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STATUTORY INSTRUMENTS

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**2005 No. 52**

**EDUCATION, ENGLAND AND WALES  
EDUCATION, NORTHERN IRELAND**

**The Education (Student Support) Regulations 2005**

*Made* - - - - *13th January 2005*  
*Laid before Parliament* *26th January 2005*  
*Coming into force* - - *1st March 2005*

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

**PART 1  
GENERAL**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Education (Student Support) Regulations 2005 and shall come into force on 1st March 2005.

(2) Subject to paragraph (3), these Regulations extend to England and Wales only.

(3) Regulation 28(2) extends to Northern Ireland.

**Interpretation**

2.—(1) In these Regulations—

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

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- (1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), section 42. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), Schedule 12.
- (2) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I.1998/3237), article 3.

- “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);
- “the 2002 Regulations” means the Education (Student Support) Regulations 2002(7);
- “the 2003 Regulations” means the Education (Student Support) (No. 2) Regulations 2002(8) as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003(9) and the Education (Student Fees and Support) (Switzerland) Regulations 2003(10);
- “the 2004 Regulations” means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004(11), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004(12), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004(13), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(14) and the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(15);
- “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” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and on or before 31st December, respectively;
- “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;
- “borrower” means a person to whom a loan has been made;
- “contribution” means an eligible student’s contribution calculated pursuant to regulation 29 and Schedule 5;
- “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 35 or by the Secretary of State under regulation 35;
- “designated postgraduate course” means a course designated by regulation 47 or by the Secretary of State under regulation 47;

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- (3) S.I. 1998/2003.  
(4) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.  
(5) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.  
(6) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.  
(7) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.  
(8) S.I. 2002/3200.  
(9) S.I. 2003/1065.  
(10) S.I. 2003/3280.  
(11) S.I. 2004/161.  
(12) S.I. 2004/1602.  
(13) S.I. 2004/2041.  
(14) S.I. 2004/2598.  
(15) S.I. 2005/5.

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992<sup>(16)</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(17)</sup>;

“EEA migrant worker” has the meaning given in paragraph (5);

“electronic signature” is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

“eligible part-time student” has the meaning given in regulation 34;

“eligible postgraduate student” has the meaning given in regulation 46;

“eligible student” has the meaning given in regulation 4;

“end-on course” means—

- (a) a course mentioned in paragraph 1 of Schedule 3 which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 2 or 3 of Schedule 3 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, 2001, 2002, 2003 or 2004 Regulations; or
- (b) a course mentioned in paragraph 4 of Schedule 3 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 1 or 4 of Schedule 3 (provided that the course in paragraph 4 was a course leading to a first degree) 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, 2001, 2002, 2003 or 2004 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 the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“flexible postgraduate ITT course” means a postgraduate course of initial teacher training, the length and pattern of which is determined by reference to the eligible student’s experience and training requirements and which has been approved by the Teacher Training Agency<sup>(18)</sup>;

“former Metropolitan Police District” means—

- (a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple;
- (b) in the county of Essex, in the district of Epping Forest—
  - the area of the former urban district of Chigwell,
  - the parish of Waltham Abbey;
- (c) in the county of Hertfordshire—
  - in the borough of Broxbourne, the area of the former urban district of Cheshunt,
  - the district of Hertsmere,
  - in the district of Welwyn Hatfield, the parish of Northaw; and
- (d) in the county of Surrey—

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<sup>(16)</sup> Cm 2073.

<sup>(17)</sup> Cm 2183.

<sup>(18)</sup> The Teacher Training Agency was established under section 1 of the Education Act 1994 (c. 30).

in the borough of Elmbridge, the area of the former urban district of Esher,  
the boroughs of Epsom and Ewell and Spelthorne,  
in the district of Reigate and Banstead, the area of the former urban district of  
Banstead;

“healthcare bursary” means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968<sup>(19)</sup> or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(20)</sup>;

“higher education course” means a course referred to in Schedule 3 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”, except where otherwise indicated, 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 incurred in connection with it;

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“old award” is an award within the meaning of the Education (Mandatory Awards) Regulations 2003<sup>(21)</sup>;

“periods of work experience” means—

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside that institution;
- (b) periods during which a student is employed and residing in a country whose language is one that he is studying for his course (provided that the period of residence in that country is a requirement of his course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

“public funds” means moneys provided by Parliament;

“publicly-funded” means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

“qualified teacher” has the meaning given in section 132(1) of the Education Act 2002<sup>(22)</sup>;

“quarter” in relation to an academic year means a period in that year—

- (a) beginning on 1st January and ending on 31st March;
- (b) beginning on 1st April and ending on 30th June;
- (c) beginning on 1st July and ending on 31st August; or

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<sup>(19)</sup> 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, 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, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

<sup>(20)</sup> S.I. 1972/1265 (N.I. 14).

<sup>(21)</sup> S.I. 2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.

<sup>(22)</sup> 2002 c. 32.

(d) beginning on 1st September and ending on 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(23) as extended by the Protocol thereto which entered into force on 4th October 1967(24) and any reference to the child of a refugee includes a reference to a step-child;

“Research Council” means any of the following research councils—

- (a) Arts and Humanities Research Council,
- (b) Biotechnology and Biological Sciences Research Council,
- (c) Economic and Social Research Council,
- (d) Engineering and Physical Sciences Research Council,
- (e) Medical Research Council,
- (f) Natural Environment Research Council,
- (g) Particle Physics and Astronomy Research Council;

“sandwich course” has the meaning given in paragraph (6);

“Scottish healthcare allowance” means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(25) granted in respect of a person attending a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

“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 student loans legislation;

“student loans legislation” means the Education (Student Loans) Act 1990(26), the Education (Student Loans) (Northern Ireland) Order 1990(27), the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(28) and regulations made thereunder or the Act and regulations made thereunder;

“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;

“Switzerland Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(29) and which came into force on 1st June 2002; and

“transitional award” means an award made under the Education (Mandatory Awards) Regulations 1998(30) other than an old award.

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(23) Cmnd. 9171.

(24) 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).

(25) 1998 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(26) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

(27) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6.

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

(29) Cm. 4904.

(30) S.I. 1998/1166, amended by S.I. 1998/1972.

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

- (a) his present course; or
- (b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his present 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>(31)</sup>, a person shall be treated as ordinarily resident in England and Wales, the United Kingdom and Islands or in the European Economic Area or Switzerland if he would have been so resident but for the fact that he, his spouse or his civil partner 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 is or was temporarily employed outside England and Wales, the United Kingdom and Islands or, as the case may be, outside the European Economic Area or Switzerland and paragraph 8(c) of Schedule 2 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 these 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 or Switzerland 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 for workers within the Community<sup>(32)</sup>, as extended by the EEA Agreement or the Switzerland 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—

- (a) a course is a “sandwich course” if—
  - (i) it is not a course referred to in paragraph 4 of Schedule 3;
  - (ii) it consists of alternate periods of full-time study in an institution and periods of work experience; and
  - (iii) 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;
- (b) for the purposes of calculating the student’s attendance, the course shall be treated as beginning with the first period of full-time study and ending with the last such period; and
- (c) 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 each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.

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<sup>(31)</sup> 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

<sup>(32)</sup> OJ No L257, 19.10. 1968, p 2 (OJ/SE 1968 (II) p 475).

(7) Where these Regulations refer to a date before, on or after which an eligible student began the present designated course and the student's status as an eligible student has been transferred to the present designated course as a result of one or more transfers of that status by the Secretary of State from a course (the "initial course") in connection with which the Secretary of State determined the student to be an eligible student pursuant to regulations made under section 22 of the Act, the eligible student shall be treated for the purposes of the relevant regulation as if he began the present designated course on the date on which he began the initial course.

(8) Where these Regulations refer to a date before, on or after which an eligible student began the present designated course and that course is an end-on course, the eligible student shall be treated for the purposes of the relevant regulation as if he began that course on the date on which he began the course in relation to which the present designated course is an end-on course (the "preceding course"). Where the preceding course is itself an end-on course, the eligible student shall be treated for the purposes of the relevant regulation as if he began the present designated course on the date on which he began the course in relation to which the preceding course is an end-on course.

### **Revocation, savings and transitional provisions**

3.—(1) Subject to paragraphs (2) to (5), the regulations mentioned in Schedule 1 are revoked on 1st September 2005.

(2) The 2003 Regulations shall continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2003 but before 1st September 2004.

(3) The 2004 Regulations shall continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2004 but before 1st September 2005.

(4) The Education (Grants for Disabled Postgraduate Students) Regulations 2000(33) shall continue to apply to the provision of support to postgraduate students with disabilities in relation to an academic year which begins before 1st September 2005.

(5) Part 9 of the 2003 Regulations shall apply to loans until the end of 31st August 2004, Part 9 of the 2004 Regulations shall apply to loans until the end of 31st August 2005 and regulations 27 and 28 of Part 6 of these Regulations shall apply to loans on and after 1st September 2005.

(6) These Regulations shall apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st September 2005 whether anything done under these Regulations is done before, on or after 1st September 2005.

(7) Notwithstanding any other provision in these Regulations where—

- (a) a person attends a course in respect of which a transitional award was bestowed on him; or
- (b) no award under the 1962 Act was bestowed in respect of the course but a transitional award would have been bestowed on him if he had applied for an award under the 1962 Act and his resources had not exceeded his requirements,

he shall be an eligible student for the purposes of Parts 4 and 5 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (8) applies he shall qualify for support by way of loan under Part 6 only if he is an eligible student under these Regulations and if he satisfies the qualifying conditions in Part 6.

(8) Notwithstanding any other provision in 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 an eligible student for the purposes of Part 6 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) he starts immediately after ceasing

that course, but unless paragraph (7) applies he shall qualify for support by way of grant under Parts 4 and 5 only if he is an eligible student under these Regulations and if he satisfies the relevant qualifying conditions in Parts 4 and 5.

(9) Modifications to these Regulations which apply while section 1 of the Civil Partnership Act 2004<sup>(34)</sup> is not in force in England and Wales are set out in Part 11.

## PART 2

### ELIGIBILITY

#### Eligible students

4.—(1) An eligible student shall qualify for support in connection with a designated course subject to and in accordance with these Regulations.

(2) A person is an eligible student in connection with a designated course if—

- (a) the Secretary of State has determined in connection with that course that the person is mentioned in Schedule 2; and
- (b) the person is not excluded by paragraph (3).

(3) A person shall not be an eligible student if—

- (a) an old award has been bestowed on him in respect of his attendance on the course;
- (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 healthcare bursary 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>(35)</sup>;
- (d) he is in breach of any obligation to repay any loan;
- (e) he has reached the age of 18 and 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.

(4) For the purposes of paragraphs (3)(d) and (3)(e), “loan” means a loan made under the student loans legislation.

(5) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(e) shall only apply if the agreement 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.

(6) An eligible student in respect of whom the first academic year of the course begins on or after 1st September 2000 shall not, at any one time, qualify for support for—

- (a) more than one designated course;
- (b) a designated course and a designated part-time course;

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<sup>(34)</sup> 2004 c. 33.

<sup>(35)</sup> S.I. 1992/580, amended by S.S.I. 2002/423 and S.S.I. 2003/401.



(c) a designated course and a designated postgraduate course.

(7) Notwithstanding paragraph (2), a person shall be an eligible student for the purposes of these Regulations if—

(a) he qualified as an eligible student in connection with an earlier academic year of the present designated course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or

(b) the Secretary of State has previously determined that the person is—

(i) an eligible part-time student in connection with a designated part-time course; or

(ii) an eligible student in connection with a designated course other than the present course

and the student's status as an eligible part-time student or as an eligible student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under section 22 of the Act.

### **Designated courses**

**5.—**(1) Subject to paragraph (2), a course is a designated course for the purposes of section 22(1) of the Act and regulation 4 if it is—

(a) mentioned in Schedule 3;

(b) one of the following—

(i) a full-time course;

(ii) a sandwich course; or

(iii) a part-time course for the initial training of teachers;

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

(d) wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) A course falling within paragraph 6 or 7 of Schedule 3 is not a designated course where the governing body of a maintained school has arranged for the provision of such a course to a pupil of the school.

(3) For the purposes of paragraph (1)—

(a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;

(b) a university and any constituent college or institution in the nature of a college of a university shall be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and

(c) an institution shall not be regarded as publicly funded 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(36).

