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STATUTORY RULES OF NORTHERN IRELAND

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**1995 No. 1**

**EDUCATION**

**Students Awards Regulations (Northern Ireland) 1995**

*Made* - - - - *4th January 1995*  
*Coming into operation* *1st February 1995*

The Department of Education, in exercise of the powers conferred on it by Articles 50(1) and (2) and 134(1)(1) of the Education and Libraries (Northern Ireland) Order 1986(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Students Awards Regulations (Northern Ireland) 1995 and shall come into operation in accordance with paragraph (2).

(2) These Regulations shall come into operation on 1st February 1995 and shall have effect from 1st September 1994.

**Revocation**

2. The Students Awards Regulations (Northern Ireland) 1993(3) are hereby revoked.

**Interpretation**

3.—(1) In these Regulations—

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

“area” means the area of a board;

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(1) As amended by S.I. [1993/2810](#) (N.I. 12) Art. 50(1) and Sch. 4 Part 11  
(2) S.I. [1986/594](#) (N.I. 3)  
(3) S.R. [1993 No. 439](#)

“award” includes an award made under previous awards regulations, and either a fees only award or a full award made under these Regulations;

“British Islands” means the United Kingdom, the Channel Islands and the Isle of Man;

“the Council Regulation” means Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement<sup>(4)</sup>;

“course comparable to a first degree course” means—(a) A course of at least 3 academic years' duration provided by a university for a certificate, diploma or other academic award;(b) an educational facility designated by the Department under Article 50(1);

“course for the Diploma of Higher Education” means a course provided by an institution for—

- (a) the Diploma of Higher Education;
- (b) the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;

“course for the Higher Diploma” means a course provided by an institution for the Higher National Diploma or the Higher National Diploma of the Business and Technology Education Council (“BTEC”);

“course of higher education” means a course of a type listed in Schedule 7 to the Education Reform (Northern Ireland) Order 1989<sup>(5)</sup> and, for the purposes of paragraph 2(b) of Schedule 2, includes a full-time course outside Northern Ireland which is comparable to a full-time course of higher education in Northern Ireland;

“course of initial teacher training” means—

- (a) a course for the initial training of teachers (other than a course for the degree of Bachelor of Education) provided by an institution;
- (b) a part-time course of teacher training, involving not less than 3 days' attendance a week during the course, for the time being specified for the purposes of this provision by the Department;
- (c) any other course of teacher training, whether part-time or partly full-time and partly part-time, for the time being so specified—

“degree” means a degree awarded by a university, institution of higher education in the United Kingdom or the Republic of Ireland or the Council for National Academical Awards;

“dependent” means wholly or mainly financially dependent;

“discretionary award” shall be construed in accordance with regulation 8(2);

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding for gain of any office and to the following for gain of any occupation;

“establishment of further education” excludes a university but includes a college of education and an institution of further education which also provides higher education;

“European Community” means the area comprised by the member states of the European Community (including the United Kingdom) as constituted from time to time, and as respects any period prior to the unification of the Federal Republic of Germany with the former German Democratic Republic, that former Republic;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992<sup>(6)</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(7)</sup>;

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<sup>(4)</sup> O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (11) p. 475)

<sup>(5)</sup> S.I. 1989/2406 (N.I. 20) as amended by S.I. 1993/2810 (N.I. 12) Art 50(1) and Sch. 4 Part 11

<sup>(6)</sup> Cmnd. 2073

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and, from such date as the EEA Council, established by Article 89 of the EEA Agreement, determines that that Agreement shall enter into force as regards the Principality of Liechtenstein, the Principality of Liechtenstein;

“European student” means a person who is a national of a member state of the European Community or the child of such a national and has been ordinarily resident within the European Community throughout the period of 3 years before the commencement of his course, but who is not entitled to a full award by virtue of regulation 11(2);

“fees only award” means an award made only in respect of fees described in Schedule 6;

“first degree course” means—

- (a) a course provided by an institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;
- (b) a course provided by the University of Buckingham for a first degree of that university;
- (c) an international course, that is to say a course provided by an institution in conjunction with an overseas institution for a first degree;

“full award” means an award made in respect of both fees described in Schedule 6 and a maintenance grant;

“highest-cost country” means Denmark, Finland, Japan, Norway, Sweden, Switzerland and Taiwan;

“higher-cost country” means Austria, Belgium, Hong Kong, Iceland, France, the Federal Republic of Germany and the Republic of Korea;

“high-cost country” means Australia, Canada, Indonesia, the Republic of Ireland, Israel, Italy, Luxembourg, the Netherlands, countries of the former Soviet Union, Spain and the United States of America;

“independent student” means a student who—

- (a) has attained the age of 25 years before the beginning of the year for which payments in pursuance of his award fall to be made; or
- (b) has supported himself out of his earnings for periods (including any period mentioned in paragraph (3)), before the first year of his course aggregating not less than three years; or
- (c) has been married for at least two years before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or
- (d) has no parent living;

“institution” means a university or institution of higher education in the United Kingdom maintained or assisted by recurrent grants out of public funds or a university or institution of higher education in the Republic of Ireland providing a full-time course comparable to one listed in paragraph 1, 2, 3 or 4 of Schedule 3;

“maintenance grant” means a grant calculated in accordance with regulation 13;

“modified proportion” means the proportion which the number of weeks in a sandwich year during which the student has no periods of experience bears to 52;

“Order” means the Education and Libraries (Northern Ireland) Order 1986; and a reference by number to an Article is a reference to the Article bearing that number in the Order;

“ordinary maintenance requirement” shall be construed in accordance with paragraph 1(1) of Schedule 7;

“overseas institution” means an educational institution in a country outside the United Kingdom providing further or higher education or both;

“periods of experience” means—

- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution, other than periods of—
  - (i) unpaid service in a hospital or in a public health service laboratory in the United Kingdom or the Republic of Ireland;
  - (ii) unpaid service with a public body in the United Kingdom or the Republic of Ireland acting in the exercise of its functions relating to health, welfare or the care of children and young persons or with a voluntary Organisation providing facilities or carrying out activities of a like nature in the United Kingdom or the Republic of Ireland;
  - (iii) unpaid service in the prison, probation and aftercare service in the United Kingdom or the Republic of Ireland;
  - (iv) teaching practice;
  - (v) unpaid research in an institution or, in the case of a student attending an overseas institution as a necessary part of his course, in an overseas institution;
  - (vi) such experience as aforesaid falling wholly within the periods appointed by an institution for instruction and study thereat in any year which do not comprise paid service or employment and which do not aggregate more than either 6 weeks during that year or -fall within that year and another year and do not aggregate more than 12 weeks during the two years taken together, where that other year has not already been taken into account for the purposes hereof;
  - (vii) unpaid service with a health authority (within the meaning of section 128(1) of the National Health Service Act 1977<sup>(8)</sup>);
  - (viii) unpaid service with a health board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(9)</sup>; or
  - (ix) unpaid service with a health and social services board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(10)</sup>;
- (b) in the case of a student whose course includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, any such period of residence during which he is in gainful employment;

“prescribed proportion” means the proportion which the number of weeks in a sandwich year during which the student attends the institution for full-time study bears to 30, except that, where that proportion is greater than the whole, it means the whole;

“previous awards regulations” means the Regulations revoked by regulation 2 and any regulations superseded by those Regulations;

“refugee” means a person 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<sup>(11)</sup> as extended by the Protocol thereto which entered into force on 4th

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<sup>(8)</sup> 1977 c. 49, amended by paragraph 11 of Schedule 3 to the Health and Social Security Act 1984(c. 48)

<sup>(9)</sup> 1978 c. 29

<sup>(10)</sup> S.I. 1972/1265 (N.I. 14)

<sup>(11)</sup> Cmnd. 9171

October 1967<sup>(12)</sup> and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

“relevant day” means—

- (a) except in the case mentioned in sub-paragraph (b), the last day of the month of October, February, April or June (according as the academic year of the course begins in the winter, spring, summer or autumn respectively) preceding the beginning of the course;
- (b) in the case of a refugee, or the spouse or child of a refugee, or a person mentioned in regulation 7(4), who has entered the United Kingdom on or after a relevant day as defined in sub-paragraph (a), where—
  - (i) he has entered the United Kingdom before the day one month earlier than the first day of the academic year in which he commences his course, the said day or the day on which he applies for an award, whichever is the earlier;
  - (ii) he has not so entered the United Kingdom, the first day of the academic year in which he commences his course or the day on which he applies for an award, whichever is the earlier;

“sandwich course” means a course consisting of alternate periods of full-time study at an institution and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year of the course; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period;

“sandwich year” means, as respects any student, a year of a sandwich course which includes both attendance at full-time study at an institution and periods of experience;

“specified course” means a course of a type listed in Schedule 3; and in relation to any person any reference (otherwise unqualified) to a specified course shall, as the context requires, be construed as a reference to a specified course which the person attends or has applied to attend and any reference to a specified course shall be construed as a reference to either a course of full-time study or a sandwich course;

“statutory award” means any award made or grant paid by virtue of Article 50 (except a maintenance allowance payable under the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1994<sup>(13)</sup>) or Article 51 and includes any comparable award made or grant or other payment made in respect of attendance at a course which is paid out of moneys provided by Parliament;

“student” means a person to whom an award has been made under these Regulations or previous awards regulations;

“supplementary requirement” shall be construed in accordance with paragraph 4 of Schedule 7;

“the excess period” shall be construed in accordance with paragraph 5(1) of Schedule 7;

“the new course” shall be construed in accordance with regulation 8(3);

“the Tax Acts” has the same meaning as in Schedule 1 to the Interpretation Act 1978<sup>(14)</sup>;

“university” means a university in the United Kingdom or the Republic of Ireland and includes a university college and a constituent college, school or hall of such a university;

“year”, in respect of a course, means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according as the academic year of the course begins in the

<sup>(12)</sup> Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Branch, Department of Education, Rathgael House, Balloo Road, Bangor. Co. Down BT19 7PR)

<sup>(13)</sup> S.R. 1994 No. 298

<sup>(14)</sup> 1978 c. 30; definition of “Tax Acts” substituted by 1987 c. 16, section 7 1, Schedule 15, paragraph 12

winter, spring, summer or autumn respectively; and any reference to the first or the final year of a course shall be construed accordingly.

