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STATUTORY INSTRUMENTS

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**2002 No. 195**

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

**PART I**  
**GENERAL**

**Interpretation**

- 2.—(1) In these Regulations, except where the context otherwise requires—
- “the 1962 Act” means the Education Act 1962(1);
  - “the 1998 Regulations” means the Education (Student Support) Regulations 1998(2);
  - “the 1999 Regulations” means the Education (Student Support) Regulations 1999(3);
  - “the 2000 Regulations” means the Education (Student Support) Regulations 2000(4);
  - “the 2001 Regulations” means the Education (Student Support) Regulations 2001(5);**
  - “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

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(1) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).  
(2) S.I. 1998/2003.  
(3) S.I. 1999/496, amended by S.I. 1999/2266 and by S.I. 2000/1120.  
(4) S.I. 2000/1121, amended by S.I. 2000/1490, by S.I. 2000/2142 and by S.I. 2000/2912.  
(5) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.

Benefits Act 1992(6), 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(7);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(8) as adjusted by the Protocol signed at Brussels on 17th March 1993(9);

“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 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;

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- (6) 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.
  - (7) 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.
  - (8) Cmnd. 2073.
  - (9) Cmnd. 2183.

“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(10) as it had effect prior to the substitution by section 323 of the Greater London Authority Act 1999(11) 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(12) 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(13) as extended by the Protocol thereto which entered into force on 4th October 1967(14) and any reference to the child of a refugee includes a reference to a step-child;

“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(15), the Education (Student Loans)(Northern Ireland) Order 1990(16), the Education (Scotland) Act 1980(17) or the Education (Student Support)(Northern Ireland) Order 1998(18);

“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

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(10) 1963 c. 33; section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), article 11.

(11) 1999 c. 29.

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

(13) Cmnd. 9171.

(14) 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).

(15) 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.

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

(17) 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

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

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>(19)</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—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community<sup>(20)</sup>, 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.

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<sup>(19)</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.

<sup>(20)</sup> OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II), p. 457).