(4) A course to which this paragraph applies shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that—

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(36) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

- (a) the course may lead to another degree or qualification being conferred before the degree or equivalent qualification; and
- (b) part of the course may be optional.

(5) Paragraph (4) applies to a course the standard of which is not higher than a first degree which leads to a qualification as a medical doctor, dentist, veterinary doctor, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

(6) 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).

### **Period of eligibility**

6.—(1) An eligible student shall retain his status as an eligible student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” is equal to the period ordinarily required for the completion of the designated course.

(3) The period of eligibility shall be extended to the end of the academic year in which the eligible student completes his course in respect of—

- (a) grants for living costs;
- (b) loans for living costs; and
- (c) grants for fees where the student repeats part of his course.

(4) The Secretary of State may, at any time, renew or extend the period of eligibility for such further period as she determines.

(5) The period of eligibility shall terminate when the eligible student—

- (a) withdraws from his designated course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status as an eligible student under regulation 7 or regulation 42(1); or
- (b) abandons or is expelled from his designated course.

(6) The Secretary of State may terminate the period of eligibility where the eligible student has shown himself by his conduct to be unfitted to receive support.

(7) If the Secretary of State is satisfied that an eligible student has failed to comply with any requirement to provide information under these Regulations or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as she considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 33.

### **Transfer of status**

7.—(1) Where an eligible student transfers to another course, the Secretary of State shall transfer the student’s status as an eligible student to that course where—

- (a) she receives a request from the eligible student to do so;
- (b) she is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
- (c) the period of eligibility has not expired or been terminated.

- (2) The grounds for transfer referred to in paragraph (1) are—
- (a) on the recommendation of the academic authority the eligible student starts to attend another designated course at the institution;
  - (b) the eligible student starts to attend a designated course at another institution with the consent of the academic authority of that 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 designated course for the degree of Bachelor of Education either at the same institution or at another institution;
  - (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 designated course for the honours degree of Bachelor of Education either at the same institution or at another institution; 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 designated course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible student who transfers under paragraph (1) shall, for the remainder of the academic year in which he transfers, continue to receive in connection with the course to which he transfers the support for which the Secretary of State has determined he qualifies in respect of the course from which he transfers.

(4) The Secretary of State may re-assess the amount of support payable after the transfer in accordance with these Regulations.

## PART 3

### APPLYING FOR SUPPORT AND PROVISION OF INFORMATION

#### **Applications for support**

**8.—**(1) A person (the “applicant”) shall apply for support in connection with each academic year of a designated course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the applicant is an eligible student, whether he qualifies for support and the amount of support payable, if any.

(3) The Secretary of State shall notify the applicant of whether or not he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

#### **Time limits**

**9.—**(1) The general rule is that the application must reach the Secretary of State within a period of nine months beginning with the first day of the academic year in respect of which it is submitted.

(2) The general rule in paragraph (1) does not apply where—

- (a) the course becomes a designated course after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of nine months beginning with the day on which the course was designated;
- (b) the applicant, his spouse, his civil partner or his parent is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2 after the

- first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of nine months beginning with the day of recognition or the day leave was granted, respectively;
- (c) the applicant is not a person mentioned in paragraph 7 of Schedule 2 on the first day of the academic year in respect of which he is applying for support but as a result of the accession of the state of which he is a national to the European Community he becomes such a person, in which case the application must reach the Secretary of State within a period of nine months beginning with the day of the accession;
  - (d) the applicant is making a separate application for a loan for living costs under regulation 25 or an additional amount of loan under regulation 26(3), in which case the application must reach the Secretary of State not later than one month before the end of the academic year in respect of which he is applying for support;
  - (e) the applicant is applying to borrow an additional amount of loan under regulation 26(1), in which case the application must reach the Secretary of State not later than one month before the end of the academic year to which the application relates or within a period of one month beginning with the day on which the applicant receives notice of the increased maximum amount, whichever is the later;
  - (f) the applicant is applying for a grant under regulation 14, in which case the application must reach the Secretary of State as soon as is reasonably practicable;
  - (g) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as she specifies.

### Information

10. Schedule 4 applies to the provision of information.

## PART 4 GRANTS FOR FEES

### Qualifying conditions for grants for fees

11.—(1) An eligible student shall, in respect of an academic year, qualify in accordance with this regulation for a grant in respect of the fees<sup>(37)</sup> payable by him in respect of, or otherwise in connection with, his attendance on a designated course (the “present course”).

(2) The amount of the grant for fees in respect of an academic year shall be determined in accordance with regulation 12.

(3) The general rule is that an eligible student who has attended a previous course does not qualify for a grant for fees in connection with his attendance on the present course.

(4) A previous course is any course which the student attended before the present course and which meets the conditions in paragraph (5) other than a course in connection with which the student was an eligible student and from which his status as an eligible student was transferred to the present course as a result of one or more transfers of that status in accordance with regulations made under section 22 of the Act.

(5) The conditions referred to in paragraph (4) are that the course was a full-time higher education course provided by an institution in the United Kingdom and—

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(37) “fees” is defined in section 28(1) of the Teaching and Higher Education Act 1998 (c. 30).

- (a) that institution was publicly funded at or before the time the course was provided; or
  - (b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was available in respect of the student's attendance on the course to defray fees was paid out of public funds or funds attributable to public funds by any person or body, public or private.
- (6) The general rule in paragraph (3) does not apply where—
- (a) the following conditions are met—
    - (i) the present course is a course referred to in paragraph 4 of Schedule 3;
    - (ii) the duration of the present course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and
    - (iii) the eligible student is not a qualified teacher;
  - (b) the eligible student has attended only one previous course and his period of attendance on that course did not exceed one academic year (a period of attendance on a course to which the student transferred from the previous course being treated as a continuation of the previous course);
  - (c) the following conditions are met—
    - (i) the eligible student has previously attended one or more previous courses the aggregate duration of which does not exceed two academic years; and
    - (ii) unless the first academic year of the present course began before 1st September 2000, none of the previous courses was an accelerated course leading to a first degree; or
  - (d) the Secretary of State is satisfied that—
    - (i) having regard to all the circumstances of the particular case, where a student has attended one or more previous courses, he did not complete for compelling personal reasons that previous course (the "latest course") which he began to attend subsequent to attending any other previous course; and
    - (ii) a grant for fees was paid in connection with the student's attendance on the latest course under regulations made pursuant to section 22 of the Act or would have been paid if the contribution in respect of the student had been lower or nil.
- (7) Where paragraph (6)(c) applies, the Secretary of State may determine that the eligible student does not qualify for a 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 final two years of a course of four or more years' duration.
- (8) For the purposes of paragraph (6)(c), where a student ceases to attend one previous course without completing it and—
- (a) transfers to another course at the same institution on the recommendation of the academic authority; or
  - (b) transfers to another course at another institution with the consent of the academic authority of that institution,
- the courses to and from which the student transfers shall be treated as one course the duration of which is 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.
- (9) An eligible student shall not qualify 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 healthcare bursary the amount of which is calculated by reference to his income;
  - (b) in relation to that year he is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his income;
  - (c) he is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(38) 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 ITT course.
- (10) Where the 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 shall determine whether the student qualifies for a grant for fees in respect of the academic year during which he repeats.
- (11) This paragraph applies where—
- (a) the student’s status as an eligible student is transferred as the result of one or more transfers of that status in accordance with regulations made under section 22 of the Act—
    - (i) from a designated course to the present designated course at the same institution, the most recent transfer being on the recommendation of the academic authority; or
    - (ii) from a designated course at one institution to the present designated course at another institution, with the consent of the academic authority of that institution;
  - (b) the necessary recommendation or consent to the transfer to the present course is given after the first day on which the student was required to start attending the second academic year of the first of the courses in sub-paragraph (a) in respect of which he was determined to be an eligible student (the “first course”);
  - (c) the Secretary of State is satisfied after consulting the relevant academic authority that the reason the recommendation or consent was given after the expiry of the period mentioned in sub-paragraph (b) is not solely due to the fact that the student was required to apply through a clearing admission system; and
  - (d) the Secretary of State is satisfied after consulting the relevant academic authority that **A** exceeds **B**.
- (12) For the purposes of paragraph (11)—
- (a) **A** is the period from the beginning of the first academic year of the first course to the end of the final academic year of the present course;
  - (b) in determining the value of **A** and **B**—
    - (i) vacations are included;
    - (ii) periods of work experience which form part of a sandwich course are not included;
    - (iii) where the student has only once repeated the first year or part of the first year of any course referred to in sub-paragraph (c), the repeated year or the part of the year which is repeated is not included;
  - (c) **B** is the duration of whichever of the following courses is the longest—
    - (i) the first course;

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(38) ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000, p1.

- (ii) the present course;
  - (iii) any intervening course;
  - (d) the final academic year of the present course is the academic year during which the student is expected to complete the course;
  - (e) a difference which is less than a whole academic year shall be treated as a whole academic year.
- (13) Where paragraph (11) applies, the eligible student shall not qualify for a grant for fees in respect of the number of academic years by which **A** exceeds **B**.
- (14) The academic years in respect of which the eligible student shall not qualify for a grant for fees in accordance with paragraph (13) shall be the earliest academic year or years of the present course.
- (15) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (16)—
- (a) the student may qualify for a grant for fees in respect of that academic year provided that he is not excluded by any of the other paragraphs of this regulation and that the relevant event occurred within the first three months of the academic year; and
  - (b) the student shall not qualify for a grant for fees in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (16) The events referred to in paragraph (15) are—
- (a) the student's course becomes a designated course;
  - (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2; or
  - (c) the student becomes a person mentioned in paragraph 7 of Schedule 2 as a result of the accession of the state of which he is a national to the European Community.
- (17) Subject to paragraph (8), any reference in this regulation to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused from 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.

### **Amount of grants for fees**

**12.**—(1) Subject to paragraph (2), the amount of the grant for fees in respect of an academic year of a course at a publicly-funded institution shall be equal to the fees payable by the eligible student in respect of, or otherwise in connection with, his attendance on the designated course for that academic year.

(2) The amount of the grant for fees in respect of an academic year of a course referred to in paragraph (1) shall not exceed—

- (a) in the case of a course or academic year not covered by any other sub-paragraph of this paragraph, £1,175;
- (b) for the final year of the course where that year is ordinarily required to be completed after less than 15 weeks' attendance, £570;
- (c) for the academic year of a sandwich course during which any periods of full-time study are in aggregate less than 10 weeks, £570;
- (d) for the academic year of a course referred to in paragraph 4 of Schedule 3 during which any periods of full-time study are in aggregate less than 10 weeks, £570;

- (e) for the academic year of a course provided in conjunction with an overseas institution during which the periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks, £570;
  - (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, £570; or
  - (g) in the case of a course provided by the British Institute in Paris which began before 1st September 2001, £570.
- (3) Subject to paragraph (4), the amount of the grant for fees in respect of an academic year of a course at an institution which is not publicly funded shall be equal to the fees payable by the eligible student in respect of, or otherwise in connection with, his attendance on the designated course for that academic year.
- (4) The amount of the grant for fees in respect of an academic year of a course referred to in paragraph (3) shall not exceed—
- (a) in the case of a course not covered by sub-paragraph (b)—
    - (i) where it is provided on behalf of a publicly-funded institution 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, £1,100;
  - (b) in the case of a course at the University of Buckingham, £2,770, in the case of a course at the Guildhall School of Music, £4,250, and in the case of a course at Heythrop College, £2,095.
- (5) For the purposes of this regulation, an institution which provides courses designated by regulation 4 of the Education (Student Support) (Dance and Drama) Regulations 1999<sup>(39)</sup> shall not be regarded as publicly funded 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.
- (6) A deduction may be made from the grant for fees in accordance with regulation 30.

## PART 5

### GRANTS FOR LIVING COSTS

#### **General qualifying conditions for grants for living costs**

- 13.**—(1) An eligible student shall qualify for a grant for living costs under this Part provided that—
- (a) he is not excluded from qualification by any of the following paragraphs; and
  - (b) he satisfies the qualifying conditions for the particular grant for living costs for which he is applying.
- (2) An eligible student shall not qualify for a grant for living costs under this Part if the only paragraph from 1 to 7 of Schedule 2 into which he falls is paragraph 7.

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<sup>(39)</sup> S.I. 1999/2263, amended by S.I. 2001/2893.



(3) An eligible student shall not qualify for a 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 healthcare bursary the amount of which is calculated by reference to his income;
- (b) during which he is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his income; or
- (c) of a course referred to in paragraph 4 of Schedule 3 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks.