(2) In paragraph (1) “parent” shall have the same meaning as in Part 11 of Schedule 8.

(3) A period during which a student has supported himself out of his earnings includes any period during which—

- (a) the student was in receipt of training in pursuance of a programme of the type described in Schedule 1;
- (b) the student was in receipt of unemployment benefit under section 25(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(15)</sup>;
- (c) the student was available for employment and, if under the age of 18 years, registered for unemployment;
- (d) the student held a post-graduate studentship or comparable award;
- (e) the student received sickness benefit under section 31(1), maternity allowance under section 35(1)<sup>(16)</sup>, severe disablement allowance under section 68(1), invalidity pension under section 33(1)(b), 40(3) or 41(2), or statutory sick pay under Part XI<sup>(17)</sup> or statutory maternity pay under Part XII<sup>(18)</sup> of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(4) In paragraph (3), a reference to a person registered or available for employment is a reference to his being so registered or available for the purposes of section 123(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

### Calculation of income

4. In calculating a person’s income for any year, any reduction for income tax is to be made by calculating the tax payable on the income received in that year as if the year were a year of assessment within the meaning of the Income Tax Acts (the necessary apportionment being made in any case where the relevant provisions of those Acts change during the year).

### Termination of marriage

5. A person’s marriage is to be treated as having been terminated not only by the death of the other spouse or the annulment or dissolution of the marriage by an order of a court of competent jurisdiction but also by virtue of the parties to the marriage ceasing ordinarily to live together, whether or not an order for their separation has been made by any court.

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(15) 1992 c. 7

(16) Section 35(1) was amended by Regulation 2 of S.R. 1994 No. 176

(17) Part XI was amended by Article 2 of S.R. 1994 No. 82 and by Articles 3 and 5(1) of the Statutory Sick Pay (Northern Ireland) Order 1994 (S.I. 1994/766 (N.I. 5))

(18) Part XII was amended by Article 4(b) of the Still-Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10)) and by S.R. 1994 No. 176

## PART II

### AWARDS

#### Specified persons

6.—(1) Persons described in Part I of Schedule 2, with the exception of persons described in Part 11 of that Schedule, are, subject to paragraph (2), specified by the Department for the purposes of Article 50(1).

(2) The board which shall be under a duty to make an award to a person entitled to the payment of an award by virtue of Article 7(2), (3) or 12 of the Council Regulation shall be—

- (a) the board in the area of which the person was last resident during the period of two years preceding the relevant day;
- (b) if sub-paragraph (a) does not apply, the board in the area of which the institution providing the person's course is situate.

#### Ordinarily resident

7.—(1) If a board is satisfied that a person was not ordinarily resident in the British Islands, or in the European Community, throughout the three years immediately preceding the first year of the specified course or was not resident in a board's area on the relevant day only because that person, his spouse or parent, guardian or any other person having actual custody of him during his minority, was, at the relevant time, employed temporarily outside the British Islands or, as the case may be, outside the European Community, then, for the purposes of paragraph I (b) of Schedule 2, that person shall not be regarded as having ceased to be so resident only because of his absence from the British Islands or the European Community or the board's area in consequence of such employment and paragraph (2) shall not apply in the case of such a person.

(2) For the purposes of paragraph I (b) of Schedule 2, a person shall not be regarded as ordinarily resident in the British Islands or the European Community if that person was so resident and had taken up that residence wholly or mainly for the purpose of attending a full-time course of education.

(3) For the purposes of paragraph I (b) of Schedule 2, a person shall not be regarded as ordinarily resident in the British Islands if that person is personally ineligible for a full award and is not a European student.

(4) For the purposes of regulation 6(1) the ordinary residence requirements of paragraph I (b) of Schedule 2 shall not apply in the case of—

- (a) a refugee who has not been ordinarily resident outside the British Islands since he was recognised as a refugee;
- (b) the spouse or child of such a refugee; or
- (c) a person mentioned in paragraph (5).

(5) That person is a person who is a British citizen within the meaning of the British Nationality Act 1981(19)—

- (a) who was not ordinarily resident in the British Islands throughout the three years preceding the first year of the specified course only because he was ordinarily resident for the purposes of employment in the territory comprising the European Community during every part of that period in which he was not ordinarily resident in the British Islands; or
- (b) (i) who was not so resident throughout that period only because his parent is such a person as is mentioned in sub-paragraph (a), and

(ii) whose parent is ordinarily resident in Northern Ireland on the relevant day as defined in relation to that person by regulation 3(1).

(6) In paragraph (5) “parent” includes a guardian, or any other person having actual custody of a minor.

### **Transitional provisions**

**8.—**(1) Without prejudice to section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954(20) and to the definition of “award”, an award made in pursuance of the Regulations revoked by regulation 2 before the coming into operation of these Regulations, in so far as it could have been made in pursuance of these Regulations, shall for the purposes thereof, be treated as having been so made.

(2) Where an award was made to a student under Article 50(3) (“the discretionary award”) in respect of a course to which Articles 50(1) and 50(2) did not then apply but the course becomes or has become a specified course and an award within the meaning of these Regulations is or has been made to the student in respect of that course, then if the discretionary award continues to be payable it shall be disregarded in calculating the student’s income for the purposes of Regulation 13(1)(b) and 17: but payments on account of the mandatory award in respect of fees and in respect of maintenance for any period shall be respectively reduced or extinguished by those on account of the corresponding element of the discretionary award.

(3) Where, before the coming into operation of these regulations, a student has commenced a course (“the new course”) which is either a course provided by the University of Buckingham for a first degree of that University, a course for the Diploma of Higher Education, or a course for the Higher Diploma and has had made to him under previous awards regulations an award, having previously attended one or more courses of higher education the aggregate of which did not exceed two academic years then, notwithstanding any other provisions of these Regulations, payments shall be made in accordance with these Regulations in respect of his attendance at the new course.

### **Previous attendance at a course**

**9.—**(1) For the purposes of regulation 19(2) and (5) and paragraphs I (d), 2(b) and (c) and 3 of Schedule 2—

- (a) a person shall not be regarded as having previously attended a course—
- (i) unless he has previously both attended and held a statutory award in respect of either more than one course or one course for a period longer than twenty weeks;
  - (ii) by reason only of his having attended from its beginning the course to which his application for an award relates;
- (b) any reference to a person having attended a course shall be construed as a reference to his having done so before or after 1st September 1994.

- (2) Nothing in paragraph (1) shall affect the duty of the board to make an award to a person—
- (a) in respect of his attendance at a course for the Postgraduate Certificate in Education, the Art Teacher’s Certificate or the Art Teacher’s Diploma (or for a qualification comparable with any such certificate or diploma) unless he has previously attended such a course or successfully completed a course which—
    - (i) was for the degree of Bachelor of Education or a comparable academic award of either an institution or the Council for National Academic Awards; and

- (ii) was approved as a course for the initial training of teachers for the purposes of Article 70;
- (b) in respect of his attendance at any full-time course of initial training as a teacher of one academic year's duration, or a comparable part-time course, not within sub-paragraph (a), unless he has for more than three years held a statutory award in respect of his attendance at a full-time course of higher education or comparable course outside Northern Ireland;
- (c) in respect of his attendance at a course which—
  - (i) does not exceed two year's duration;
  - (ii) is for the degree of Bachelor of Education or a comparable academic award of either an institution or the Council for National Academic Awards; and
  - (iii) is approved as a course for the initial training of teachers for the purposes of Article 70;unless he has previously attended—
  - (i) a course for the Postgraduate Certificate in Education, the Art Teacher's Certificate or the Art Teacher's Diploma (or for a qualification comparable with any such certificate or diploma); or
  - (ii) a course (of any length) such as described in sub-paragraph (a)(i) or (ii).

### **Specified educational facilities**

**10.** The courses listed in Schedule 3 are specified as educational facilities for the purposes of Article 50(1).

### **Terms and conditions**

**11.**—(1) Awards to be made by boards shall be subject to the terms and conditions set out in Schedule 4.

(2) Awards to be made by boards shall be either—

- (a) a full award in respect of a person's attendance at a specified course during an academic year beginning after 31st August 1994 if the person concerned is ordinarily resident in the board's area; or
- (b) where sub-paragraph (a) does not apply, a fees only award in respect of a person's attendance at a specified course at an institution in Northern Ireland during an academic year beginning after 31st August 1994 if the person is a European student.(3) Where paragraph (2)(b) applies the fees only award shall be made by the board in whose area the main facility of the institution is situated.

## **PART III**

### **AMOUNT OF AWARDS**

#### **Payments by boards**

**12.**—(1) Subject to regulations 11, 16, 17, 19 and 20 and paragraph 4 of Schedule 4, the board shall in respect of each year pay in pursuance of an award—

- (a) in respect of fees, an amount equal to the aggregate of any fees payable in respect of the student as are described in Schedule 6;
- (b) in respect of maintenance—

- (i) except in a case in which regulation 11(2), 15 or 16 applies, a grant calculated in accordance with regulation 13;
- (ii) in a case in which regulation 15 applies (subject to regulation 15(3), an amount determined in accordance with that regulation,

and so much of the grant or amount referred to in this sub-paragraph as the board considers appropriate shall be treated as being in respect of the Christmas and Easter vacations.

(2) Subject to regulations 17, 19 and 20 and paragraph 4 of Schedule 4, a board may, in respect of a student who resides in an institution other than a university, pay the amount charged by the institution for his board and lodging.

(3) Where the academic year of a student's course began in the winter or the spring of 1994 then, notwithstanding anything in these Regulations, payments in pursuance of an award to that student in respect of the year beginning on 1st January 1994 or, as the case may be, 1st April 1994 shall be the aggregate of—

- (a) two-thirds or, as the case may be, one-third of the payments in pursuance of that award which would have fallen to be made, in respect of that year under the Regulations referred to in regulation 2 had they not been revoked; and
- (b) one-third or, as the case may be, two-thirds of the payments which would have fallen to be made in respect of the year beginning on 1st September 1994 under these Regulations had the academic year of that course begun in the autumn of 1994.

