or after 1st September 2002.

The Regulations revoke the Education (Student Support) Regulations 2001, the Education (Student Support) Regulations 2001 (Amendment) Regulations 2001, the Education (Student Support) (Amendment) (No.2) Regulations 2001 and the Education (Student Support) Regulations 2001 (Amendment) (No.3) Regulations 2002.

Provisions in these Regulations which differ from the corresponding provisions of the 2001 Regulations as amended (except for minor drafting or consequential changes) are indicated by the use of heavy type. Omissions are indicated by the use of dots. Changes of substance made by these Regulations other than rates of fees, grants and loans are described below.

A number of minor changes are made. The definition of “lone parent” is amended in regulation 2(1) to refer to a dependent child or children within the definition of regulation 15(12). Regulation 10(6) and (10)(10) are amended to refer to work experience.

Regulation 7(1)(b) provides that where a full-time eligible student attends another course at another institution with the consent of that institution’s academic authority he can request that the Secretary of State transfer his eligibility in relation to that course. The academic authority’s consent need no longer be in writing or based on educational grounds.

An eligible student attending an initial training of teachers course for which the period of full-time attendance is less than 6 weeks will be entitled to a grant for disabled costs at reduced rates under regulation 13(3).

Under regulation 15(6) an eligible student who is a lone parent and has elected not to be treated as eligible for a grant for dependants childcare costs (regulation 16) will be eligible for an additional grant, if his course began before 1st September 2001 or his course is an end-on course of a kind mentioned in the regulation.

Under regulation 15(12) an eligible student will be entitled to receive grants for dependants. A dependant will include a partner of a different sex with whom the student is living but not married to and the child or children of that partner, if the student is on a course which began on or after 1st September 2000. The student will not be entitled to grants for dependants if his course is an end-on course of a kind mentioned in the regulation.

Regulations 15, 16 and 18 have been amended to provide that an eligible student need not comply with the age requirements in regulation 19(1) in order to obtain a grant for dependants, childcare costs, school meals for dependent children and grants for travel.

Under paragraph 3(1)(c) of Schedule 3 to these Regulations there will be no assessment of parental contribution where an eligible student has been married before the academic year in respect of which the contribution would have applied. This is so whether or not the marriage still subsists.

Regulations 34(1)(b), 35(1)(b) and 35(7)(b) make similar provision in relation to, respectively, a part-time eligible student who transfers to a part-time course at another institution, a full-time eligible student who converts to being a part-time student at another institution and a part-time student who converts to being a full-time student at another institution, to the provision made in relation to a full-time eligible student by regulation 7(1)(b).

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