(4) Paragraph (3)(c) does not apply for the purposes of regulation 14.

(5) With the exception of a grant under regulation 15, an eligible student shall not qualify for a grant for living costs under this Part in respect of any academic year of a sandwich course where the periods of full-time study are in aggregate less than 10 weeks unless the periods of work experience constitute unpaid service.

(6) For the purposes of paragraph (5), “unpaid service” means—

- (a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to the care of children and young persons, health or welfare 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 part of his course, in an overseas institution; or
- (e) unpaid service with—
  - (i) a Health Authority or a Strategic Health Authority established pursuant to section 8 of the National Health Service Act 1977<sup>(40)</sup> or a Special Health Authority established pursuant to section 11 of that Act<sup>(41)</sup>;
  - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(42)</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>(43)</sup>.

(7) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (8), he may qualify for a particular grant for living costs in accordance with this Part in respect of that academic year but he shall not qualify for a grant for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(8) The events referred to in paragraph (7) are—

- (a) the student’s course becomes a designated course; or
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2.

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<sup>(40)</sup> 1977 c. 49; section 8 was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 1(2).

<sup>(41)</sup> Section 11 was amended by the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 2 and the Health Act 1999 (c. 8), Schedule 4, paragraph 6.

<sup>(42)</sup> 1978 c. 29.

<sup>(43)</sup> S.I. 1972/1265 (N.I. 14).

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

14.—(1) An eligible student shall qualify in accordance with this regulation for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur in respect of his undertaking a designated course by reason of a disability to which he is subject.

(2) An eligible student shall not qualify for a grant under this regulation unless he undertakes the course in the United Kingdom.

(3) Subject to the following paragraphs, the amount of grant under this regulation shall be the amount that the Secretary of State considers appropriate.

(4) The amount of the grant shall not exceed—

- (a) £11,840 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,680 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
  - (i) within the United Kingdom for the purpose of attending the institution,
  - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
- (d) £1,565 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

(5) Where the eligible student has received payments to assist with expenditure on major items of specialist equipment in connection with the course by virtue of holding a transitional award, the maximum amount of grant under paragraph (4)(b) shall be reduced by the amount of those payments.

(6) The maximum amount of grant under paragraphs (4)(a) and (4)(d) shall be £8,885 and £1,170, respectively where—

- (a) an eligible student attends a course referred to in paragraph 4 of Schedule 3; and
- (b) in any academic year of that course, the periods of full-time attendance (including attendance for the purpose of teaching practice) are in aggregate less than 6 weeks.

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

15.—(1) An eligible student shall qualify for a grant under this regulation in connection with his attendance on a designated course if the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are—

- (a) the eligible student is under the age of 21 on the first day of the course;
- (b) the eligible student falls within paragraph 2(f) of Schedule 5; and
- (c) in the opinion of the Secretary of State, the eligible student is subject to greater financial hardship by virtue of falling within paragraph 2(f) of Schedule 5 than he would otherwise have been.

(3) Subject to paragraph (4), the amount of grant shall be such amount as the Secretary of State considers appropriate in the circumstances.

(4) The maximum amount of grant 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 – general**

16.—(1) The grant for dependants consists of the following elements—

- (a) adult dependants' grant;
- (b) childcare grant;
- (c) parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 17 to 20.

(3) A deduction may be made from any element of the grant for dependants in accordance with regulation 30.

### **Grants for dependants – adult dependants' grant**

17.—(1) An eligible student shall qualify for an adult dependants' grant in connection with his attendance on a designated course in accordance with this regulation.

(2) The adult dependants' grant is available in respect of either—

- (a) the eligible student's partner; or
- (b) an adult dependant of the eligible student whose net income does not exceed £3,445.

(3) Where an eligible student maintains the person in respect of whom he is applying for adult dependants' grant, the student shall not qualify for the grant unless that person is ordinarily resident in the United Kingdom for six months or more of the academic year in respect of which the eligible student is applying for support.

(4) The amount of adult dependants' grant payable in respect of an academic year shall be calculated in accordance with regulation 20, the basic amount being £2,395.

(5) The amount of adult dependants' grant calculated under regulation 20 shall be reduced by one half where—

- (a) the eligible student's partner—
  - (i) is an eligible student; or
  - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he is entitled under the statutory award.

### **Grants for dependants – childcare grant**

18.—(1) An eligible student shall, in connection with his attendance on a designated course, qualify for a grant in respect of childcare costs for each dependent child in accordance with this regulation.

(2) Subject to paragraph (3), an eligible student shall qualify for a childcare grant in respect of an academic year where 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 special educational needs within the meaning of section 312 of the Education Act 1996<sup>(44)</sup> and is under the age of 17 immediately before the beginning of the academic year.

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<sup>(44)</sup> 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31 and the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 56.

(3) An eligible student shall not qualify for a grant under this regulation if he or his partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002<sup>(45)</sup>.

(4) Subject to paragraph (5), the basic amount of childcare grant for each week is—

- (a) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75 per week; or
- (b) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170 per week

except that the student shall not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

(5) For the purposes of calculating the basic amount of childcare grant—

- (a) a week runs from Monday to Sunday; and
- (b) where a week in respect of which childcare costs are incurred falls partly within and partly outside the academic year in respect of which childcare grant is payable under this regulation, the maximum weekly amount of grant shall be calculated by multiplying the relevant maximum weekly amount in paragraph (4) by the proportion which the number of days of that week falling within the academic year bears to the number of days in a week.

(6) The amount of childcare grant calculated under regulation 20 shall be reduced by one half where—

- (a) the eligible student's partner—
  - (i) is an eligible student; or
  - (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he is entitled under the statutory award.

(7) In this regulation—

“approved childcare provider” means a childcare provider within the meaning of the Tax Credit (New Category of Child Care Provider) Regulations 1999<sup>(46)</sup> who has been approved in accordance with those Regulations; and

“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>(47)</sup> (grant or refusal of registration of child minders and persons providing day care for young children).

### **Grants for dependants – parents' learning allowance**

**19.**—(1) An eligible student shall qualify in connection with his attendance on a designated course for the parents' learning allowance if he has one or more dependent children.

(2) The amount of parents' learning allowance payable in respect of an academic year shall be calculated in accordance with regulation 20, the basic amount being £1,365.

### **Grants for dependants – calculations**

**20.**—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the eligible student qualifies under regulations 17 to

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<sup>(45)</sup> 2002 c. 21.

<sup>(46)</sup> S.I. 1999/3110.

<sup>(47)</sup> 1989 c. 41; section 79F was inserted by the Care Standards Act 2000 (c. 14).

19 is the amount of that element remaining after applying, until it is extinguished, an amount equal to  $(A - B)$  as follows and in the following order—

- (a) to reduce the basic amount of the adult dependants' grant where the eligible student qualifies for that element under regulation 17;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 18; and
- (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 19.

(2) Subject to paragraphs (4) and (5), where **B** is greater than or equal to **A**, the basic amount of each element of the grant for dependants for which the eligible student qualifies is payable.

(3) Where  $(A - B)$  is equal to or exceeds the aggregate of the basic amounts of the elements of the grant for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.

(4) The amount of the adult dependants' grant calculated under this regulation shall be reduced in accordance with regulation 17(5).

(5) The amount of the childcare grant calculated under this regulation shall be reduced in accordance with regulation 18(6).

(6) Where the amount of the parents' learning allowance calculated under paragraph (1) is £1 or more but less than £50, the amount of parents' learning allowance payable is £50.

(7) In this regulation—

**A** is the aggregate of the net income of each of the eligible student's dependants; and

**B** is £1,050 where the eligible student has no dependent child;

£3,145 where the eligible student is not a lone parent and has one dependent child;

£4,195 where the eligible student is not a lone parent and has more than one dependent child;

£4,195 where the eligible student is a lone parent and has one dependent child;

£5,250 where the eligible student is a lone parent and has more than one dependent child.

(8) Paragraphs (9) to (12) apply where, in the course of the academic year, any of the following occurs—

- (a) there is a change in the number of the eligible student's dependants;
- (b) a person becomes or ceases to be a dependant of the eligible student;
- (c) the eligible student becomes or ceases to be a lone parent;
- (d) a student becomes an eligible student as a result of an event referred to in regulation 13(8).

(9) For the purposes of determining the respective values of **A** and **B** and whether adult dependants' grant or parents' learning allowance is payable, the Secretary of State shall determine the following in relation to each relevant quarter by reference to the student's circumstances in the relevant quarter—

- (a) how many dependants the eligible student is to be treated as having;
- (b) who those dependants are;
- (c) whether the student is to be treated as a lone parent.

(10) The amount of grant for dependants for the academic year is the aggregate of the amounts of adult dependants' grant and parents' learning allowance calculated in respect of each relevant quarter under paragraph (11) and the amount of any childcare grant for the academic year.

(11) The amount of adult dependants' grant and parents' learning allowance in respect of a relevant quarter is one third of what that grant or allowance would be for the academic year if the student's circumstances in the relevant quarter as determined under paragraph (9) applied for the duration of the academic year.

(12) In this regulation, a "relevant quarter" means—

- (a) in the case of a person referred to in paragraph (8)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the Secretary of State, the longest of any vacation occurs;
- (b) otherwise, a quarter other than the one quarter during which, in the opinion of the Secretary of State, the longest of any vacation occurs.

### **Grants for dependants – interpretation**

**21.—**(1) In regulations 16 to 20—

- (a) "adult dependant" means, in relation to an eligible student, an adult person dependent on the student other than his child, his partner or his former partner (including a spouse or civil partner who is not ordinarily living with the student);
- (b) "child" in relation to an eligible student includes any child of his partner and any child for whom he has parental responsibility where those children are dependent on him;
- (c) "dependant" means, in relation to an eligible student, his partner, his dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) "dependent" means wholly or mainly financially dependent;
- (e) "lone parent" means an eligible student who does not have a partner and who has a dependent child or dependent children;
- (f) "net income" has the meaning given in paragraph (2);
- (g) subject to sub-paragraphs (h), (i) and (j), "partner" means any of the following—
  - (i) the spouse of an eligible student;
  - (ii) the civil partner of an eligible student;
  - (iii) a woman ordinarily living with a male eligible student as if she were his wife where an eligible student falls within paragraph 2(a) of Schedule 5 and begins the designated course on or after 1st September 2000;
  - (iv) a man ordinarily living with a female eligible student as if he were her husband where an eligible student falls within paragraph 2(a) of Schedule 5 and begins the designated course on or after 1st September 2000;
  - (v) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(a) of Schedule 5 and begins the designated course on or after 1st September 2005;
- (h) a person who would otherwise be a partner under sub-paragraph (g) shall not be treated as a partner if—
  - (i) in the opinion of the Secretary of State, that person and the eligible student have ceased ordinarily to live together; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;
- (i) for the purposes of sub-paragraph (a), a person shall be treated as a partner if he would be a partner under sub-paragraph (g) but for the fact that the eligible student with whom he is ordinarily living does not fall within paragraph 2(a) of Schedule 5;

- (j) for the purposes of sub-paragraphs (b) and (e), a person shall be treated as a partner if he would be a partner under sub-paragraph (g) but for the date on which the eligible student began his course or the fact that the eligible student with whom he is ordinarily living does not fall within paragraph 2(a) of Schedule 5.
- (2) Subject to paragraph (3), a dependant's net income is 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<sup>(48)</sup>;
  - (c) any financial support payable to the dependant by a local authority in accordance with regulations made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002<sup>(49)</sup>;
  - (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
  - (e) in the case of a dependant with whom a child in the care of a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989<sup>(50)</sup>;
  - (f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act; and
  - (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002.
- (3) Where an eligible student or his partner makes 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 partner's net income is the net income calculated in accordance with paragraph (2) 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 travel**

**22.**—(1) A grant is available to an eligible student attending a course in medicine or dentistry (a necessary part of which is a period of study by way of clinical training) in respect of the reasonable expenditure which he is obliged to incur in an academic year 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 other than expenditure incurred for the purpose of residential study away from the institution.

(2) A grant is available to an eligible student in respect of the reasonable expenditure which he is obliged to incur in an academic year within or outside the United Kingdom for the purpose of attending for a period of at least eight weeks as part of his course an overseas institution or the British Institute in Paris.

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<sup>(48)</sup> 1992 c. 4.

<sup>(49)</sup> 2002 c. 38.

<sup>(50)</sup> 1989 c. 41.