(4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 1994 then, notwithstanding anything in these Regulations, payments in pursuance of an award in respect of the year beginning on 1st January, 1st April or 1st July (as the case may be) shall be the aggregate of—

- (a) three-quarters, one-half or one-quarter (as the case may be) of the payments which would have fallen to be made in respect of that year under the Regulations referred to in regulation 2 had they not been revoked, and
- (b) one-quarter, one-half or three-quarters (as the case may be) of the payments which would have fallen to be made in respect of the year beginning on 1st September 1994 under these Regulations had the academic year of the course begun in the autumn of 1994.

### **Calculation of maintenance grant**

**13.—**(1) The maintenance grant in respect of any year shall be the amount by which the student's resources fall short of his requirements and for the purpose of ascertaining that amount—

- (a) the requirements of the student shall be taken to be the aggregate of—
  - (i) such of the amounts set out in Schedule 7 as are applicable in his case; and
  - (ii) subject to paragraph (2), the amount payable in accordance with regulation 12(2);
- (b) the resources of the student shall be taken to be the aggregate of his income for the year calculated in accordance with Part I of Schedule 8 and any contribution applicable in his case by virtue of Part 11 or III of that Schedule.

(2) In the case of a student who resides in an institution in England and Wales or in a hostel or other accommodation administered by the academic authority of that institution, the amount to be taken into account for the purposes of paragraph (1)(a)(ii) shall be so much of the charge, if any, payable under regulation 12(2) as does not exceed the amount chargeable for board and lodging by that institution to or in respect of a person who is ordinarily resident in England and Wales and resident in the institution for the purpose of attending a full-time course of further or higher education.

(3) This regulation and Schedules 7 and 8 shall have effect—

- (a) in the case of such a student as is mentioned in Schedule 9, subject to the provisions thereof;
- (b) where regulation 15 applies, subject as therein provided.

### **Assessment of requirements and resources**

14. The requirements and resources of a student shall be assessed by the board, and for the purpose of the exercise of its functions under this regulation, the board shall require the student to provide from time to time such information as it considers necessary as to the resources of any person whose means are relevant to the assessment of his requirements and resources.

### **Sandwich courses**

15.—(1) This regulation shall apply where the course is a sandwich course.

(2) For the purpose of calculating payments in respect of maintenance under regulation 12(1)(b) in respect of a sandwich year, that regulation and Schedules 7 and 8 shall have effect subject to the provisions of Schedule 10.

(3) No payment in respect of maintenance under regulation 12(1)(b) shall be made in respect of a year in which there are no periods of full-time study.

### **Courses of teacher training**

16.—(1) This regulation shall apply—

- (a) where the course is a part-time course of teacher training described in paragraph (b) or (c) of the definition of “course of initial teacher training” in regulation 3(1); or
- (b) where it is a partly full-time and partly part-time course described in paragraph (c) of the said definition.

(2) Where the course is described in paragraph (b) of the said definition, the payment in respect of maintenance under regulation 12(1)(b) shall be a grant equal to three-quarters of the maintenance grant.

(3) Subject to paragraphs (4) and (5), where the course is described in the paragraph (c) of the said definition, the payment under regulation 12(1)(b) shall be—

- (a) in a year in which the student’s periods of study are all periods of full-time study or in which his aggregate period of full-time study is 30 weeks or more, the maintenance grant;
- (b) in a year in which the student’s periods of study are all periods of part-time study, the sum of £325;
- (c) in any other year, a sum equal to the aggregate of—
  - (i) the proportion of the maintenance grant which the student’s aggregate proportion of full-time study in the year, expressed in weeks, bears to 30; and
  - (ii) the proportion of £325 which the difference between the said aggregate period and 30 weeks bears to 30.

(4) In relation to a student employed full-time as a teacher, paragraph (3) shall have effect, except that in such a year as is mentioned in sub-paragraph (a) thereof, as if it provided that the payment under regulation 12(1)(b) should be £90.

(5) In relation to a student attending a course provided at the University of Oxford or the University of Cambridge, sub-paragraphs (a) and (c) of paragraph (3) shall have effect as if any reference therein to—

- (a) a period of 30 weeks were a reference to 25 weeks; and

- (b) the proportion which a period expressed in weeks bears to 30 were a reference to the proportion which that period bears to 25.
- (6) For the purposes of this regulation a day shall be reckoned as a seventh of a week.

### **Assisted students**

**17.**—(1) Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 12(i)(a) or (b) shall be made to a person in respect of any year in respect of which he receives such payments as are mentioned in paragraph (2) amounting to not less than the aggregate of—

- (a) such fees payable in respect of him as are described in Schedule 6 and if they are payable to an institution which is maintained or assisted by recurrent grants out of public funds, which do not exceed the maxima referred to therein; and
- (b) his requirements for maintenance ascertained in accordance with—
  - (i) Part I of Schedule 7;
  - (ii) paragraphs 5 and 6 of Part II of that Schedule; and
  - (iii) Parts III and IV of that Schedule irrespective of whether any maintenance grant would in fact be payable in his case by virtue of any other provision in these Regulations.

(2) The payments referred to in paragraph (1) are the aggregate payments received by the person

- (a) in pursuance of any award, bursary or other payment made to him in respect of the course (other than an award made under these Regulations or previous awards regulations, or by way of a loan under the Education (Student Loans) (Northern Ireland) Order 1990(21), or out of access funds held by the institution at which he attends his course); and
- (b) if he is in gainful employment, by way of remuneration (reduced by income tax and social security contributions) paid in respect of any period for which he has leave of absence from that employment or is relieved of his normal duties in the course of that employment for the purpose of attending the course, except that, if the person's course is a part-time course of teacher training described in paragraph (c) in the definition of "course of initial teacher training" in regulation 3(1), and some or all of his periods of study are periods of part-time study, any payments by way of remuneration shall be disregarded.

### **Method of payment**

**18.**—(1) Subject to paragraph (2), the board shall make any payment due under these Regulations in such instalments (if any) and at such times as it considers appropriate; and in the exercise of its functions under this regulation the board may make provisional payments pending the final calculation of the award.

(2) Subject to paragraphs (3) to (6), the board shall pay such fees as are described in Schedule 6 promptly when a valid request for payment in respect thereof has been received.

(3) Payment shall be made—

- (a) in the case of the fees described in paragraph (a) (excepting sub-paragraphs (i), (ii), (v) and (ix)) of Schedule 6 in three instalments, and
- (b) in the case of the fees described in paragraph (a)(ii) of Schedule 6, in four instalments,
- (c) in the case of the fees described in paragraph (a)(ix) of Schedule 6, in one, two or three instalments depending on whether the final year of the course is ordinarily required to be

completed before the first, second or third respectively of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year. and

- (d) in the case of the fees described in paragraph (b) of Schedule 6 in three instalments, but if the final year of the course is ordinarily required to be completed before the first or second of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year, in one or two instalments respectively.

(4) The instalments referred to in paragraph (3) shall be paid—

- (a) after the first dates on which the student is required to attend his course after 1st January, 1st April, 1st July and 1st September respectively, beginning with a payment after the first date on which he is required to attend after the beginning of the year of the course, and continuing with payments after the next such first dates on which he is required to attend, until all the instalments which are payable for the year have been paid; and
- (b) in the case of the instalments referred to in paragraph (3)(a), and when the academic year of the course begins in the autumn, on or before 10th December in the case of the first instalment, on or before 15th February in the case of the second instalment and on or before 31st May in the case of the third instalment or within one month of the receipt by the board of a valid request for payment, whichever is the later.

(5) Subject to paragraph (6) no fees shall be payable when the student has ceased to attend his course (whether or not the academic authority has been so notified) but has not completed it.

(6) Notwithstanding paragraph (5) when instalments are payable under paragraph (4)(b) the first, second or third instalment shall be payable if the student was attending the course on 15th November, 15th February or 31st May respectively.

(7) All payments shall be made to the student, except—

- (a) payment of the fees described in Schedule 6 may be made to the academic authority; and
- (b) where a student's maintenance requirements include any of the requirements referred to in paragraph 10 Part II of Schedule 7, on his written instruction payment in respect of his maintenance grant maybe made to a third party.

(8) Without prejudice to regulation 20 or the recovery of an overpayment by way of a deduction from a subsequent payment, any overpayment or underpayment made in pursuance of this regulation shall be adjusted by payment between the student or, as the case may be, the academic authority and the board.

### **Discretionary payments**

**19.**—(1) In respect of any period during which the student repeats any part of his course, the board shall not be required to make any payments under regulation 12(i)(a) or (b) but may pay in pursuance of the award such amounts (if any) as it considers appropriate, being amounts not exceeding the amount of any payments that would, apart from this regulation, be payable to that student in respect of that period.

(2) Paragraph (3) shall apply in the case of a student who has previously attended a course of higher education being—

- (a) in the case of a specified course, a course of up to two academic years' duration; or
- (b) in the case of a course other than a specified course, a course of two academic years' duration (excluding any periods of unpaid service or research or of practice, undertaken as part of the course of the kinds mentioned in paragraph (a) in the definition of "periods of experience" in regulation 3(1) and, in the case of a sandwich course, periods of experience), and holds an award made in respect of a course listed in paragraph 1, 2, or 5 of Schedule 3, being a course ordinarily of a duration of more than one year.

(3) A board shall only be required to make payments under regulation 12(1)(a) or (b) in pursuance of an award in respect of a course listed in paragraph 1, 2, or 5 of Schedule 3 to a student who is referred to in paragraph (2), where—

- (a) that course is ordinarily of a duration of two years or less, in respect of the final year of that course;
- (b) that course is ordinarily of a duration of more than two years, in respect of the years (other than the first two years) of that course.

(4) In respect of the period of a course listed in paragraph 1, 2, or 5 of Schedule 3 in relation to which the board is not, under paragraph (3), required to make payments, the board may make such payments as it considers appropriate, not exceeding those payments which would, apart from paragraph (3), have been payable under regulation 12(1)(a) or (b).

(5) In this regulation—

- (a) “the ordinary duration of a course” means the period ordinarily required for the completion thereof by a student who is not excused from attending part thereof by reason of his attendance at a previous course (excluding any periods of unpaid service or research or of practice undertaken as part of the course of the kinds mentioned in paragraph (a) in the definition of “periods of experience” in regulation 3(1) and, in the case of a sandwich course, periods of experience);
- (b) “the first two years of a course” means, in the case of a student who is excused from attending part of that course by reason of his attendance at a previous course, the two years of that course following upon the period in respect of which the student is excused from attending that course.