(3) The amount of grant payable in respect of an academic year is equal to the reasonable expenditure which the Secretary of State determines the eligible student is obliged to incur for the purposes in paragraph (1) or paragraph (2).

(4) In determining the expenditure incurred by an eligible student there shall be disregarded £280 of such expenditure.

(5) 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 a grant is payable under regulation 14.

(6) Where an eligible student attends for a period of at least eight weeks as 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 qualify for additional grant under this regulation equal to the amount so incurred.

(7) A deduction may be made from a grant under this regulation in accordance with regulation 30.

### **Higher education grants**

**23.**—(1) An eligible student shall qualify in accordance with this regulation for a higher education grant in connection with his attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) An eligible student shall not qualify for a higher education grant unless he begins the designated course on or after 1st September 2004.

(3) Paragraphs (3) to (8) of regulation 11 shall apply in relation to a grant under this regulation as they apply in relation to grants for fees under Part 4.

(4) The maximum amount of higher education grant available in respect of an academic year is £1,000.

(5) An eligible student who qualifies for a higher education grant shall receive an amount as follows—

(a) in any case where the household income is £15,580 or less, he shall receive the maximum amount of grant available;

(b) in any case where the household income exceeds £15,580 and does not exceed £21,565, for every complete £6.30 by which the household income exceeds £15,580 he shall receive £1 less than the maximum amount of grant available; and

(c) in any case where the household income exceeds £21,565, no grant shall be payable under this regulation.

(6) For the purposes of paragraph (5), an eligible student's household income shall be calculated pursuant to Schedule 5.



## PART 6

### LOANS FOR LIVING COSTS

#### **Qualifying conditions for loans for living costs**

**24.**—(1) An eligible student shall qualify for a loan for living costs in connection with his attendance on a designated course if he satisfies the conditions in paragraph (2) and is not excluded by paragraph (3).

(2) The conditions referred to in paragraph (1) are that the eligible student is—

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

(3) An eligible student shall not qualify for a loan for living costs if the only paragraph from 1 to 7 of Schedule 2 into which he falls is paragraph 7.

(4) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (5)—

- (a) he may qualify for a loan for living costs in respect of such quarters of that academic year as are specified in regulation 25(9) provided that he meets the conditions in paragraph (1); and
- (b) he shall not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(5) The events referred to in paragraph (4) are—

- (a) the student's course becomes a designated course; or
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2.

#### **Maximum amount of loans**

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

- (a) for a student in category A, £3,320;
- (b) for a student in category B, £5,175;
- (c) for a student in category C, £5,125;
- (d) for a student in category D, £5,125;
- (e) for a student in category E, £4,195.

(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 in category A, £2,900;
- (b) for a student in category B, £4,490;
- (c) for a student in category C, £4,460;
- (d) for a student in category D, £4,460;

(e) for a student in category E, £3,645.

(3) Subject to paragraph (4), where an eligible student resides at his parents' 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 an amount referred to in paragraphs (1)(b) to (e) or (2)(b) to (2)(e) to apply, the student shall be treated as if he were not residing at his parents' home.

(4) Paragraph (3) does not apply to an eligible student who begins a course on or after 1st September 2004.

(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 parents' home.

(6) A loan is payable in respect of three quarters of the academic year and is not payable in respect of the quarter in which, in the opinion of the Secretary of State, the longest of any vacations occurs.

(7) The following sub-paragraphs apply where a student falls into more than one of the categories in paragraph (17) in the course of the academic year—

(a) the maximum amount of loan for the academic year is the aggregate of the maximum amount of loan for each quarter in respect of which the loan is payable;

(b) the maximum amount of loan for each such quarter is one third of the maximum amount of loan which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year; and

(c) subject to paragraph (8), the category which applies to a quarter is—

(i) the category into which the student falls for the longer or longest period in that quarter; or

(ii) if the student falls into more than one category for an equal period in that quarter, the category with the higher or highest rate of loan for the academic year.

(8) Category C cannot be the category applicable to a quarter unless the student is attending an overseas institution for at least half of the period covered by that quarter.

(9) Where regulation 24(4) applies—

(a) an eligible student may qualify for a loan but only in respect of such quarters in respect of which a loan is payable as begin after the relevant event in regulation 24(5) occurs;

(b) the maximum amount of loan payable is the aggregate of the maximum amount of loan for each quarter in respect of which the student qualifies for support under this paragraph; and

(c) the maximum amount of loan for each such quarter is one third of the maximum amount of loan which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year.

(10) For the purposes of paragraphs (1) to (9) 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.

(11) Where an eligible student is required to attend his course for a period exceeding 30 weeks and 3 days in an academic year, the amounts referred to in paragraphs (1) and (2) shall be increased for each week or part week of attendance in that academic year beyond 30 weeks and 3 days as follows:

(a) for a student in category A, by £50;

(b) for a student in category B, by £96;

(c) for a student in category C, by £104;

(d) for a student in category D, by £104;

(e) for a student in category E, by £75.

(12) 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 (11).

(13) Where in relation to an academic year an eligible student does not qualify for a grant for living costs by virtue of regulation 13(3)(a) or 13(3)(b) he may qualify for a loan for living costs in accordance with this Part but—

- (a) in paragraphs (1) and (2) there shall be substituted for the amounts in Column 1 below the corresponding amounts in Column 2—

<i>Column 1</i>	<i>Column 2</i>
£3,320	£1,575
5,175	2,540
5,125	2,055
4,195	2,055
2,900	1,155
4,490	1,855
4,460	1,500
3,645	1,500

and

- (b) paragraphs (11) and (12) shall not apply.

(14) Where in relation to an academic year an eligible student does not qualify for a grant for living costs by virtue of regulation 13(3)(c) or 13(5) he may qualify for a loan for living costs in accordance with this Part but—

- (a) in paragraphs (1) and (2) there shall be substituted for the amounts in Column 1 below the corresponding amounts in Column 2—

<i>Column 1</i>	<i>Column 2</i>
£ 3,320	£ 1,575
5,175	2,540
5,125	2,520
4,195	2,055
2,900	1,155
4,490	1,855
4,460	1,840
3,645	1,500

and

- (b) paragraphs (11) and (12) shall not apply.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(15) Where in relation to an academic year an applicant applies for a loan and opts not to provide details of the income of his household, he may qualify for a loan in accordance with this Part but—

- (a) in paragraphs (1) and (2) there shall be substituted for the amounts in Column 1 below the corresponding amounts in Column 2—

<i>Column 1</i>	<i>Column 2</i>
£3,320	£2,490
5,175	3,880
5,125	3,845
4,195	3,145
2,900	2,175
4,490	3,370
4,460	3,345
3,645	2,735

and

- (b) paragraphs (11) and (12) shall not apply.

(16) A deduction may be made from the loan for living costs in accordance with regulation 30.

(17) In this regulation—

- (a) a student is in category A if he resides at his parents' home while attending the designated course;
- (b) a student is in category B if he is not in category A and he attends one or more of the following—
- (i) a course at the University of London;
  - (ii) a course at an institution which requires attendance for at least half the time in aggregate of any quarter of the course in the academic year at a site wholly or partly within the area comprising the City of London and the former Metropolitan Police District; or
  - (iii) a sandwich course at an institution which requires the eligible student to undertake work experience or a combination of work experience and study provided that he undertakes such work experience or combination of work experience and study for at least half the time in aggregate of any quarter of the course in the academic year at a site or sites wholly or partly within the area comprising the City of London and the former Metropolitan Police District;
- (c) a student is in category C if he is not in category A and he attends an overseas institution as part of his course for at least eight consecutive weeks in the academic year;
- (d) a student is in category D if he is not in category A and he attends the British Institute in Paris;
- (e) a student is in category E if he is not in categories A to D.

#### **Additional amount of loans**

**26.**—(1) An eligible student may apply to borrow an additional amount of loan where—

- (a) the Secretary of State determines that the maximum amount of loan which has been notified to the 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 ability to qualify for a loan or the amount of loan for which he qualifies; or
    - (ii) providing information which is inaccurate in any material particular.
- (2) The additional amount under paragraph (1) is an amount which when added to the amount already applied for does not exceed the increased maximum.
- (3) Where an eligible student has applied for a loan of less than the maximum amount to which he is entitled in relation to the academic year, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his case.

### **Interest**

- 27.—(1) Subject to paragraph (2), loans shall bear interest at the rate which will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980<sup>(51)</sup> equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2004 and that index so published for March 2005.
- (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<sup>(52)</sup> 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 to which the Secretary of State is required by section 22(8) of the Act to have regard in prescribing the rate of interest which loans shall bear shall be the retail prices all items index mentioned in paragraph (1).

### **Insolvency**

- 28.—(1) In England and Wales—
- (a) 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<sup>(53)</sup> 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; and
  - (b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive—
    - (i) in the case of a bankruptcy commencing before 1st September 2004, after the commencement of the bankruptcy; or

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<sup>(51)</sup> S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177.

<sup>(52)</sup> 1974 c. 39.

<sup>(53)</sup> 1986 c. 45; section 307 was amended by the Enterprise Act 2002 (c. 40), section 261. Section 310 was amended by the Pensions Act 1995 (c. 26), section 122 and Schedule 3, paragraph 15, the Welfare Reform and Pensions Act 1999 (c. 30), section 18 and Schedule 2, paragraph 2 and the Enterprise Act 2002, sections 259 and 278 and Schedule 26.

- (ii) in the case of a bankruptcy commencing on or after 1st September 2004, before or after the commencement of the bankruptcy.
- (2) In Northern Ireland—
- (a) 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<sup>(54)</sup> 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; and
- (b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of loan and which he receives or is entitled to receive—
- (i) in the case of a bankruptcy commencing before 1st March 2005, after the commencement of the bankruptcy; or
- (ii) in the case of a bankruptcy commencing on or after 1st March 2005, before or after the commencement of the bankruptcy.

## PART 7

### FINANCIAL ASSESSMENT

#### Calculation of contribution

**29.**—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 5.

(2) For the purposes of the exercise of the Secretary of State's functions under the Act and regulations made under it she may 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 the student's contribution.

#### Application of contribution

**30.**—(1) An amount equal to the contribution calculated under Schedule 5 shall be applied until it is extinguished against the amount of the particular grants and loans for which the eligible student qualifies as follows—

- (a) first, to reduce **GFF**;
- (b) second, to reduce **ADG**;
- (c) third, to reduce **CCG**;
- (d) fourth, to reduce **PLA**;
- (e) fifth, to reduce **LLC** to no less than the minimum level for the academic year;
- (f) sixth, to reduce **GFT**.
- (2) In this regulation—
- (a) subject to sub-paragraph (b), **GFF** is the amount, if any, of a grant for fees for which the eligible student qualifies under Part 4 other than fees payable in respect of the student's attendance—

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<sup>(54)</sup> S.I. 1989/2405 (N.I. 19); Article 283 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Schedule 1, paragraph 11.

- (i) at a course at an institution which is not publicly funded (unless the course is referred to in regulation 12(4)(a)(i)); or
    - (ii) at a course referred to in paragraph 4 of Schedule 3 (other than a course for a first degree);
  - (b) **GFF** is £1,175 where—
    - (i) regulation 12(2)(c), (e), (f) or (g) applies to the grant for fees for which the student qualifies; or
    - (ii) the student does not qualify for a grant for fees because of regulation 11(9)(c);
  - (c) **ADG** is the amount, if any, of the adult dependants' grant calculated in accordance with regulation 20;
  - (d) **CCG** is the amount, if any, of the childcare grant calculated in accordance with regulation 20;
  - (e) **PLA** is the amount, if any, of the parents' learning allowance calculated under regulation 20 (except the first £50 of the allowance);
  - (f) **LLC** is the amount of loan for living costs, if any, for which the eligible student qualifies under regulation 24 other than a loan to which regulation 25(13), 25(14) or 25(15) applies;
  - (g) **GFT** is the amount of the grant for travel for which the eligible student qualifies under regulation 22, if any;
- (3) Subject to paragraphs (4) and (5), the “minimum level for the academic year” is—
- (a) £2,490, in the case of a student in category A;
  - (b) £3,880, in the case of a student in category B;
  - (c) £3,845, in the case of a student in category C;
  - (d) £3,845, in the case of a student in category D;
  - (e) £3,145, in the case of a student in category E;
- (4) Subject to paragraph (5), where the academic year in question is the final year of a course other than an accelerated course, the “minimum level for the academic year” is—
- (a) £2,175, in the case of a student in category A;
  - (b) £3,370, in the case of a student in category B;
  - (c) £3,345, in the case of a student in category C;
  - (d) £3,345, in the case of a student in category D;
  - (e) £2,735, in the case of a student in category E.
- (5) Where under regulation 25(7) different categories apply for different quarters of the academic year, the minimum levels in paragraphs (3) and (4) shall be the aggregate of the amounts determined under paragraph (6) for each of the three quarters in respect of which a loan is payable.
- (6) The amount determined for each quarter under this paragraph is one third of the amount in paragraph (3) or (4) which corresponds to the rate applicable for the quarter.
- (7) Categories A to E have the meaning given in regulation 25.