### **Withholding and reduction of payments**

**20.**—(1) Without prejudice to paragraph 4(2) of Schedule 4 in the case of any student who is for the time being in default of any requirement to provide such information as is described in regulation 14, the board may withhold, in part, any payment due to him in respect of maintenance and calculated in accordance with regulation 13, 15 or 16.

(2) In respect of any period—

- (a) after the termination of an award;
- (b) during which a student is excluded by the academic authority from attendance at the course; or
- (c) during which a student is absent without leave from his course,

any payment otherwise due in pursuance of the award shall be reduced by the aggregate amount mentioned in paragraph (4).

(3) In respect of any other period being—

- (a) a period during which a student is absent from his course (other than a period of not more than 28 days due to illness); or
- (b) where an award held in respect of one course is transferred in pursuance of paragraph 1(1) of Schedule 4 so as to be held in respect of another course, a period during which the student is not required to attend either course (other than the period of a single vacation); or
- (c) a period during which the student is detained in pursuance of an order made by any court,

the board may reduce any payment otherwise due in pursuance of the award by such amount, not exceeding the aggregate amount mentioned in paragraph (4), as having regard to all relevant circumstances it considers appropriate.

(4) The amount referred to in paragraphs (2) and (3) is the aggregate of—

- (a) fees otherwise due that are not payable by reason of the student's non-attendance; and
- (b) the appropriate proportion of the balance of any amount in respect of maintenance payable for a year in pursuance of regulation 12(1)(b).

Sealed with the Official Seal of the Department of Education on

4th January 1995.

*Robson Davison*  
Assistant Secretary

## SCHEDULE 1

Regulation 3(3)(a)

### Training programmes

1. The Training Opportunities Programme, the Youth Opportunities Programme, the Youth Training Scheme of the Manpower Services Commission or the Training Commission as the case may be or any scheme run by the Training and Enterprise Councils or the local Enterprise Companies.
2. The Youth Training Programme of the Department of Economic Development and the Department of Education.
3. Other training programmes provided by the Department of Economic Development.

## SCHEDULE 2

Regulations 6, 7, 9 and 11

### PERSONS

Regulations 6(1), 7 and 9

## PART I

### Specified persons and excluded persons

1. A person—
    - (a) who attends a specified course during an academic year beginning after 31st August 1994; and
    - (b) who has been—
      - (i) resident on the relevant day in the area of a board and ordinarily resident in the British Islands throughout the three years immediately preceding the first year of the specified course; or
      - (ii) in the case of a person entitled to the payment of an award by virtue of Article 7(2) or (3) or 12 of the Council Regulation ordinarily resident in the European Economic Area throughout the three years immediately preceding the first year of the specified course; and
    - (c) to whom an award has not been made under these Regulations or previous awards regulations by the board in respect of the specified course; and
    - (d) who, if he has previously attended a course of higher education, has attended such a course which was provided by a college listed in Schedule 5.
- Regulations 6(1) and 9

## PART II

### Excluded persons

2. A person who—
  - (a) has, in the opinion of the board, by his conduct shown himself unfitted to hold an award;
  - (b) has, subject to paragraph 1(d), regulation 8(3) and regulation 9(2), previously attended a first degree course,

- (c) has previously attended one or more than one course of higher education and the aggregate duration of such course or courses which he has attended (excluding any periods of unpaid service or research or of practice undertaken as part of the student's course of the kinds mentioned in paragraph (a) in the definition of "periods of experience" in regulation 3(1) and, in the case of a sandwich course, periods of experience), exceeds two academic years, unless the course which he previously attended or successfully completed was such as is mentioned in paragraph 1(d).

3. Subject to regulation 8(3) the board shall not be under a duty to make an award to any person in respect of his attendance at any course for the Diploma of Higher Education or course for the Higher Diploma if he has previously attended any other course defined in regulation 3(1).

### SCHEDULE 3

Regulations 3(i), 10, 19(2), (3) and (4)

#### Specified courses

1. A first degree course.
2. A course for the postgraduate certificate in education.
3. A course for the Diploma of Higher Education.
4. A course for the Higher Diploma.
5. A course comparable to a first degree course.

### SCHEDULE 4

Regulations 11, 12(1), and (2), 20(i) and (3)  
(b)

#### Terms and conditions

##### *Transfer of awards*

1.—(1) An award shall be transferred by the board at the request of the student so as to be held in respect of attendance at a course other than that in respect of which it is held where—

- (a) subject to sub-paragraphs (2) and (3), on the recommendation of the academic authority, the student commences to attend at the institution at a specified course other than the one in respect of which the award is held;
- (b) subject to sub-paragraphs (2) and (3), with the written consent given on educational grounds of the academic authorities of both institutions concerned, the student commences to attend at a specified course at another institution;
- (c) subject to sub-paragraph (4), after commencing a course for the Certificate in Education, the student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;
- (d) subject to sub-paragraph (4), after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education; or
- (e) after commencing a course for a first degree (other than an honours degree) the student is, before the completion of that course, admitted to a course for an honours degree in the same subject or subjects at the institution.

- (2) An award shall not be transferred in pursuance of sub-paragraph (1)(a) or (b) unless either—
- (a) the requisite recommendation or consent is given not later than four months after the end of the first year of the course in respect of which the award was originally made; or
  - (b) the board is satisfied, after consulting the academic authority concerned, that the fact that the requisite recommendation or consent is given after the expiry of the period specified in head (a) is due only to the need to apply through a clearing admissions system; or
  - (c) the board is satisfied, after consulting the academic authority concerned, that the period which the student will ordinarily require to complete the course to which the request for transfer of award relates will expire not later than the period which he would now so require for the completion of the course in respect of which the award is held, ignoring—
    - (i) in each case, periods of experience which are part of a sandwich course; and
    - (ii) in the case of the course in respect of which the award is held, any period during which the student would now be required by the academic authority concerned to repeat part of the course, if the board would not make any payment for maintenance in respect of that period under regulation 19(1).
- (3) A board may refuse to transfer an award if, after consulting the academic authority concerned, it is satisfied that when the student requested such transfer he did not intend to complete the course in respect of which the award was originally made.
- (4) An award shall not be transferred in pursuance of sub-paragraph (1)(c) or (d) so as to be held in respect of his attendance at a course for the degree of Bachelor of Education if the period which the student in question would ordinarily require for the completion of that course, when aggregated with the period for which the student has already pursued a course in respect of which the award was held, exceeds—
- (a) five years where the award would be held in respect of a course for the honours degree of Bachelor of Education; or
  - (b) four years where the award would be held in respect of a course for that degree not being an honours degree; so, however, that where the student has pursued a part-time course, for the purposes hereof account shall only be taken of that proportion of the period for which he pursued that course which the period ordinarily required to complete the full-time course equivalent to the part-time course bears to the period so required to complete the part-time course.
- (5) For the purposes of the duty of a board to transfer an award in pursuance of sub-paragraph (1)(c) or (d) it shall be immaterial whether or not the two courses are provided by the same institution.

*Conditions relating to applications*

- 2.—(1) Subject to sub-paragraphs (2) and (3), an award shall be subject to the conditions that—
- (a) an application in respect thereof shall be made in writing and shall reach the board not later than four months after the date of the beginning of the year of the course; and
  - (b) the applicant furnishes the board with a written undertaking that, where provisional or other payments made in pursuance of the award in respect of a year exceed (for whatever reason) the amount of the award payable in respect of that year, he will, if called upon so to do, repay the excess amount; and
  - (c) the applicant if so required by the board will provide it from time to time with such information as it may consider necessary for the exercise of its functions under Part 11 of these Regulations.
- (2) An application shall be treated as having reached the board as required by sub-paragraph (1)(a) where—

- (a) to the knowledge of the board the application has so reached another board;
  - (b) where, not later than four months after the date of the beginning of the course that course has not become a specified course and the application reaches the board not later than four months after the date on which that course becomes a specified course;
  - (c) in the case of a refugee, or the spouse or child of a refugee, the application reaches the board not later than four months after the date on which the refugee was recognised as a refugee; or
  - (d) where, having regard to the circumstances of the particular case, the board considers it should be so treated.
- (3) Where the applicant is a minor, any reference in sub-paragraph (1)(b) to the applicant shall be construed as including his parent.

#### *Termination and extension of awards*

3.—(1) Subject to sub-paragraphs (2) to (4), an award shall terminate on the expiry of the period ordinarily required to complete the course in respect of which it is made or to which it is transferred in pursuance of paragraph 1(1).

(2) If the academic authority refuses to allow the student to complete his course, the board shall terminate the award forthwith.

(3) If the student does not complete his course within the period ordinarily required, the board—

- (a) may extend the award until he has completed the course; and
- (b) shall extend the award for a period equivalent to any period in respect of which it has made any payment under regulation 19(1).

(4) The board may extend an award to enable a student to follow an associated course of study during or at the end of the course in respect of which he holds an award.

(5) The board may, after consultation with the academic authority, terminate an award if it is satisfied that the student has either—

- (a) abandoned the course in respect of which he holds the award and the award does not fall to be transferred in pursuance of paragraph 1(1); or
- (b) shown himself by his conduct to be unfitted to hold an award.

#### *Supplementary provisions*

4.—(1) If, after consultation with the academic authority concerned, a board is of the opinion that the attendance, conduct or progress of a student in relation to a course is not satisfactory, it may suspend or terminate an award held by him in respect of that course, or withhold or reduce any payment normally due in respect of that award.

(2) If, in the case of a student who is required to provide information in accordance with paragraph 2(1)(c), the board is satisfied that he has wilfully failed to comply with any such requirement or has provided information which he knows to be false in a material particular, or has recklessly provided information which is false in a material particular, the board may terminate the award or withhold any payments due under the award as it sees fit.

## SCHEDULE 5

Paragraph 1(d) of Schedule 2

Colleges providing long-term residential courses of full-time education for adults

Institute of Continuing Education of the University of Ulster, Magee University College, Londonderry.

Co-operative College, Loughborough.

Fircroft College, Birmingham.

Hilleroft College, Surbiton.

Northern College, Barnsley.

Plater College, Oxford.

Ruskin College, Oxford.

Coleg Harlech, Harlech.

## SCHEDULE 6

Regulations 12(i)(a), 17(1)(a) and 18(2), (3) and (7)

## Fees

The fees referred to in regulation 12(1)(a) are—

(a) the aggregate of any fees for admission, registration or matriculation (including matriculation exemption), any sessional or tuition fees, any composition fee, any graduation fee and in the case of a course referred to in paragraph (v), any fee in respect of the validation of the course (in each case excluding any element thereof representing or attributable to any such fee as is mentioned in the following sub-paragraphs or to maintenance) subject to the following maxima:

- (1) in the case of a course not covered by any other sub-paragraph, £250 in respect of each instalment;
- (2) in the case of a course with a substantial laboratory or workshop component, or a course leading to the Postgraduate Certificate in Education, or the pre-clinical elements of courses in medicine, dentistry and veterinary science, £534 in respect of the first and second instalments and £532 in respect of the third instalment;
- (3) in the case of the clinical training elements of courses in medicine, dentistry and veterinary science, £934 in respect of each of the first and second instalments and £932 in respect of the third instalment;

Provided the said maximum fees shall be—

- (i) for courses undertaken at an institution in the Republic of Ireland, £1,855 in respect of a course which is not covered by any other sub-paragraph, £2,770 in respect of a course covered by sub-paragraph (2) of paragraph (a) and a maximum of £4,985 in respect of a course covered by sub-paragraph (3) of that paragraph;
- (ii) in the case of a course at the University of Buckingham, £525 in respect of each of the four instalments;
- (iii) in the case of a part-time course leading to the Postgraduate Certificate in Education, or a part-time course of initial teacher training with a substantial laboratory or workshop component, £267 in respect of the first and second instalments, £266 in respect of the third instalment and in the case of a course of initial teacher training without such a component, unless the course is partly full-time and involves more than 10 weeks full-time attendance in the relevant year, £125 in respect of each instalment;

- (iv) in the case of a full-time course at the Union Theological College, Belfast, the Edgehill College, Belfast, the Irish Baptist College, Belfast, or the Belfast Bible College, Belfast, for the degrees of Bachelor of Divinity, Bachelor of Theology or the Diploma in Theology of Queen's University, Belfast, £618 in respect of each of the first and second instalments and £619 in respect of the third instalment;
- (v) subject to sub-paragraphs (vi) and (vii), in respect of courses at institutions which are neither maintained nor assisted by grants paid out of public funds, £840 for each academic year;
- (vi) the following amounts in respect of courses at the following institutions—

	<i>for the 1st instalment</i>	<i>for the 2nd instalment</i>	<i>for the 3rd instalment</i>
Guildhall School of Music	£1,071	£1,071	£1,071
Heythrop College	£530	£530	£530;

- (vii) in the case of a course at the Royal Agricultural College commencing in the academic year 1989-90 or 1990-91 only, £618 in respect of each of the first and second instalments and £619 in respect of the third instalment;
  - (viii) in respect of any academic year of a sandwich course during which one or more periods of experience is undertaken but any periods of full-time study are in aggregate less than 10 weeks, £125 in respect of each instalment in the case of a course covered by sub-paragraph (1) and £267 in respect of each of the first and second instalments and £266 in respect of the third instalment in the case of a course covered by sub-paragraph (2);
  - (ix) in respect of the final year of any course covered by this paragraph (other than one covered by head (v)) which is ordinarily required to be completed before the first, the second or in the case of a course covered by head (ii), the third of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year, the amount which would be payable in respect of the first, the first two, or the first three instalments respectively if this paragraph did not apply;
- (b) college fees or dues at the universities of Cambridge, Durham, Kent, Lancaster, Oxford and York (excluding any element thereof representing or attributable to any such fee as is mentioned in sub-paragraph (c) or to maintenance);
- (c) any fees charged by an external body in respect of examinations or the validation of the course or otherwise charged by such a body whose requirements must (for the purposes of the course) be satisfied, or any fees attributable to fees so charged, but in the case of fees in respect of the validation of the course, only where the fees are charged by a body which does not have the power to award a degree or by the University of Buckingham.

SCHEDULE 7

Regulations 13(1)(a), 13(3),15(2) and  
17(1)(b)

MAINTENANCE REQUIREMENTS

PART I

Ordinary maintenance

1.—(1) The requirements of the student referred to in regulation 13(i)(a) shall include his requirement for ordinary maintenance during—

- (a) any period while he is attending the course; and
- (b) the Christmas and Easter vacations;

and the amount of such requirement (“ordinary maintenance requirement”) shall be determined in accordance with this Part.

(2) Where a student’s ordinary maintenance requirements are different in respect of different parts of a year, his ordinary maintenance requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

2.—(1) This paragraph shall apply in the case of—

- (a) any student who, on the recommendation of the academic authority, resides in the institution or in a hostel or other accommodation administered by the academic authority;
- (b) any independent student or married student who does not reside at his parents' home;
- (c) area other student who does not reside at his parents' home, except where he can in the opinion of the board conveniently attend the course from his parents' home and the board, after consultation with the academic authority, considers that in all the circumstances the ordinary maintenance requirement specified in paragraph 3(2) would be appropriate; and
- (d) any student residing at his parents' home whose parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him and in respect of whom the board is satisfied that in all the circumstances the ordinary maintenance requirements specified herein would be appropriate.

(2) In the case of such a student the ordinary maintenance requirement shall be £2,040 except that—

- (a) where he is attending a course at the University of London or at an institution within the area comprising the City of London and the metropolitan police district, it shall be £2,560;
- (b) where he is attending, for at least eight weeks and as a necessary part of his course, an overseas institution, it shall (notwithstanding anything in paragraph (a)) be—
  - £3,485 if that country is a highest-cost country;
  - £2,990 if that country is a higher-cost country;
  - £2,510 if that country is a high-cost country; and
  - £2,040 in any other case.

3.—(1) This paragraph shall apply in the case of any other student, that is to say, in the case of—

- (a) a student residing at his parents' home, except where the conditions specified in paragraph 2(i)(d) are satisfied;
- (b) a student whose case falls within the exception to paragraph 2(1)(c).

- (2) In the case of such a student the ordinary maintenance requirement shall be £1,615.

## PART II

### Supplementary maintenance, etc.

4. The requirements referred to in regulation 13(i)(a) shall include the student's requirements—
- (a) for supplementary maintenance in the cases and for the periods mentioned in paragraphs 5 and 6; and
  - (b) in respect of such expenditure as is mentioned in paragraphs 7 to 10,

and the amount of any such requirement ("supplementary requirement") shall be determined in accordance with this Part.

5.—(1) This paragraph shall apply in the case of a student who having, in any academic year, attended his course—

- (a) in the case of a course provided at the University of Oxford or the University of Cambridge, for a period of 25 weeks 3 days; or
- (b) in the case of any other course, for a period of 30 weeks 3 days,

in that year attends a course so provided, for a further period ("the excess period").

(2) In respect of each week and any part of a week comprised in the excess period the supplementary requirement shall be—

- (a) in the case of a student residing at his parents' home, £38·90
- (b) in the case of any other student, £55·45 except that—
  - (i) where he is attending a course at the University of London or at an institution within the area comprising the City of London and the metropolitan police district, it shall be £74·05
  - (ii) where he is attending, for at least eight weeks and as a necessary part of his course, an overseas institution, it shall (notwithstanding anything in sub-paragraph (i)) be—
    - £103·60 if that country is a highest-cost country;
    - £87·80 if that country is a higher-cost country;
    - £71·90 if that country is a high-cost country; and
    - £56·00 in any other case.

6.—(1) This paragraph shall apply in the case of a student who attends at his course for a period of not less than 45 weeks in any continuous period of 52 weeks.

(2) In respect of each aggregate period of a complete week for which he does not attend his course in the period of 52 weeks, the student's supplementary requirement shall be determined in accordance with paragraph 5(2).

- 7.—(1) This paragraph shall apply in the case of a student who is obliged to incur expenditure—
- (a) within the United Kingdom for the purpose of attending the institution;
  - (b) within or outside the United Kingdom, for the purpose of attending as part of his course, any period of study at an overseas institution.

(2) The reference in sub-paragraph (1)(a) to the student attending the institution shall be construed

- (a) in the case of any institution which is a constituent college, hall or school (including medical school) of a university or is a university with such constituent institutions, as including a reference to his attending, in connection with his course, any constituent institution of the university; and
  - (b) in the case of a student attending a course in medicine, dentistry or nursing, a necessary part of which is a period of study by way of clinical training, as including a reference to his attending, in connection with his course but otherwise than for the purposes of residential study away from the institution, any hospital not comprised therein at which facilities for clinical training are provided.
- (3) For the purposes of sub-paragraph (5)—
- (a) a student's total travel expenditure is the aggregate amount of expenditure he is obliged to incur for any purpose specified in sub-paragraph (1);
  - (b) a student's special expenditure is the aggregate amount of expenditure he is obliged to incur for the purposes specified in sub-paragraph (1)(b), for the purpose of such attendance as is referred to in sub-paragraph (2)(b), and, in the case of a disabled student, for any other purpose specified in sub-paragraph (1) if it is expenditure which the board is satisfied the student would not have incurred but for his disability:

Provided that, where a period of study outside the United Kingdom (whether or not at an overseas institution) is not a necessary part of the student's course, so much of his expenditure for the purpose of attending that period of study as—

- (a) was incurred outside the United Kingdom; or
- (b) was incurred within the United Kingdom but is in respect of a journey between a port or airport within and a place outside the United Kingdom, or is in respect of a benefit to be enjoyed outside the United Kingdom,

shall not be treated as part of the student's total travel expenditure or special expenditure.

- (4) For the same purposes as aforesaid, the following amounts shall be disregarded—
- (i) £149 of any requirement under paragraph 2;
  - (ii) £231 of any requirement under paragraph 3;
  - (iii) £7·70 of any requirement under paragraph 5(2)(a);
  - (iv) £4·90 of any requirement under paragraph 5(2)(b):

Provided that—

- (a) where regulation 16(3) applies, the amount to be disregarded shall be £106; and
  - (b) where a student's requirements under paragraph 2 or 3 relates to only part of the year, the said proportion shall be deemed to be an equivalent part of £149 or £231 as the case may be.
- (5) The student's supplementary requirement in respect of such expenditure as is referred to in sub-paragraph (1) shall comprise either—
- (a) his special expenditure; or
  - (b) the amount by which his total travel expenditure exceeds the amounts specified in sub-paragraph (4),

whichever is the less.