## PART 8

### PAYMENTS

#### Payment of grants for fees

**31.**—(1) The Secretary of State shall pay the grant for fees for which a student qualifies after a valid request for payment has been received from the academic authority.

(2) Payment shall be made to the academic authority—

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

(3) Where assessment of the student's contribution or other matters have delayed the final calculation of the amount of grant for which the student qualifies, the Secretary of State may make a provisional assessment.

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

- (a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend the course; and
- (b) the academic authority has determined or agreed that the student 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

**32.**—(1) Subject to the following paragraphs, the Secretary of State shall pay support under Part 5 or Part 6 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, where a final assessment cannot be made on the basis of the information provided by the student, make a provisional assessment of the support payable.

(2) Payments of support under Part 5 or Part 6 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.

(3) Where an eligible student has applied for a loan under Part 6, the Secretary of State may make it a condition of entitlement to payment of any instalment that the eligible student shall provide her with the student's United Kingdom national insurance number.

(4) Subject to regulation 7, no support under Part 5 or Part 6 shall be payable in respect of a relevant period beginning after an eligible student has withdrawn from, abandoned or been expelled from his course; and the amount of support for the academic year shall be the aggregate of the support, if any, which is payable in respect of each relevant period.

(5) No support under Part 5 or Part 6 shall be payable in respect of a relevant period 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 support for the academic year shall be the aggregate of the support, if any, which is payable in respect of each relevant period.

(6) In paragraphs (4) and (5) "relevant period" means a period in respect of which the Secretary of State pays an instalment or would have paid an instalment if the eligible student had not withdrawn from, abandoned, been expelled from or been absent from his course.



(7) In deciding whether it would be appropriate to pay all or part of the support under paragraph (5) the circumstances to which the Secretary of State shall have regard 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 under Part 5 or Part 6, she makes a determination of the amount of a grant for living costs for which the student qualifies in respect of an academic year 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 that grant for which the student qualifies she shall pay the additional amount in such instalments (if any) and at such times as she considers appropriate;
- (b) if the determination decreases the amount of that grant for which the student qualifies she shall subtract the amount of the decrease from the amount of that grant which remains to be paid;
- (c) if the amount of the decrease is greater than the amount of that grant remaining to be paid the latter amount shall be reduced to nil and the balance subtracted from any other grant for living costs for which the student qualifies in respect of the academic year;
- (d) any remaining overpayment shall be recovered in accordance with regulation 33.

(10) Where the Secretary of State has made any payment of support under Part 5 or Part 6 and a student who qualifies for a loan under Part 6 applies for such a loan or applies for an additional amount of loan in respect of an academic year, the Secretary of State shall pay the loan or the additional amount of loan in such instalments (if any) and at such times as she considers appropriate as soon as is reasonably practicable after a satisfactory application has been received.

(11) Where, after the Secretary of State has made any payment of loan for which a student qualifies in respect of an academic year under Part 6, she makes a determination that the amount of loan for which the student qualifies 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 of loan which is greater than that for which he qualifies from any amount of loan which remains to be paid;
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid, the latter amount shall be reduced to nil;
- (c) any remaining overpayment shall be recovered in accordance with regulation 33.

## **Overpayments**

**33.**—(1) Any overpayment of a grant for fees may be recovered by the Secretary of State from the academic authority.

(2) An eligible student shall, if so required by the Secretary of State, repay any amount paid to the student under Part 5 or 6 which for whatever reason exceeds the amount of support to which he is entitled under Part 5 or 6.

(3) Any overpayment of any grant under Part 5 may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to her.

(4) Any overpayment of a loan for living costs 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 whether he qualifies for a loan or the amount of loan for which he qualifies; or
- (b) any information which the student has provided is inaccurate in a material particular; or
- (c) the student has failed to provide information which the Secretary of State considers to be material in the context of the recovery of the loan.

(5) Where an overpayment of a loan for living costs is recoverable in accordance with paragraph (4), it may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to her.

(6) Where there has been an overpayment of a loan which is not recoverable under paragraph (4), the Secretary of State may subtract the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made under section 22 of the Act.

## PART 9

### SUPPORT FOR PART-TIME COURSES

#### Eligible part-time students

**34.**—(1) An eligible part-time student shall qualify for support in connection with his undertaking a designated part-time course subject to and in accordance with this Part.

(2) A person is an eligible part-time student in connection with a designated part-time course if—

- (a) the Secretary of State has determined in connection with that course that the person is mentioned in Schedule 2; and
- (b) the person is not excluded by paragraph (3).

(3) A person shall not be an eligible part-time student if—

- (a) there has been bestowed on him or paid to him in relation to his undertaking the part-time course—
  - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his income;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(55); or
  - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;
- (b) he is in breach of any obligation to repay any loan;
- (c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;
- (d) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support; or

- (e) subject to paragraph (4), he is a prisoner serving a custodial sentence.
- (4) Paragraph (3)(e) 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.
- (5) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) shall only apply if the agreement 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.
- (7) An eligible part-time student shall not qualify for support under regulation 37(1)(b) or regulation 38 if the only paragraph from 1 to 7 of Schedule 2 into which he falls is paragraph 7.
- (8) An eligible part-time student shall not qualify for support—
- (a) under regulation 37(1)(a) unless he undertakes the designated part-time course in England and Wales; or
  - (b) under regulation 37(1)(b) or 38 unless he undertakes the designated part-time course in the United Kingdom.
- (9) An eligible part-time student shall not qualify for support under regulation 37 if he has undertaken one or more part-time courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (10).
- (10) The loans and grants referred to in paragraph (9) are—
- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the Act;
  - (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998<sup>(56)</sup>; or
  - (c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980<sup>(57)</sup>.
- (11) An eligible part-time student shall not qualify for support under regulation 37 if he holds a first degree from an educational institution in the United Kingdom.
- (12) For the purposes of paragraph (11), 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 form of assessment.
- (13) Where a student becomes an eligible part-time student during the course of an academic year as a result of one of the events listed in paragraph (14), he may qualify for support in accordance with

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<sup>(56)</sup> S.I. 1998/1760 (N.I. 14).

<sup>(57)</sup> 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

this Part in respect of that academic year but he shall not qualify for support under this Part in respect of any academic year beginning before the academic year in which the relevant event occurred.

(14) The events referred to in paragraph (13) are—

- (a) the student's course becomes a designated part-time course; or
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2.

(15) Notwithstanding paragraph (2), a person shall be an eligible part-time student for the purposes of this Part if—

- (a) he qualified as an eligible part-time student in connection with an earlier academic year of the present designated part-time course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
- (b) the Secretary of State has previously determined that the person is—
  - (i) an eligible student in connection with a designated course; or
  - (ii) an eligible part-time student in connection with a designated part-time course other than the present course

and the student's status as an eligible student or as an eligible part-time student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under section 22 of the Act.

(16) An eligible part-time student shall not, at any one time, qualify for support for—

- (a) more than one designated part-time course;
- (b) a designated part-time course and a designated course;
- (c) a designated part-time course and a designated postgraduate course.

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

**35.**—(1) Subject to paragraph (2), a part-time course is designated for the purposes of section 22(1) of the Act and regulation 34 if—

- (a) it is mentioned in Schedule 3, otherwise than in paragraph 4 of that Schedule;
- (b) it is of at least 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 a publicly-funded educational institution or institutions in the United Kingdom 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) A course falling within paragraph 6 or 7 of Schedule 3 is not a designated part-time course where the governing body of a maintained school has arranged for the provision of such a course to a pupil of the school.

(3) For the purposes of paragraph (1)—

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
- (b) a university and any constituent college or institution in the nature of a college of a university shall be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and

(c) an institution shall not be regarded as publicly funded 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(58).

(4) For the purposes of section 22 of the Act and regulation 34(1) the Secretary of State may designate courses of higher education which are not designated by paragraph (1).

### **Period of eligibility**

**36.**—(1) An eligible part-time student shall retain his status as an eligible part-time student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” in paragraph (1) runs until the end of the academic year in which the eligible part-time student completes his designated part-time course.

(3) The Secretary of State may, at any time, renew or extend the period of eligibility for such further period as she determines.

(4) The period of eligibility shall terminate when the eligible part-time student—

(a) withdraws from his designated part-time course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status under regulation 41 or 42; or

(b) abandons or is expelled from his designated part-time course.

(5) The Secretary of State may terminate the period of eligibility where the eligible part-time student has shown himself by his conduct to be unfitted to receive support.

(6) If the Secretary of State is satisfied that an eligible part-time student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as she considers appropriate in the circumstances—

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for any particular support or particular amount of support;

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 45.

### **Assistance for part-time courses**

**37.**—(1) For the purposes of this regulation, the assistance available is—

(a) a grant in respect of fees not exceeding the lesser of the following amounts—

(i) the basic grant, and

(ii) the “actual fees”, being the amount of fees charged in respect of an academic year of the designated part-time course; and

(b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated part-time course.

(2) The basic grant varies according to the intensity of study.

(3) The intensity of study is calculated as follows and expressed as a percentage  $\text{FT/PT} \times 100$  where

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(58) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

**FT** is the number of academic years ordinarily required to complete a course which is the full-time equivalent of the designated part-time course

- (4) The “basic grant” is—
- (a) £590 where the intensity of study is less than 60 per cent. (“level 1”);
  - (b) £710 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
  - (c) £885 where the intensity of study is 75 per cent. or more (“level 3”).
- (5) Subject to paragraphs (6) and (7), the amount of assistance payable in respect of an academic year is as follows—
- (a) the maximum amount of assistance available under paragraph (1) is payable if at the date of his application the eligible part-time student or his partner is entitled—
    - (i) under Part VII of the Social Security Contributions and Benefits Act 1992<sup>(59)</sup> to income support, housing benefit or council tax benefit; or
    - (ii) under Part 1 of the Jobseekers Act 1995<sup>(60)</sup> to income-based jobseekers allowance or under section 2 of the Employment and Training Act 1973<sup>(61)</sup> to new deal allowance;
  - (b) where the relevant income is less than £14,970, the maximum amount of assistance available under paragraph (1) is payable;
  - (c) where the relevant income is £14,970, the maximum amount of assistance available under paragraph (1)(b) is payable together with £50 less than the maximum amount of assistance available under paragraph (1)(a);
  - (d) where the relevant income exceeds £14,970 but is less than £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is the amount determined in accordance with paragraph (6);
  - (e) where the relevant income is £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is £50;
  - (f) where the relevant income exceeds £19,625 but is less than £20,100, the maximum amount of assistance available under paragraph (1)(b) is payable and no assistance is payable under paragraph (1)(a);
  - (g) where the relevant income is £20,100 or more but less than £22,000, no assistance is available under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is the amount left after deducting from the maximum amount of assistance available under paragraph (1)(b) £1 for every complete £9.50 by which the relevant income exceeds £20,100;
  - (h) where the relevant income is £22,000, no assistance is payable under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is £50;
  - (i) where the relevant income exceeds £22,000, no assistance is payable under paragraph (1).

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(59) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19, the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14, the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3, the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8 and the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3.

(60) 1995 c. 18; Part 1 was amended by the Employment Rights Act 1996 (c. 18), Schedule 1, the Social Security Act 1998 (c. 14), Schedules 7 and 8, the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 7, 8 and 13, the State Pension Credit Act 2002 (c. 16), Schedule 2, the National Insurance Contributions Act 2002 (c. 19), Schedule 1 and the Income Tax (Earnings and Pensions) Act 2003 (c. 18), Schedule 6.

(61) 1973 c. 50; section 2 as substituted by the Employment Act 1988 (c. 19) was amended by the Employment Act 1989 (c. 38), Schedule 7. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47 in relation to Scotland only.

(6) Where paragraph (5)(d) applies, the amount of assistance payable under paragraph (1)(a) shall be determined by deducting from the maximum amount of assistance available under paragraph (1)

(a) one of the following amounts—

- (a) £50 plus a further £1 for each complete £9.50, £7.63 or £5.93 by which the relevant income exceeds £14,970 according to whether the intensity of study is level 1, 2 or 3, respectively; or
- (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of assistance available under paragraph (1)(a) is payable).

(7) Where under regulation 41 a student receives assistance in relation to more than one designated part-time course in an academic year, the maximum amount of assistance under paragraph (1)(a) for that year is the amount of the basic grant for the course with the highest intensity of study that the student undertakes in that academic year.

(8) For the purposes of this regulation—

- (a) “child” in relation to an eligible part-time student includes any child of his partner and any child for whom he has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for assistance;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve 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;
- (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
- (f) subject to sub-paragraph (g), “partner” means any of the following—
  - (i) the spouse of an eligible part-time student;
  - (ii) the civil partner of an eligible part-time student;
  - (iii) a woman ordinarily living with a male eligible part-time student as if she were his wife where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for assistance and where he began the designated part-time course before 1st September 2005;
  - (iv) a man ordinarily living with a female eligible part-time student as if he were her husband where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which she is being assessed for assistance and where she began the designated part-time course before 1st September 2005;
  - (v) a person ordinarily living with an eligible part-time student as if he were his spouse or civil partner where an eligible part-time student begins the designated part-time course on or after 1st September 2005;
- (g) a person who would otherwise be a partner under sub-paragraph (f) shall not be treated as a partner if—
  - (i) in the opinion of the Secretary of State, that person and the eligible part-time student have ceased ordinarily to live together; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;

- (h) “preceding financial year” means the financial year immediately preceding the current financial year;
  - (i) “relevant income” has the meaning given in paragraph (9); and
  - (j) where this regulation refers to a date before, on or after which an eligible part-time student began the designated part-time course and the student’s status as an eligible part-time student has been transferred to the designated part-time course as a result of one or more transfers of that status by the Secretary of State from a part-time course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible part-time student pursuant to regulations made under section 22 of the Act, the eligible student shall be treated as if he began the present designated part-time course on the date on which he began the initial course.
- (9) For the purposes of this regulation—
- (a) subject to sub-paragraph (b), an eligible part-time student’s relevant income is equal to his financial resources in the preceding financial year less—
    - (i) £2,000 in respect of his partner;
    - (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and
    - (iii) £1,000 in respect of each other child who is dependent on the student or his partner;
  - (b) where the Secretary of State is satisfied that an eligible part-time student’s financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, she may assess that student’s financial resources under sub-paragraph (a) by reference to those resources in the current financial year;
  - (c) an eligible part-time student’s financial resources in 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 the application for support is the student’s partner.

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

**38.**—(1) An eligible part-time student shall qualify in accordance with this Part for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur in respect of his undertaking a designated part-time course by reason of a disability to which he is subject.

(2) Subject to the following paragraphs, the amount of grant under this regulation shall be the amount that the Secretary of State considers appropriate.

- (3) The amount of the grant shall not exceed—
- (a) £8,885 in respect of an academic year for expenditure on a non-medical personal helper;
  - (b) £4,680 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
  - (c) the additional expenditure incurred—
    - (i) within the United Kingdom for the purpose of attending the institution;
    - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
  - (d) £1,170 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.



### **Applications for support**

**39.**—(1) A person (the “applicant”) shall apply for support in connection with each academic year of a designated part-time course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The general rule is that the application must reach the Secretary of State within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(3) The general rule in paragraph (2) does not apply where—

- (a) the course becomes a designated part-time course after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day on which the course was designated;
- (b) the applicant, his spouse, his civil partner or his parent is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2 after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day of recognition or the day the leave was granted, respectively; or
- (c) the applicant is applying for support under regulation 38, in which case the application must reach the Secretary of State as soon as is reasonably practicable;
- (d) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as she specifies.

(4) The Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the applicant is an eligible part-time student, whether he qualifies for support and the amount of support payable, if any.

(5) The Secretary of State shall notify the applicant of whether or not he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

### **Information**

**40.** Schedule 4 applies to the provision of information.

### **Transfer of status**

**41.**—(1) Where an eligible part-time student transfers to another part-time course, the Secretary of State shall transfer the student’s status as an eligible part-time student to that course where—

- (a) she receives a request from the eligible part-time student to do so;
- (b) she is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
- (c) the period of eligibility has not expired or been terminated.

(2) The grounds for transfer referred to in paragraph (1) are—

- (a) the eligible part-time student starts to undertake another designated part-time course at the institution;
- (b) the eligible part-time student starts to undertake a designated part-time course at another institution; or
- (c) after commencing a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted

to a designated part-time course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible part-time student who transfers under paragraph (1) shall, for the remainder of the academic year in which he transfers, continue to receive in connection with the course to which he transfers the support for which the Secretary of State has determined he qualifies in respect of the course from which he transfers.

(4) The Secretary of State may re-assess the amount of support payable after the transfer in accordance with this Part.

### **Conversion of status**

**42.**—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Secretary of State shall convert the student's status as an eligible student to that of an eligible part-time student in connection with the course to which he is transferring where—

- (a) she receives a request from the eligible student to do so; and
- (b) the period of eligibility has not expired or been terminated.

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course shall be treated as satisfying regulation 35(1)(b) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period normally required to complete the remainder of the designated course from which the student transfers.

(3) The following applies to a student who transfers under paragraph (1)—

- (a) where the Secretary of State has determined to pay an amount of grant to the student under regulation 14 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 38 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 14 in a single instalment, the maximum amount of grant payable to him pursuant to regulation 38 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 14, 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, or had not applied for the maximum amount or increased maximum for which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) 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 request is made during the second quarter of that year that amount shall be reduced by one third.

(5) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated course at the same or at another institution, the Secretary of State shall convert that student's status as an eligible part-time student to that of an eligible student in connection with the course to which he is transferring where—

- (a) she receives a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not expired or been terminated.

(6) The following applies to a student who transfers under paragraph (5)—

- (a) where the Secretary of State has determined to pay an amount of grant to the student pursuant to regulation 38 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 support to which the student is entitled under this Part in respect of the academic year in which the student transfers shall be ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with 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 that 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 38 in a single instalment, the maximum amount of grant payable to him under regulation 14 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 38 and where the resulting amount is nil or a negative amount that amount shall be nil.

### **Payment of support to eligible part-time students**

**43.**—(1) The Secretary of State shall pay support under regulation 38 and under regulation 37(1) (b) 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, where a final assessment cannot be made on the basis of the information provided by the student, make a provisional assessment of the support payable.

(2) 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 payments may be made by electronic transfer.

### **Payment of grants for fees**

**44.**—(1) Subject to paragraphs (2) and (3), the Secretary of State shall pay the grant in respect of fees for which the student qualifies under regulation 37(1)(a) to the appropriate academic authority after a valid request for payment has been received.

(2) The Secretary of State may make payments under paragraph (1) at such times and in such instalments as she sees fit.

(3) The Secretary of State may make provisional payments under paragraph (1) in such cases as she deems appropriate.

### **Overpayments**

**45.**—(1) Any overpayment of a grant in respect of fees under regulation 37(1)(a) may be recovered by the Secretary of State from the academic authority.

(2) An eligible part-time student shall, if so required by the Secretary of State, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(3) Any overpayment of grant under this Part may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to her.

## PART 10

### SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

#### Eligible postgraduate students

**46.**—(1) An eligible postgraduate student shall, subject to and in accordance with this Part, qualify for a grant to assist with the additional expenditure he is obliged to incur in connection with his undertaking a designated postgraduate course by reason of a disability to which he is subject.

(2) A person is an eligible postgraduate student in connection with a designated postgraduate course if he satisfies the conditions in paragraph (3) and is not excluded by paragraph (4).

(3) The conditions referred to in paragraph (2) are—

- (a) the Secretary of State has determined in connection with the designated postgraduate course that the person is mentioned in Schedule 2; and
- (b) the Secretary of State is satisfied that, by reason of a disability to which the person is subject, he will be obliged to incur additional expenditure in respect of his undertaking the course.

(4) A person shall not be an eligible postgraduate student if—

- (a) there has been bestowed on him or paid to him in relation to his undertaking the course—
  - (i) a healthcare bursary;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992<sup>(62)</sup>;
  - (iii) any allowance, bursary or award of similar description made by a Research Council;
  - (iv) any allowance, bursary or award of similar description made by his institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his disability; or
  - (v) any allowance, bursary or award of similar description made by the General Social Care Council under section 67(4)(a) of the Care Standards Act 2000<sup>(63)</sup> which includes payment for meeting additional expenditure incurred by the student by reason of his disability; or
- (b) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

(5) An eligible postgraduate student shall not qualify for a grant under this Part if the only paragraph from 1 to 7 of Schedule 2 into which he falls is paragraph 7.

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<sup>(62)</sup> S.I. 1992/580, amended by S.S.I. 2002/423 and S.S.I. 2003/401.

<sup>(63)</sup> 2000 c. 14.

(6) An eligible postgraduate student shall not qualify for a grant under this Part unless he is undertaking his course in the United Kingdom.

(7) Notwithstanding paragraph (2), a person shall be an eligible postgraduate student for the purposes of this Part if—

- (a) he qualified as an eligible postgraduate student in connection with an earlier academic year of the present designated postgraduate course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
- (b) the following conditions are met—
  - (i) the Secretary of State has previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the present course; and
  - (ii) the student's status as an eligible postgraduate student in connection with that course has been transferred from that course to the present course as a result of one or more transfers in accordance with regulations made under section 22 of the Act.

(8) An eligible postgraduate student shall not, at any one time, qualify for support for—

- (a) more than one designated postgraduate course;
- (b) a designated postgraduate course and a designated course;
- (c) a designated postgraduate course and a designated part-time course.

### **Designated postgraduate courses**

**47.—**(1) A postgraduate course is designated for the purposes of section 22(1) of the Act and regulation 46 if—

- (a) it is a course entry for which a first degree (or equivalent qualification) or higher is normally required;
- (b) it is a course—
  - (i) of at least one academic year's duration; and
  - (ii) in the case of a part-time course, the duration of which 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 a publicly-funded educational institution or institutions in the United Kingdom or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not a course for the initial training of teachers.

(2) For the purposes of paragraph (1)—

- (a) 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;
- (b) a university and any constituent college or institution in the nature of a college of a university shall be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution shall not be regarded as publicly funded 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**(64)**.

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**(64)** 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(3) For the purposes of section 22 of the Act and regulation 46, the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

### **Period of eligibility**

**48.**—(1) An eligible postgraduate student shall retain his status as an eligible postgraduate student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” in paragraph (1) is equal to the period ordinarily required for the completion of the designated postgraduate course.

(3) The Secretary of State may, at any time, renew or extend the period of eligibility for such further period as she determines.

(4) The period of eligibility shall terminate when the eligible postgraduate student—

(a) withdraws from his designated postgraduate course in circumstances where the Secretary of State has not transferred or will not transfer his status as an eligible postgraduate student to another course under regulation 49; or

(b) abandons or is expelled from his designated postgraduate course.

(5) The Secretary of State may terminate the period of eligibility where the eligible postgraduate student has shown himself by his conduct to be unfitted to receive support.

(6) If the Secretary of State is satisfied that an eligible postgraduate student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as she considers appropriate in the circumstances—

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for a grant or any particular amount of grant;

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 54.

### **Transfer of status**

**49.**—(1) Where an eligible postgraduate student transfers to another postgraduate course, the Secretary of State shall transfer the student’s status as an eligible postgraduate student to that course where—

(a) she receives a request from the eligible postgraduate student to do so;

(b) she is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not expired or been terminated.

(2) The grounds for transfer referred to in paragraph (1) are—

(a) on the recommendation of the academic authority the eligible postgraduate student starts to undertake another designated postgraduate course at the institution; or

(b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution with the consent of the academic authority of that institution.

(3) Subject to paragraph (4), an eligible postgraduate student who transfers under paragraph (1) shall, for the remainder of the academic year in which he transfers, continue to receive in connection with the course to which he transfers the support for which the Secretary of State has determined he qualifies in respect of the course from which he transfers.

(4) The Secretary of State may re-assess the support after the transfer in accordance with this Part.