(6) For the purposes of this paragraph a reference to expenditure incurred for the purpose of attending an institution, establishment or period of study includes expenditure incurred both before and after so attending.

8.—(1) This paragraph shall apply in the case of a student whose home is for the time being outside the United Kingdom and who incurs expenditure travelling between his home and the institution at the beginning and end of each period of study so appointed by that institution for instruction and study thereat.

(2) In determining the supplementary requirement of such a student under paragraph 7, the board shall treat such amount of the said expenditure as it considers appropriate (having regard to the extent of that requirement apart from this paragraph), not exceeding the amount the student was obliged to incur, as if it were part of the student's total travel expenditure.

9.—(1) This paragraph shall apply in the case of a student who 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 a period of study outside the United Kingdom.

(2) The student's supplementary requirement in respect of such expenditure shall be the amount reasonably incurred.

10.—(1) This paragraph shall apply in the case of a disabled student where the board is satisfied that, by reason of his disability, he is obliged to incur additional expenditure in respect of his attendance at the course, other than expenditure for a purpose specified in paragraph 7(1).

(2) The student's supplementary requirement in respect of a non-medical personal helper shall be such amount as the board considers appropriate not exceeding £4,730.

(3) The student's supplementary requirement in respect of major items of specialised equipment shall be such amount as the board considers appropriate not exceeding £3,560 in total for the duration of his course.

(4) The student's supplementary requirement in respect of any other additional expenditure including expenditure incurred for the purposes specified in sub-paragraphs (2) and (3) which exceeds the maxima specified therein shall be such amount as the board considers appropriate not exceeding £1,185.

### PART III

#### Maintenance of dependents

11.—(1) The requirements referred to in regulation 13(i)(a) shall include the student's requirements for the maintenance of dependents during the year and the amount of any such requirement ("dependents' requirement") shall be determined in accordance with this Part.

(2) Where a student's requirements for the maintenance of dependents are different in respect of different parts of a year, his dependents' requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

12.—(1) In this Part—

"adult dependent" means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse or his former spouse, subject however to sub-paragraphs (2) and (3);

"child", in relation to a student, includes a person whether under or over compulsory school age, an illegitimate child, a person adopted in pursuance of adoption proceedings, a step-child and any child whose guardian or custodian the student is and who is dependent on him;

"dependent" means, in relation to a student, his dependent child, his spouse or an adult dependent, subject however to sub-paragraphs (2) and (3);

“income” means income for the year from all sources (reduced by income tax and social security contributions) but disregarding child benefit, any attendance allowance under sections 64 to 67 or disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, or any mobility supplement or constant attendance allowance provided for in an order made under section 12(i) of the Social Security (Miscellaneous Provisions) Act 1977(22) and in the case of a student’s spouse, less—

- (a) where the spouse holds an award in respect of a course of teacher training specified in paragraph (c) in the definition of “course of initial teacher training” in regulation 3(i), being a part-time course or a course which is partly full-time and partly part-time, the payments in respect of maintenance made to the spouse in pursuance of regulation 12(1)(b) or so much of those payments as relates to the part-time part of the course;
- (b) where the spouse or the student makes any payment which was previously made by the student in pursuance of an obligation incurred before the first year of his course—
  - (i) if, in the opinion of the board, the obligation had been reasonably so incurred, an amount equal to the payment in question;
  - (ii) if, in its opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to it appropriate; and
- (c) any allowance payable to the spouse by an adoption agency in accordance with the Adoption (Northern Ireland) Order 1987(23);
- (d) where a child in the care of the Department of Health and Social Services or a Health and Social Services Board is boarded out with the spouse, any payment made to the spouse in pursuance of section 114(1) of the Children and Young Persons Act (Northern Ireland) 1968(24); and
- (e) any guardian’s allowance to which the spouse is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“relevant award” means a statutory award in respect of a person’s attendance at a full-time course of higher education or a comparable course outside Northern Ireland;

“spouse”, except in the definition of adult dependent, shall not include a student’s spouse if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court.

(2) A person, including the student’s spouse, shall not be treated as a dependent of the student during any period for which that person—

- (a) holds a relevant award; or
- (b) (save for the purposes of paragraph 15) is ordinarily living outside the United Kingdom.

(3) A person shall not be treated as a student’s adult dependent or as his dependent child—

- (a) in the case of a person other than a child of the student, if his income exceeds by £800 or more the sum specified in paragraph 13(4)(a);
- (b) in the case of a child of a student who either has a spouse who is, or but for subparagraph (2) would be, his dependent or has an adult dependent, if the child’s income exceeds by £800 or more the sum specified in paragraph 13(4)(b) and applicable to his age;
- (c) in the case of a child of a student not falling within head (b), if either—

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(22) 1977 c. 5. The relevant order currently in force is the Naval, Military and Air Forces, Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883 amended by S.I. 1983/1116 and 1521, 1984/1154 and 1687, 1985/1201, 1986/592, 1987/165, 1988/248 and 2248, 1989/156, 1990/250 and 1308, 1991/766, 1992/710 and 3208, 1993/598 and 1994/772 and 1906)

(23) S.I. 1987/2203 (N.I. 22)

(24) 1968 c. 34 (N.I.)

- (i) the child is the only or eldest child dependent on the student whose income exceeds by £800 or more the sum specified in paragraph 13(4)(a); or
- (ii) the child's income exceeds by £800 or more the sum specified in paragraph 13(4)(b) and applicable to his age.

13.—(1) This paragraph shall apply in the case of all students with dependents.

(2) Subject to paragraphs 14 and 15, the dependents requirement of the student shall be—

- (a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependents' requirement, one half of the amount determined in accordance with sub-paragraphs (3) and (4);
- (b) in any other case, the whole of the amount so determined.

(3) The amount referred to in sub-paragraph (2) shall be the amount which is  $X - (Y - Z)$  where—

- (a) X is the aggregate of the relevant sums specified in sub-paragraph (4);
- (b) Y is the aggregate of the income of the student's dependents;
- (c) Z is so much of the sum ascertained by multiplying £800 by the number of his dependents as does not exceed Y.

(4) The relevant sums referred to in sub-paragraph (3) are—

- (a) except where the student has a spouse who is the holder of a relevant award, £1,820;
- (b) in respect of each dependent child—
  - (i) under the age of 11 years immediately before the beginning of the academic year, or born during that year, £385;
  - (ii) then aged 11 years or over, but under 16, £765;
  - (iii) then aged 16 years or over but under 18, £1,010;
  - (iv) then aged 18 years or over, £1,460,34

except that the only or eldest dependent child shall be disregarded for the purposes hereof if the student has neither an adult dependent nor a spouse who is, or but for paragraph 12(2) would be, a dependent.

14.—(1) This paragraph shall apply in the case of a student with dependents who maintains a home for himself and a dependent at a place other than that at which he resides while attending the course.

(2) The student's dependents requirement (determined in accordance with paragraph 13(2)(a) or (b)) shall be increased by £635.

15.—(1) This paragraph shall apply in the case of a student who maintains a dependent outside the United Kingdom.

(2) Notwithstanding anything in the foregoing paragraphs of this Part, the student's dependents requirement shall be such amount, if any, as the board considers reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.

## PART IV

### Older students

16.—(1) In this Part, any reference to any provision of any of the Tax Acts passed before the Income and Corporation Taxes Act 1988<sup>(25)</sup> shall, in respect of a financial year ending after 5th April 1988, be construed as a reference to the corresponding provision of that Act in so far as that Act is applicable.

(2) This Part shall apply in the case of a student who attained the age of 26 years before the first year of the course in respect of which his award was originally made and—

- (a) has, where his course started before 1st September 1986, been in full-time employment for a total of three of the six years immediately preceding that year;
- (b) has, where his course started after 31st August 1986, in the three years immediately preceding that year earned or received by, way of such fit or income support as is chargeable to income tax under respectively section 219 of the Income and Corporation Taxes Act 1997<sup>(26)</sup> of the Finance Act 1981<sup>(27)</sup> or 1987<sup>(28)</sup> sums totalling at least £12,000; or
- (c) held an award in respect of his attendance at a previous course and—
  - (i) where the previous course started before 1st September 1986 was in full-time employment as aforesaid immediately preceding the first year of that previous course;
  - (ii) where the previous course started on or after 1st September 1986 had earned or received such sums as are mentioned at sub-paragraph (b) in the three years immediately preceding the first year of that previous course; or
  - (iii) was a person to whom an older student's allowance was paid under previous awards regulations.

17. In relation to a student to whom this Part applies, the requirements referred to in regulation 13(1)(a) shall, in addition to the ordinary maintenance requirement, include where at the beginning of the first year of his course—(a) he was aged 26 years, the sum of £300;

- (b) he was so aged 27 years, the sum of £535;
- (c) he was so aged 28 years, the sum of £800;
- (d) he was so aged 29 or more years, the sum of fl,045.

## PART V

### Interpretation of Parts I to IV

18. In this Schedule—

- (a) A reference to the home of the student's parents shall be construed, in the case of a student whose spouse attends a full-time course at any institution, as including a reference to the home of the parents of the student's spouse; and
- (b) A reference to a requirement, expenditure or attendance in respect of which no period of time is specified shall be construed as a reference to a requirement, expenditure or attendance for the year.

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(25) 1988 c. 1  
 (26) 1970 c. 10  
 (27) 1981 c. 35  
 (28) 1987 c. 16

19.—(1) For the purposes of this Schedule, attendance at an institution or the undertaking of a period of study is a necessary part of a student's course only where the board is satisfied that if the student did not attend the institution or undertake the period of study, he would not be eligible to complete his course and, for the purpose of being so satisfied, the board may require the matter to be evidenced by a certificate given by the academic authority.

(2) For the purposes of this paragraph, "institution" includes an "overseas institution".