### **Applications for support**

**50.**—(1) A person (the “applicant”) shall apply for a grant under this Part in connection with each academic year of a designated postgraduate course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The application must reach the Secretary of State as soon as is reasonably practicable.

(3) The Secretary of State may take such steps and make such inquiries as she considers necessary to determine whether the applicant is an eligible postgraduate student, whether he qualifies for a grant and the amount of grant payable, if any.

(4) The Secretary of State shall notify the applicant of whether or not he qualifies for a grant and, if he does qualify, the amount payable in respect of the academic year, if any.

### **Information**

**51.** Schedule 4 applies to the provision of information.

### **Amount of grants**

**52.** The grant under this Part shall be such amount as the Secretary of State considers appropriate, not exceeding £5,640 in respect of an academic year.

### **Payment of grants**

**53.**—(1) The Secretary of State shall pay a grant for which a student qualifies under this Part 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 make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) 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 postgraduate 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.

### **Overpayments**

**54.**—(1) An eligible postgraduate student shall, if so required by the Secretary of State, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(2) Any overpayment of grant under this Part may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to her.

## PART 11

### SUPPLEMENTARY

#### **Modifications applying while the Civil Partnership Act 2004 is not in force**

**55.**—(1) During such time as section 1 of the Civil Partnership Act 2004 is not in force in England and Wales, these Regulations shall apply with the following modifications.

(2) The following provisions shall not have effect—

- (a) regulation 21(1)(g)(ii);
- (b) regulation 37(8)(f)(ii);
- (c) Schedule 5, paragraphs 1(i)(ii) and 1(j)(ii).

(3) No account shall be taken of any reference to “civil partner” or “civil partnership” in the following provisions—

- (a) regulation 2(3);
- (b) regulation 9(2)(b);
- (c) regulation 11(16)(b);
- (d) regulation 13(8)(b);
- (e) regulation 21(1)(a);
- (f) regulation 24(5)(b);
- (g) regulation 34(14)(b);
- (h) regulation 39(3)(b);
- (i) Schedule 2, paragraphs 2, 3 and 5;
- (j) Schedule 5, paragraph 2(b).

(4) For regulation 21(1)(g)(v), there shall be substituted—

“(v) a person ordinarily living with an eligible student in circumstances where, were he of the opposite sex to the eligible student, he would be ordinarily living with the eligible student as if he were his husband or wife where an eligible student falls within paragraph 2(a) of Schedule 5 and begins the designated course on or after 1st September 2005;”.

(5) For regulation 37(8)(f)(v), there shall be substituted—

“(v) a person ordinarily living with an eligible part-time student as if he were his spouse or in circumstances where, were he of the opposite sex to the eligible part-time student, he would be ordinarily living with the eligible part-time student as if he were his husband or wife where an eligible part-time student begins the designated part-time course on or after 1st September 2005;”.

(6) For paragraph 1(i)(v) of Schedule 5, there shall be substituted—

“(v) a person ordinarily living with an eligible student in circumstances where, were he of the opposite sex to the eligible student, he would be ordinarily living with the eligible student as if he were his husband or wife where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2005;”.

(7) For paragraph 1(j)(v) of Schedule 5, there shall be substituted—

“(v) a person ordinarily living with the parent of an eligible student in circumstances where, were he of the opposite sex to the parent, he would be ordinarily living with the parent as if he were his husband or wife;”.



13th January 2005

*Kim Howells*  
Minister of State  
Department for Education and Skills

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## SCHEDULE 1

Regulation 3(1)

## REVOCATION

<i>Regulations revoked</i>	<i>References</i>
The Education (Grants for Disabled Postgraduate Students) Regulations 2000	<a href="#">S.I. 2000/2330</a>
The Education (Grants for Disabled Postgraduate Students) Regulations 2000 (Amendment) Regulations 2000	<a href="#">S.I. 2000/3087</a>
The Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2001	<a href="#">S.I. 2001/2300</a>
The Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2002	<a href="#">S.I. 2002/2104</a>
The Education (Student Support) (No. 2) Regulations 2002	<a href="#">S.I. 2002/3200</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003	<a href="#">S.I. 2003/1065</a>
The Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2003	<a href="#">S.I. 2003/1588</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004	<a href="#">S.I. 2004/161</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004	<a href="#">S.I. 2004/1602</a>
The Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2004	<a href="#">S.I. 2004/1658</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004	<a href="#">S.I. 2004/2041</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004	<a href="#">S.I. 2004/2598</a>
The Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005	<a href="#">S.I. 2005/5</a>

## SCHEDULE 2

Regulations 4, 34 and 46

### 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(65); 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, civil partner or child of such a refugee, in each case who meets the residence condition in paragraph 8(a).
3. A person who—
  - (a) 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;
  - (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, civil partner, child or step-child of such a person, where the person or, as the case may be the spouse, civil partner, child or step-child meets the residence conditions referred to in paragraph 8.

4. A person who is an EEA migrant worker and 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 for workers within the Community(66), as extended by the EEA Agreement or Article 9(3) of Annex I to the Switzerland Agreement 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 either of those Articles; and
  - (b) meets the residence conditions referred to in paragraph 8.
5. A person who is the spouse or civil partner of an EEA migrant worker and who—
  - (a) is installed in the United Kingdom with his spouse or civil partner; and
  - (b) meets the residence conditions referred to in paragraph 8.
6. 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 Article 3(6) of Annex I to the Switzerland Agreement, 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 either of those Articles; and
  - (b) meets the residence conditions referred to in paragraph 8.

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.

7. A person who on the first day of the first academic year of the course is a national of a Member State of the European Community or the child of such a national—

(65) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.

(66) OJ No L257, 19.10.1968, p 2 (OJ/SE 1968 (II) p 475).

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- (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 paragraphs 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 or Switzerland; and
  - (c) his residence in the United Kingdom and Islands or in the European Economic Area or Switzerland, as the case may be, has not during any part of the period referred to in subparagraph (b) been wholly or mainly for the purpose of receiving full-time education.

### SCHEDULE 3

Regulations 5(1) and 35(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) examination 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 4

Regulations 10, 40 and 51

### INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate 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 she requires for the purposes of these Regulations.

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

- (a) he withdraws from, abandons or is expelled from his course;
- (b) he transfers to any other course at the same or at a different institution;
- (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 for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) his home or term-time address or telephone number changes.

3. Information provided to the Secretary of State under these Regulations shall be in the format that the Secretary of State requires and, if she requires the information to be signed by the person providing it, an electronic signature in such form as the Secretary of State may specify shall satisfy such a requirement.

## SCHEDULE 5

Regulations 23, 29 and 30

### FINANCIAL ASSESSMENT

#### Definitions

1. In this Schedule:—

- (a) “existing student” means an eligible student who is not a new eligible student;
- (b) “financial year” means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of this Schedule is computed for the purposes of the income tax legislation which applies to it;
- (c) “household income” has the meaning given in paragraph 3;
- (d) “independent eligible student” has the meaning given in paragraph 2;
- (e) “Member State” means a Member State of the European Union;
- (f) “new eligible student” means an eligible student who begins a designated course on or after 1st September 2004;
- (g) “parent” means a natural or adoptive parent and “child”, “mother” and “father” shall be construed accordingly;
- (h) “parent student” means an eligible student who is the parent of an eligible student;
- (i) “partner” in relation to an eligible student means any of the following—
  - (i) the spouse of an eligible student;

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- (ii) the civil partner of an eligible student;
  - (iii) a woman ordinarily living with a male eligible student as if she were his wife where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2000;
  - (iv) a man ordinarily living with a female eligible student as if he were her husband where an eligible student falls within paragraph 2(a) and she begins the designated course on or after 1st September 2000;
  - (v) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2005;
- (j) “partner” in relation to the parent of an eligible student means any of the following other than another parent of the eligible student—
- (i) the spouse of an eligible student’s parent;
  - (ii) the civil partner of an eligible student’s parent;
  - (iii) a woman ordinarily living with the father of an eligible student as if she were his wife;
  - (iv) a man ordinarily living with the mother of an eligible student as if he were her husband;
  - (v) a person ordinarily living with the parent of an eligible student as if he were the parent’s civil partner;
- (k) “preceding financial year” means the financial year immediately preceding the relevant year;
- (l) “relevant year” means the academic year in respect of which the household income falls to be assessed;
- (m) “residual income” means taxable income after the application of paragraph 4 (in the case of an eligible student), paragraph 5 (in the case of an eligible student’s parent), paragraph 6 (in the case of an eligible student’s partner) or paragraph 7 (in the case of the partner of a new eligible student’s parent); and
- (n) “taxable income” means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 8 and, in relation to paragraph 5, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of—
- (i) the Income Tax Acts;
  - (ii) the income tax legislation of another Member State which applies to the person’s income; or
  - (iii) where the legislation of more than one Member State applies to the period, the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Independent eligible student**

2. An independent eligible student shall mean an eligible student in every case where—
- (a) he is aged 25 or over on the first day of the relevant year;
  - (b) he has been married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
  - (c) he has no parent living;

- (d) the Secretary of State is satisfied that neither of his parents can be found or that it is not reasonably practicable to get in touch with either of them;
- (e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or, in the opinion of the Secretary of State, he can demonstrate on other grounds that he is irreconcilably estranged from his parents;
- (f) he has pursuant to an order of a competent court been in the custody or care of, or has been provided with accommodation by, any legal person who is not the student's parent throughout any three-month period ending on or after the date on which he attains the age of 16 and before the first day of his course ("the relevant period") (provided that he has not in fact at any time during the relevant period been under the charge or control of his parents);
- (g) his parents are residing outside the European Community and the Secretary of State is satisfied that either—
  - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
  - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 8 to send any relevant funds to the United Kingdom;
- (h) paragraph 5(9) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he is a member of a religious order who resides in a house of that order; or
- (j) he has supported himself out of his earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he shall be treated as supporting himself out of his earnings during any period which—
  - (i) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");
  - (ii) he was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
  - (iii) he was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
  - (iv) he held a State Studentship or comparable award;
  - (v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness; or
  - (vi) he 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 on him.

### **Household income**

- 3.—(1) The amount of an eligible student's contribution depends on the household income.
- (2) The household income is—
  - (a) in the case of an eligible student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the eligible student's parents (subject to paragraph 5(9)) and—

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- (i) in the case of a new eligible student who began his course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(v)) of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9)); or
  - (ii) in the case of a new eligible student who began his course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9));
  - (b) in the case of an independent eligible student who has a partner, the residual income of the eligible student aggregated with the residual income of the eligible student's partner (subject to sub-paragraph (4)); or
  - (c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.
- (3) In determining the household income under sub-paragraph (2), there shall be deducted the sum of £1,025—
- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner; or
  - (b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner whose residual income is being taken into account.
- (4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner shall not be aggregated under sub-paragraph (2)(b) in the case of a parent student whose child or whose partner's child holds an award—
- (a) in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both; or
  - (b) in respect of which a parental contribution is otherwise applicable with reference to the parent student or his partner.

### **Calculation of eligible student's residual income**

4.—(1) For the purpose of determining the residual income of an eligible student, there shall be deducted from his taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration shall not include any sums 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 that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988<sup>(67)</sup>, or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

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<sup>(67)</sup> 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10. Amendments to section 273 made by the Finance Act 2004 (c. 12), section 281 and Schedule 35 do not come into force until 6th April 2006. Section 619 was amended by the Finance Act 1989 (c. 26), section 170 and the Finance Act 1996 (c. 8), section 135 and Schedule 21. Section 639 was amended by the Finance Act 2000 (c. 17), Schedule 13. Sections 619 and 639 are repealed by the Finance Act 2004, section 326 and Schedule 42 with effect from 6th April 2006 subject to the transitional provisions and savings in Schedule 36 to the Finance Act 2004.



(2) Where the only paragraph from 1 to 7 of Schedule 2 into which an eligible student falls is paragraph 7 and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 1 of Schedule 2, his income shall not be disregarded in accordance with sub-paragraph (1) but shall instead be disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Schedule 2 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph shall be—

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (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<sup>(68)</sup>.

### **Calculation of parent's residual income**

**5.—(1)** For the purposes of determining the taxable income of an eligible student's parent, any deductions which fall to be made or exemptions which are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;
- (b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2)

shall not be made or permitted.

(2) For the purposes of determining the residual income of an eligible student's parent, there shall be deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the income is computed 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;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in sub-paragraph (a), provided that any sums so deducted shall not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;
- (c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,025.