## SCHEDULE 8

Regulations 13(1)(b)13(3) and 15(2)

### RESOURCES

#### PART I

##### Student's income

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

1.—(1) In calculating the student's income for the purposes of regulation 13(1)(b) there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, but there shall be disregarded the following resources—

- (a) the first £800 of any income other than income of a kind mentioned in the following provisions of this sub-paragraph and other than any sum treated as income under sub-paragraph (3);
- (b) the first £3,865 of any income by way of—
  - (i) an award made to the student in respect of the course (in pursuance of a sponsorship scheme or otherwise) not being an award made in pursuance of Article 50 or 51; and
  - (ii) in the case of a student released by his employer to attend the course, any payments made by that employer;
- (c) in the case of a student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)—
  - (i) the whole of that income or those payments if a parental contribution ascertained in accordance with Part 11 or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount including nil that contribution is ascertained to be), or
  - (ii) the first: £1,810 of that income or those payments if such a contribution would be applicable but for the fact that the student has no parent living or is such a student as is described in paragraph 3(b), (c), (d) or (e);
- (d) any disability pension not subject to income tax;
- (e) any income received as a reservist with the armed forces or in the Royal Irish Regiment or in the Royal Ulster Constabulary Reserve;
- (f) remuneration for work done during any year of the student's course;
- (g) in the case of a student in whose case a parental contribution is by virtue of Part 11 applicable (at whatever amount including nil that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;

- (h) any payment made for a specific educational purpose otherwise than to meet such fees and such requirements for maintenance as are specified in Schedules 6 and 7;
  - (i) child benefit;
- (j) any income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or any transitional addition, personal expenses addition or special transitional addition payable under Part III of the Income Support (Transitional) Regulations (Northern Ireland) 1987(29);
- (k) any attendance allowance under sections 64 to 67 or disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, or any mobility supplement or constant attendance allowance provided for in an order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(30);
- (l) any housing benefit granted to him in pursuance of a scheme under section 122(i)(d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(31) or a scheme under Part VII of the Social Security Contributions and Benefits Act 1992(32);
- (m) in the case of a student with whom a child in the care of the Department of Health and Social Services Board is boarded out, any payment made in pursuance of section 14(i) of the Children and Young Persons Act (Northern Ireland) 1968(33);
- (n) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (o) any payments made to the student under the action programme of the European Community in Education and Training for Technology known as COMETT(34);
- (p) any payments made to the student under the action scheme of the European Community for the Mobility of University Students known as ERASMUS(35) or the European Community programme for foreign language competence known as LINGUA(36);
- (q) the first £3,030 of any pension other than one of the kind mentioned at sub-paragraph (d), however described, and including any such pension paid to the student as a widow, child or dependent;
- (r) any payment made to the student in pursuance of the Education (Student Loans) (Northern Ireland) Order 1990(37);
- (s) any payment made to the student out of access funds held by the institution at which he attends his course.

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(29) S.R. 1987 No. 460; Part III was amended by S.R. 1988 Nos. 132 and 153, S.R. 1989 No. 371 and 485, S.R. 1991 No. 341, S.R. 1992 No. 284 and S.R. 1993 No. 150

(30) 1977 c. 5. The relevant order currently in force is the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883 amended by S.I. 1983/1116 and 1521, 1984/1154 and 1687, 1985/1201, 1986/592, 1987/165, 1988/248 and 2248, 1989/156, 1990/250 and 1308, 1991/766, 1992/710 and 3208, 1993/598 and 1994/772 and 1906)

(31) 1992 c. 7; the scheme under section 122(1)(d) is currently constituted by the provisions of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 461 as amended by S.R. 1988 Nos. 117, 186, 314 and 424, S.R. 1999 Nos., 125, 260, 366 and 408, S.R. 1990 Nos. 33, 136, 137, 297, 305, 345, 398 and 442, S.R. 1991 Nos. 47, 176, 204, 337 and 520, S.R. 1992 Nos. 6, 35, 85, 141, 201284, 298, 404, 435, 444 and 549, S.R. 1993 Nos. 145, 149, 195, 218, 233, 373, 381 and 414 and S.R. 1994 Nos. 65, 74, 80, 81, 88, 137, 233, 266 and 274)

(32) 1992 c. 4; the scheme under Part VII is currently constituted by the provisions of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) as amended by S.I. 1988/661, 909, 1444 and 1971, S.I. 1989/416, 566 and 1017 S.I. 1990/127, 546671, 1549, 1657, 1775 and 2564, S.I. 1991/235, 1175, 1599, 2695 and 2742, S.I. 1992/50, 201, 432, 1101, 1326, 1585, 2148 and 3147, S.I. 1993/317, 349, 518, 963, 1150, 1249, 1540 and 2118 and S.I. 1994/470, 542, 578, 1003, 1608, 1807, 1924 and 2137)

(33) 1968 c. 34 (N.I.)

(34) O.J. No. L222, 8.9.816, p. 17

(35) O.J. No. L166, 25.6.87, p. 20

(36) O.J. No. L239, 16.8.89, p. 24

(37) S.I. 1990/1506 (N.I. II)

(2) In the case of a student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes of regulation 13(i)(b) there shall be deducted therefrom—

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

except that no deduction shall be made from the income of a married student where the student's spouse is a dependent for the purposes of Part III of Schedule 7 and, in pursuance of paragraph 13 thereof, the payment is taken into account in determining the spouse's income.

(3) In a case where the student is the parent or step-parent of an award holder in respect of whom a contribution is ascertained under Part II so much of the amount (if any) by which the contribution is reduced under paragraph 4(4) thereof as the board considers just shall be treated as part of the student's income for the purposes of regulation 13(1)(b).

## PART II

### Parental contribution

#### *Interpretation of Part II*

2.—(1) In this Part—

“child” includes a person whether under or over compulsory school age and a person adopted in pursuance of adoption proceedings and a step-child but, except in paragraph 4, does not include a child who holds a statutory award and, except as otherwise provided by paragraph 5, “parent” shall be construed accordingly;

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

“income of the student's parent” means the total income of the parent from all sources computed as for income tax purposes, except as otherwise provided by paragraph 5 or 6;

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

“total income” has the same meaning as in section 835(1) of the Income and Corporation Taxes Act 1988(38).

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

(3) Where the student's parent satisfies the board that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then if the board and the parent so agree any reference in this Part to financial year shall be construed as a reference to a year ending with such date as appears to the board expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

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

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom;
- (b) the income does not arise in the United Kingdom; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any statutory provision,

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

#### *Application of Part II*

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

- (a) an independent student;
- (b) a student in respect of whom the board is satisfied either—
  - (i) that his parents cannot be found; or
  - (ii) that it is not reasonably practicable to get in touch with them;
- (c) a student who has been in the care of the Department of Health and Social Services or a Health and Social Services Board or in a voluntary home as defined in section 126 of the Children and Young Persons Act (Northern Ireland) 1968<sup>(39)</sup> throughout the three months immediately preceding—
  - (i) the first year of his course; or
  - (ii) without prejudice to head (i), his attaining the age of 18 years where he had attained that age before the first year of his course,
 

and has not, at any time, during the said period of three months been allowed by that Department or that Board to be under the charge and control of his parents or, in the case of a student who has been in a voluntary home, has not, at any time during such period, been under such charge and control;
- (d) a student whose parents are residing overseas where the board is satisfied either—
  - (i) that the assessment of a parental contribution would place those parents in jeopardy; or
  - (ii) that it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
- (e) where sub-paragraph (7) of paragraph 5 applies and the parent whom the board considered the more appropriate for the purposes of that sub-paragraph has died.

#### *Parental contribution*

- 4.—(1) The parental contribution shall, subject to sub-paragraphs (2), (3), and (4) be—
- (a) in any case in which the residual income is £14,845 or more but less than £18,974, £45 with the addition of £1 for every complete £12·00 by which it exceeds £14,845;
  - (b) in any case in which the residual income is £18,974 or more but less than £27,885, £388 with the addition of £1 for every complete £8·55 by which it exceeds £18,974; and
  - (c) in any case in which the residual income is £27,885 or more, £1,431 with the addition of £1 for every complete £6·90 by which it exceeds £27,885,

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<sup>(39)</sup> Section 126 was amended by Part II of Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))

reduced in each case, in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him on the first day of the year for which the contribution falls to be ascertained, by £75; and in any case in which the residual income is less than £14,845 the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall not exceed £5,800 in any case.

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

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

the parental contribution for the student shall be such proportion of any contribution ascertained in accordance with this Part as the board (after consultation with any other board or local education authority in Great Britain concerned) considers just, provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award.

(4) Where in any year a student attends only part of his course the parental contribution for that year shall be reduced pro rata.

#### *Gross income*

5.—(1) For the purposes of this paragraph, “preceding financial year” means the financial year immediately preceding the year in respect of which the resources of the student fall to be assessed (“assessment year”) and “current financial year” means the financial year which includes the first day of that assessment year;

Provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending with a date less than five months before the assessment year, “preceding financial year” shall mean the year ending with a date five or more months before the beginning of that assessment year and “current financial year” shall mean the year ending with a date within those five months.

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

(3) Where the board is satisfied that the income of the parent in the current financial year is likely to be not more than 85 per cent of his income for the preceding financial year, it may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and, in such case, sub-paragraph (2) shall have effect, in relation to the assessment year and if the board so determines, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where—

- (a) one of the student's parents dies either before or during the assessment year; and
- (b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall—

- (a) where the parent dies before the assessment year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the assessment year, be the aggregate of—

- (i) the appropriate proportion of the contribution determined by reference to the income of both parents, that is to say such proportion thereof as the part of the assessment year during which both parents were alive bears to the full year subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 7; and
- (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the assessment year remaining after the parent dies bears to the full year subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 7.

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of sub-sections (1) and (2) of section 32 of the Trustee Act (Northern Ireland) 1958<sup>(40)</sup> or any other statutory provision any income is applied by and person for or towards the maintenance, education or other benefit of the student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any award such as is mentioned in paragraph 1(1)(b)(i) is made by reason of the parent's employment to any member of his family or his household (whether the student or some other such member) who holds a statutory award then, notwithstanding the provisions of section 154 of the Income and Corporation Taxes Act 1988<sup>(41)</sup>, that award shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the assessment year, the parental contribution shall be determined by reference to the income of whichever parent the board considers the more appropriate in the circumstances.

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

- (a) the proportion, which the part of the assessment year for which the parents do not so live together bears to the full year, of the contribution determined in accordance with sub-paragraph (7) subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 7; and
- (b) the proportion, which the part of the assessment year for which the parents so live together bears to the full year, of the contribution determined without regard to sub-paragraph (7) subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 7.

(9) Where the student has a parent and a step-parent, the parental contribution shall be ascertained by reference to the income of the parent.

### *Deductions*

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in so far as in computing his total income for income tax purposes any deductions fall to be made—

- (a) by way of personal reliefs provided for in Chapter I of Part VII or section 280 of the Income and Corporation Taxes Act 1988;
- (b) in respect of any payment made by the parent under covenant;

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<sup>(40)</sup> 1958 c. 23 (N.I.)

<sup>(41)</sup> 1988 C. 1

- (c) in pursuance of any Act passed after the passing of the Finance Act 1987(42) on 15th May 1987; or
  - (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2),
- the parent's income shall be determined as though those deductions did not fall to be made.

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

- (a) in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which £1,875 exceeds the income of that person in that year;
- (b) the gross amount of any sums paid as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent;
- (c) half of the gross amount of any premium payable under a policy of life insurance in respect of which relief is given under section 266 of the Income and Corporation Taxes Act 1988 (life policy and certain other premiums) in the relevant year;
- (d) the gross amount of any other premium or sum in respect of which relief is given under sections 266, 273, 619 or 639 of that Act in the relevant year;
- (e) where the parents ordinarily live together and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,470;
- (f) where a parent whose marriage has terminated either is gainfully employed or is incapacitated so much of the cost in wages of domestic assistance as does not exceed £1,470;
- (g) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the board considers reasonable in all the circumstances;
- (h) in the case of a parent who holds a statutory award, the amount by which the aggregate of his requirements for his ordinary maintenance (ascertained in accordance with Part I of Schedule 7) and £760 exceeds the sum payable in respect of maintenance in pursuance of that award.

(3) In any case where income is computed as though it were total income by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in head (b), (c) or (d) of sub-paragraph (2), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact total income.

## PART III

### Spouse's contribution

#### *Application of Part III*

7. A spouse's contribution ascertained in accordance with this Part shall be applicable in the case of every man student ordinarily living with his wife and every woman student so living with her husband except—

- (a) a student in whose case a parental contribution is applicable in accordance with Part II; and

- (b) a student whose child holds an award in respect of which a parental contribution is applicable.

### *Spouse's contribution*

8.—(1) Subject to sub-paragraphs (3) and (4), Part II shall, with the exception of paragraphs 3, 4(1), (2), (3)(a) and (b), 5(4), (7), (8), and 5(9) and 6(2)(f), apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed as references to the student's spouse and this Part shall be construed as one with the said Part II.

(2) The spouse's contribution shall be—

- (a) in any case in which the residual income is £11,745 or more but less than £18,974, £10 with the addition of £1 for every complete £9·05 by which it exceeds £11,745; and
- (b) in any case in which the residual income is £18,974 or more but less than £27,884, £808 with the addition of £1 for every complete £6·50 by which it exceeds £18,974; and
- (c) in any case in which the residual income is £27,884 or more, £2,178 with the addition of £1 for every complete £5·15 by which it exceeds £27,884;

reduced, in any such case, by £100 in respect of each child of the student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than £11,745 the spouse's contribution shall be nil; provided that the amount of the spouse's contribution shall not exceed £5,800 in any case.

(3) If the student marries during any year for which the contribution falls to be ascertained, the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's marriage terminates during any year for which the contribution falls to be ascertained, the contribution for that year shall be the fraction of the sum ascertained in accordance with sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage.

## SCHEDULE 9

Regulation 13(3)(a)

### Single students with dependents

1. This Schedule shall apply in the case of a student who does not ordinarily live with a spouse or with another person as a spouse.

2.—(1) This paragraph shall apply where the student has dependents within the meaning of Part III of Schedule 7.

(2) In the case of such a student—

- (a) the sum to be disregarded under paragraph 1(1)(a) of Schedule 8 shall be £1,735 instead of £800; or
- (b) the requirements under paragraph 13 of Schedule 7 shall be treated as increased by the sum of £900; or
- (c) in the case of a student to whom Part IV of Schedule 7 applies, his requirements shall be treated as including the sum specified in paragraph 17 thereof,

whichever is the most favourable to him (disregarding head (b) where, in pursuance of paragraph 3, he elects as mentioned therein).

3.—(1) This paragraph shall apply in the case of a student with one or more child dependents under the age of 19 years and for the purpose of this paragraph “child” shall have the same meaning as in Part III of Schedule 7.

(2) Such a student may elect that the sum specified as his requirements in Part III of Schedule 7 shall be disregarded and that instead there shall in calculating his income be disregarded £2,090 in respect of his only or eldest child such as is mentioned in sub-paragraph (1) and £660 in respect of every other such child.

## SCHEDULE 10

Regulation 15(2)

### Sandwich courses

1.—(1) For the purposes of determining the prescribed proportion or the modified proportion where the number of weeks in question is not a whole number, a day shall be reckoned as a seventh of a week.

(2) In the application of this Schedule to a student to whom Schedule 9 applies, references to Schedules 7 and 8 shall be construed as references to those Schedules as modified in accordance with Schedule 9.

(3) In the application of this Schedule to a student who is attending a course provided at the University of Oxford or the University of Cambridge, this Schedule shall have effect as if—

- (a) in the definition of “prescribed proportion” in regulation 3(1) for the number “30” there were substituted the number “25”; and
- (b) in paragraph 2(a) and 3(b) for “30 weeks 3 days” there were substituted “25 weeks 3 days”.

2. The provisions of Schedule 7 shall, as respects any sandwich year, have effect subject to the following modifications—

- (a) where the period of full-time study does not exceed 30 weeks 3 days, the student’s requirements for his ordinary maintenance shall be the prescribed proportion of the appropriate amounts specified in Part I;
- (b) where the period of full-time study exceeds 30 weeks 3 days, the student’s requirements for his ordinary and supplementary maintenance shall be the aggregate of the appropriate amount specified in Part I and the appropriate amount specified in paragraph 5 of Part II;
- (c) the student’s requirement for the maintenance of a dependent shall be the modified proportion of the sum specified in Part III except that where such a requirement falls to be increased under paragraph 14 it shall be increased by the prescribed proportion of the sum there specified; and,
- (d) if the student is a person to whom Part IV applies, his requirements under that Part shall be the modified proportion of the amount there specified.

3. The provisions of Schedule 8 shall, as respects any sandwich year, have effect subject to the following modifications—

- (a) the sum to be disregarded under paragraph 1(1)(a) of Part I shall be the prescribed proportion of £800 and the reference in paragraph 1(1)(c) to £1,810 shall be construed as a reference to the aggregate of £1,010 and the prescribed proportion of £800;
- (b) in calculating the student’s income,

- (i) there shall be disregarded any payment made to him by his employer in respect of any period of experience;
- (ii) the prescribed proportion of his income shall be treated as if it were the whole of his income;
- (c) the amount of the parental contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part II; and
- (d) the amount of the spouse's contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part III

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### EXPLANATORY NOTE

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

These Regulations, which come into operation on 1st February 1995 and have effect retrospectively from 1st September 1994 revoke and replace, with amendments, the Students Awards Regulations (Northern Ireland) 1993 ("the previous Regulations").

Retrospection is authorised by Article 50(2) of the Education and Libraries (Northern Ireland) Order 1986, S.I. 1986/594 (N.I. 3) ("the Order of 1986").

The Regulations govern the making of awards ("mandatory awards") which it is the duty of education and library boards to make to specified persons. They do not relate to awards ("discretionary awards") which, in pursuance of Article 50(3) of the Order of 1986, boards may make under arrangements approved by the Department of Education.

While their text and format do not repeat exactly the provision made in England and Wales, the Regulations maintain parity of awards for Northern Ireland students with their English and Welsh counterparts including reduced basic maintenance grant and tuition fee levels. They parallel in substance most of the provisions of the Education (Mandatory Awards) (No. 2) Regulations 1993 (S.I. 1993/2914) made by the Secretary of State for Education relating to awards for students in England and Wales.

The principal changes (other than the changes in the rates of fees, grants and allowances) as compared with the previous Regulations, are described as follows:

The maximum fees payable for the final years of courses which are ordinarily completed a substantial period of time before the end of the academic year of an institution are now limited to the amount payable in respect of the first one, two or three instalments in the other years of the course, depending on how early the course is completed (regulation 18(3)(c) and (d) and paragraph (ix) of Schedule 6).

The provision specifying the earliest times for the payment of instalments has been amended to make it clear that it covers the payment of two, three or four instalments, beginning with a payment after the first date on which the student is required to attend his course after the beginning of the academic year and continuing with one, two or three further payments after the next following first dates on which the student is required to attend his course after specified dates (regulation 18(4)(a)).

The provision removing the obligation to make payments for fees when a student has ceased to attend a course but not completed it has been amended in the case of courses which begin in the autumn and the fees for which are payable in three instalments. The first, second or third instalment

will be payable if the student continues to attend the course until 15th November, 15th February or 31st May respectively (regulation 18(6)).

The provision authorising the payment of validation fees has been amended so that fees payable for the validation of a course provided at an institution which is not maintained or assisted by recurrent grants paid out of public funds are now subject to the maximum applying to other fees payable to such institutions, and that maximum has been raised accordingly (paragraph (a) and (c) of Schedule 6).

A mandatory award only in respect of tuition and other fees, which must be no higher than those charged to students from the United Kingdom continues to be available only to nationals of a member state of the European Community who are not entitled to a full mandatory award, and is not made available to nationals from other states within the European Economic Area who are not so entitled.

The residence requirement, which nationals from member states of the European Community and migrant workers must satisfy has been extended to apply to residence within the European Economic Area.

Provision has been made to enable boards to provide up to the 1993/94 maximum fee levels for students attending a course at an institution in the Republic of Ireland (Schedule 6(a)(3)(i)).

The discretion given to boards to pay a student's travel expenses or medical insurance expenses in relation to a period of study outside the United Kingdom which is not a necessary part of the student's course has been removed (paragraph 7(3) and 9(2) of Schedule 7).

Provision has been made to reflect the fact that under the European Economic Area Agreement nationals of countries within the European Economic Area in addition to nationals of countries within the European Community have rights arising under Council Regulation [\(EEC\) 1612/68](#). In accordance with Article 7(2) or (3) or 12 of that Regulation they are entitled to awards under these Regulations.