(3) Where the Secretary of State is satisfied that the income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is, as a result of some event beyond his control, likely to be not more than 85 per cent. of the sterling value of his income in the preceding financial year she may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

(4) Where 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

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<sup>(68)</sup> "Financial Statistics" (ISSN 0015-203X).

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more than 85 per cent. of the sterling value of his income in the previous financial year she may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.

(5) 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 any reference in this Schedule to a preceding financial year shall mean the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where an eligible student's parent is in receipt of any income which does not form part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where his income is computed as for the purposes of the income tax legislation of another Member State, 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 taxable income for the purposes of this Schedule shall be computed as though the income under this sub-paragraph were part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(7) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it shall be computed under the provisions of this Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule shall be the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the eligible student's parents dies either before or during the relevant year and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income shall—

- (a) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, be the aggregate of—
  - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
  - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(9) Where the Secretary of State determines that the parents do not ordinarily live together throughout the relevant year, the household income shall be determined by reference to the income of whichever parent the Secretary of State considers the more appropriate under the circumstances.

(10) Where the Secretary of State determines that the parents do not ordinarily live together for part only of the relevant year, the household income shall be determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant year for which the parents do not so live together; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

### **Calculation of eligible student's partner's residual income**

6.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph and with the exception of sub-paragraphs (8), (9) and (10) of paragraph 5, an eligible student's partner's income shall be determined in accordance with paragraph 5, references to the parent being construed as references to the eligible student's partner.

(2) Where the Secretary of State determines that the eligible student and his partner do not ordinarily live together throughout the relevant year, the partner's income shall not be taken into account in determining the household income.

(3) Where the Secretary of State determines that the eligible student and his partner do not ordinarily live together for part only of the relevant year, the partner's income shall be determined by reference to his income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Secretary of State determines that the eligible student and his partner ordinarily live together.

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

### **Calculation of parent's partner's residual income**

7. The income of a new eligible student's parent's partner whose income is part of the household income by virtue of paragraph 3(2)(a) shall be determined in accordance with paragraph 6, references to the eligible student's partner being construed as references to the new eligible student's parent's partner, and references to the eligible student being construed as references to the new eligible student's parent.

### **Calculation of contribution**

8.—(1) In relation to an eligible student who is not an independent eligible student and in relation to an independent eligible student who has a partner, the contribution payable shall—

- (a) in any case where the household income is £22,010 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,010; and
- (b) in any case where the household income is less than £22,010 be nil.

(2) In relation to an independent eligible student who does not have a partner, the contribution shall—

- (a) in any case where the household income is £10,250 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,250; and
- (b) in any case where the household income is less than £10,250 be nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) shall in no case exceed £7,250.

(4) Where sub-paragraph (5) applies, the aggregate contributions shall not exceed—

- (a) £7,250; or
- (b) the contribution which would have been payable if only one eligible student held an award.

(5) This sub-paragraph applies where a contribution is payable in relation to—

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- (a) two or more eligible students in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) two or more independent eligible students each with a partner in respect of the same household income.

### Split contributions

9.—(1) Where a contribution is payable under paragraph 8 other than in relation to an independent eligible student who does not have a partner, the contribution shall be payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in sub-paragraph (b) is held by—
  - (i) more than one child of the eligible student's parents;
  - (ii) the eligible student's parent; or
  - (iii) the eligible student's parent's partner,
 the contribution payable in respect of the eligible student shall be such proportion of any contribution calculated under paragraph 8 as the Secretary of State after consultation with any other authority involved considers just taking into account the application of paragraph 7 of this Schedule to new eligible students and existing students respectively;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003<sup>(69)</sup> or section 63 of the Health Services and Public Health Act 1968<sup>(70)</sup> (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student shall be an amount equal to the contribution calculated under paragraph 8 divided by the number of children of his parents who hold a relevant statutory award;
- (c) if, as a result of the apportionment under sub-paragraph (b), any part of the contribution calculated under paragraph 8 would not be applied in respect of the eligible student's statutory award, the remainder of the contribution shall instead be applied—
  - (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply; and
  - (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

(2) In any case where—

<sup>(69)</sup> S.I. 2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.

<sup>(70)</sup> 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, 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, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

- (a) the eligible student's parent whose income is assessed under this Schedule has a partner;
- (b) a contribution taking into account the residual income of that parent is payable in relation to more than one eligible student who is the child of either that parent or his partner; and
- (c) the amount payable in relation to each eligible student is not equal to the amount payable in respect of every other eligible student,

the contribution in respect of each eligible student shall be calculated under sub-paragraph (3).

(3) Where sub-paragraph (2) applies, the contribution payable in respect of each relevant household shall be calculated and the apportionment carried out in accordance with sub-paragraph (1) of this paragraph withholding only that part of the contribution apportioned to each eligible student who is not part of the relevant household.

(4) In a case where a contribution taking into account the residual income of the eligible student's parent is payable in respect of more than one child of that parent or that parent's partner, if any, and the residual income of any such eligible student is greater than nil, the contribution in relation to each eligible student shall be calculated in accordance with the following sub-paragraphs—

- (a) the contribution in respect of each eligible student shall be calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and shall be apportioned between each eligible student in accordance with this paragraph;
- (b) there shall then be applied in addition in respect of each eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated under sub-paragraph (c) exceeds £22,010;
- (c) the sum referred to in sub-paragraph (b) shall be the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) of this Schedule with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £22,010.

(5) Subject to sub-paragraph (6), there shall be added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this paragraph.

(6) Where a parent student has a partner within paragraph 1(j) of this Schedule, the sums added to his residual income under sub-paragraph (5) of this paragraph shall be calculated as though the contribution in respect of his children had been assessed taking into account the income of the parent's partner under paragraph 7, whether or not the contribution was actually calculated on that basis.

(7) In this paragraph, "relevant household" means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 5 and 7.

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## EXPLANATORY NOTE

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

These Regulations provide for support for students taking designated higher education courses in respect of the academic year beginning on or after 1st September 2005.

These Regulations revoke the Education (Grants for Disabled Postgraduate Students) Regulations 2000, the Education (Grants for Disabled Postgraduate Students) Regulations 2000 (Amendment) Regulations 2000, the Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2001, the Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2002, the Education (Student Support) (No. 2) Regulations 2002, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003, the Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2003, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004, the Education (Grants for Disabled Postgraduate Students) (Amendment) Regulations 2004, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004 and the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005. Regulation 3 sets out the extent of the revocation.

These Regulations are based on the Education (Student Support) (No. 2) Regulations 2002 (as amended) (the “2002 Regulations”) to which they make a number of minor and drafting amendments. They also incorporate provisions relating to the award of grants to disabled postgraduate students derived from the Education (Grants for Disabled Postgraduate Students) Regulations 2000 (as amended), subject to minor and drafting amendments. Changes of substance made in these Regulations other than rates of grants and loans are described below.

Under the Regulations, a student is regarded as meeting the residence requirements on which student support is contingent if he would have done so but for the fact that one of the persons listed in regulation 2(3) was temporarily employed outside the area in which the student is required to show residence in order to qualify for support. To take account of the creation of the status of civil partnership, the list of persons in regulation 2(3) is amended to include the civil partner of a student effective from the time that section 1 of the Civil Partnership Act 2004 comes into force in England and Wales (the “effective date”).

Regulation 4(6) provides that where a student taking a course designated under regulation 5 (a “designated full-time course”) is simultaneously taking another course which is designated under the Regulations, he may only receive support for one of the courses at a time. Regulations 34(16) and 46(8) make corresponding provision in relation to a student taking a designated part-time course and a student taking a designated postgraduate course, respectively.

Regulation 5(2) and regulation 35(2) exclude higher education courses provided to pupils of maintained schools from being designated full-time courses and designated part-time courses, respectively.

Where a student fails to provide information required under the Regulations or provides information which is inaccurate in a material particular, regulation 6(7)(c) extends, in relation to a designated full-time course, the types of action which the Secretary of State may take by permitting her to treat the support paid as an overpayment. Regulations 36(6)(c) and 48(6)(c) make corresponding provision in relation to a student taking a designated part-time course and a student taking a designated postgraduate course, respectively.

Under the 2002 Regulations, a grant in respect of disabled students' living costs was available to disabled students who attended a designated course. Regulation 14 provides for that grant to be available to disabled students who undertake a designated course.

In assessing entitlement to dependants' grants under regulations 16 to 21, the income of a student's civil partner is to be taken into account. This provision applies from the effective date. The income of a student's same-sex partner (other than a civil partner) is taken into account in assessing entitlement to dependants' grants where the student begins a designated full-time course on or after 1st September 2005 and is aged 25 or more. The adult dependants' grant is made available under regulation 17(2) (a) in respect of the civil partner of a student (from the effective date) and the same-sex partner of a student who begins a designated full-time course on or after 1st September 2005 and who is aged 25 or more.

These Regulations omit the provision in the 2002 Regulations which allowed an eligible student who began his course before 1st September 2001 to continue to elect to receive the lone parents' grant in relation to a designated full-time course.

The provisions on payment of support are amended so that, under regulation 32(3), the Secretary of State may make the payment of an instalment of a loan for living costs conditional on the student providing his national insurance number.

Regulation 33 deals with the recovery of overpayments of support in relation to a designated full-time course. Where a student has received more support than he is entitled to under these Regulations, regulation 33 enables the Secretary of State to deduct an amount equal to the overpayment from any grant or loan payable by the Secretary of State to the student in respect of any designated course. Regulations 45 and 54 make corresponding provision in relation to a student taking a designated part-time course and a student taking a designated postgraduate course, respectively.

Part 9 of the Regulations provides for support for designated part-time courses. Under regulation 34(9), a student is not eligible for support for a designated part-time course (other than disabled students' allowance) if he has previously received grants or loans in connection with undertaking eight academic years of part-time study. In this context, support paid by the Secretary of State, the Scottish Executive and the Department for Employment and Learning (Northern Ireland) is taken into account.

A new method for calculating the amount of the grant in respect of fees for a part-time course is set out in regulation 37. The maximum amount of support available depends on the length of time it takes to complete the part-time course in comparison with the length of time it would take to complete the full-time equivalent.

The amount of support payable in respect of a designated part-time course depends on a part-time student's resources. The calculation of a part-time student's resources under regulation 37 is amended to take into account the income of his civil partner. This provision applies from the effective date. For part-time students beginning a course on or after 1st September 2005, the calculation of a student's resources will take into account the income of the student's partner regardless of the sex of the partner and regardless of the age of the student.

Part 10 provides for grants to disabled postgraduate students to assist with additional expenditure incurred in undertaking their courses by reason of their disability. It is based on the Education (Grants for Disabled Postgraduate Students) Regulations 2000 (as amended).

Part 11 sets out modifications to these Regulations which apply while section 1 of the Civil Partnership Act 2004 is not in force in England and Wales.

To qualify for student support, a student must fall into one of the categories listed in Schedule 2 to these Regulations. Under the 2002 Regulations, it was possible in certain circumstances for a student to qualify for student support by virtue of the status of his spouse. These Regulations make corresponding provision in relation to civil partners and such provision applies from the effective date.

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The amount of support in respect of a designated full-time course is reduced where a contribution is payable in respect of the student. A student's contribution is assessed in accordance with Schedule 5 to the Regulations and the amount of the contribution is linked to his household income. The provisions of Schedule 5 take into account the creation of the status of civil partnership and the provisions of the Schedule apply from the effective date in relation to the civil partner of a student and the civil partner of the student's parent in the same way as they apply to the spouse of a student and the spouse of the student's parent. Accordingly, the income of the student's civil partner and, where the student is not an independent student, the income of the student's parent's civil partner is to be taken into account in calculating the household income for the purpose of assessing the contribution due from the student. For a student who begins a course on or after 1st September 2005, there will be included in the household income the income of the student's same-sex partner (other than a civil partner) where the student is aged 25 or over and the income of the same-sex partner of the student's parent where the student is not an independent student. Just as a student who is married at the beginning of the academic year is treated as an independent student for the purposes of assessing the contribution, from the effective date a corresponding provision will apply to a student in a civil partnership.

In calculating the student's income under Schedule 5, payments made by a student for the maintenance of his child, former spouse or former partner by virtue of an agreement, instrument or enactment which were taken into account under the 2002 Regulations are no longer taken into account. In addition, income applied by virtue of an instrument or legislation for the benefit of a student or a person dependent on the student's parent, spouse or partner or on the student's parent's spouse or partner is no longer taken into account in assessing household income.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.